

***Exposure Draft
of
ICSI Guidance
on
Diligence Report
on
Governance for Banks***



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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Exposure Draft of ICSI Guidance on Diligence Report on Governance for Banks

FSC2018:03

May 18, 2018

Dear Professional Colleagues,

The Reserve Bank of India vide Circular DBOD.No.BP.BC.110/08.12.001/2008-09 dated February 10, 2009, mandated a due diligence for lending under consortium arrangement / Multiple Banking Arrangement. In terms of para 2(iii) of the above Circular, in order to strengthen the information sharing system among banks in respect of the borrowers enjoying credit facilities from multiple banks, the banks are required to obtain regular certification by a professional, preferably a Company Secretary, regarding compliance with various applicable statutory prescriptions as per specimen given in Annex III to the above Circular.

With the passage of time and to keep pace with the developments, a need was felt to review the diligence mechanism. Moreover, the Companies Act, 2013, with revamped corporate law norms, has a bearing on the format of Diligence Report for Banks.

This matter was discussed at the 26th meeting of Financial Services Committee of the Council of the ICSI on 20th February, 2017, and the Committee decided to form a Task Force with eminent experts to deliberate and recommend, revised Due Diligence mechanism with modified format therefor. The said decision of the Committee

was subsequently approved by the Council at its meeting held on March 27, 2017.

Accordingly, ICSI Task Force on Diligence Report for Lending under Consortium Arrangement / Multiple Banking Arrangements was constituted under the Chairmanship of Shri B P Vijayendra, Principal CGM (Retd.), Reserve Bank of India to study in detail the utility of various elements of the Diligence Report and suggest suitable modifications / additions. The Report of the Task Force was submitted to Shri N S Vishwanathan, Hon'ble Deputy Governor, Reserve Bank of India at a function held in at Mumbai on December 30, 2017.

In his address on 30th December, 2017, Shri Vishwanathan advised the Institute to consider developing a Guidance Note with a view to facilitate capacity building of its members desirous of issuing Diligence Reports. Accordingly, a Core Group was constituted for the purpose. The Core Group had three meetings in all starting from April 4, 2018 and has suggested this Guidance on Diligence Report on Governance for Banks.

It is imperative to note that the Securities and Exchange Board of India has come up with the revised Listing Obligations and Disclosure Requirements in line with the Kotak Committee recommendations and the revised format of the Diligence Report suggested by the Core Group may need to be suitably modified to incorporate the changes in the SEBI (LODR), 2015. The format of the Diligence Report cannot be rigid and needs to remain flexible and evolving so as to grapple with the changes in legislations and focus on the finer aspects.

We look forward to your valuable views / comments and suggestions on the Parawise compliance inputs as contained in the

Exposure draft of the ICSI Guidance on Diligence Report on Governance for Banks to CS Sonia Baijal, Director, Professional Development, Perspective Planning and Studies, The Institute of Company Secretaries of India, C-36, Institutional Area, Sector - 62, (Adjacent to Kailash Health Village), Noida - 201309 or through email at conference@icsi.edu latest by October 31, 2018.

Regards,

CS Makarand Lele
President, ICSI

Preamble

The Core Group for Guidance Note on Diligence Report for Banks prepared this guidance taking into consideration that between 2009 (when the earlier guidance note was prepared) and 2018, there have been several structural changes like enactment of Companies Act 2013, replacement of Listing Agreement with SEBI LODR 2015, secretarial audit being made mandatory for companies of certain size, etc. It is also expected that there would be the stipulation of the minimum number of years of experience for a practicing company secretary who may be entrusted with the responsibility of issuing the diligence report on governance of a borrowing company for use of the lending institutions. Accordingly, the Core Group attempted to prepare the 'guidance' for this "Diligence Report" in a precise format highlighting the critical issues to be addressed rather than elaborating and repeating the provisions of law and other procedural aspects which the professional is already fully aware of.

Approach

The objective of the Diligence Report on Governance for Banks is to examine the records of a borrowing entity to assess borrowers conduct (as a corporate entity) from the perspective of status of governance and compliance of certain statutory and procedural requirements to provide comfort to the banks.

Accordingly guidance on the documents to be checked during the process of due-diligence has been incorporated. The approach is indicative in nature and the professional handling the exercise is expected to apply professional skills to identify and ascertain the status of governance and compliance with provisions to gain a fair idea on the manner of

functioning of the borrower, helping lenders to ascertain not only the financial position, but also the quality of governance of business being conducted by the borrower.

The potential risks may be in terms of not using the funds for the purpose for which they may have been borrowed, diversion of funds, legal and regulatory risks which could act as early warning to the lender, etc. The assessment has to be done from the records available including the minutes of audit committee, risk committee, stakeholder committee, whistleblower committee, any other executive committee that may have been constituted by the board of the borrower company, board minutes, explanatory notes for resolutions and if considered necessary through focused interactions with KMPs concerned. In addition, review of correspondence with ROC, Stock exchanges (if the company is listed), legal notices / letters received from authorities, licensing authorities concerned with the business of the borrower company, lending banks etc., cash flow statements, comments from audit reports, statutory and internal audit may also be perused.

Additional care has to be taken to closely examine cash flow statements, recent loan / facilities availed by the borrower and any increase in capital during the period covered by diligence report. Any significant cash inflow will have to be scrutinized to check ever greening of any bank facilities. The professional conducting the due diligence may be highly focused on financial discipline and status of governance and compliances.

**PARAWISE COMPLIANCE INPUTS
AND ILLUSTRATIVE CHECK LISTS
FORDILIGENCE REPORT ON
GOVERNANCE FOR BANKS**

Format of the Diligence Report on Governance for Banks

(On the letter head of the Practicing Company Secretary)

DILIGENCE REPORT ON GOVERNANCE FOR BANKS FOR HALF YEAR ENDED 30th SEPTEMBER/31st MARCH.....

To,

The Branch Head,

_____ (Name of the Bank)

I/We have examined the Memorandum and Articles of Association, certificates, approvals, registers, records, books, documents and other details and information, disclosed to us by [insert name of the company] ("the Company") having its registered office at [insert registered office address], and CIN Number [insert CIN number], for the half year ended [insert] ("the Relevant Period"). The Company confirmed that records which the Company is required to maintain under the provisions of the Companies Act, 2013 (the Act) and the rules made thereunder *and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR), if any, are maintained in accordance with the relevant applicable provisions.

In my/our opinion and to the best of my/our information and basis examination carried out by me/us and explanations/ confirmations furnished to me/us by the Company, its officers and agents, I/we report the following in respect of the Relevant Period:

PARA – 1. The management of the Company is carried out under the directions of the Board of Directors. The details of the Board and the Committees of the Board are detailed in Annexure 1. (Details of the Board of Directors, indicating nature of each of the directors (i.e.) promoter or independent or nominee or whole time to be clearly mentioned). The Board and the Committees are constituted and their terms of reference are in accordance with the provisions of the Companies Act, 2013 and the LODR requirements. Remuneration to Board Members is in accordance with the provisions of the Act/limits set by the members.

Document/Record/Evidence to be examined

1. Agenda and Minutes of Board Meetings.
2. Agenda and Minutes of the Committees, Notice of General Meetings and Minutes thereof.
3. Filings with ROC and Stock Exchange/s.
4. Correspondence from / to individual directors, if any.
5. Notifications issued by MCA, SEBI, RBI etc., to verify if any of the KMPs or directors are debarred/disqualified.
6. Register of Directors & KMPs.
7. MOA and AOA of the Company.

Check Points (illustrative list) in the document /record/evidence

1. Whether appointments were made in accordance with the provisions of the Companies Act, 2013 and the Articles of the Company.
2. Is any of the director suffering from disqualification?
3. Are Terms of Reference of Committees in accordance with the Companies Act, 2013?
4. RoC filings and stock exchange intimations whether given on time or delayed or any other specific observations.
5. Any observations/ non-compliance with provisions and requirements regarding appointment of directors.
6. Check for dissent or observations or if resolutions passed were not unanimous.
7. Any shareholders/ Joint Venture agreement.
8. Whether all committees statutorily to be constituted (as per the Companies Act, 2013, LODR and Kotak Committee recommendations) are constituted and functioning.
9. Whether board and committee meetings are being held as prescribed.

Compliance with the statutes

1. Sec. 149, 152, 170, 177,178, 197 and Schedule V of the provisions of the Companies Act, 2013.
2. Applicable provisions of LODR regarding composition of Board/ Committees, Terms of reference of Board/ Committees.
3. Filings with ROC
4. Filings with Stock Exchange/s.

Annexure 1

**Details of Directors on the Board /
Committees as on 30th Sept/31st March _**

A. Directors of the Company as on ____:

1. Name of the Director:
2. DIN/DPIN:
3. PAN :
4. Passport No. :
5. Present Address / Permanent Address :
6. Age of the Director :
7. Position of Director:(Chairman/MD/WTD etc.)
8. Category of director:(Promoter/Executive/ Non executive)
9. Independent/ Nominee:

If nominee, Name of the Institution: (whether Institution is
Lending or investing institution/company/body corporate)
10. Date of appointment as a Director:
11. Academic qualifications :
12. Relationship with other Directors:
13. Total no. of Directorships

(Indicate type of companies public/private/sec 8/listed) :
14. Number of Committee memberships across companies:
15. Number of Committee Chairmanships across companies:
16. Shareholding in the Company:

B. Change in Directorships since the date of last Due Diligence Report

1. Name of the Director:
2. DIN/DPIN:
3. PAN :
4. Passport No. :
5. Present Address / Permanent Address :
6. Position of Director:(Chairman/MD/WTD/Manager etc.)
7. Category of director:(Promoter/Executive/ Non executive)
8. Independent/ Nominee:
9. Type of Change(appointment/resignation/retirement/ withdrawal / cessation) :
10. Date of Change :
11. Reason for change as indicated in Minutes of Board/ Nomination & Remuneration Committee :

C. In case of promoter directors give name and brief details of other companies or concerns in which they are interested

1. Name of the Promoter Director:
2. Name of the entities in which interested:
3. Nature of interest:
4. Date from which interest arose:

D. Total Number of Directors

Executive:

Non-Executive:

Independent:

Nominee:

E. Board Committees:

Currently, the Board has [●] Committees: audit corporate social responsibility, nomination and remuneration, risk and strategy, stakeholders relationship, finance and investment and [●].

Name of Committee	Composition (Name of the Directors)	Date of appointment on Committee	Restrictions on the power of committee, if any.	Changes if any during the Relevant Period	Remarks, if any

PARA -2. The details of senior management personnel functioning just below the level of the Board and the KMPs are listed in Annexure No.2. Changes to the Senior Management/KMPs or their terms of engagement therefor and the reasons therefor are also detailed in Annexure 2. (Nature of changes and reasons should be elaborated and if such changes occurred before the expiry of contract, reasons should be elaborated).

Check Points (illustrative list) in the document /record/evidence

1. Whether there were any changes in KMPs / Senior Management Personnel.
2. Whether there was any disproportionate revision of/hike in salary of any senior executive? If yes, check the Nomination and Remuneration Committee minutes for the justification given.
3. Check if any of KMPs/Directors are engaged by the company in any other (professional or vendor) capacity with remuneration. If no records are given, please take management representation on this aspect. If any director or KMP has such other relationship with the company.
4. Observations/ non-compliance to be reported in the main report.
5. Any notable connection of the senior management officers, KMP with suppliers or any service providers to the Company or promoters/investors.

Compliance with the statutes

1. Sec 149, 152, 177,178 of the Companies Act, 2013.
2. Applicable provisions of LODR regarding composition of Board/ Committees, Terms of reference of Board/ Committees.
3. Filings with ROC.
4. Filings with Stock Exchange.

Annexure 2

A. Details of Key Managerial Personnel/Senior Management Personnel as on ____

<i>S. No.</i>	<i>Name of Key Managerial Personnel/ Senior Management Personnel</i>	<i>Designation</i>	<i>Educational Qualification and experience</i>	<i>Shareholding at the beginning of the Review Period</i>	<i>Shareholding at the end of the review Period</i>

B. Changes, if any in the KMPs/SMPs, since the last diligence report issued.

<i>Sr. No.</i>	<i>Name of KMP/ SMP</i>	<i>Designation</i>	<i>Nature of change (Appointment/ cessation)</i>	<i>Reasons for change</i>

Note: Changes, if any in the KMPs, with reasons for change before expiry of the relevant employment contract since the last due diligence report issued.

- C. Whether there was any disproportionate revision of/hike in salary of any senior management/KMPs ? If yes, give the details and state the justification provided in minutes of Nomination and Remuneration Committee for the same.**

PARA - 3 The Board and the Committees of the Board were duly constituted. During the period under review the following changes took place in the Board/Committee of Directors of the Company, [Indicate at the relevant sub-clause if there are any observations on the composition or functioning of the Board or Committee(s)]:

- a. Independent directors [insert names] resigned/ removed before their term expired (OR) No change from the last [insert period].
- b. Non-independent directors [insert names] were replaced by [insert names of new directors].
- c. Whole Time directors in charge of [insert the functions and elaborate if there were changes in the function].
- d. Casual vacancies in the Board were filled in [insert names] OR casual vacancies were not filled in. Currently the vacant positions are [insert number].
- e. Though the casual vacancies of the Board were not filled, it did not adversely impact the composition of the Board as required under the Act/LODR (OR) Elaborate the adverse impact or the composition of the Board.
- f. During the past Board / Committee meetings, the minutes, did not contain any dissent on the items discussed during the meetings (OR) insert the details of the subject and the dissent (s) expressed at the relevant meetings. Also elaborate on the decision taken at the meetings and the discussions on the dissent.

- g. Decisions of the Board in respect of the following matters were at variance with recommendations received from the Audit Committee, NRC, Stakeholders Committee, Risk Management Committee, Corporate Social Responsibility Committee and other applicable Board sub-committees [insert details] OR the Board agreed with the recommendations of the Committees, no variance observed in decisions.**
- h. None of the Directors is disqualified to act as Directors under the Act. The Company has confirmed that none of its directors are in the RBI's defaulter's list or the ECGC defaulter's list.**
- i. The quarterly financial results (if applicable) were approved by the Audit Committee and Board well within the prescribed time (OR) indicate the quarterly results, as explained by the Company.**
- j. The list of decisions and significant observations of Audit Committee, Risk Management Committee and other Committees [insert names of the committee] are detailed in Annexure 3.**
- k. The observations of Audit Committee and Board on financial results of the Company for the FY [insert] and any other important issues relating to legal disputes, statutory payments including taxes, non-compliances and penalties etc. are given in Annexure 4.**
- l. The company has in place a valid Directors/Officers Liability Insurance Policy and/or Keyman's Insurance Policy.**

Document/ Record/Evidence to be examined

1. Board Agenda, Minutes
2. Agenda and minutes of Committees
3. Filings with ROC and Stock Exchange.
4. Correspondence from / to individual directors if any.
5. Register of Directors & KMPs.
6. Remuneration Policy

Check Points (illustrative list) in the document /record/evidence

1. Institutional approval for appointment of director – whether obtained?
2. Whether Board has discussed about financial status of the company. If so important points. If not discussed at all, need to point out in the report.
3. Board approvals for any inter corporate deposits/loans given – if yes, relationship between the company and such borrower; whether the amount so lent is significant as compared to the financial status of the Company.
4. Members absent at Board meetings repeatedly. Does such absentee represent any specific interest group – if so which group; does that group have anything to do with financial status of the company.
5. Whether Board has discussed any topic like expansion or diversification of the businesses of the company; if yes, whether means of finance for such project was discussed. Whether means of finance if discussed could have any impact

on financial status of the Company in the immediate future or during the term of borrowings from banks.

6. If the Company has any subsidiary or associate companies, financial status of such companies. Any notable points on the subsidiary or associate companies including financial conditions or non-compliances and penalties of such subsidiary/associate which can have ramifications in the financial or functioning of the Company . Also discuss briefly on any guarantee or letter of comfort issued by the Company.
7. Key Man insurance and any specific points regarding such insurance.
8. Change in sitting fees and commission paid to directors.

Compliance with the statutes

Applicable provisions (Section 149,152,161,164,177,178,179 of Companies Act, 2013) and applicable provision of LODR pertaining to Board & Committees.

Annexure 3

**Notable Observations of the Committees
of the Board**

A. Notable Observations of the Board and Committees of the Board

1. Key discussions of the Board.
2. Key financial decisions and observations of Committees of Directors.

Please provide details, if there are differences between the Committee's suggestions and Board's decisions.

<i>Name of Committee</i>	<i>Objectives and Powers</i>	<i>Key Observations</i>

B. Details of the meeting (Board/ Audit) in which end use of funds was discussed.

Annexure 4

**Observations on the Financial Statements
by the Board & Audit Committee**

- 1.
- 2.
- 3.

PARA – 4. The shareholding pattern of the Company as on [insert date] is detailed at Annexure 6.

- i. During the period under review major changes to the shareholding together with the events / corporate actions leading or impacting the changes to the shareholding are detailed in Annexure 6.**
- ii. Details of pledge executed by promoters and non-disposal undertakings executed are also detailed in Annexure 6. (also detail the disclosure, if applicable whether made to the stock exchange)**
- iii. Details of stock options vested during the period are detailed in Annexure 6.**
- iv. Details of convertible instruments issued by the Company during the period are also detailed in Annexure 6.**

Document/ Record/Evidence to be examined

- 1. Shareholding pattern filed with stock exchange, if the company is listed. Or Member's registers.
- 2. Legal agreements / documentation including those relating to pledge and non-disposal agreements
- 3. Annual Return filed with ROC.
- 4. Transfers Approved by Board/ Transfer Committee/ Transfer Register.
- 5. Preferential Issue Documents.

Check Points (illustrative list) in the document /record/evidence

1. Details of pledge created by promoters and its purpose. Reasons for changes in pledge. Any other form of encumbrance on promoters' shares including entering into 'non disposal agreement'. Check if necessary disclosure to the stock exchange has been made (listed shares). Check if filing with ROC is done.
2. Whether shares held by promoter/persons in management have been offered as collateral for any borrowings other than the borrowing from the bank for which the due diligence is being done.
3. Are there any convertible instruments issued. If yes, conversion terms to be examined to check if the lending bank is at or will be put to any disadvantage due to conversion.
4. If there is an increase in share capital during the period of review, whether the increase is arising out of preferential issue for cash or for other than cash. If it is for other than cash, the valuation reports were made available.

Compliance with the statutes

Applicable provisions of :

- i. SCRA, 1956 (in case Company is a Listed Company)
- ii. Section 149 of the Companies Act, 2013.
- iii. Refer to event based provisions under the Companies Act, 2013 and applicable LODR & SEBI Regulations, i.e., ICDR, SEBI (ESOP), SEBI (Buyback Regulations), SEBI (SAST) etc.

Annexure 6

A. Draft Format of the Shareholding Pattern

1. Name of Entity:
2. Scrip Code/Name of Scrip/Class of Security :
3. Share Holding Pattern Filed under: Reg. 31(1)(a)/Reg. 31(1)(b)/Reg.31(1)(c) of SEBI LODR, 2015
 - a. If under 31(1)(b) then indicate the report for Quarter ending
 - b. If under 31(1)(c) then indicate date of allotment/extinguishment
- 4.

	Particulars	Yes	No
1	Whether the Listed Entity has issued any partly paid up shares?		
2	Whether the Listed Entity has issued any Convertible Securities or Warrants?		
3	Whether the Listed Entity has any shares against which depository receipts are issued?		
4	Whether the Listed Entity has any shares in locked-in?		
5	Whether any shares held by promoters are pledge or otherwise encumbered?		

rent holding of specified securities

of fully id up quity hares held (IV)	No. of Partly paid-up equity shares held (V)	No. of shares underlying Depository Receipts (VI)	Total nos. shares held (VII) = (IV)+(V)+(VI)	Shareholding as a % of total no. of shares (calculated as per SCRR, 1957) (VIII) As a % of (A+B+C2)	Number of Voting Rights held in each class of securities (IX)				No. of Shares Underlying Outstanding convertible securities (including Warrants) (X)	Shareholding, as a % assuming full conversion of convertible securities (as a percentage of diluted share capital) (XI) = (VII)+(X) As a % of (A+B+C2)
					No of Voting Rights			Total as a % of (A+B+C)		
					Class s eg: X	Class s Tot al				
				NA						

[illegible]

^f Stock Exchange(s).
^g Learning as assigned under regulation 28(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

Table III - Statement showing shareholding pattern of the Public shareholder

[illegible]

Persons in Concert including their Shareholding (No. and %):

of Stock Exchange(s)).
d along with the name of following persons:
ore than 1% of total number of shares.
sitory Receipts, the same may be disclosed

History Receipts, the same may be disclosed in the respective columns to the extent information available and the balance to be disclosed as held by customer.

Table IV - Statement showing shareholding pattern of the Non Promoter- Non Public shareh

[illegible]

B. Corporate Events/ Corporate Actions leading to change in share capital.

Opening Balance of share capital as on___:

Add: Increase in share capital

(indicate the date & other details of corporate event/ Action leading to increase including ESOP exercised.)

Less: Decrease in Share capital

(indicate date & other details of the corporate event/Action leading to decrease)

Closing Balance of share capital

C. Give list of convertible instruments issued during the Relevant Period

1. Name of the instrument:
2. Terms and conditions of issue(including terms of conversion):
3. Type of issue(Bonus, Rights, Preferential Allotment etc..... :
4. Name of the entities to whom allotted :
5. Shareholding of the entities in % on conversion :
6. How will conversion impact the Promoter holding in the Company:

D. Details of pledge executed / released by promoters (including encumbrances) :

1. Name of the promoter:
2. Whether pledge executed/ released
3. Name of the person in whose favour pledge is executed:
4. Date of such execution/ release:
5. Number of shares pledged/ released:
6. Date of filing the intimation of the same to stock exchange

As required under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

Note: If the shares have been continuously executed/ released details of each transaction has to be given with respect to each promoter separately.

E. Details of non- disposal undertakings executed:

1. Name of the promotor executing the same:
2. Number of shares held :
3. Name of the party with whom such undertaking has been entered into:
4. Date of execution of the undertaking:

F. Shares held by promoter/persons in management have been offered as collateral for any borrowings other than the borrowing from the bank for which the due diligence is being done.

PARA – 5. The Company has altered/ not altered the provisions of MOA or AOA during the period under review, requirements of the provisions of the Act have been complied in connection with the amendments. Reasons for such changes as noted from the Board notice, shareholder notice, agenda and minutes are detailed in Annexure 7. Provisions of MOA or AOA not adhered to are also detailed in Annexure 7.

Check Points (illustrative list) in the document /record/evidence

1. Check the nature of the amendments and discussions if any on the same in the meetings.
2. Impact of such amendment to the business of the Company. Change in business or issuance of capital etc., discussed at the meetings of the Board or committee.
3. If the amendment is to introduce new class of shares/increase shares. If yes, what prompted such amendment.
4. Check if the amendments to MOA/AOA, if any will have adverse impact on lenders rights.

Compliance with the statutes

1. Section 13,14 and other applicable provisions of the Act.
2. Filings with ROC, stock exchange.
3. Whether change reflected in all the copies of MOA/AOA.

Annexure 7

Alteration of Memorandum of Association/Article of Association

The company has altered the following provisions of :

1. Details of amendments to the Memorandum of Association during the period under review. Details of discussion on the Board for such amendment and reasoning there for.
2. Details of amendments to the Articles of Association during the period under review. Details of the discussions of the Board for such amendment and reasoning there for.
3. Date of Approval of shareholders:
 - i. Reason for alteration as mentioned in the Explanatory statement of the notice of General Body Meeting/ Postal Ballot:
4. Details of any institutional shareholders voting against the resolution.
 - ii. Name of the shareholders:
 - iii. Percentage holding in the Company on the date of meeting.
5. Date of receiving approvals from Regional Director.
6. Details of Provisions of MOA / AOA not adhered to by the Company.

PARA – 6. Related Party Transactions:

- (a) The number and value of related party transactions during the relevant period is [insert].**
- (b) The Company has a Board approved Policy on entering into transactions with related parties as defined in the Act and LODR. The transactions with related parties have been entered into by the Company after seeking necessary approvals from Audit Committee and/or Board and/or shareholders. All transactions entered into with related parties are on arm's-length basis and in ordinary course of business except the transactions listed in Annexure_8.**
- (c) The details of transactions entered into with business entities in which directors and promoters of the Company were interested are detailed in Annexure 8.**
- (d) It is observed that the Company has made necessary disclosures on related party transactions and has complied with relevant provisions of the Act and LODR provisions on such decisions. (OR) The transactions have the following shortcomings generally accepted (not meeting generally accepted criteria/norms) [insert the list of shortcomings].**

- (e) The said transactions were entered in the Register of Contracts or arrangements in which Directors are interested as required as per section 189 of the Companies Act, 2013 and the same has been placed before the Board and signed by all the Directors.**
- (f) The notable points on the related party transactions are as follows:**
- (i) Detail the adverse financial implications of the RPT.**
- (ii) Liabilities, if any, absorbed by the Company due to such transactions.**

Document/Record/Evidence to be examined

1. Board agenda and minutes,
2. Audit committee agenda and minutes.
3. Notice of General Meeting/ Postal Ballot /Minutes Book of General Meetings
4. Register of contracts maintained u/s 189
5. MBP 1 disclosures made by Directors
6. Annual reports.
7. Documents relating to Filings/ permissions with/from RBI with respect to loans/ guarantees made overseas as required under ODI Regulations.

Check Points (illustrative list) to checked in the document/record/evidence

- i. Please see point 6 (f) of the Report
- ii. Is there a proposal for sale or disposal of assets of the Company to any related party, then details thereof. Also check if any such deal may have financial and legal liability on the Company. Any of the related party transaction(s) will have adverse impact on cash flows of the company?
- iii. Whether any of the related party transaction(s) will have an impact on business model of the company in terms of giving away profitable vertical/business, etc.
- iv. Whether any of related party transaction(s) result in giving away value without receiving commensurate value in return.

Compliance with the statutes

- 1. Compliance with sec 177, 184, 185, 188, 189 of Companies Act, 2013 along with the Rules made thereunder to be checked.
- 2. Compliance of Reg 23 of LODR to be checked.
- 3. Check whether permission of RBI is required for overseas loans, guarantees given and the same is obtained.
- 4. Filings with RBI have been made as required under Overseas Direct Investment Regulations.

<i>Annexure 8</i>

A. Details of Related Party Transactions which are not in Arm's Length/not in ordinary course of business

- (a) Name(s) of the related party and nature of relationship
- (b) Nature of contracts/arrangements/transactions
- (c) Duration of the contracts / arrangements/ transactions
- (d) Salient terms of the contracts or arrangements or transactions including the value, if any
- (e) Whether in ordinary course of business:
- (f) Whether on Arm's length basis:
- (g) Justification for entering into such contracts or arrangements or transactions
- (h) Date of approval of Audit Committee
- (i) (Date of obtaining Omnibus approval/ Noting of the Actual transaction by the Audit Committee) :
- (j) Date(s) of approval by the Board :
- (k) Amount paid as advances, if any:
- (l) Date of approval of shareholders:

B. Details of transaction with Promoters/ Promoters Group/ Entities in which Promoters/Promotor Group is interested:

- (a) Name(s) of the Promoter (related party) and nature of relationship
- (b) Nature of contracts/arrangements/transactions

- (c) Duration of the contracts / arrangements/ transactions
 - (d) Salient terms of the contracts or arrangements or transactions including the value, if any
 - (e) Whether in ordinary course of business:
 - (f) whether on Arm's length basis:
 - (g) Justification for entering into such contracts or arrangements or transactions
 - (h) Date of approval of Audit Committee
 - (i) (Date of obtaining Omnibus approval/ Noting of the Actual transaction by the Audit Committee) :
 - (i) Date(s) of approval by the Board :
 - (ii) Amount paid as advances, if any:
 - (iii) Date of approval of shareholders:
- C. Details of discussions of the Board/ Committee while deciding to enter into related party transaction/s.**
- D. Details of liabilities, if any, for the Company due to the related party transactions.**

PARA – 7. The Company has [insert number] wholly owned subsidiaries and [insert number] subsidiaries and [insert number] joint ventures.

- (a) The shareholding of the Company in its subsidiaries, joint ventures, if any, are detailed in Annexure 9.**
- (b) Loans & guarantees given, investments made and securities provided are in accordance with the provisions of Section 186 of the Act, and such details are also elaborated in Annexure 9.**
- (c) The Company has granted a total of [insert] loans and [insert] guarantees / comfort letters during the period. Details of such loans and guarantees/comfort letters together with notable discussions on the same at the relevant Board / Committee meetings are detailed in Annexure 8. Guarantees/comfort letters issued by the Company under the Overseas Direct Investments Regulations are also detailed in Annexure 8. The loans and guarantees are in compliance of the provisions of Section 185 and 186 of the Act (OR) Granting of loan and guarantees not in compliance with sec 185 and 186 of the Act [insert non-compliances].**
- (d) ODI approvals in connection with loans, investments and guarantees or securities provided abroad by the Company are detailed in Annexure 9. The Company has also confirmed that the provisions of FEMA were complied with in respect of such loans, investments, guarantees or securities.**

Document/ Record/Evidence to be examined

- i. Annual report.
- ii. Forms filed with Authorised dealers in connection with ODI
- iii. Board and Audit Committee agenda and minutes and General Meeting/ Postal Ballot notice and minutes .
- iv. Guarantees / letters of comfort / Promoter or sponsor support agreements having financial implications.

Check Points (illustrative list) in the document /record/evidence

1. How was the equity investment in subsidiary funded? Is it out of company's equity / preference capital or borrowings? If it is from borrowings, it should be checked if that is in accordance with the purpose of borrowing. If not, please elaborate.
2. Whether the subsidiaries are being operated profitably or not?
3. Whether the subsidiaries are in India or outside
4. If it is outside, are they being audited regularly or not? If not, it is a red alert.
5. Whether such subsidiaries are borrowers of this company?
6. If the subsidiary is abroad, the ODI approvals or filings and the reasoning and source of funds mentioned therein.
7. Support given by the Company to its subsidiary (ie) guarantee or letter of comfort (LOC) etc., to be elaborated.
8. Details of LOC and guarantee issued to be checked and whether they are shown as contingent liabilities or not should be reported.

9. Check whether the LOC and guarantees are issued within the delegated powers and whether all required compliances in that regard are completed.
10. If FEMA is applicable, check whether it is through the automatic or approval route and Any discrepancy / deviations/ non-compliance noticed should be reported.
11. Check if any notice or communication is received from the authorities including under FEMA. A management representation can be relied on this aspect.

Compliance with the statutes

1. Sec 179, 185, 186 of the Companies Act, 2013 and Rules made thereunder amended from time to time.
2. ODI Regulations under FEMA Act, 1999

Annexure 9

- A. Group Structure together with holdings and cross holdings be provided.
- B. 1. Information of subsidiaries and Joint ventures for the Current year, Previous year:
- (a) Name of the Company, it's Subsidiaries & Joint Venture:
 - (b) Whether Subsidiary/ JV:
 - (c) Is a subsidiary/JV (indicate Reason pursuant to what provision):
 - (d) Registration No:
 - (e) Date of Incorporation:
 - (f) Country of Incorporation:
 - (g) Shareholding in the entity(Equity & Preference):
 - (h) Investment Amount (Equity & Preference):
 - (i) Voting Rights (in %) :
 - (j) Market Value or Fair Value of the Investment:
 - (k) Principal business activity of the Company.
2. Investments made by the Company other than those indicated in point 1.
- (a) Name of the Entity:
 - (b) Registration No. :
 - (c) Date of Incorporation:
 - (d) Country of Incorporation:

(e) Nature of investment and holding in number:

(f) Investment Amount:

(g) Market Value or Fair Value of the Investment.

3. Indicate the list of loans made by the Company classified as Bad Debts and the guarantees given/securities provided have been invoked.

4. List of investments made, loans & guarantees given, and security provided:

Name of the entity	Whether a Related Party. If yes indicate the Relation.	Loans made (also indicate the Rate of interest)	Guarantees given/ security provided	Investment Made (also indicate type of instrument)

Note: Kindly give information about Rate of Interest charged on loans given and the type of security in which investment is made.

5. Details of loans and guarantees issued to Promoters/ Promoters Group/ Entities in which Promoters/ Promotor Group is interested, including overseas guarantee for subsidiary companies, including details of ODI approvals obtained.

1. Amount of loan/ guarantee given:

2. Date of giving loan/guarantee:

3. Name(s) of the related party and nature of relationship :
 4. Terms and Conditions of loan/guarantee given :
 5. Whether in ordinary course of business:
 6. whether on Arm's length basis:
 7. Approval of Audit Committee:
 8. Approval of the Board:
 9. Compliance with Overseas Direct Investment Regulations (Yes/ No) :
6. Details of Shareholders Approval u/s 185:
- C. Details of Shareholders approval u/s 186:
- D. Date of Approval(s) obtained from Public Financial Institutions:
- E. Date of Approvals from RBI w.r.t overseas loans , guarantees, securities and investments made:
- F. Indicate the names of subsidiaries/ JV which are located outside India which are not subject to audit. Also indicate the loans given to such entities :
- G. The investment made in subsidiary/JV is funded out of:
- (Indicate the source of such funding i.e. out of equity share capital/ preference share capital/operating profits of the Company/ borrowings).

PARA - 8. The Company's total borrowings from its directors, members, financial institutions, banks and others as on [insert date] is [insert], the details of which, indicating the names of the lenders and security created are detailed at Annexure 10. The borrowings of the Company are within the borrowing limits prescribed by the Act and the general Meeting Resolutions and relevant Board resolutions. Such borrowings were made by the Company after taking necessary approvals from the Board and/or shareholders and the same are in compliance with applicable laws.

Document/ Record/Evidence to be examined

- i. Recent audited and unaudited financial statements.
- ii. Board and Audit committee and general Members resolutions under Section 179 and 180. Explanatory statements and notice to shareholders
- iii. ROC filings and register of charges maintained by the company.
- iv. Subordination agreements with respect to promoter loans
- v. Any unissued capital or advance in lieu of capital

Check Points (illustrative list) in the document /record/evidence

- i. Check the closing legal opinions and any non-observance of conditions.

- ii. Check if the conditions precedents for availing loans are complied with. If not, elaborate waivers and time given.
- iii. Check if the security stipulated in the financing documents are created.
- iv. Check if there are other lenders and if security is proposed to be shared with lenders, whether all lenders are informed of sharing of security.
- v. Whether end use certificates were submitted to the respective lender.
- vi. Terms of shareholder / promoter loans, like interest, date of repayment, utilisation etc.
- vii. Reasoning or discussions in the board or committee regarding unused capital /advance and its utilisation.

Annexure 10

Borrowings from banks/ FIs and NBFCs

*Amount due
for Repayment*

Borrowing Limit of the Company vide	Rs.	...
Board / General Meeting Resolution no. dated		
Amount borrowed from Directors		
Shri/Ms. Rs.@ % (rate of interest)	Rs.	
Shri/Ms. Rs.@ % (rate of interest)	Rs.	
	Total	Rs. ...
Amount borrowed from Members		
Shri/Ms.Rs.@ % (rate of interest)	Rs.	
Shri/Ms.Rs.@ % (rate of interest)	Rs.	
Shri/Ms.Rs.@ % (rate of interest)	Rs.	
	Total	Rs. ...
Amount borrowed from Public (i.e. Public Deposits)		
Shri/Ms.Rs. @ % (rate of interest)	Rs.	
Shri/Ms.Rs. @ % (rate of interest)	Rs.	
Amount borrowed from Bank(s)/ financial institution(s)		
M/s.Rs.	Rs.	
M/s.Rs.	Rs.	
M/s.Rs.	Rs.	
	Total	Rs. ... Rs.
Amount borrowed from Banks		
M/s.Rs.	Rs.	
M/s.Rs.	Rs.	
M/s.Rs.	Rs.	
	Total	Rs. ... Rs.
Amount borrowed from Others	(Rs.)	
Shri/Ms./M/s.Rs. .. @ % (rate of interest)		Rs.
Shri/Ms./M/s.Rs. @ % (rate of interest)		Rs.
	Total	Rs. ... Rs.
Grand Total		Rs. ... Rs.

PARA – 9. The details of the Company's payment schedule of interest, principal repayment, public deposits, unsecured loans, debentures, facilities granted by financial and/or operational creditors(as defined in Insolvency & Bankruptcy Code), are detailed along with repayment dates in Annexure 11. The Company confirmed that as on [insert date] there are no delayed payment of dues in respect of any borrowings of the Company (OR) as confirmed by the Company, the details of delayed payments are detailed in Annexure 11.

Check Points (indicative list) in the document /record/evidence

1. Check correspondence with the bankers to ascertain any non-compliance of conditions. Management representation can be relied upon regarding non-receipt of letters from bankers on specific issues.
2. Check repayment records/ bank loan statements to ascertain payment details.
3. Obtain management representation on any NPA reporting and other CIBIL reporting.
4. Details of deposits, bonds and the funds available for repayments.
5. Check creation of debenture reserve and whether the applicable provisions are being complied with.

Annexure 11

**Information on default w.r.t Financial
and operational creditors as on date**

1. Total Amount of default w.r.t Financial Creditors Period of default (range to be given)
2. Total Amount of default w.r.t operational creditorsPeriod of default (range to be given)

PARA – 10. The Company has created, modified or satisfied charges on the assets of the company as detailed in Annexure 12. Charges pending registration with ROC / CERSAI/ sub-registrar of Assurances / other Authorities are also detailed in Annexure 12. The details of letters regarding sharing of security / inter creditor agreements are detailed in Annexure 12. The charges created by the Company are in accordance with the provisions of the Act (OR) [indicate the shortcomings on the compliance].

Document/ Record/Evidence to be examined

- i. Register of Charges.
- ii. Correspondence with lending bank(s).
- iii. Legal documentation for creation of charges. *paripassu* letters, inter-creditor agreement. Negative Lien documentation.
- iv. Resolutions regarding creation of charge/ mortgage.
- v. Forms filed with ROC/CERSAI/Sub-Registrar of Assurances/Other Authorities

Check Points (illustrative list) to checked in the document/record/evidence

1. To check if the assets charged are shared with other lenders, and if so, are there *paripassu* letters exchanged and if the filing with ROC reflects the same. If there is no uniformity, details are to be elaborated.

2. To check from correspondence with banks to see if there are any issues on the charge created and if the issue/concern raised by the lending bank has been addressed. If not, to be elaborated. Check if there are any agreements / arrangements to give effect of creation of security to cover assets of the Company(i.e.) negative charge etc. Management representation can be relied upon to confirm this aspect.
3. Check if more than one loan has the same purpose, if so, whether both the lenders are aware of such loan. Indicate in the report, if there are correspondence to that effect. Check details of end use certificate was submitted to each of the lenders.
4. Whether charges for creation of charges and pledge are created with ROC and CERSAI/ Sub-registrar of Assurances and other authorities. Elaborate if not registered.

Annexure 12

**List of Charges subsisting on the Assets of
the Company as certified
by the Company Secretary / Management
of the Company**

S. No.	Description	Amount of Charge (Rs.)	Charge Holder	Nature of Charges/ hypothecated/ Pledge/mortga ge / Assignment	Whether created or Modified or satisfied and a date thereof	Document number/c harge ID	Date	Remarks

PARA – 11. The Company represented that the principal value of its forex exposure and overseas Borrowings as on [insert] are in aggregate [insert amount].

(a) Details of the exposure and the measures taken by the Company to mitigate such exposures, confirmed by the Company are detailed in Annexure 13. A copy of the relevant extract of hedging / risk management policy of the Company is also annexed at Annexure 13.

(b) Matters discussed regarding forex exposures at the Board / Committee meetings are as follows: [insert the notable points of the discussion] (OR) No discussions on the forex exposures were noted during this period either on the Board or on the Committee meetings.

Document/ Record/Evidence to be examined

- i. Discussion with Sales/Purchase/Project Management teams.
- ii. Agenda and Minutes of Risk Management Committee, if any.
- iii. Agenda and Minutes of Audit Committee Meetings
- iv. Agenda and Minutes of Board Meetings.
- v. Correspondence with Banks – lead bank and other bankers.
- vi. Correspondence with RBI or Authorised Dealer.
- vii. Discussion with Treasury managers of the company
- viii. Hedging Agreements, confirmations and credit support agreements.

Check Points (illustrative list) in the document /record/evidence

1. Ascertain whether the company has forex exposure in terms of sales, purchases, oversees projects, import of capital goods (one time or over a period of time), obligation to pay dividend (substantial amounts)/royalty/license fee in forex or any other type of periodic forex remittances – receipt or payment. This can be done through discussions with sales/purchase/project management teams. In case of IT companies or any other type of service sector companies involving rendering or receiving services overseas, forex exposure can be ascertained from HR. Management representations can be relied upon to confirm this point.
2. Ascertain whether the company as a part of treasury management indulges in forex futures trade.
3. If answers to the first two points result in concluding that the company has significant forex exposure, it will be necessary to ascertain further such exposure has any implication on the financial status of the company. Check if the company has any hedging arrangements with banks and if not elaborate if it has natural hedge.
4. Check agenda and minutes of Risk Committee/Audit Committee/ Board to check if there is any discussion on forex exposure and its implications on the financial status of the company.
5. Check from correspondence with principal bankers/authorised dealers if the company has taken any Over the Counter Forex exposure/hedge.

6. Check with treasury managers of the company if the company has any forex open positions in any stock exchange.
7. Check if the hedging facilities availed are in accordance with the forex policy of the Company. This can be in the form of management representation.
8. Check whether there are hedging agreements.

Annexure 13

Forex Exposures and Risk Management Policy

Principal value of the forex exposure and Overseas Borrowings of the company as on are as detailed in the Annexure under

<i>S. No.</i>	<i>Forex Exposure of the Company</i>	<i>Currency</i>	<i>Equ. Amount (US\$ Million)</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
1.	Funded Exposure		
2.	Foreign Currency Packing Credit		
3.	Foreign Currency Post Shipment Credit		
4.	External Commercial Borrowings		
5.	FCCB		
6.	ADR/GDR etc.		
7.	Other Loans, if any – Please specify		
	(a) Suppliers Credit		
	(b) Buyers Credit		
	(c)		
	(d)		
	Total Funded Exposure		
	Non Fund Based Exposure		
	Import Letters of credit opened		
	Import Letters of credit accepted		
	Guarantees Issued		
	Standby letters of Credit		

Others, if any – Please specify

(a)

(b)

(c)

Total Non Funded Exposure

Derivatives

Plain Vanilla Contracts

Forex Forward Contracts

Interest Rate Swaps

Foreign Currency Options

Any other Contracts

– Please Specify

Complex Derivatives

Contracts involving only interest rate derivatives

Other Contracts including those involving FC
derivatives

Any other derivatives – Please specify

(a)

(b)

(c)

Total Derivative Exposure Grand Total of all
Exposures

**Unhedged Foreign Currency Exposures of the Company Currency
wise**

<i>S. No.</i>	<i>Type of Exposure</i>	<i>Amount (US\$ Million)</i>
1.	Short Terms (viz. < 1 year)	
	Long Positions	
	Short Positions	
	Net Short term Exposures (a - b)	
2.	Long Term (viz. > 1 year)	
	Long Positions	
	Short Positions	
	Net Short term Exposures (a - b)	
	Overall Positions (1 + 2) for each currency (Please give overall Net Position in this format for each currency)	
3.	Naturally hedged	
	Short Position	
	Long Position	
	Overall Net Position across all currencies (Short+Long-Natural)	
		<i>CurrencyAmount</i>
Total Forex Exposure of the Company		
Fund Based Exposure		
Non-Fund Based Exposure		
Total Borrowing Limit of the Company		
External Commercial Borrowings of the Company		

<i>Borrowing limit of the Company</i>	<i>CurrencyAmount</i> <i>(Rs.)</i>
Amount borrowed from Overseas	
Directors	
Shri/Ms. ...	
Shri/Ms. ...	
Amount borrowed from Overseas	
Members	
Shri/Ms. ...	
Shri/Ms. ...	
Amount borrowed from Overseas	
Public	
Shri/Ms. ...	
Shri/Ms. ...	
Amount borrowed from Foreign	
Bank(s) /financial institution(s)	
M/s...	
M/s...	
Amount borrowed from Foreign	
banks	
M/s...	
M/s....	
Amount borrowed from others	
M/s...	
Credit Linked Notes	
Grand Total	
Whether approval of RBI required for the above : Yes / No	
If yes, date when approval was obtained ____ (date) vide	
Reference No.....	

PARA – 12. Status of compliance of positive/negative undertakings, creation of security, end use of facility/ loan etc., of the Company under various facility/ loan documentation, as confirmed by the Company are detailed in Annexure 14.

- (a) It is observed that non-compliance of conditions at [insert details from Annexure 14] is due to [insert reasons given by the Company]**
- (b) Details of the end use certificates furnished by the Company to its bankers are also furnished in Annexure 14.**
- (c) Notable points discussed on the borrowings and utilisation of such borrowings/facilities at the Board and Committee meetings are as follows [insert the gist of discussions] (OR) there was no discussion at the Board or Committee regarding the borrowings and utilisation of such borrowings/facilities.**
- (d) Elaborate if there are any partial compliance of conditions.**

Document/ Record/Evidence to be examined

- i. Loan / Facility documents and related legal opinions.**
- ii. Condition precedent certificates and other correspondence with banks.**
- iii. Certificates and other information from auditor or chartered accountants submitted to banks.**

- iv. Management representation can be relied upon regarding non-receipt of letters from bankers on specific issues.

Check Points (illustrative list) to checked in the document/record/evidence

1. Check positive and negative covenants of loan and facility agreements. Check compliance and correspondence from banks.
2. Check end use certificates, issued by statutory auditor and note for any comments or observations.
3. Check Board and Committee discussions on borrowing and repayment.

Annexure 14

**Status of Conditions of Loan/ Facility
Agreements not complied**

<i>Sl. No.</i>	<i>Loan Covenant</i>	<i>Reason for non Compliance</i>

PARA – 13. Details of dividend declared and not paid / delayed payments are detailed in Annexure 15.
--

Document/ Record/Evidence to be examined

1. Board agenda and minutes.
2. Audit Committee agenda and minutes.
3. AGM agenda and minutes.
4. Correspondence with Registrar& Transfer Agent.
5. Bank statements

Check Points (illustrative list) in the document /record/evidence

1. Whether lenders approval was taken before declaring dividend. Check the financing documents, for restrictions on declaration of dividend.
2. What is the promoters' holding? What is the ratio of dividend payout to profits after tax & share of promoter under dividend paid.
3. Whether separate account was opened for dividend payment.
4. Whether the dividend was paid within the time lines prescribed under law?
5. Whether the unpaid dividend is treated in accordance with law?

Compliance with the statutes

1. Sec 123, 124 of the Companies Act, 2013 and Rules made thereunder.
2. Dividend Payment Policy of the Company.
3. Reg. 43 of LODR.

Annexure 15

Details on Dividend Payments

Dividend on Equity/Preference Share

Particulars	Year ended 31st March, 20...	Year ended 31st March, 20...	Due Date of payment / Actual Date of payment. Elaborate on delay if any	Elaborate on delay if any
Dividend on equity/preference shares declared and paid during the year Final dividend Dividend distribution tax on final dividend Interim dividend Dividend distribution tax on interim dividend				
Proposed dividend on equity /preference shares not recognised as liability Final dividend Dividend distribution tax on final dividend				

1. Is the Dividend declared in line with the policy of the Company:
2. Dividend declared is out of current years profits or reserves:
3. If dividend declared is out of reserves details of discussion at the BM for declaring the dividend:

PARA – 14. The Company has confirmed that it has adequate insurance covering all its assets. The details of the insurance and the assets covered, as confirmed by the Company are annexed as Annexure 16.

Document/ Record/Evidence to be examined

- i. Discussion with officer in charge of insurance .
- ii. Annexures to insurance policy.
- iii. Risk / Audit Committee /Board meeting agenda and minutes.

Check Points (illustrative list) to checked in the document/record/evidence

- 1. Understand type of insurance taken, cover value, adequacy of insurance covered in terms of risks covered, value covered and salient insurance covenants to satisfy that insurance is adequate.
- 2. Check if there is any engineer's/Expert's note on the insurance to be taken and if insurance is taken accordingly. If not check for reasons.

Annexure 16

Insurance Details

State whether all the assets have been insured and provide a list of assets that haven't been insured. If not, provide details of assets not insured.

PARA - 15. Details of statutory dues paid during the FY [insert] is detailed at Annexure 17. Details of disputed liabilities, as declared by the Company and duly verified with the financial statements as on [insert date], are also detailed in Annexure 17.

Document/ Record/Evidence to be examined

- i. Internal audit reports.
- ii. Statutory audit reports.

Check Points (illustrative list) in the document /record/ evidence

Any unusual transaction or financial liability

Annexure 17

Details on Disputed Statutory Liabilities

Name of the Statute	Nature of dues	Amount Demanded Rs.	Amount Paid under dispute	Period to which the amount relates	Forum where dispute is pending

PARA - 16. The statutory Auditor vide his report dated [insert] has confirmed that the Company is a going concern and has made the following observations/ qualifications on the functioning of the Company [insert the notable observations].

Document/ Record/Evidence to be examined

- i. Audit Report
- ii. Board Report

Check Points (illustrative list) in the document /record/evidence

- 1. To see if the statutory auditor has made observations on 'going concern' status of the Company.
- 2. To see if any of the qualifications lead to doubts on going concern of the company.
- 3. To examine management explanation on auditor's qualifications in the Directors' Report. Management representations can be taken for compliance of audit observations .

PARA - 17. The Company has shared the details of cases filed against / notice issued to the Company for alleged defaults/ non-compliance of statutory provisions etc. The Company has also shared the status of such proceedings / notices. The details are at Annexure 18.

- (a) It is seen from the details that there are no winding up petitions/ proceedings at NCLT / DRT or any action under SARFAESI. OR**
- (b) Elaborate, if there are any pending proceedings under winding up, NCLT, DRT or SARFAESI. Elaborate on Section 138 NI act proceedings, if any.**
- (c) Notices received from [insert authorities] are in the nature of challenging the business of the Company and [insert the analysis on the business impact, if any]**

Check Points (illustrative list) in the document /record/evidence

1. Check if there are any litigation for recovery of dues or any application filed before NCLT under Insolvency and Bankruptcy Code.
2. Check if any interim orders are given, share a gist of the same.
3. Elaborate on tax litigations and any other significant litigations.

4. Check for SARFAESI notice and elaborate on the stage of such notice.
5. Elaborate on the notice(s) received.
6. Management representations can be taken with respect to the points above.

Annexure 18

**Cases Filed/Show Cause Notices Received
by the Company**

PARA - 18. The Company has shared the details of cases filed against / notice issued to the Promoters / Directors for alleged defaults/ non-compliance of statutory provisions etc. The Company has also shared the status of such proceedings / notices, the details are at Annexure 19.

- (a) It is seen from the details that there are no Section 138 NI Act proceedings, proceedings at NCLT against the Promoter / Directors.**
- (b) Elaborate, if there are any pending proceedings**
- (c) Notices received from [insert authorities] are in the nature of challenging the business proposing of the Company and [insert the analysis on the business impact, if any]**

Check Points (illustrative list) in the document/record/evidence

- i. Obtain details of notices and cases against promoters,.
- ii. If there are any disclosed litigations in the Annual Report, elaborate on the stage and about any interim orders.
- iii. Elaborate on notice(s), cases against promoters and see if it can have an impact on the business of the Company.
- iv. Management representations can be obtain taken with respect to the points above.

Annexure 19

**Cases filed / show cause notices received
by the Promoters / Directors of the
Company**

PARA - 19. The Company has (being a listed entity) complied with the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and other applicable SEBI regulations.

Document/ Record/Evidence to be examined

- i. Filings with stock exchanges.
- ii. Stock Exchange web-site.
- iii. Correspondence with stock exchanges
- iv. Correspondence with SEBI, if any.
- v. Board Agenda and minutes and audit committee agenda and minutes.
- vi. Secretarial audit report.
- vii. Statutory audit report.
- viii. Internal audit report.
- ix. Annual Corporate Governance Report forming part of Boards Report issued by Auditors/ External professional.

Check Points (illustrative list) in the document /record/evidence

Indicate all the SEBI Regulations applicable to the Company in the Annexure.

Any non-compliance with the applicable regulations/ penalties imposed by Stock exchange /SEBI for non-compliance to be indicated in the Annexure 20

Compliance with the statutes

1. Applicable regulations of LODR.
2. SEBI (Prevention of Insider Trading) Regulations, 2015.
3. SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.
4. Any other applicable SEBI Regulations.

PARA - 20. Based on the Annual Report for the FY [insert] and the discussions at the meetings of the Board and various Committees and the audit observations by the Statutory Auditor, events concerning the business prospects of the Company are detailed in Annexure 21.

Document/ Record/Evidence to be examined

1. Audit Committee / Board agenda and minutes.
2. Schedules or notes relating to aging of receivables.,
3. Schedules or notes relating to aging of payables.
4. Schedules or notes relating to movement of inventory/work in progress/finished goods.
5. Schedules/notes/discussions relating to utilisation of capacity.

Check Points (illustrative list) in the document /record/evidence

1. To examine the discussions relating to financial health of the company contained in audit/board meetings.
2. To check the schedules/notes/discussions relating to aging of receivables/payables/movement of raw material/finished goods to see if these will have any impact on the financial health of the company.
3. To examine the directors report on management discussion and analysis if there are any early warnings on the financial health of the industry/company.

Annexure 21

Report on Discussions on Annual Report

PARA - 21. Observations or comments made by the industry specific regulator relating to the major business of the Company during its recent inspection along with the response of the Board thereon, if any, are detailed in Annexure22.

Document/ Record/Evidence to be examined

- i. Correspondence relating to inspection by industry specific regulator.
- ii. Inspection report, and final communication from the industry specific inspector after concluding the inspection.
- iii. Audit Committee / Board agenda and minutes.
- iv. Directions/advise received from industry specific regulator.
- v. Web-site of industry specific regulator

Check Points (illustrative list) in the document /record/evidence

1. Check the final communication received from industry specific regulator after concluding the inspection with a particular focus on whether the advise/suggestions of such regulator will lead of additional investments that will have impact on financial status of the company.
2. To check whether the inspection outcome threatens ability of the borrowing company to continue to be in business or will have to reduce the scale of business.
3. To check the web site of the regulators if the regulator has classified the borrowing company under any category which can cripple clientele/business of the borrowing company.

Annexure 22

**Observations / Comments made by
Industry Specific Regulator**

PARA - 22. The details of Contingent liabilities of the Company are as provided in the Annexure 23
--

Document/ Record/Evidence to be examined

- i. Para on contingent liabilities
- ii. Notes to accounts that suggest contingent liability

Check Points (illustrative list) in the document /record/evidence

- 1. To check if the contingent liability will impact the borrowing company by questioning 'going concern' ability of the company.
- 2. To see if any notes to accounts will have the impact of contingent liability.

Annexure 23

Report on Contingent Liabilities

(Give details as at the end of immediately preceding 3 years)

	As at 31st March, 20...	As at 31st March, 20...	As at 1st April, 20...
Contingent Liabilities			
Claims against the Group not acknowledged as debts			
Income tax matters			
Sales tax matters			
Excise duty, service tax and customs duty matters			
Other matters including claims related to employees/ ex- employees, property related demands, etc.			
Any other :			
Non fund based limits			
Off Balance Sheet items			

PARA - 23. Certain early warning signals noted during the review are detailed at Annexure 24.

Check Points (illustrative list) in the document /record/evidence

The points given in annexure 24 are fairly detailed and self-explanatory and can be referred to.

Annexure 24

Report on Early Warning Signals Observed

Some Early Warning signals which should alert the bank officials about some wrongdoings in the loan accounts which may turn out to be fraudulent (the list is illustrative and not exhaustive. The professional certifying may decide on the nature and scale of operations of the borrower)

1. Default in payment to the banks/ sundry debtors and other statutory bodies, etc., bouncing of the high value cheques
2. Raid by Income tax /sales tax/ central excise duty officials
3. Frequent change in the scope of the project to be undertaken by the borrower
4. Under insured or over insured inventory
5. Invoices devoid of TAN and other details
6. Dispute on title of the collateral securities
7. Costing of the project which is in wide variance with standard cost of installation of the project
8. Funds coming from other banks to liquidate the outstanding loan amount
9. Foreign bills remaining outstanding for a long time and tendency for bills to remain overdue
10. Onerous clause in issue of BG/LC/standby letters of credit
11. In merchandising trade, import leg not revealed to the bank

12. Request received from the borrower to postpone the inspection of the godown for flimsy reasons
13. Delay observed in payment of outstanding dues
14. Financing the unit far away from the branch
15. Claims not acknowledged as debt
16. Frequent invocation of BGs and devolvment of LCs
17. Funding of the interest by sanctioning additional facilities
18. Same collateral charged to a number of lenders
19. Concealment of certain vital documents like master agreement, insurance coverage
20. Floating front / associate companies by investing borrowed money
21. Reduction in the stake of promoter / director
22. Resignation of the key personnel and frequent changes in the management
23. Substantial increase in unbilled revenue year after year.
24. Large number of transactions with inter-connected companies and large outstanding from such companies.
25. Significant movements in inventory, disproportionately higher than the growth in turnover.
26. Significant movements in receivables, disproportionately higher than the growth in turnover and/or increase in ageing of the receivables.
27. Disproportionate increase in other current assets.

28. Significant increase in working capital borrowing as percentage of turnover.
29. Critical issues highlighted in the stock audit report.
30. Increase in Fixed Assets, without corresponding increase in turnover (when project is implemented).
31. Increase in borrowings, despite huge cash and cash equivalents in the borrower's balance sheet.
32. Liabilities appearing in ROC search report, not reported by the borrower in its annual report.
33. Substantial related party transactions.
34. Material discrepancies in the annual report.
35. Significant inconsistencies within the annual report (between various sections).
36. Poor disclosure of materially adverse information and no qualification by the statutory auditors.
37. Frequent change in accounting period and/or accounting policies.
38. Frequent request for general purpose loans.
39. Movement of an account from one bank to another.
40. Frequent ad hoc sanctions.
41. Not routing of sales proceeds through consortium banks.
42. LCs issued for local trade / related party transactions
43. High value RTGS payment to unrelated parties.
44. Heavy cash withdrawal in loan accounts.
45. Non submission of original bills.
46. Availing of Corporate Loans.

Any other area of concern may also be indicated.

PARA - 24. Salient aspects culled out from the various Annexures having bearing on the functioning of the company are as under:

Check Points (illustrative list) in the document /record/evidence

This is a concluding paragraph of the report. While most critical points are repeated here, attention should be drawn to 'early warnings' if any under para 23.

Notes:

*Please highlight the concerns in respect of early warning signals stated in the list.

List of Abbreviations used

CIN – Company Identification Number

SEBI-Securities and Exchange Board of India

LODR-SEBI (Listing Obligations and Disclosure Requirements)
Regulation, 2015

Major Changes to shareholding- change in 10 % or more /changes
in the top 10/50 shareholders

ROC -Registrar of Companies

MCA- Ministry of Corporate Affairs

KMP- Key Managerial Personnel

AOA- Articles of Association of the Company

MOA - MOA - Memorandum of Association of the Company

DIN- Director Identification Number

DPIN- Designated Partner Identification Number

PAN - Permanent Account Number

MD- Managing Director

WTD- Whole Time Director

ECGC- Export Credit Guarantee Corporation

ODI Regulations- Overseas Direct Investment Regulations

FEMA- Foreign Exchange Management Act, 1999

LOC- Letter of Comfort

JV- Joint Venture

FIs- Financial Institutions

NBFC- Non Banking Financial Company

NPA- Non Performing Assets

CIBIL- Credit Information Bureau of India Limited

FY- Financial Year

NCLT- National Company Law Tribunal

SARFAESI – Securitisation and Reconstruction of Financial Assets
and Enforcement of Security Interest Act, 2002

The Act - Companies Act, 2013 read with rules framed under

Board - Board of Directors of the Company

Committee - Committee of the Company

CERSAI –Central Registry of Securitisation Asset Reconstruction
and Security Interest

DRT – Debt Recovery Tribunal

IBC – Insolvency and Bankruptcy Code, 2016

NRC – Nomination and Remuneration Committee

Part – II List of Annexures

<i>List of Annexure</i>	<i>Details contained in the Annexure</i>
Annexure 1	Details of Directors on the Board / Committees as on 30th Sept /31st March__
Annexure 2	Details of KMP and SMP
Annexure 3	Observations of the Committees of the Board.
Annexure 4	Observations on the financial statements by the Board and Committee
Annexure 5	Details of Officers Liability insurance or Keyman insurance
Annexure 6	Share Holding pattern and Changes
Annexure 7	Alteration of MOA/ AOA
Annexure 8	Related Party Transactions
Annexure 9	Subsidiaries and JVs
Annexure 10	Borrowings from Banks/ FIs and NBFCs
Annexure 11	Information on repayment of loans/facilities from Banks, FIs and NBFCs
Annexure 12	Report on Charges subsisting on the Assets of the Company.
Annexure 13	Forex Exposures and Risk Management Policy

Annexure 14	Status of conditions of loan/ facility agreements not complied
Annexure 15	Details on Dividend and not paid / delayed payments
Annexure 16	Details of Assets not insured.
Annexure 17	Details on disputed statutory liabilities
Annexure 18	Cases filed / Show Cause Notices received by the Company
Annexure 19	Cases filed / Show Cause Notices received by the Promoters / Directors of the Company
Annexure 20	Details of Non Compliance with SEBI Regulations and Penalties imposed, if any.
Annexure 21	Report on discussions on Annual Report
Annexure 22	Observations / Comments made by Industry Specific Regulator
Annexure 23	Report on Contingent Liabilities
Annexure 24	Report on early warning signals observed.

List of Abbreviations

Part III - Copies of confirmations taken from the Company

[insert the list]

Place:

Signature:

Date:

Name of Company Secretary/Firm:
