

CLARIIFICATION ON AUDITOR'S REPORT IN RESPECT OF FINANCIAL STATEMENTS OF A COMPANY FOR ACCOUNTING YEARS BEGINNING BEFORE 1ST APRIL, 2014¹

1. The Ministry of Corporate Affairs *vide* its General Circular No 07/2014, *Dissemination of Information With Regards to the Provisions of the Companies Act, 2013 as Notified Till Date vis a vis Corresponding Provisions of the Companies Act, 1956*, dated 01st April 2014 had provided information in respect of such sections of the Companies Act 1956 which will cease/continue to have effect after 01st April 2014 (i.e. the date when a number of sections of the Companies Act 2013 came into force).
2. Also, the Ministry of Corporate Affairs had on 04th April, 2014 issued a General Circular No. 8/2014 regarding "Commencement of provisions of the Companies Act 2013 with regard to maintenance of books of accounts and preparations/adoption/filing of financial statements, auditor's report, Board's report and attachments to such statements and reports- Applicability with regard to relevant financial Year".
3. The aforesaid General Circular of 04th April 2014 *inter alia*, mentioned that "..... it is hereby notified that the financial statements (and documents required to be attached thereto), auditor's report and Board's report in respect of financial years that commenced earlier than 1st April, 2014 shall be governed by the relevant provisions/ Schedules/ rules of the Companies Act, 1956 and that in respect of financial years commencing on or after 1st April, 2014, the provisions of the new Act shall apply."
4. Also, such companies whose financial years ended at a date other than 31st March, are in the process of aligning their financial year to meet the definition of "financial year" as per the Companies Act, 2013.
5. The matters described in paragraph 1 above have given rise to a situation wherein, with effect from 01st April 2014, the various documents, minutes and registers, etc., are being maintained by companies in accordance with the provisions of the Companies Act, 2013. Consequently, in case of companies whose financial years commenced before 31st March 2014 but would end on or before 31st March 2015, w.e.f. 01st April 2014, various documents, minutes and registers, etc., may not be maintained in accordance with the provisions of the Companies Act, 1956 for such part of the financial year that falls after 01st April 2014 (ie, the date when the Companies Act, 2013 comes into force).
6. The aforesaid situation is giving rise to practical difficulties for the statutory auditors while reporting in terms of certain provisions of section 227 of the Companies Act, 1956 in respect of the companies described in paragraph 5 above since necessary documents, minutes and registers, etc., under the Companies Act, 1956 may not be available for such part of the financial year that falls after 01st April 2014. Specifically, these difficulties relate to reporting under section 227(3)(f), relating to disqualification of the Directors under section 274(1)(g) of the Companies Act 1956. Similarly, problems would be faced while reporting on certain clauses of the Companies (Auditor's

¹ This "Clarification" was approved by the Council of the Institute of Chartered Accountants of India at its 342nd meeting held on 15-16 April, 2015.

Report) Order, 2003 (CARO 2003). For example, clause (iii) relating to loans to/from parties covered in the register maintained under section 301 of the Companies Act 1956; or clause (v)(a) and (b) relating to contracts or arrangements referred to in section 301 of the Companies Act 1956; or clause (vi) relating to provisions of section 58A and 58AA of the Companies Act, 1956 relating to acceptance of deposits from the public; or clause (viii) relating to maintenance of cost records; or clause (xiv) relating to dealing or trade in shares, securities, debentures, other investments, etc *vis a vis inter alia*, exemption under section 49 of the Companies Act, 1956 or clause (xviii) relating to preferential allotment of shares to parties and companies covered in the register maintained under section 301 of the Companies Act, 1956. It may also be noted that in terms of MCA's aforesaid General Circular No 07/2014, of 01st April, 2014, sections 49, 58A, 58AA, 209, 274, 301 of the Companies Act, 1956 cease to have effect from 01st April 2014.

7. It is, therefore, suggested that in case of aforesaid situation, the statutory auditors should report on the relevant clauses only for that part of the financial year upto which the concerned provisions of the Companies Act 1956 were in force (ie upto 31st March 2014). Also, the statutory auditors should clearly bring out this fact in the relevant portions of their audit reports. An illustrative manner of such disclosure is as follows:

"Other Matters

The Ministry of Corporate Affairs had on 01st April, 2014, *vide* its General Circular No. 07/2014, *Dissemination of Information with Regards to the Provisions of the Companies Act, 2013 as Notified Till date vis a vis Corresponding Provisions of the Companies Act, 1956*, identified such sections of the Companies Act, 1956 that would cease/ continue to have effect from 01st April 2014.

Accordingly, in terms of the aforesaid Circular, our reporting in respect of section 227(3)(f) of the Companies Act, 1956, and clauses (iii), (v)(a) and (b), (vi), (viii), (xiv), (xviii) of the Companies (Auditor's Report) Order, 2003 (dealing with sections 49, 58A, 58AA, 209(1)(d) and 301 of the Companies Act, 1956) is only for the period beginning from ie (date) till 31st March 2014 since as per the aforementioned MCA Circular these sections have ceased to have effect from 01st April, 2014."

8. This Announcement is effective from the date of its hosting on ICAI's website.

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Chairman, Auditing and Assurance Standards Board