

NDA Update – Brief Note on Companies (Auditor’s Report) Order, 2020

MCA vide its Order dated 25-02-2020 has issued the Companies (Auditor’s Report) Order 2020, in supersession of the Companies (Auditor’s Report) Order 2016. This new Order (hereinafter referred to as CARO 2020) is applicable for reporting on the financial statements commencing on or from 1st April 2019. Thus the report from the year 2019-20 onwards will be covered by CARO 2020.

Some of the clauses require comments on the compliance of various sections of the Companies Act, 2013 (the Act). Instead of including such clauses under CARO, these should have been specifically included under secretarial audit report being issued by Company Secretaries.

Surprisingly, no change has been made in the threshold limits for exemption applicable to private companies which are as under:

Particulars	CARO 2020
Paid up capital and reserves and surplus	Not more than Rs one crore as on the balance sheet date
Total borrowing from bank and financial institution	Not exceeding Rs one crore at any point of time during the financial year
Total revenue as per Schedule III (including from discontinued operations)	Not exceeding Rs ten crores during the financial year

In case of CARO 2016 there were 22 reporting requirements comprising in 16 clauses. In case of CARO 2020 there are 50 odd reporting requirements comprising in 21 clauses.

New additions in CARO 2020

- Whether the company is maintaining proper records showing full particulars of intangible assets [Clause 3(i)(a)(B)]
- In case of any revaluation of PPE (including right of use assets) or intangible assets, whether the revaluation has been done by registered valuer and if the change in net carrying value of each class of the asset is more than 10%, then the amount of change has to be reported. [Clause 3(i)(d)]
- Whether any proceedings have been initiated or are pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988, if yes, whether appropriate disclosure of the details has been made in the financial statements.[Clause 3(i)(e)]
- In case of sanctioning of working capital limits exceeding Rs 5 crores during any point of time of the year by banks of financial institutions on the basis of security of current assets, whether quarterly statements / returns submitted to the lenders are in agreement with the books of account. If not, details are required to be given. **This requirement is applicable if the sanctioning of limits has been made at any point of time during the year. Clarification will be needed whether the sanction will include renewal cases also.** [Clause 3(ii)(b)]

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- In case of disclosure of income in the Income Tax assessment during the year which is not recorded in the books of account, whether the unrecorded income has been properly recorded in the books of account during the year. This will also include the cases of disclosures under various schemes. [Clause 3(viii)]
- Whether the company is declared as wilful defaulter by any bank or financial institution or other lender.

In case of banks or institutions, the term “wilful defaulter” has been defined by RBI and list of such defaulters is published periodically. In case of other lenders, such list will not be available and probably the same definition will be applicable. [clause 3(ix)(b)]

- Whether funds raised on short term basis has been utilised for long term purposes, if yes, the nature and amount to be indicated [clause 3(ix)(d)]. This requirement was earlier there prior to CARO 2015.
- In case of funds taken to meet the obligations of its subsidiaries, associates or joint ventures, details are required to be reported with nature and amount of each transaction; [clause 3(ix)(e)]
- In case of loans raised during the year on pledge of securities held in its subsidiaries, associates or joint ventures, details are required to be reported with further reporting in case of default in repayment of loans; [clause 3(ix)(f)]
- Whether any report of fraud under Section 143(12) has been filed by the auditors [clause 3(xi)(b)]
- Whether whistle blower complaints, if any, received during the year has been considered by the auditors [clause 3(xi)(c)].

Since the nature of whistle blower complaints to be considered by the auditors have not been specified or defined, it will be difficult for the auditors to ascertain the cases to be considered from the point of bona fide and genuineness of the complaint.

- In case of Nidhi company, whether there has been default in payment of interest on deposits or repayment for any period and if so, the details are required to be reported; [clause 3(xii)(c)].

The use of words “for any period” in this clause is ambiguous and requires clarification.

- Whether the company has an internal audit system commensurate with its size and nature of business. [Clause 3(xiv)(a)]. This requirement was earlier there prior to CARO 2015.
- Whether the reports of internal auditors for the period under audit were considered by the statutory auditors. [Clause 3(xiv)(b)].
- Whether the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration from RBI [Clause 3(xvi)(b)]

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- In case where the company is a Core Investment Company (CIC) as defined in the regulations made by the RBI, whether it continues to fulfil the criteria of a CIC. In case the company is exempted or unregistered CIC whether it continues to fulfil such criteria [Clause 3(xvi)(c)]
- Whether the Group has more than one CIC as part of the Group, if yes, indicate the number of CICs which are part of the Group; [Clause 3(xvi)(d)]
- Whether the company has incurred cash losses in the financial year and in the immediately preceding financial year, if so, state the amount of cash losses; [Clause 3(xvii)]. This requirement was there in CARO 2015.
- Whether there has been any resignation of the statutory auditors during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors; [Clause 3(xviii)].
- On the basis of financial ratios, ageing analysis, management plan and other information accompanying the financial statement etc, the auditor has to opine that no material uncertainty exists on the date of audit report on the company’s capability of meeting its liabilities existing on the balance sheet date and falling due for payment within one year. [Clause 3(xix)].

There will be tremendous liability on the auditors to report under this clause. If these adverse conditions prevail in the company, the auditors are already required to report on “Going Concern” in the main audit report.

- Whether the company has transferred the unspent CSR amount (other than ongoing projects) to the specified funds within a period of 6 months from the expiry of financial year. [Clause 3(xx)(a)]
- Whether the unspent CSR amount of ongoing project has been transferred to a special account as required under Section 135(6) of the Act. [Clause 3(xx)(b)]
- In case of any qualification or adverse remarks in CARO report by the auditors of the companies included in consolidated financial statements, details of the companies and the paragraph numbers of CARO report having qualification or adverse remarks are required to be reported. [Clause 3(xxi)]

Modifications in CARO 2020 compared to CARO 2016

- Title deed of all the immovable properties disclosed in the financial statement and not in the name of the company – format of reporting has now been prescribed as under: [Clause 3(i)(c)]

Description of property	Gross carrying value	Held in name of	Whether promoter, director or their relative Or employee	Period held – indicate range, where appropriate	Reason for not being held in name of company*
					* also indicate if in dispute

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- Adjustment of discrepancy on physical verification of inventory – Material discrepancy has been replaced with discrepancy of 10% or more in aggregate for each class of inventory. Besides the auditors are required to comment whether the coverage and procedure for physical verification is appropriate which was already there in CARO 2015. [Clause 3(ii)(a)]
- Loans granted, investment made and security /guarantee given – Earlier the clause was restricted only to granting of loans to related parties which has now been made applicable to loans to all parties. Besides, advances in the nature of loans, investment made and security / guarantee given are also being added. Now the requirements of reporting under this clause are as under:
 - Aggregate amount during the year and year-end balance of loans or advances and guarantee or security provided during the year to subsidiaries, joint ventures and associates; (Not applicable to companies having principal business of giving loan) [Clause 3(iii)(a)(A)]
 - Aggregate amount during the year and year-end balance of loans or advances and guarantee or security provided during the year to parties other than subsidiaries, joint ventures and associates; (Not applicable to companies having principal business of giving loan) [Clause 3(iii)(a)(B)]
 - Whether the investments made, guarantees provided, security given and the terms and conditions of the grant of all loans and advances in the nature of loans and guarantees provided are not prejudicial to the company’s interest; [Clause 3(iii)(b)]
 - In respect of loans and advances in the nature of loans, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular; [Clause 3(iii)(c)].
 - In case of overdue amount, state the amount overdue for more than 90 days. Whether reasonable steps have been taken for recovery of overdue amount [Clause 3(iii)(d)]
 - In case where any loan falling due during the year, has been renewed or extended or settled by way of fresh loan to same party, specify the aggregate amount so renewed or extended or settled with fresh loan with percentage of such amount to the total loan (Not applicable to companies having principal business of giving loan) [Clause 3(iii)(e)]
 - Whether the company has granted any loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, if so, specify the aggregate amount, percentage thereof to the total loans granted, aggregate amount of loans granted to Promoters, related parties as defined in clause (76) of section 2 of the Companies Act, 2013; [Clause 3(iii)(f)]
- Undisputed statutory dues – GST has been added [Clause 3(vii)(a)]

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- Disputed statutory dues – Earlier the reporting was restricted to income tax or sales tax or service tax or duty of customs or duty of excise or value added tax. Now the requirement is to report on all dues mentioned under the clause of undisputed statutory dues as above [Clause 3(vii)(b)]
- Default in repayment of loans, other borrowings or in payment of interest** - In CARO 2016 it was limited to default in repayment of loans and borrowing to a financial institution, banks, government or dues to debenture holders but in CARO 2020 the reporting of default in payment has been extended to any lenders with addition of interest and the reporting has to be done lender wise in prescribed format. However the lender wise details is required to be given in case of default to financial institution, banks, government. [Clause 3(ix)(a)]

<i>Nature of borrowing, including debt securities</i>	<i>Name of lender*</i>	<i>Amount not paid on due date</i>	<i>Whether principal or interest</i>	<i>No. of days delay or unpaid</i>	<i>Remarks, if any</i>
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**lender wise details to be provided in case of defaults to financial institution, banks, government*

- Whether term loans were applied for the purpose they were taken. If not, the amount so diverted and the purpose for which it is used. [Clause 3(ix)(c)]
- Fraud noticed and reported [Clause 3(xi)(a)]. Earlier requirement was restricted to any fraud on the company by its officer or employees. Such restriction has been removed and any fraud on the company is required to be reported.

Changes not made in CARO 2020 compared to CARO 2016

- Maintenance of records and physical verification of PPE [Clause 3(i)(a)(A) & 3(i)(b)]
- Compliance of Sections 185 and 186 in respect of loans, investments, guarantees and securities [Clause 3(iv)]
- Acceptance of deposit [Clause 3(v)]. “Deemed to be deposits” have also be included.
- Maintenance of cost records [Clause 3(vi)]
- Application of moneys raised by way of initial public offer or further public offer [Clause 3(x)(a)]
- Preferential allotment or private placement of shares or convertible debentures [Clause 3(x)(b)]. Compliance of Section 62 of the Act is also required to be reported.
- Compliance of net owned funds requirement by Nidhi companies [Clause 3(xii)(a) and (b)]
- Transaction with related parties and disclosure thereof [Clause 3(xiii)]
- Non cash transactions with directors and persons connected with him [Clause 3(xv)]
- Requirement of registration under Section 45-IA of Reserve Bank of India Act [Clause 3(xvi)(a)]

Clause removed in CARO 2020

- Approval of managerial remuneration under the Act and reporting of amount involved in case of non approval and steps taken for recovery.