

Note

VINOD KOTHARI & COMPANY

On the verge of financial reporting- MCA comes up with amended format for Abridged Balance Sheet and Profit and Loss Account

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Note

Just as companies have declared the financial results for FY 2011-12, the Ministry of Corporate Affairs (“MCA”) has come up with notification G.S.R. (E) dated May 31, 2012¹ (“Notification 1”) whereby Form 23AB has been notified containing a statement of the salient features of Balance Sheet and Profit and Loss account as per Section 219(1) (b) (iv) of the Companies Act, 1956 (“Act”).

Requirement of Section 219(1) (b) (iv) of the Act

The provisions of Section 219(1) (b) (iv) of the Act are exclusively applicable to listed companies only and thus the requirement of filing Form 23AB are also applicable to listed companies only. Section 219 refers to *the right of members to obtain copies of balance sheet and auditors’ report*. However subsection (1) (b) (iv) of 219 allowed listed companies to do away with the requirement of sending a copy of balance sheet, profit and loss account, auditors’ report and any other document (collectively referred to as “documents”) to all members **if**:

- The same are made available for inspection at the registered office of the company 21 days before the date of AGM *and*
- Statement containing salient features of such documents in the prescribed form (i.e. form 23AB as per Rule 7A of (Central Government’s) General Rules and Forms, 1956) or copies of such documents is sent to every member and trustee of debenture holders not less than 21 days before date of AGM.

Requirements of Clause 32 of Listing Agreement (LA)

Clause 32 of the Listing Agreement is actually a spin off of Section 219 under discussion. Where on one hand it requires complete set of balance sheet, profit and loss account and Director’s Report to be served on each shareholder (understandably no mention of debenture trustee here, however, Clause 2 of Listing Agreement for Debt Securities prescribes the same), it also allows single copy of these documents to be sent to shareholders residing in one household. However, abridged Balance Sheet is to be served on all the shareholders in the same household. Notably, *only* abridged Balance Sheet is required to be sent.

¹ [http://www.mca.gov.in/Ministry/notification/pdf/G.S.R\(E\)_31may2012.pdf](http://www.mca.gov.in/Ministry/notification/pdf/G.S.R(E)_31may2012.pdf)



Note

Notification 1

With the format for abridged balance sheet and profit and loss account being revised and juxtaposing the same with the requirements under Section 219(1)(b)(iv) of the Act and Clause 32 of LA, listed companies have the following options:

1. Send complete set of documents to each shareholder. If more than one shareholder resides in the same household, send only one complete set and serve *abridged balance sheet* to each shareholder in the same household.
2. Keep the documents open for inspection during working hours, *21 days* before the date of AGM and also send form 23AB to all shareholders.
3. Irrespective of the option chosen, the serving can be done:
 - i. By post to shareholders who do not have their email ids registered with the company.
 - ii. By serving soft copies to the shareholders who have registered their email id with the Company.
4. Hard copies to be provided as and when request from shareholder is received.

Notification 1 has also made a cross reference to Clause 54 of LA whereby as a footnote to abridged Balance Sheet, company's website is also to be mentioned where, the complete set of documents would be available.

Changes incorporated in the new format of Form 23AB

1. The old format prescribed disclosure in the Notes that in case no provision for depreciation had been made, consequently quantum of arrears of depreciation was to be disclosed. This has been done away with.
2. In keeping with the Revised Schedule VI, requirement for disclosure of details of installed capacity and productivity of main items has been done away with.
3. Format for abridged cash flow statement has also been prescribed.
4. Further, disclosure of Related Part transactions as per AS-18, any inspections, non-compliance with any law also has been prescribed.

Form 23 AB is to be authenticated in the manner as prescribed u/s 215 of the Act, i.e. by not less than two directors, one being Managing Director where there is one and the Company Secretary.



Note

Our analysis

Thus, irrespective of what the company opted for, listed companies would have anyway had to incur costs for sending of such documents to members and debenture trustees. Traditionally it has been seen that very few listed companies actually took recourse to section 219(1)(b)(iv) mainly because cost would be incurred ultimately, *albeit* lesser if abridged form is sent. However, even if the Company did comply with the provisions of this sub-section, the whole idea of saving on costs would still stand defeated if any member asks for copies of the documents say under Clause 32 of the Listing Agreement.

Also, it has been seen that shareholders have believed in the adage "*the bigger, the better*". They have traditionally appreciated grand annual reports, without as much as giving the contents of the same a look. Thus, companies have preferred to send the entire set of documents to all members and trustees.

Keeping such a scenario in mind, amendment of the format of Form 23AB seems futile as of now. The reason behind the same is undecipherable unless of course, it is to bring parity in the format of disclosure of financial results by companies. The same can be concluded looking at the format so prescribed and the new format of Schedule VI notified by MCA notification no. S.O. 447 (E) dated February 28, 2012². However, keeping in mind the various Green Initiatives by the Ministry and the same being also acknowledged by Companies the same may evolve as a practice in near future if the members of the Company also go hand in hand with such technological developments aimed to make the dissemination of information easier, faster and cheaper.

² http://www.mca.gov.in/Ministry/pdf/Schedule_VI_28feb2011.pdf