

Comparative Analysis of CARO, 2016 and CARO, 2015 (<http://taxguru.in/company-law/comparative-analysis-caro-2016-caro-2015.html>)

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CS Rahul Harsh

(<http://taxguru.in/wp-content/uploads/2016/02/CS-Rahul-Harsh-1.jpg>) The Ministry of Corporate Affairs had set up a Committee on 16th September, 2015 to re-examine the existing CARO, 2015 and recommend matters for inclusion in the statement to be attached with Auditor's Report under Section 143(11) of Act, 2013 for the financial year 2015-16 onwards.



Taking into consideration the recommendations submitted by the committee the Draft CARO, 2016 was placed on the MCA website for public comments. After taking the public comments into consideration MCA notified **CARO, 2016 (<http://taxguru.in/company-law/companies-auditors-report-order-caro-2016-wef-01042015.html>) on 29th of March, 2016, which replaces the Existing CARO, 2015 (<http://taxguru.in/company-law/companies-auditors-report-order2015-caro-2015.html>)** and brings some additional reporting by the Auditors on Fixed assets, Loans and investments, Managerial remuneration, Nidhi company, Related party transactions, Preferential allotment/private placement & Non-Cash Transaction. Most of the existing provisions also have been tweaked; **this Article is a Comparative Study of both CARO, 2016 (<http://taxguru.in/company-law/companies-auditors-report-order-caro-2016-wef-01042015.html>) & CARO, 2015 (<http://taxguru.in/company-law/companies-auditors-report-order2015-caro-2015.html>)**.

PARTICULARS	CARO, 2016 (http://taxguru.in/company-law/companies-auditors-report-order-caro-2016-wef-01042015.html)	CARO, 2015	REMARKS
Effective from	It has not yet been published in the Gazette of India.	To come into force on the date of its publication in Official Gazette i.e w.e.f 10.04.2015 for the financial year commencing on or after 1st April, 2014.	CARO, 2016 (http://taxguru.in/company-law/companies-auditors-report-order-caro-2016-wef-01042015.html) has been notified by MCA on 29/03/2016.
Applicable from	Financial year commencing on or after 1st April, 2015.	Financial year commencing on or after 1st April, 2014.	Auditors Report for the Financial Statements made as on 31 st March, 2016 will include CARO, 2016 Report (If Applicable to the Company).
Applicable to	Every company including a foreign company as defined in clause (42) of section 2 of the Companies Act, 2013 (18 of 2013).	To every company including a foreign company as defined U/s 2(42) of Act, 2013	
Non Applicability	A) A banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949). B) An insurance company as defined under the Insurance Act, 1938. C) a company licensed to operate under section 8 of the Companies Act 2013; D) A One Person Company as defined under clause (62) of section 2 of the Companies Act and a small company as defined under clause (85) of section 2 of the Companies Act, 2013. E) a private limited company if the following criteria's are met: i) not being a subsidiary or holding company of a public company, having a paid up capital and reserves and surplus not more than rupees one crore as on the balance sheet date and which ii) does not have total borrowings exceeding rupees one crore from any bank OR Financial institution at any point of time during the financial year iii) which does not have a total revenue as disclosed in Scheduled III to the Companies Act, 2013 (including revenue from discontinuing operations) exceeding rupees ten crore during the financial year as per the financial statements.	a) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949. b) an insurance company as defined under the Insurance Act, 1938 c) a company licensed to operate under section 8 of the Companies Act ,2013 (earlier in CARO 2003 Section 25 of the Act,1956) d) A private limited company with: (i) paid up capital and reserves not more than rupees 50 lac; (ii) which does not have loan outstanding exceeding rupees 25 lac from any bank or financial institution; (iii) Does not have a turnover exceeding Rs. 5 crore at any point of time during the financial year.	Ø Under the CARO, 2015, Private Limited Companies having Paid up share capital of Rs. 50 Lakh were not required to follow CARO the limit has NOW INCREASED TO RS. 1 CRORE. Ø The other criteria for exemption under CARO, 2015 was company does not have loan outstanding exceeding Rupees 25 Lakhs from any Bank or Financial Institution, The same has NOW INCREASED TO RS. ONE CRORE. Ø The Limit of Turnover was Rs. 5 crore under CARO, 2015. Same has NOW INCREASED TO RS. 10 CRORES.
(1) Fixed Assets Physical Verification & records of	(a) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of fixed assets; (b) whether these fixed assets have been physically verified by the management at reasonable intervals: whether any material	a) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of fixed assets; b) whether these fixed assets have been physically verified by the management at reasonable intervals: whether any material	An Additional Requirement of Reporting by the Auditor that the Title Deeds of the Immovable Properties is held in the name of the company or not is also needed to be provided.

	reasonable intervals, whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account; (c) Whether title deeds of immovable properties are held in the name of the company. If not, provide details thereof.	reasonable intervals, whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;	
(2) Inventories Physical Verification & records	Whether physical verification of inventory has been conducted at reasonable intervals by the management and whether any material discrepancies were noticed and if so, how they have been dealt with in the books of account	(a) whether physical verification of inventory has been conducted at reasonable intervals by the management; (b) are the procedures of physical verification of inventory followed by the management reasonable and adequate in relation to the size of the company and the nature of its business. If not, the inadequacies in such procedures should be reported; (c) whether the company is maintaining proper records of inventory and whether any material discrepancies were noticed on physical verification and if so whether the same have been properly dealt with in the books of account;	The Requirement of checking the reasonability and adequacy in relation to the process followed for physical verification in relation to the size of the company and nature of the business has been removed.
3) Reporting on repayment of loans granted by the Company	Whether the company has granted any loans, secured or unsecured to companies, firms, Limited Liability partnerships or other parties covered in the register maintained under section 189 of the Companies Act, 2013. If so, (a) Whether the terms and conditions of the grant of such loans are not prejudicial to the company's interest; (b) whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular (c) If the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest.	Whether the company has granted any loans, secured or unsecured to companies, firms or other parties covered in the register maintained under section 189 of the Companies Act. If so, (a) whether receipt of the principal amount and interest are also regular; and (b) if overdue amount is more than rupees one lakh, whether reasonable steps have been taken by the company for recovery of the principal and interest;	Ø The Clause has been expanded and it NOW includes the auditor to report on the Loans given by the Company to companies, firms, Limited Liability partnerships or other parties covered in the register maintained under section 189 of the Companies Act, 2013. Ø The auditor will now also report that whether the terms and conditions of the grant of such loans are not against the interest of the company. Ø The limit for overdue amount of Rs. 1 lakh has been done away with. The auditor will NOW report in case of ANY amount is overdue for MORE THAN 90 DAYS and whether the company has taken reasonable steps to recover the principal and interest.
4) Compliance of section 185 and 186 of the Companies Act, 2013	In respect of loans, investments, guarantees and security whether provisions of Section 185 and 186 of the Companies Act, 2013 have been complied with. If not, provide details thereof.	No Such Provision.	The Auditor's Report has now been extended to cover Loan given by the company to its Directors and Loans investment by the Company. This is to bring more transparency and also is a significant step towards implementation of these two vital provisions of the Companies Act, 2013.
5) Acceptance of Deposits	In case the company has accepted deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act, 2013 and the rules framed thereunder, where applicable, have been complied with? If not, the nature of such contraventions be stated; If an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not?	In case the company has accepted deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules framed there under, where applicable, have been complied with? If not, the nature of contraventions should be stated; If an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not?	No Change in the Provision.
6) Cost Records	Whether maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013 and whether such accounts and records have been so made and maintained.	Where maintenance of cost records has been specified by central Government under sub-section (I) of section 148 of the Companies Act, whether such accounts and records have been made and maintained.	No Change in the Provision.
7) Payment of statutory Dues	(a) whether the company is regular in depositing undisputed statutory dues including • provident fund, • employees' state insurance, • income-tax, • sales-Lax, • service tax, • duty of customs,	Is the company regular in depositing undisputed statutory dues including • provident fund, • employees' state insurance, • income-tax, • sales-tax, • wealth-tax (ABOLISHED) • service tax, • dutv of customs.	The requirement of Reposting by Auditor regarding transfer to IEPF in accordance with the Provisions of the Companies Act, 2013 has now been removed and comes as a relief to the corporates. The Term 'Wealth Tax has also been OMITED since the same has now been ABOLISHED.

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	• duty of excise, • value added tax, • cess • and any other statutory dues with the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as at the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated by the auditor. (b) Where dues of income tax or sales tax or service tax or duty of customs or duty of excise or value added tax have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned.	• duty of excise, • value added tax, • cess and • any other statutory dues with the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as at the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated by the auditor. b) in case dues of – • income tax or • sales tax or • wealth tax or • service tax or • duty of customs or • duty of excise or • value added tax or • cess have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned. c) Whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, and rules made there under has been transferred to such fund within time.	
8) Accumulated losses	No Such Provision.	Whether in case of a company which has been registered for a period not less than five years, its accumulated losses at the end of the financial year are not less than fifty per cent of its net worth and whether it has incurred cash losses in such financial year and in the immediately preceding financial year.	<u>The Provision has now been removed.</u>
9) Default in repayment of dues	Whether the company has defaulted in repayment of loans or borrowings to a financial institution, bank, government or dues to debenture holders? If yes, the period and amount of default to be reported. (in case of defaults to banks, financial institutions, and government, lender wise details to be provided).	a) Whether the company has defaulted in repayment of dues to a financial institution or bank or debenture holders? b) If yes, the period and amount of default to be reported.	<u>This Provisions comes tough for companies Defaulting Repayment of Loans (And not any other dues) to Banks, Financial Institutions, Govt. or to Debenture Holders.</u> The additional requirement under CARO, 2016 is that the Auditor will now give the lender wise details in case the default is in payment to a financial institution and banks.
10) Corporate Guarantee given for other's loan	Whether moneys raised by way of public issue/ follow-on offer (including debt instruments) and term loans were applied for the purposes for which those are raised. If not, the details together with delays / default and subsequent rectification, if any, as may be applicable, be reported.	Whether term loans were applied for the purpose for which the loans were obtained.	Earlier under CARO, 2015 only money raised by TERM LOANS were taken into consideration but the same has now been revised to include money raised by Public issue & Debt Instruments. The delay for not application of the term loan and money raised by other means will also be reported by the Auditors.
11) Reporting of fraud	Whether any fraud by the company or any fraud on the Company by its officers/ employees has been noticed or reported during the year; If yes, the nature and the amount involved be indicated.	Whether any fraud on or by the company has been noticed or reported during the year; If yes, the nature and the amount involved is to be indicated.	CARO, 2016 now includes Fraud by the Officers or employees of the company. Earlier the provision was not specific.
12) Managerial Remuneration	Whether managerial remuneration has been paid / provided in accordance with the requisite approvals mandated by the provisions of section 197 read with schedule V to the Companies Act? If not, state the amount involved and steps taken by the company for securing refund of the same.	No Such Provision.	The clause is newly inserted and deals with reporting of auditor regarding Managerial remuneration paid by Company under section 197 of the act.
13) Nidhi Company	Whether the Nidhi Company has complied with the Net Owned Fund in the ratio of 1:20 to meet out the liability and whether the Nidhi Company is maintaining 10% unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability.	No such Provision.	A similar provision was there under the CARO, 2003. It deals compliance with the special statute for chit funds and mutual funds and has been re-enforced.
14) Related Party Transactions	Whether all transactions with the related parties are in compliance with Section 188 and 177 of Companies Act, 2013 where applicable and the details have been disclosed in the Financial Statements etc as required by the accounting standards.	No such Provision.	Newly inserted to keep a check by auditor on RPT.

15) Private Placement / Preferential Allotment	Whether the company has made any preferential allotment / private placement of shares or fully or partly convertible debentures during the year under review and if so, as to whether the requirement of Section 42 of the Companies Act, 2013 have been complied and the amount raised have been used for the purposes for which the funds were raised. If not, provide details thereof.	No such Provision.	Similar provision was present in CARO, 2003 which was regarding report by Auditor compliance of the provisions in relation to preferential allotment , The same has now been re-inserted in CARO, 2016 with an additional report by auditor on Compliances with regards to Provisions of Section 42 i.e Private Placement.
16) Non-cash transactions	Whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether provisions of Section 192 of Companies Act, 2013 have been complied with.	No such Provision.	Newly Inserted.
17) Registration with Reserve Bank of India	Whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 and if so, whether the registration has been obtained.	No such Provision.	Newly Inserted.
18) Internal control System	No such Provision.	Is there an adequate internal control system commensurate with the size of the company and the nature of its business, for the purchase of inventory and fixed assets and for the sale of goods and services . Whether there is a continuing failure to correct major weaknesses in internal control system.	Under CARO, 2015 The Auditors were required to report on the Internal Control System of the company for Purchase of Inventory & Fixed Asstes and for the Sale of Goods & Services. Same has now been REMOVED from CARO, 2016.

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