

05th January, 2016

CACS UPDATES

REPORTING OF FRAUD BY AUDITORS

Source:

MCA has substituted Rule 13 of the Companies (Audit and Auditors) Rules, 2014 by its vide Notification No. G.S.R.972 (E.) dated 14th December, 2015.

Effectiveness:

The notification shall come into force on the date of their publication in the Official Gazette.

Amendment:

I. Rule 13: Reporting of fraud by the Auditor and other matters

1. Offence involving fraud of amount of Rs. 1 Crore or above:

If an auditor of a company, in the course of the performance of his duties as statutory auditor, has reason to believe that an offence of fraud, which involves or is expected to involve individually an amount of rupees one crore or above, is being or has been committed against the company by its officers or employees, the auditor shall report the matter to the Central Government.

2. Procedure of reporting:

a. Intimation of fraud to Board or Audit Committee within 2 days:

The auditor shall report the matter to the Board or the Audit Committee, as the case may be, immediately but not later than two days of his knowledge of the fraud, seeking their reply or observations within forty-five day.

b. Report to the Central Government within 15 days:

On receipt of the reply or observations, the auditor shall forward his report and the reply or observations of the Board or the Audit Committee along with his comments (on such reply or observations of the Board or the Audit Committee) to the Central Government within fifteen days from the date of receipt of such reply or observations.

c. In case of no reply from Board or Audit Committee:

In case the auditor fails to get any reply or observations from the Board or the Audit Committee within the stipulated period of forty-five days, he shall forward

his report to the Central Government along with a note containing the details of his report that was earlier forwarded to the Board or the Audit Committee for which he has not received any reply or observations.

d. Format of Report:

The report shall be in the form of a statement as specified in Form ADT-4.

3. Offence involving fraud of amount less than Rs. 1 Crore:

In case of a fraud involving an amount lesser than rupees one crore, the auditor shall report the matter to Audit Committee or to the Board immediately but not later than two days of his knowledge of the fraud and he shall report the matter specifying the following:

- a. Nature of Fraud with description;
- b. Approximate amount involved; and
- c. Parties involved

4. Details of Fraud

The following details of each of the fraud reported to the Audit Committee or the Board under during the year shall be disclosed in the Board's Report:

- a. Nature of Fraud with description;
- b. Approximate Amount involved;
- c. Parties involved, if remedial action not taken; and
- d. Remedial actions taken

5. Applicability of the provisions to the Cost Auditor and Secretarial Auditor:

The provision of this rule shall also apply, mutatis mutandis, to a Cost Auditor and a Secretarial Auditor during the performance of his duties under section 148 and section 204 respectively.

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Suggestions may be sent to rupesh@cacsindia.com

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