

WIRC of ICAI

Manifesting
COMPANIES ACT 2013
Accounts & Auditor

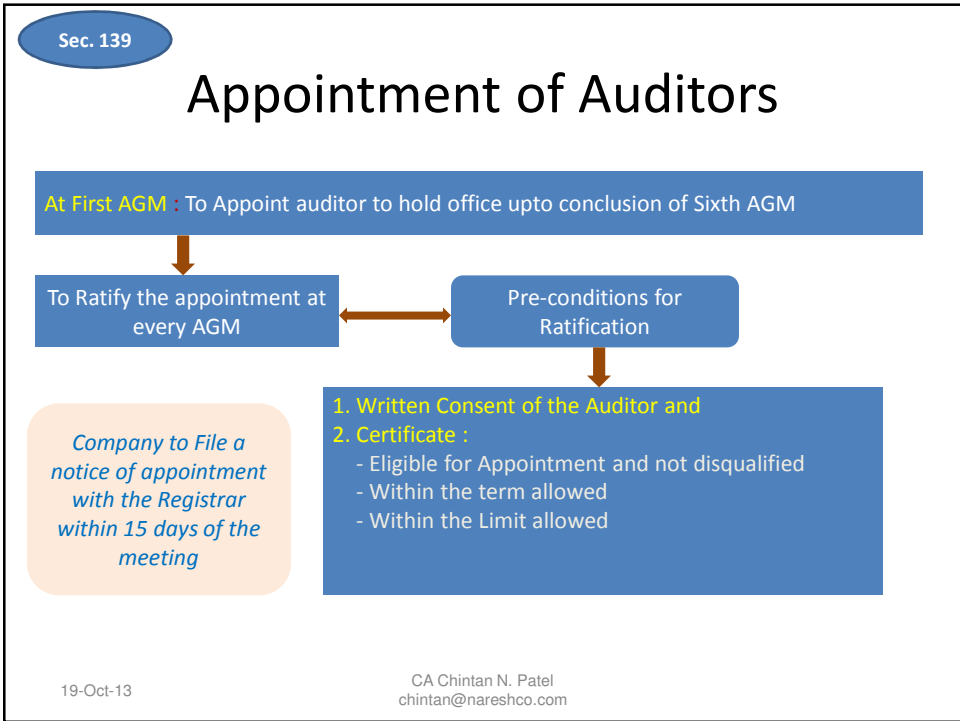
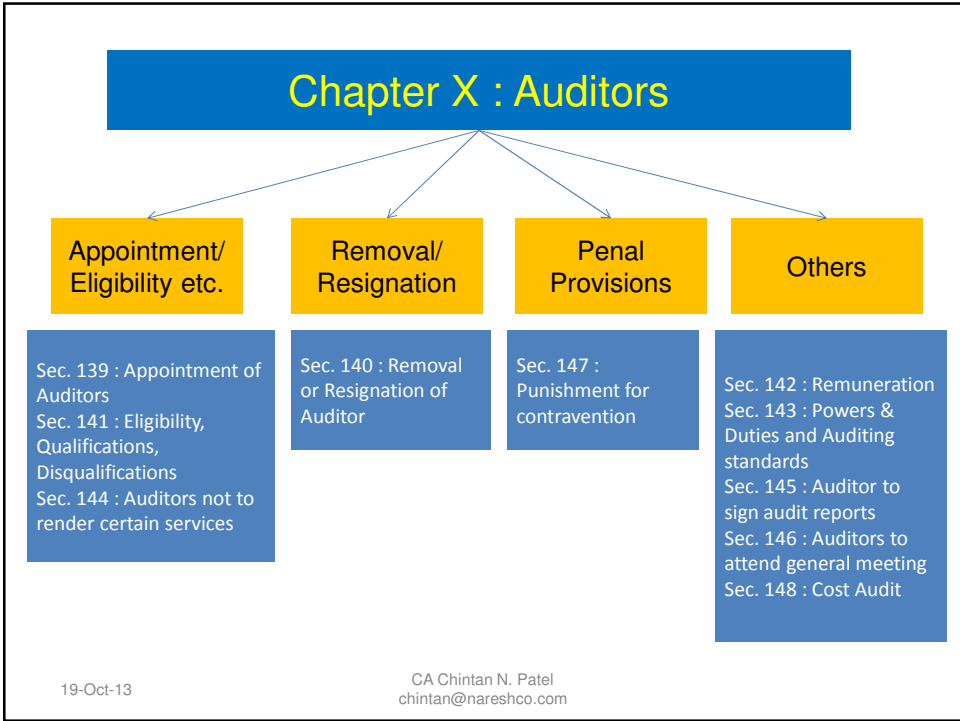
19th October 2013

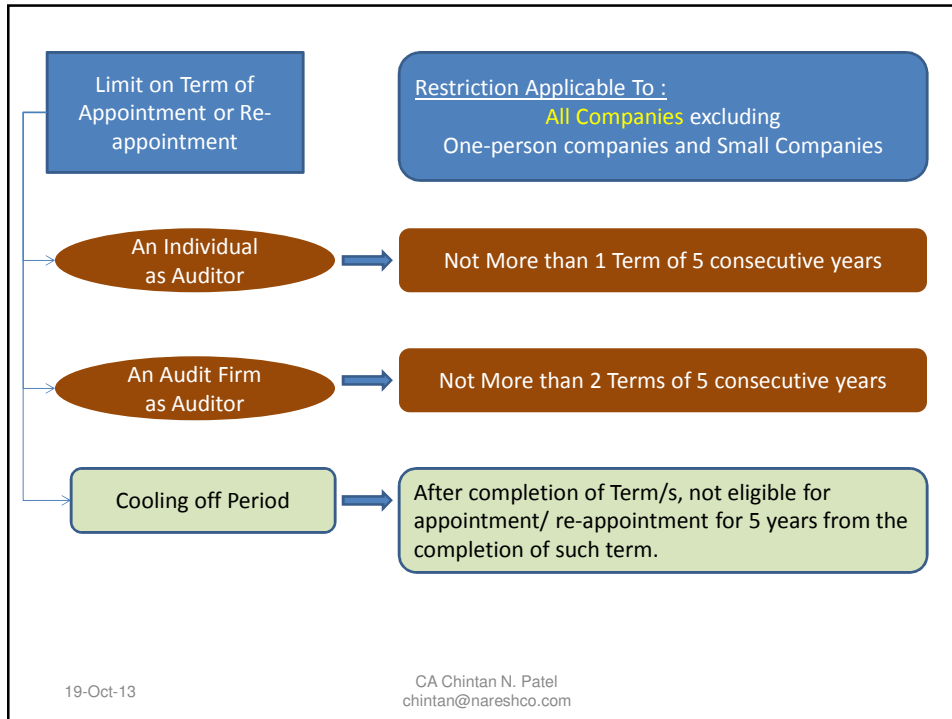
CA Chintan N. Patel
Naresh J. Patel & Co.
chintan@nareshco.com
+91-90999 21163

**AUDIT
AND
AUDITORS**

Chapter X







UPPER LIMIT ON NUMBER OF AUDITS

Sec. 224(1B) of Companies Act 1956

- **Ceiling on audit is as under :**
 - (a) in the case of a person or firm holding appointment as auditor of a number of companies each of which has a paid-up share capital of less than rupees 25 lakhs, 20 such companies;
 - (b) in any other case, 20 companies, out of which not more than 10 shall be companies each of which has a paid-up share capital of Rs 25 lakhs or more
- In computing the Specified number of audits for the purpose of Section 224(1B), **the following audit shall not be taken into consideration :**
 1. Audit of Private Company
 2. Audit of Guarantee Companies not having Share Capital
 3. Special Audits
 4. Audit of Foreign Companies
 5. Branch Audit

19-Oct-13
CA Chintan N. Patel
chintan@nareshco.com

Rotation of Auditors

Audit Committee
↓
Board
↓
Members at Annual General Meeting

Draft Rules

Transitional Provision

The period for which he or it has been holding office as auditor prior to the commencement of the Act shall be taken into account in calculating the period of 5 consecutive years or 10 consecutive years.

Comply with the requirements within 3 years from the date of commencement of the Act

Rotation of auditor in Banking & insurance companies :

- As per RBI - Every four years
- As per IRDA- Every five year

2 years cooling off period is required

19-Oct-13 CA Chintan N. Patel
chintan@nareshco.com

Sec. 141

Eligibility as Auditor

No.	Topic	Companies Act	Companies Bill
1	Individual	Only if the person is a chartered accountant	Similar Requirement
2	Firm	All the partners practicing in India should be qualified for appointment	Majority partners practicing in India qualified for appointment
3	LLP	Not eligible for Appointment	similar to the firm; a signing partner should be Chartered Accountant

19-Oct-13 CA Chintan N. Patel
chintan@nareshco.com

Disqualifications as Auditor

No	Topic	CA 1956	CA 2013
1	Holding of security	A person holding security in the company	He himself, his relative(term not fully defined) or partner hold any security or interest in the company, its subsidiary, holding or associate company or subsidiary of such holding company. However, the relative may be allowed to hold security or interest in the company with face value not exceeding Rs.1 Lac.
2	indebtedness/guarantee/security	Indebted to the company for an amount exceeding Rs. 1,000 or who has give any guarantee or provided any security in connection with third persons's indebtedness to the company for an ammount exceeding Rs.1,000	He himself, his relative or partner is indebted to the company, its subsidiary, holding or associate company or subsidiary of such holding company, in excess of Rs. 1 lac. A similar disqualification has also been provided in case of guarantee given or security provided in connection with indebtedness of third person.
3	Business relationship	No restrictions	Person or firm : Directly or indirectly, has business relationship with the company, its subsidiary, its holding, or associate company or subsidiary of such holding company or associate company.

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Disqualifications as Auditor

No	Topic	CA 1956	CA 2013
4	Relative's employment	No restrictions	A person, whose relative is director or is the employment of the company as a director or key managerial personnel(KMP),
5	Limit on maximum number of companies	Person or firm, at the date of appointment , hold appointment as auditor of more than 20 companies. However, private companies are not included in the maximum cap of 20 companies.	Person or partner at the date, holding appointment of 20 companies. Private companies are included in maximum cap of 20 companies.
6	Fraud	No restrictions	Convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.
7	Consulting and specialised services	No such provision	Any person whose subsidiary or associate or any other form of entity engaged on the date of appointment in services as per sec. 144

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 140

Removal/Resignation of Auditor

Removal of Auditor

- Special Resolution of the Company and
- Previous approval of Central Government

Resignation by Auditor

- Auditor to file a prescribed form with the company and Registrar within 30 days indicating reasons and facts

Appointing as auditor a person other than a retiring auditor

- Special notice is required for resolution
- To send a copy of special notice to Auditor
- Retiring auditor right to make representation
- If representation made, to send a copy alongwith notice to the members or if received late read out in the meeting.

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 139(8)

Casual Vacancy in the office of the auditor

If arise as a result of resignation of auditor – appointment to be approved by GM to be convened within 3 months of Board recommendation

In Other Cases – To be filled by Board of Directors within 30 days

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Auditor not to render certain services

Not allowed to provide following non - audit services either *directly or indirectly* to the company, its holding or subsidiary:

(a)	Accounting and book keeping services
(b)	Internal audit
(c)	Design and implementation of any financial information system
(d)	Actuarial services
(e)	Investment advisory services
(f)	Investment banking services
(g)	Rendering of outsourced financial services
(h)	Management services
(i)	Any other kind of services as may be prescribed

Direct/Indirect?

Individual

Either himself or through his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual

Audit Firm

- Audit firm itself or
- Any of its partners or
- Through its parent, Subsidiary or Associate entity or any other entity in which the firm or any of its partner has significant influence or control , or whose name/trade mark/ brand is used by the firm or any of its partners

Transitional Provision:

Comply with the above restrictions before the end of the first financial year after the date of such commencement

Penalties for Contravention

Violation		Penalty	
Section	Descriptions	Section	Contravention By
140(2)	On resignation by auditor, he needs to intimate Company and ROC and may be CAG.	140(3)	Individual Auditor / Firm Min: 50000 Max: 500000
141(3)	Disqualification of auditors	141(4)	Vacation of office
143(12)	CA/CWA /PCS required to intimate to CG about an offence involving fraud	141(15)	Individual Auditor / Firm Min: 1,00,000 Max: 25,00,000
139 to 146 Both Inclusive	Contraventions of Sec. 139 to 146 (both inclusive) by Company and its officer	147(1)	Company : Min: 25000 Max: 5,00,000 Every officer in default IMPRISONMENT Min: 1 Day ; Max : 1 Year FINE Min: 10,000; Max: 1,00,000 either of above or both

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Violation		Penalty	
139, 143, 144, 145	Contraventions by Auditor 1. 139: Appointment of auditor 2. 143: Power & duties of Auditor 3. 144 Auditor not to render certain services 4. 145: Auditor to sign audit report	147(2) & (3) WILFULLY / KNOWNIGLY to deceive Imprisonment 1. Min: 1day 2. Max: 1 Year AND fine 1. Min: 100,000 2. Max: 25,00,000 AND 1. Refund the remuneration 2. Pay for damages arising out of incorrect or misleading statements.	WITHOUT KNOWINGLY Min: 25,000 Max: 5,00,000 AND 1. Refund the remuneration 2. Pay for damages arising out of incorrect or misleading statements.

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 142

Remuneration of Auditors

- Fixed in its general meeting or in such manner as may be determined therein
- Board may fix remuneration of the first auditor appointed by it
- Remuneration
 - To include
 - the fees payable to an auditor and expenses if any incurred by the auditor in connection with the audit of the company and any facility extended to him
 - But does not include
 - any remuneration paid to him for any other services rendered by him

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 143 (1)

Rights of Auditor

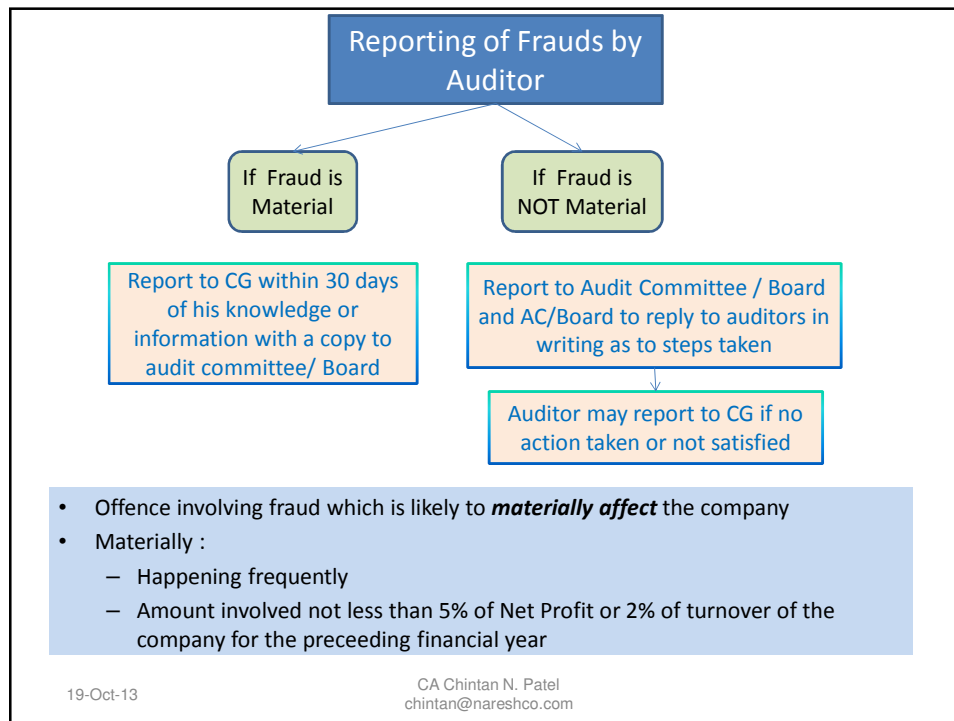
- **Companies Act, 1956 (Sec. 227) :**
Every auditor of a company shall have a right of access at all times to the books of account and vouchers of the company
- **Companies Act, 2013 (Sec. 143) :**
Every auditor of a company shall have a right of access at all times to the books of account and vouchers of the company; further if he is an auditor of a holding company, shall also have right to access to the records of all its subsidiaries in so far as it relates to the consolidation of its financial statements with that of its subsidiaries

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Duties of Auditor

- **Companies Act, 1956 (Sec. 227) :**
- CARO required to report on internal control matter relating to the inventory, fixed assets and sale of goods and services
- CARO required to report of any fraud on or by the company has been noticed or reported during the year
- **Companies Act, 2013 (Sec. 143) : (only changes)**
- Whether had auditor has sought and obtained all the information/explanations which he considered necessary for the purpose of this audit
- Auditor shall report that company has adequate internal financial controls system in place and the operating effectiveness of such controls.
- To Comply with Auditing Standards
- If an auditor of a company, in the course of the performance of his duties as auditor, has reason to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company, he shall immediately report the matter to the CG within such time and in such manner as may be prescribed .. Sec. 143(12)



Sec. 143 (3)

Reporting Responsibilities

Auditor's report to include:

- Auditor's observation/comment having adverse effect on the functioning of the company; in audit report, such comments will be read in the AGM also.
- Whether company has adequate internal financial control system in place and operating effectiveness of such control.
- Along with existing requirement of report on fraud in CARO, auditor to immediately report, the matter to the CG

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

- Auditor to sign audit reports

Sec. 145

The qualifications, observations or comments on financial transactions or matters, which have any adverse effect on the functioning of the company mentioned in the auditor's report shall be **read before the company in general meeting** and shall be open to inspection by any member of the company

- Auditors to attend general meeting

Sec. 146

The auditor shall, unless otherwise exempted by the company, **attend either by himself or through his authorised representative**, who shall also be qualified to be an auditor, any general meeting and shall have right to be heard at such meeting on any part of the business which concerns him as the auditor

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 148

Cost Audit

- To be conducted by a Cost Accountant in practice
- Can not by Auditor appointed u/s. 139
- To comply with cost auditing standards
- Same Qualifications, disqualifications, rights, duties and obligations as applicable to auditor
- Report to be submitted to BOD
- Penal provisions same as for auditor

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Basis of Difference	Companies Act, 2013	Companies Act, 1956
Appointment of Auditors (Other than Govt. Co.)	First By the Board within 30 days of its incorporation and on failure to do so, the members shall appoint the same within 90 days from incorporation	By the Board of directors within one month of the incorporation of the company
Appointment of Auditor Government Company	Appointed by CAG within 60 days from the date of incorporation and on failure to do so, the Board within next 30 days and on failure to do, the members within 60 days.	No special provision for appointment of auditors in case of Govt companies
Appointment of Auditors on Casual Vacancy	By the Board of Directors within 30 days but if such casual vacancy is due to resignation of an auditor, such appointment shall also be approved by the company at a general meeting within 3 months of the recommendation of the Board	By the Board : In case where vacancy is caused by the resignation of an auditor, the vacancy shall only be filled by the company in general meeting.

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Basis of Difference	Companies Act, 2013	Companies Act, 1956
Rotation of Auditors	Compulsory for the listed company & certain other class of companies. An individual - Not for more than one term of 5 consecutive years; An audit firm – Not more than two terms of five consecutive years.	No provision for rotation of auditors has been provided under the Companies Act 1956.
Rotation of Auditor within firm	A company may resolve that the auditing partner and his team in the audit firm shall be rotated every year, or the audit shall be conducted by more than one auditor	No provision for rotation of auditor within firm has been provided under the Companies Act 1956.
Intimation to ROC on Appointment of Auditor	In case of appointment of auditor, the Company has to intimate both auditor and the registrar within 15 days of the Auditor appointment.	Auditor to inform Registrar within 30 days of the receipt of intimation from the Company
Auditing Standards	Compliance with auditing standards to be prescribed by the Central Government or recommended by ICAI as the case may be	No provision for compliance with the auditing standards or provision states for the compliance of accounting standards.


19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Basis of Difference	Companies Act, 2013	Companies Act, 1956
Reporting Duties	To also report on the cash flow for the year and such other matter as prescribed in his report, apart from BS, PL.	Auditor shall report for the balance sheet and profit loss account in its report.
Report Fraud	Report to CG if Material otherwise to Board	No provision for reporting to central Government of any fraud committed against the company
Provi. Applicable to Cost Auditor and CS	Duties, u/s. 143, apply mutatis mutandis to both cost accountants for cost audit and company secretary in practice for secretarial audit.	None of the duties of the auditor were applicable on accountants for cost audit and company secretary in practice for secretarial audit.
Auditor not to provide certain services	Auditor not to render certain services whether directly or indirectly to company, its holding company, subsidiary and associate company	No specified exception has been provided for the performance of duties of auditor.
Liability of Auditor	In case of contravention the penal provisions are made more stringent	Less Stringent penal provisions

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com



Accounting

ACCOUNTS OF COMPANIES

CHAPTER IX

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Chapter IX : Sec. 128 to Sec. 138

- Sec. 128 : Books of account etc. to be kept by company
- Sec. 129 : Financial Statement
- Sec. 130 : Re-opening of accounts on Court's or Tribunal's orders
- Sec. 131 : Voluntary revision of financial statements or Board's report
- Sec. 132 : Constitution of NFRA
- Sec. 133 : CG to prescribe AS
- Sec. 134 : FS, Board's reports etc.
- Sec. 135 : Corporate Social Responsibility
- Sec. 136 : Right of members to copies of audited FS
- Sec. 137 : Copy of FS to be filed with Registrar
- Sec. 138 : Internal Audit

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 2(40)

Financial Statements

Sr. No.	AS per Companies Act 2013 Includes..
1.	Balance sheet
2.	Profit and Loss Account or Income & Expenditure Account
3.	Cash flow statement (except one person company, Small Companies, Dormant company)
4.	Statements of change in equity, if applicable
5.	Any explanatory note forming part of the above statements

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 2(41)

Financial Year

- 1st April to 31st march as FY for all the companies
- except
 - Holding/ subsidiary of foreign company with requirement to consolidation and
 - Exempted by the tribunal

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 128

Books Of Accounts

- Keep Books of Accounts and other relevant books and papers and **financial statement** at Registered Office (except decided by Board and filed with Registrar)
- Companies are permitted to maintain the books of accounts and relevant papers in electronic mode.
- In case of Branch office in India or outside India : Time restriction of 3 months interval for getting Returns from the branches is dispensed with.
- Summarised returns of books of account of the company maintained outside India to be sent to the registered office at monthly or quarterly intervals. In such case, a director can ask for financial information – company to submit within 15 days.
- In case of inspection of books of accounts of subsidiary companies , the person should be duly authorised by the Board of Directors of the Holding Company

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 129

Financial Statements

- True & Fair view
- Comply with Accounting Standards
- Prepared in the form as provided in Schedule III
- Where company has one or more subsidiaries, consolidated financial statement is compulsory to be prepared and laid before AGM along with Standalone
- Provisions applicable to preparation, adoption and audit of financial statements of a holding company shall mutatis mutandis apply to the CFS.

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 129

Preparation of Consolidated Financial Statements

- ⦿ In addition to SFS , a company having subsidiary has to prepare CFS
- ⦿ Subsidiary includes: Associate company and joint venture
- ⦿ **Schedule III of the companies bill, lay down the format:**
 - Minority interest to be presented as allocation in profit or loss and separately in equity in BS.
 - Separate statement of share in profit/loss and net assets of each subsidiary, associates and JV
 - List with Reason for non consolidation of subsidiary, associates and JV

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sch. II

Depreciation

- Allocation of depreciation as per useful life of asset
- Depreciation ?
- Depreciable Amount ?
- Useful Life?
- No separate rates for extra shift
- Double shift :- depreciation increase by 50%
- Triple shift :- depreciation increase by 100%

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Depreciation

- No separate depreciation rate for intangible asset
- No specific requirement to charge 100 % Depreciation on assets , costing more than 5 thousand : removed
- The Management can evaluate useful life of an asset or class of assets and charge depreciation over such useful life. However such useful life shall not be longer than that prescribed in the Schedule.
- Useful life specified in Part C of the Schedule is for whole of the asset.
- Component Accounting

By CA P.Manohara Gupta, Partner,
Dagliya & Co

Transitional Provision

- From the date this Schedule comes into effect, the carrying amount of the asset as on that date—
 - (a) shall be depreciated over the remaining useful life of the asset as per this Schedule;
 - (b) where the remaining useful life of an asset is nil, after retaining the residual value, it shall be recognised in the opening balance of retained earnings

By CA P.Manohara Gupta, Partner,
Dagliya & Co

Sec. 130

Re-opening of Accounts

Re-opening of accounts on the court/tribunal's order

- Accounts were prepared in fraudulent manner
- Casting a doubt on reliability of financial statements

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 131

Revision of Accounts

Voluntary revision of financial statements or board's report

- Prior approval of tribunal and CG
- Detailed reasons for revision
- Revision can not be done more than once in year

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Difference between Sec. 130 & 131

- There is no restriction for no. of years in Sec. 130 but it is restricted to 3 preceding years in a single financial year in Sec. 131.
- Under Sec. 130 application can be made to Court or Tribunal whereas under Sec. 131 application shall be made only to the Tribunal.
- Element of fraud or mismanagement exists in Sec. 130 whereas no such fraud or mismanagement in Sec. 131.

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Authentication of FS and Board Report

Sec. 134

- Signed atleast by the chairperson – authorised by the board, or by 2 directors (one will be MD) and CEO, if a director, CFO, CS
- Companies act - banking companies and non banking companies

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Right of member to copies of audited financial statements

Sec. 136

- Along with financial statements CFS will also be circulated
- Listed companies are required to Place Financial statements on website
- Every company with *subsidiary* needs to:
 - Place Audited accounts of its subsidiary on website
 - As per the need of shareholder , provide a separate copy of financial statements

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Sec. 138

Internal Audit

Mandatory

- Every Listed Company
- Every Public company having paid up share capital of Rs. 10 Crores or more
- Every other public company which has any outstanding loans or borrowings from banks or public financial institutions exceeding Rs.25 crores or which has accepted deposits of Rs. 25 crore or more at any point of time during last financial year

Draft
Rules

19-Oct-13

CA Chintan N. Patel
chintan@nareshco.com

Basis of Difference	Companies Act, 2013	Companies Act, 1956
Books of Account	<ul style="list-style-type: none"> Financial Statement along with books of accounts and other relevant papers are required to be prepared and maintained at the registered office. Books of accounts may be kept in electronic form also. 	<ul style="list-style-type: none"> Books of accounts and other relevant papers are required to be prepared and maintained at the registered office. Books of account to be kept in physical form
Inspection of BOA by director	<ul style="list-style-type: none"> Yes BOA of the subsidiary, with the authority of the Board of Directors 	No Provision of subsidiary company books of account inspection
Period for which BOA to be kept	In case an investigation has been ordered under Chapter XIV, the CG may direct to keep for a period longer than 8 years	No such provision
Inspection of BOA by Govt. Authority	No such provision	BOA open to inspection during business hours by the Registrar or CG or SEBI without giving any previous notice

19-Oct-13 CA Chintan N. Patel
chintan@nareshco.com

Basis of Difference	Companies Act, 2013	Companies Act, 1956
Re-opening of Accounts	A specific provision for re-opening or re-casting of BOA by order of court or Tribunal	No provision for the re-opening of accounts.
Voluntary Revision	Provision for revision of any of the 3 preceding financial years with Tribunal approval	No provision for the revision of financial statement.
Financial Year	Only from April-March and only certain companies under certain conditions, can have a different financial year	May be more or less than a calendar year but cannot exceed 15 months, except with special permission till 18 months.
Accounting Standards	Compliance with AS notified by the CG as recommended by ICAI in consultation with NFRA	Compliance with AS notified by the CG as recommended by ICAI in consultation with NACAS
Subsidiary Company	Along with financial statement, CFS to be prepared and shall also be laid before the AGM	No requirement for laying the accounts of the Subsidiary Company.
Internal Audit	Compulsory for specified class of companies	No provision for internal audit of the Company.

19-Oct-13 CA Chintan N. Patel
chintan@nareshco.com

THANK YOU



Connect at

Facebook : [cachintan.patel](https://www.facebook.com/cachintan.patel)

Linked in : [Chintan N. Patel](https://www.linkedin.com/in/Chintan.N.Patel)

CA Chintan N. Patel

chintan@nareshco.com

90999 21163