

CONSTITUTION OF CORPORATE SOCIAL RESPONSIBILITY COMMITTEE AND WORKINGS OF CORPORATE SOCIAL RESPONSIBILITY COMMITTEE

115

{Section 135 of the Act read with the Companies (Corporate Social Responsibility Policy) Rules, 2014}

Synopsis

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Relevant Sections, Rules and Forms at a Glance

| Particulars | Section(s), Rule(s) and Name of e-Form(s) |
|--|---|
| The Companies Act, 2013 | Sections 135, 173 and Schedule VII |
| The Companies (Corporate Social Responsibility Policy) Rules, 2014 | Rules 2, 3, 4, 5, 6, 7, 8 and 9 |
| The Companies (Accounts) Rules, 2014 | Rule 9 |
| Secretarial Standard-1 | Clauses 3, 4, 5, 6, 7 and 8 |

115.1 PROCEDURE WITH MAJOR CHECK POINTS

| S. No. | Particulars |
|--------|---|
| 1. | Check whether the provisions of Corporate Social Responsibility (CSR) are applicable on the company as CSR is applicable on every company ¹ , including its holding or subsidiary and a foreign company having its branch or project office in India, which meets any of the following criteria during the immediately preceding financial year:— - Net Worth of ₹500 crores or more; |

¹ Not applicable in case of Specified IFSC Public Company or Specified IFSC Private Company - Section 135 shall not apply for a period of five years from the commencement of business of a Specified IFSC public company or Specified IFSC Private Company {Notification No GSR 8(E) for IFSC specified Public company and GSR 9 (E) for specified IFSC private company, both dated 4th January, 2017}

| S. No. | Particulars |
|--------|--|
| | <p>- Turnover of ₹1000 crore or more;</p> <p>- Net Profit (Profit before tax) of ₹5 crores or more;</p> <p>{Section 135(1) of the Act read with Rule 3(1) of the Companies (Corporate Social Responsibility Policy) Rules, 2014}.</p> <p>Foreign company means any company or body corporate incorporated outside India which (a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and (b) conducts any business activity in India in any other manner {Section 2(42) of the Companies Act, 2013}.</p> <p>Net worth means the aggregate value of the paid-up share capital and all reserves created out of the profits ,securities premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation {Section 2(57) of the Companies Act, 2013}.</p> <p>Turnover means the gross amount of revenue recognised in the profit and loss account from the sale, supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year {Section 2(91) of the Companies Act, 2013}.</p> <p>Net profit means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, but shall not include the following, namely:—</p> <ul style="list-style-type: none"> (i) any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and (ii) any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act: Provided that in case of a foreign company covered under these rules, net profit means the net profit of such company as per profit and loss account prepared in terms of clause (a) of sub-section (1) of section 381, read with section 198 of the Act {Rule 2(h) of the Companies (Corporate Social Responsibility Policy) Rules, 2014}. <p>Net worth, Turnover or Net profit of a Foreign company of the Act shall be computed in accordance with balance sheet and profit and loss account of such company prepared in accordance with the provisions of section 381(1)(a) and section 198 of the Act.</p> |
| 2. | <p>Note that—</p> <ul style="list-style-type: none"> • the Corporate Social Responsibility means the activities undertaken by a company in pursuance of its statutory obligation pursuant to section 135 of the Act in accordance with the provisions contained in the Companies (Corporate Social Responsibility Policy) Rules, 2014, but shall not include the following— (i) activities undertaken in pursuance of normal course of business of the company, provided that any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices |

| S. No. | Particulars |
|--------|--|
| | <p>The subscribers, who are individuals in the Memorandum of Association (MOA) shall be deemed as first directors until the directors are duly appointed by the members in accordance with Section 152 of the Companies Act, 2013 and rules made thereunder (Section 152 of the Act).</p> <ul style="list-style-type: none"> • Not the person intended/proposed to be appointed a director of a company has a valid Director Identification Number (DIN) under section 174 or any other number as may be prescribed under section 174 of the Companies Act, 2013, however, in case of first directors of a new company, the DIN up to 3 (three) persons can be obtained through incorporation with integrated form SPICe-1 (INC-32) (Section 152 of the Act read with rule 152 of the Companies Incorporation Rules, 2014). • Not a total number of directors, at least one director has stayed in India for a total period of not less than 182 days during the financial year. Provided that in case of jointly incorporated companies, residential status shall be determined proportionately. However, it is not required in case the director is appointed by the Central Government or State Government (Section 152 of the Act). • A person, who is intended to be appointed, shall not be eligible for appointment, if he/she has any disqualification for appointment under section 164 of the Act (Section 164 of the Act read with companies provisions a government company not applicable in IIR DIN) (Section 164 of the Act). • A person proposed to be appointed as a director in a company other than a company registered under Section 8 (non-profit company) of the Companies Act, 2013 (Section 152 of the Act) <ul style="list-style-type: none"> - shall not hold office as a director including any alternate directorship in more than 20 companies including directorship in dormant companies. - shall not hold office in more than 10 public companies including the private companies which are holding or subsidiary of public companies. |
| 1. | In case of one person company, an individual being sole member is deemed to be the first director of the company, if the articles of association has not mentioned the names of first directors (Section 152 of the Act). |
| 2. | Forms created in writing, on or before appointment, from the appointed director to act as director in the company as Form DIR-2 (Part 7 of the Companies Incorporation and Qualification of Directors Rules, 2014). |
| 3. | Form created in writing, on or before appointment, from the appointed director as Form DIR-3 regarding that he/she is not disqualified under Section 164 of Companies Act, 2013, to act as a Director (Section 164 of the Act read with rule 17 of the Companies Incorporation and Qualification of Directors Rules, 2014). |
| 4. | The particulars of first directors to be integrated with Form SPICe-1 (INC-32) at the time of incorporation of company. |

For the detailed procedure, please refer Company Law Procedures & Compliances by Dr. Sanjeev Gupta, 2nd edn, 2021. You can buy from your bookseller or online at www.bharatlaws.com

[COMPANY LAW Procedures & Compliances \(in 2 vols.\)](#)