

Proposed CARO, 2016 brings additional reporting requirements

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BACKGROUND

On 9th February, 2016 the Ministry of Corporate Affairs has proposed new Companies (Auditor's Report) Order (CARO), 2016. As per the section 143 of the Companies Act, 2013, every report of the auditor under this section should contain matters specified under applicable CARO. The newly proposed CARO, 2016 contains 15 clauses, out of which some clauses have been carry forwarded from present CARO, 2015. MCA has issued exposure draft of CARO, 2016 for stakeholder's comments. The draft, if approved, shall be applicable for FY 15-16 onwards.

In comparison to CARO (2015), CARO (2016) proposes few additional reporting requirements and eliminates some of the reporting requirements. The differences between draft CARO, 2016 and CARO, 2015 is discussed below.

1. APPLICABILITY

There is no difference between CARO, 2016 and CARO, 2015 from the point of view of applicability, except that CARO, 2016 is not applicable on private limited company, not being a subsidiary or holding of a public company, when its:

- (i) paid up capital and reserves and surplus does not exceed Rs. 1 crore as at balance sheet date; and
- (ii) total borrowings from banks or financial institution at any point of time during financial year does not exceed Rs. 1 crore; and
- (iii) total revenue, including revenue from discontinuing operations, does not exceed Rs. 10 crore.

CARO, 2016 shall not apply to the auditor's report on consolidated financial statements whereas CARO, 2015 is applicable in such case.

2. REPORTING REQUIREMENTS

Some of the reporting requirements are same in CARO, 2016 and CARO, 2015. Apart from the similarities, following are the differences between CARO, 2016 and CARO, 2015:-

I. Additional reporting requirements in CARO, 2016

1. Auditor should report whether title deeds of immovable properties are held in the name of the company. If not, provide details thereof. *[Clause 3 (i) (c) of CARO, 2016]*
2. Auditor should report whether the company has granted any loans, secured or unsecured to companies, firms or other parties covered by clause (76) of Section 2 of the Companies Act, 2013. If so

- Whether the terms and conditions of the grant of such loans are not prejudicial to the company's interest. *[Clause 3 (ii)(a) of CARO, 2016]*

3. Auditor should report in respect of loans, investment and guarantees, whether provisions of section 185 and 186 of the Companies Act, 2013 have been complied with. If not, details should be provided. *[Clause 3(iv) of CARO, 2016]*

4. Auditor should report 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. *[Clause 3 (xi) of CARO, 2016]*

5. Auditor should report 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% liquid assets to meet out the unencumbered liability. *[Clause 3 (xii) of CARO, 2016]*

6. Auditor should report 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 and Companies Act, 2013. *[Clause 3 (xiii) of CARO, 2016]*

7. Auditor should report 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. *[Clause 3 (xiv) of CARO, 2016]*

8. Auditor should report 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. *[Clause 3 (xv) of CARO, 2016]*

II. Deletion in reporting requirements from CARO, 2015

1. Auditor should report whether the procedures of physical verification followed by the management is reasonable and adequate in relation to the size of the company and the nature of its business. If not, the inadequacies should be reported. *[Clause 3 (ii) (b) of CARO, 2015]*

2. Auditor should report 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. *[Clause 3(iv) of CARO, 2015]*

3. Auditor should report whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, 1956 (1 of 1956) and rules made there under has been transferred to such fund within time. *[Clause 3(vii)(c) of CARO, 2015]*

4. Auditor should report 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. *[Clause 3(viii) of CARO, 2015]*

5. Auditor should report whether the company has given any guarantee for loans taken by

others from bank or financial institutions, the terms and conditions whereof are prejudicial to the interest of the company. *[Clause 3(x) of CARO, 2015]*

III. Modification in reporting requirements of CARO, 2015

1. Auditor should report 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. *[Clause 3(ix) of CARO, 2016]*

2. Auditor should report Whether the company has granted any loans, secured or unsecured to companies, firms or other parties covered by clause (76) of Section 2 of the Companies Act, 2013. If so, if overdue amount is more than rupees five lakhs, whether reasonable steps have been taken by the company for recovery of the principal and interest. *[Clause 3 (ii)(c) of CARO, 2016]*

BARE TEXT OF DRAFT CARO, 2016

The auditor' report on the accounts of a company to which this order applies shall include a statement on the following matters, namely:

(i) (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 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.

(ii) 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;

(iii) Whether the company has granted any loans, secured or unsecured to companies, firms or other parties covered by clause (76) of Section 2 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 receipt of the principal amount and interest are regular. If not provide details thereof; and

(c) If overdue amount is more than rupees five lakhs, whether reasonable steps have been taken by the company for recovery of the principal and interest;

(iv) In respect of loans, investments and guarantees, whether provisions of Section 185 and 186 of the Companies Act, 2013 have been complied with. If not, provide details thereof.

(v) 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?

- (vi) 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;
- (vii) (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, duty of excise, value added tax, 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. (A mere representation to the concerned Department shall not be treated as a dispute).
- (viii) Whether the company has defaulted in repayment of dues to a financial institution or bank or debenture holders? If yes, the period and amount of default to be reported (in case of banks and financial institutions, lender wise details to be provided).
- (ix) 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;
- (x) 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.
- (xi) 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.
- (xii) 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% liquid assets to meet out the unencumbered liability.
- (xiii) 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 and Companies Act, 2013.
- (xiv) 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.
- (xv) 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.