

**AUDITORS RESPONSIBILITY FOR COMPLIANCE
WITH CORPORATE SOCIAL RESPONSIBILITY
AS PER COMPANIES ACT, 2013**

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Introduction

CSR → Corporate Social Responsibility

Corporate social responsibility (CSR) is considered as a **self-regulating approach** which generally helps the companies to be socially responsible to itself, its stakeholders and to public.

By implementing the concept of CSR in India, companies can become more circumspect of the consequences of the functions performed by the companies on various aspects of society.

If a company while performing its functions give importance to enhance the society and environment then it is said that the company is engaged in corporate social responsibility (CSR).

Introduction (continued)

Legal aspects for CSR:

India is the first country in the world to make corporate social responsibility (CSR) mandatory, following an amendment to the Companies Act, 2013 in April 2014.

- 1) The Companies Act, 2013 (section 135), now amended
- 2) Companies (Corporate Social Responsibility Policy) Rules, 2014

Later amended as per the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021.

CSR defined and explained

Rule 1(d) of CSR Policy Rules, 2014:

CSR activity means an activity undertaken by a company in pursuance of its statutory obligation laid down in Sec 135 of the Act → 6 exclusions

EXCLUDED ACTIVITIES are listed below:

(a) Activities undertaken in pursuance of normal course of business of company.

Exception: A company engaged in research & development of a new vaccine, drugs and medical devices in their normal course of business may undertake such activities related to Covid 19 for the financial year 2021, 2021-22 & 2022-23 as CSR activities subject to the condition that such activities shall be undertaken *in collaboration with* any of the institutions or organizations mentioned in item ix of Schedule VII of the Act & the details of such activities shall be disclosed separately in the Board's Report under the heading 'Annual report of CSR'.

CSR defined and explained (continued)

EXCLUDED ACTIVITIES (continued):

- (b) Any activity undertaken by the company **outside India** except for training of Indian sports personnel representing any State at a national level or India at the International level.
- (c) Contribution of any amount directly or indirectly to any **political party** under section 182 of the Act.
- (d) The activities **benefitting employees** of the company (Apprentice engaged under Apprentices Act 1961 not covered under employee definition).
- (e) The activities supported by the companies on a sponsorship basis for **deriving marketing benefits** for its products or services.
- (f) The activities carried out for the **fulfillment** of any other **statutory obligations** under any law in force in India.

CSR COMPLIANCE REQUIREMENTS

CSR Compliance requirements

CSR COMMITTEE [Section 135(1)]:

Every company having (a) Net worth of \geq Rs 500 crores or (b) Turnover of \geq Rs 1000 crores or (c) Net profit of \geq Rs 5 crores during any financial year, shall constitute a CSR Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.



DISCLOSURE:

The Board's report shall disclose the composition of the CSR Committee.

Where amount to be spent by company does not exceed Rs. 50 lakh, requirement for constitution of CSR Committee shall not be applicable and functions of such Committee provided under this section shall, in such cases, be discharged by the Board of Directors.

FUNCTIONS:

- (a) Formulate an action plan and recommend to the Board, a CSR Policy which shall indicate activities to be undertaken by company (as specified in Schedule VII)
- (b) Recommend the amount of expenditure to be incurred on such activities
- (c) Monitor the CSR Policy of the company from time to time.

CSR Compliance requirements (continued)

BOARD'S RESPONSIBILITY: [Section 135(4)]

- (a) After taking into account the recommendations made by the Corporate Social Responsibility Committee, **approve the CSR Policy** for the company and disclose contents of such Policy in its report and also place it on the company's website, if any.
- (b) **Ensure** that the **activities** as are included in the CSR Policy of the company are **undertaken** by the company itself or through the following eligible entities (after registering with the Central Government by filing Form CSR-1):
- (i) A company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80 G of the Income Tax Act, 1961 established by the company, either singly or along with any other company, or*
 - (ii) A company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government; or*
 - (iii) Any entity established under an Act of Parliament or a State legislature; or*
 - (iv) A company established under section 8 of the Act, or a registered public trust or a registered society, registered under section 12A and 80G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities [RULE 4(1)]*
- (c) The Board of a company shall satisfy itself that the funds disbursed to the entities for CSR have been utilized for the purposes and in the manner as approved by it and the **Chief Financial Officer** or the person responsible for financial management **shall certify to the effect.**

CSR Compliance requirements (continued)

CSR EXPENDITURE: [Section 135(5)]

The Board of every company shall ensure that the company spends, in every financial year, at least **two percent of the average net profits** of the company made during the three immediately preceding financial years. Where company has not completed the period of three financial years, it shall spend 2% of the average net profit made from the date of its incorporation to the immediately preceding financial year.

NET PROFITS DEFINED AS:

Net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, but shall not include the following, namely: -

- i) any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and
- (ii) any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act

CSR Compliance requirements (continued)

ADMINISTRATIVE OVERHEADS [Rule 7(1)]

The board shall ensure that the administrative overheads shall **not exceed five percent of total CSR expenditure** of Company for the financial year.

Administrative Overheads meaning: expenses incurred for general management and administration of CSR functions in the company and shall not include the expenses directly incurred for designing, implementation, monitoring, and evaluation of particular CSR project or program.

CSR Compliance requirements (continued)

ONGOING PROJECT : [Rule 2(1)(i)]

Ongoing Project means a multi-year project undertaken by Company in fulfillment of its CSR obligation having timelines **not exceeding three** years excluding the financial year in which it was commenced, and shall include such project that was initially not approved as a multi-year project, but whose duration has been extended beyond one year by the board based on reasonable justification.

MONITORING:

The Board shall monitor implementation of project with reference to the approved timelines and year-wise allocation, and shall be competent to make modifications for smooth implementation of project within overall permissible limit. Any amount remaining unspent pursuant to any ongoing project, undertaken by company in pursuance of its CSR Policy shall be transferred in the unspent CSR Account.

CSR Compliance requirements (continued)

SURPLUS ARISES OUT OF CSR ACTIVITIES [Rule 7(2)]:

Any surplus arising out of the CSR activities shall not form part of the business profit of a company and shall be ploughed back into the same project or shall be transferred to the **Unspent CSR Account** and spent in pursuance of CSR policy and annual action plan of the company, or **transfer such surplus amount to a Fund specified in Schedule VII**, within period of six months of expiry of financial year.

CSR Compliance requirements (continued)

SPECIAL UNSPENT CSR ACCOUNT : [Section 135(6)]

A special bank account, called an **Unspent CSR Account** is to be opened by the company in any scheduled bank. Any amount remaining unspent pursuant to any ongoing project, undertaken by a company in pursuance of its CSR Policy shall be transferred to unspent CSR Account within 30 days from end of the financial year.

The amount transferred to the unspent CSR account shall be spent by the company in pursuance of its obligation towards the CSR Policy within a period of three financial years from the date of such transfer.

In case, the company fails to spend the amount within a period of three financial years, it shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.

CSR Compliance requirements (continued)

IMPACT ASSESSMENT : [Rule 8(3)]

Every company having an average CSR obligation of ten crore rupees or more in the three immediately preceding financial years, shall **undertake impact assessment**, through an independent agency, of their CSR projects having outlays of one crore rupees or more, and which have been completed not less than one year before undertaking the impact study.

Impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR. A Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed five percent of the total CSR expenditure

CSR Compliance requirements (continued)

CSR REPORTING [Rule 8]

The Board's Report of a company covered under these rules pertaining to any financial year shall include an annual report on CSR containing particulars specified in Annexure I or Annexure II, as applicable.

In case of a foreign company, the balance sheet filed section 381(1)(b) of the Act, shall contain an annual report on CSR containing particulars specified in Annexure I or Annexure II, as applicable.

DISPLAY OF CSR ACTIVITIES ON WEBSITE [Rule 9]

The Board of Directors of the Company shall mandatorily disclose the composition of the CSR Committee, and CSR Policy and Projects approved by the Board on their website, if any, for public access.

CSR Compliance requirements (continued)

PENALTY FOR NON-COMPLIANCE [Section 135(7)]

The company shall be liable to a **penalty of twice the amount** required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or **one crore rupees**, whichever is less.

Every officer of the company who is in default shall be liable to a **penalty of one-tenth of the amount** required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or **two lakh rupees**, whichever is less.

**AUDITOR'S RESPONSIBILITIES FOR ENSURING
COMPLIANCE WITH CSR**

Auditor's Responsibilities for ensuring Compliance with CSR

Where the Company undertakes CSR activities itself



THE AUDITOR OF THE COMPANY SHOULD ENSURE THAT:

- 1) Activity/project undertaken is within purview of Companies Act, 2013 (Sch VII)
- 2) If mere contribution or donation is given, then ensure that the same is specifically allowed as per Schedule VII of the Companies Act, 2013
- 3) Separate disclosure of expenditure on CSR activities is made as per Schedule III of the Companies Act, 2013.
- 4) The expenditure on the project is incurred as per Companies (CSR Policy) Rules 2014.
- 5) The Company complied with the applicable Accounting Standards in accounting, recognition and disclosure relating to CSR spend.
- 6) He has complied with the relevant Standards on Auditing for the audit of CSRT spend including SA 250 and SA 720 (Revised)
- 7) He has complied with the Guidance Note on Audit of Expenses.

Auditor's Responsibilities for ensuring Compliance with CSR (continued)

Where Company undertakes CSR activities through an eligible Third Party



- 1) The Company should obtain an **Independent Practitioner's Report** on Utilization of such CSR funds from the auditor / CA in practice of such third party
- 2) The auditor / CA in practice of such third party before issuing Independent Practitioner's Report on Utilization of CSR funds should **ensure the following**:
 - a) Third party has spent the funds on CSR activities as per Section 135 of the Companies Act, 2013, read with Schedule VII to the Act and related regulations.
 - b) Verification of the CSR spend has been done as per Guidance Note on Audit of Expenses issued by the ICAI.
 - c) The utilization of CSR Funds report is issued in accordance with the Guidance Note on Reports or Certificates for Special Purposes issued by the ICAI.

Auditor's Responsibilities for ensuring Compliance with CSR (continued)

REPORTING REQUIREMENTS UNDER CARO 2020



CLAUSE (xx) (a):

Whether, in respect of **other than ongoing projects**, the Company has transferred the unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of 6 months of the expiry of the financial year in compliance with Section 135(5) of Companies Act, 2013.

CLAUSE (xx) (b):

Whether any amount remaining unspent under Section 135 (5) of Companies Act, 2013, pursuant to any **ongoing project**, has been transferred to a special account (within 30 days), in compliance with Section 135 (6) of Companies Act, 2013.

Thank You