

CRITICAL DISCLOSURES UNDER THE BOARD'S REPORT AND CSR CONCERNS

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About Us



- Vinod Kothari and Company, company secretaries, is a firm with over 35 years of vintage
- Based out of Kolkata, Mumbai, New Delhi and Bengaluru.
- We are a team of qualified company secretaries, chartered accountants, lawyers and managers.

Our Organization's Credo:

Focus on capabilities; opportunities follow



Critical issues in the context of CSR



Critical Issues

CSR Budget

- The budget depends upon the computation of profits
- The computation is based on the adjustments given under section 198 as well as other exclusions

Re-allocation of funds

- In case a pre-approved project gets abandoned or does not require full funding as was approved during the FY
- Becomes imperative to re-allocate funds
- This will require changing the Annual Action Plan (AAP)
- Change of AAP can be done by the Board by giving proper justification

Monitoring of funds spent

CFO Certificate

Re-categorization of projects from non-ongoing to ongoing



BOARD'S REPORT



Board's Report

- A board's report has to be annexed with the financial statements of the company for circulation and publication.
- It contains material information about the company, its present status and future outlook.
- The Report contains various information, both financial and non-financial, about the company.
- Contents of the Report may vary from company to company depending upon the industry and regulators.
 - Section 134(3) of the Companies Act, 2013 read with Rule 8 of Accounts Rules – for all companies
 - Section 134(3A) of the Act read with Rule 8A – for small companies and OPCs
- Additionally, Annual Report for listed companies
 - Regulation 34 read with Schedule V of LODR Regulations – for equity-listed companies and HVDLE
 - Regulation 53 read with Para A of Schedule V of LODR Regulations – for other debt listed companies

General information to be reported in the board's report

- Number of meetings of the Board
- Statement on declaration of independence given by independent directors
- Remuneration policy
 - Applicable on all listed companies and public companies having
 - Paid up capital of Rs. 10 crores or more
 - Turnover of Rs. 100 crores or more, or
 - Outstanding loans, borrowings, deposits, debentures > Rs. 50 crores
 - If uploaded on website, only salient features and web-link of the uploaded policy may be given
- State of company's affairs
- Amounts proposed to be transferred to general reserves
- Amounts recommended to be paid as dividend
- Details of CSR policy and initiatives
 - Annual Report on CSR to be attached in terms of Rule 9 of CSR Rules (see Slide 13)
- Statement indicating the manner of performance evaluation of board, committees and directors
 - Applicable for listed companies and public companies having paid-up capital \geq Rs. 25 crores
- Conservation of energy, technology absorption, foreign exchange earnings and outgo
 - Details in terms of Rule 8
- Web-link of Annual Return uploaded on website
 - If no website, not required
- Particulars of loans, guarantees or investments under section 186
 - May be referred to the financial statements
 - Same should contain all req information
- Particulars of contracts or arrangements with related parties (in AOC-2)
 - RPTs not on an arm's length basis, or
 - Material RPTs in terms of section 188(1) on an arm's length basis

Critical matters to be reported in director's report

- Mismatch in the data provided in the Board's report versus the actual case
 - No of meetings, No directors, etc
 - RoC Chandigarh penalized in the matter of *Bold & Confident Careers Private Limited* on January 13, 2025
- Mismatch / Gap in the compliance status
 - Compliance with applicable accounting standards
 - RoC Bangalore penalized in the matter of *Parsi Exports Limited* on November 26, 2024
- Certificate from statutory auditor for compliance with downstream investment under Rule 23(6) of the NDI Rules
- Material changes and commitments, if any, affecting the financial position of the company occurred
 - between end of FY and date of report
- Details in respect of frauds reported by auditors
- Explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made—
 - by the auditor in his report; and
 - by the company secretary in practice in his secretarial audit report
 - ROC Kanpur penalized in the matter of – *Ummid Mutual Benefit Nidhi Limited* on September 19, 2024
- Statement indicating development and implementation of a risk management policy
 - including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company;

Additional disclosures in terms of Rule 8

- Financial summary or highlights including
 - highlights of performance of subsidiaries, associates and joint venture companies and
 - their contribution to the overall performance of the company during the period
- Changes in nature of business
- Details of directors/ KMPs appointed/ resigned
 - RoC Kanpur penalized in the matter of - *Shubhmangal India Nidhi Limited* on September 09, 2-024
- Opinion of the Board with regard to integrity, expertise and experience including proficiency of the IDs appointed during the year
- Companies which have become or ceased to be its subsidiaries, joint ventures or associate companies
- Disclosure on applicability of cost records
- Constitution of ICC under POSH Act
- Details relating to deposits
 - Including details of default thereof
- Deposits which are not in compliance with the requirements of Chapter V of the Act
- Significant and material orders impacting the going concern status and company's operations in future
- Adequacy of internal financial controls with reference to the Financial Statements
- Details of application made or proceedings pending under IBC (with status as at the end of FY)
- Details of difference between amount of the valuation done at the time of one-time settlement and the valuation done while taking loan from the Banks or Financial Institutions (along with the reasons thereof)

Event-based disclosures under director's report

Information to be disclosed	Year in which disclosure to be made
Disclosures w.r.t issuance of shares with differential rights	In the FY of completion of issuance
Details w.r.t issuance of sweat-equity shares	In the FY in which such shares are issued
Disclosure in respect of voting rights not exercised directly by the employees in respect of shares issued under an ESOP scheme	In the relevant FY during which such voting powers have been exercised
Detailed reasons for voluntary revision of financial statement	In the relevant FY in which such revision is made

Disclosure of remuneration in board's report

Applicable in case of listed companies [Sec 197(12)]

- Ratio of the remuneration of each director to the median remuneration of the employees of the company
- Percentage increase in remuneration of each director and KMP
- Percentage increase in median remuneration of employees
- Number of permanent employees on roll of the company
- Average percentile increase in salaries of employees other than KMPs and its comparison with percentile increase in managerial remuneration with justification
- Statement showing names of top 10 employees in terms of remuneration drawn and thereafter, upto specified limits

Applicable in case of all companies [Sec 197(14)]

- Disclosure of receipt of any remuneration or commission from any holding company or subsidiary company of such company by a director who is a managing or whole-time director of the company
- Disclosures in the 'corporate governance' section
 - all elements of remuneration package such as salary, benefits, bonuses, stock options, pension, etc., of all the directors;
 - details of fixed component. and performance linked incentives along with the performance criteria;
 - service contracts, notice period, severance fees; and
 - stock option details, if any, and whether the same has been issued at a discount as well as the period over which accrued and over which exercisable.

Abridged board's report for OPC and small company

- Small company – section 2(85)
 - Paid-up capital \leq Rs. 4 crores, **and**
 - Turnover \leq Rs. 40 crores
 - Except holding/ subsidiary/ section 8/ co. under special Act
- One Person Company – section 2(62)
 - Only one person is member
- Power of CG to prescribe abridged board's report – section 134(3A)
 - Prescribed u/s 8A of Accounts Rules
- Web-link of Annual Return
- Number of meetings of board
- Directors' Responsibility Statement
- Details in respect of frauds reported by auditors
- Explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report;
- State of the company's affairs;
- Financial summary or highlights;
- Details of directors who were appointed or have resigned during the year;
- Material changes from the date of closure of the financial year in the nature of business and their effect on the financial position of the company;
- Significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company's operations in future.
- Particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the Form AOC-2

Annual Report on CSR

- The Board's Report of company covered under the section has to report following in the annual report for financial year commencing **on or after 1st April 2020**:
 - Brief outline on CSR Policy
 - Composition of CSR committee including attendance of directors in Committee meeting
 - Web link of website where CSR Committee, CSR policy and projects are disclosed
 - **Impact assessment report of CSR projects**
 - **Details of amount available for set off and amount required for set off for the financial year**
 - Average net profit of last three financial years & prescribed CSR expenditure
 - **Surplus arising out of CSR projects of the previous financial years**
- **Details of total amount spent or unspent for the FY along with name of the fund in which amount has been transferred**
- **Details of CSR amount spent against ongoing projects and other than ongoing projects for the FY**
- **Amount spent in administrative overheads and impact assessment**
- **Details of unspent CSR amount for preceding three financial years**
- **Details of CSR amount spent in financial year for ongoing projects of the preceding financial year(s)**
- **Details of capital asset created or acquired through CSR spent in a financial year (asset wise)**
- **Reason if the company has failed to spend 2% of the average net profit**

Responsibility statement of CSR committee

- The CSR committee has to report in the annual report of CSR, which forms part of the Board's Report that implementation and monitoring of CSR policy is in compliance with CSR objectives and Policy of the Company.
- For providing this statement, the CSR committee may rely on the utilisation certificate and monitoring reports, if any obtained for the purpose of implementation.

Responsibility statement of the CSR committee

The implementation and monitoring of [] CSR Policy is in compliance with CSR objectives and Policy of the Company*

*Sd/-
Chairman, CSR Committee*



CERTAIN DISCLOSURES UNDER SCHEDULE III

ENHANCED DISCLOSURES AND IMPACT



Applicability and disclosures under Schedule III

- Amendment last came to effect from 1st April, 2021
- Financial statements for FY 2021-22 were prepared as per amended Schedule
- Applies for both companies complying with AS as well as Ind AS, including for NBFCs
- Disclosures aim at increased transparency
 - Lacks appropriate guidance
- Amendments are aligned with amendments under –
 - Auditors report
 - CARO, 2020

Additional disclosures under notes to accounts –

- Statement on changes in equity
- Disclosure of shareholding of **all promoters** (*earlier it was only for those shareholders holding more than 5% of share capital*)
- Loans and advances to promoters, directors, KMPs and related parties, specifically for
 - Repayable on demand, or
 - Without specifying terms or repayment period
- Ageing schedule of trade payables and trade receivables, including disclosure for unbilled dues
- In case loans are taken from banks/ financial institution on security of current assets
 - Statement of reconciliation between quarterly returns filed with lender and books of accounts
 - Reasons for material discrepancies, if any

Additional disclosures under Schedule III

- Details of **immovable property not held in own name**
 - Gross carrying value
 - Registered owner of such property
 - Whether registered holder is a promoter/ director, or relative/ employee of promoter/ director
 - Date since which property has been held
 - Reason for not holding in the name of company
- Disclosure of **wilful defaulter**
 - Date of declaration as wilful defaulter
 - Amount and nature of defaults
- Where funding given/ received to/ from intermediary for benefit of identified beneficiaries (**conduit financing**)
 - Date and amount of funds given/ received to/from intermediary and full details of intermediary
 - Date and amount of funds given/ received by intermediary to identified beneficiaries and full details of beneficiaries
 - Declaration of compliance with FEMA , CA and PMLA, as applicable
- Details of **benami property**
 - Details of such property, including year of acquisition,
 - Amount thereof
 - Details of Beneficiaries
 - If property is in the books, then reference to the item in the Balance Sheet,
 - If property is not in the books, then the fact shall be stated with reasons
 - Details of proceedings against the company as an abettor of the transaction or as the transferor, if any
 - Nature of proceedings, status of same and company's view on same
- Details of name, CIN and relationship/ shareholding in downstream companies beyond permitted layers of investments
- Details and reasons for un-registered charges
- Confirmation on preparation of books of accounts in accordance with Scheme of Arrangement (u/s 230-237) and applicable accounting standards including reasons for deviations, if any

Disclosures related to struck-off companies

Details required to be disclosed

- Name of the struck off company
- Nature of transactions with company
 - Investment in securities
 - Receivables
 - Payables
 - Shares held by struck off company
 - Other outstanding balances
- Balance outstanding and
- Relationship with the struck off the company

Practical issues related to such disclosures

- What should be the look-back period for such disclosure?
 - Current reporting period or such other previous period to which outstanding balance pertains - ICAI Guidance Note (GN)
- Identification of struck- off company
 - May be found through public notice (STK-7) released by MCA containing names of companies struck-off
- Identification of relationship
 - Company may not be maintaining details of all customers, suppliers and others with whom it has had any relationship
 - Shareholders, if any, may be found from the Register of Members
 - Quite cumbersome for listed companies
- GN states disclose if relation exists as on respective balance sheet date, as per Sec 2(76)
- Requires details of outstanding balance
 - Required to be disclosed even if o/s balance – Nil (GN)
- Companies struck off but order passed for restoration – not required to be disclosed (GN)

Disclosures under profit & loss statements

■ CSR related disclosures

- amount required to be spent by the company during the year,
- amount of expenditure incurred,
- shortfall at the end of the year,
- total of previous years shortfall,
- reason for shortfall,
- nature of CSR activities,
- details of related party transactions, e.g., contribution to a trust controlled by the company in relation to CSR expenditure as per relevant Accounting Standard,
- where a provision is made with respect to a liability incurred by entering into a contractual obligation, the movements in the provision during the year should be shown separately

■ Details of crypto/ virtual currency

- profit or loss on transactions involving crypto currency or virtual currency
- amount of currency held as at the reporting date,
- deposits or advances from any person for the purpose of trading or investing in crypto currency/ virtual currency

■ Undisclosed income

- Unrecorded in books of accounts but disclosed as income in tax assessment under IT Act
 - Unless immune from disclosure under any scheme
- Whether previously unrecorded income and related assets properly recorded during the year

Common errors in reporting RPTs under Ind AS 24

Sl. No.	Common error	Correct usage	Remarks
	Reference to 'relatives' of KMP	'Close member' of KMP	<ul style="list-style-type: none"> ● spouse of son and daughter covered under CA but not included in Ind AS 24 ● members of HUF not included ● dependants of the person not covered under CA ● Ind AS also includes a subjective definition
2.	Inclusion of only Executive Directors in the meaning of KMP	All directors, including NEDs included in meaning of KMP	Definition explicitly includes all directors, executive or otherwise
3.	Improper disclosure of remuneration	Disclosure of KMP compensation in total and component wise: (a) short-term employee benefits; (b) postemployment benefits; (c) other long-term benefits; (d) termination benefits; and (e) share-based payment.	Specification given under Ind AS 24



ANNUAL REPORT FOR LISTED COMPANIES

Additional disclosures to be made



Contents of Annual Report

- Audited financial statements
- Consolidated financial statements
- Cash flow statements
- Directors' report
- Management discussion and analysis report
 - As a part of the directors' report or as an addition thereto (for equity listed and HVDLE)
- name of the debenture trustees with full contact details
 - Only for debt-listed companies
- Business Responsibility and Sustainability Report
 - Applicable only for top 1000 listed entities based on market capitalization and HVDLE
- Disclosures under Schedule V
 - Only related party disclosures under Para A applicable to debt-listed companies
- Management Discussion and Analysis Report
 - Industry structure and developments.
 - Opportunities and Threats.
 - Segment-wise or product-wise performance.
 - Outlook
 - Risks and concerns.
 - Internal control systems and their adequacy.
 - Discussion on financial performance with respect to operational performance.
 - Material developments in Human Resources / Industrial Relations front, including number of people employed
 - details of significant changes (i.e. change of 25% or more as compared to the immediately previous financial year) in key financial ratios, along with detailed explanations
 - details of any change in Return on Net Worth as compared to the immediately previous financial year along with a detailed explanation thereof
 - Disclosure of changes in accounting treatment

Disclosures under Schedule V of LODR Regulations (1/3)

■ Related party disclosures (para A) – not applicable to listed banks

- Disclosures as per Accounting Standards
- Disclosures of amounts at the year end and the maximum amount of loans/ advances/ Investments outstanding during the year
 - To subsidiaries, associates, firms/companies in which directors are interested
 - Directors' interest shall have the same meaning as given in Section 184 of the CA, 2013
- Disclosures of transactions of the listed entity with any person or entity belonging to the promoter/promoter group which hold(s) 10% or more shareholding in the listed entity

■ Corporate governance report

- Listed entity's philosophy on code of governance
- Details of Board of Directors
 - composition and category of directors
 - Attendance in board meetings and AGM
 - number of other board of directors or committees in which a directors is a member or chairperson including names of such listed entities
 - Number and dates of board meetings
 - Inter-se relationship between directors
 - number of shares and convertible instruments held by non- executive directors
 - web link where details of familiarisation programmes imparted to independent directors is disclosed
 - chart or a matrix setting out the skills/expertise/competence of the board of directors
 - Opinion of board on independence of IDs
 - detailed reasons for the resignation of an independent director who resigns before the expiry of tenure along with a confirmation by such director that there are no other material reasons other than those provided

Disclosures under Schedule V of LODR Regulations (2/3)

- Details of board committees (AC, NRC, SRC, RMC)
 - brief description of terms of reference
 - composition, name of members and chairperson
 - meetings and attendance during the year
- performance evaluation criteria for IDs
- Name and designation of compliance officer
- No. of shareholders' complaints
 - Received during the year
 - Pending at the end of the year
 - Not solved to the satisfaction of the shareholders
- Remuneration of directors
 - all pecuniary relationship or transactions of NEDs vis-à-vis the listed entity
 - Criteria of making payments to NEDs
 - Disclosures related to components of remuneration including fixed and variable pay
- Details of general meetings
- Means of communication
- Shareholders' information
- Details of utilization of funds raised through pref issue, QIPs as specified u/r 32(7A)
- Reasons for not accepting recommendation of any board committee which is mandatorily required
- total fees for all services paid by the listed entity and its subsidiaries, on a consolidated basis, to the statutory auditor and all entities in the network firm/network entity of which the statutory auditor is a part
- POSH related disclosures
 - No. of complaints filed, disposed off and pending during the year
- Non-compliance of any requirement of corporate governance
- Disclosures wrt demat suspense account
- Other miscellaneous disclosures

Disclosures under Schedule V of LODR Regulations (3/3)

- Certificate from a PCS on non-disqualification of directors
- Declaration certificate by CEO on affirmation of the Code of Conduct by board and senior management
- Certificate on compliance with CG requirements
- Disclosure of agreements intimated under clause 5A of Part A Para A of Sch III (agreements affecting directly/ indirectly the management and control of the LE or imposes restrictions or creates liability on the LE)
- Justification for following a treatment different from accounting standards
- Extent to which the discretionary requirements as specified in Schedule II of SEBI LODR have been adopted
- Market price data- high, low during each month in last financial year
- Performance in comparison to broad-based indices such as BSE sensex etc.
- Details of utilization of funds raised through preferential allotment or qualified institutions placement

Regulatory Orders (1/3)

Sr. No	Name of the matter	Date of the Order	Summary	Penalty Imposed
1.	In the matter of - <u><i>Bold & Confident Careers Private Limited</i></u> - ROC Chandigarh	January 13, 2025	During an Inquiry u/s 206 of the CA, 2013, found that no. of Board meetings reported in the Board's report was different from the no. mentioned in form MGT-7A filed for same FY.	Company – Rs. 150,000 Directors – Rs. 25,000 each for 3 directors
2.	In the matter of - <u><i>Parsi Exports Limited</i></u> - RoC Bangalore	November 26, 2024	Board's Report confirmed the compliance with Accounting Standards, However, on examination, deviations from applicable AS was observed.	Company – Rs. 300,000 Directors – Rs. 50,000 each for 4 directors
3.	In the matter of <u><i>M/s. Apsal Chits Private Limited</i></u> - ROC Chennai	September 24, 2024	During inspection, found that loans and advances were given to related parties, however, no details found in AOC – 2, since the same was not attached	Company – 3,00,000 Directors – Rs. 50,000 each for 2 directors

Regulatory Orders (2/3)

Sr. No	Name of the matter	Date of the Order	Summary	Penalty Imposed
4.	In the matter of – <i>Ummid Mutual Benefit Nidhi Limited</i> - ROC Kanpur	September 19, 2024	Auditor's report stated that company has not maintained unencumbered term deposits as per Nidhi Rules for which no explanation has been provided by the directors in the director's report	Company – Rs. 3,00,000 Directors – Rs. 50,000 each for 3 directors
5.	In the matter of - <i>Shubhmangal India Nidhi Limited</i> - RoC Kanpur	September 09, 2024	The fact that one of the directors resigned was not disclosed in the director's report	Company – Rs. 300,000 Directors – Rs. 50,000 each for 3 directors
6.	In the matter of - <i>Bock Compressors India Private Limited</i> - ROC Kanpur	April 28, 2022	non-disclosure on the conservation of energy, technology absorption, foreign exchange earnings and outgo and the company has stated due to non-coverage of activities, disclosure is not required. The same has been considered as non-compliance	Company – 3,00,000 Directors – Rs. 50,000 each for 2 directors

Regulatory Orders (3/3)

Sr. No	Name of the matter	Date of the Order	Summary	Penalty Imposed
7.	In the matter of – <i>Swarnabhumi Agri-Tech (India) Limited</i> - SEBI	April 19, 2023	ATIL and NBIL entered into a related party transaction which was disclosed by NBIL under “Related Party Disclosures” in its Financial Statements. However, the same was not disclosed by ATIL in its Financial Statements.	Rs. 700,000 payable jointly by company, Directors, CFO and CS