



# MOMIN JURIS LAW

**“Tailoring Secretarial and Compliance Services Seamlessly”**

## CARO APPLICABILITY

**CARO 2020 IS APPLICABLE TO EACH COMPANY INCLUDING FOREIGN COMPANY (AS DEFINED IN SECTION 2(42) OF THE ACT), EXCEPT:**

1. Banking Companies, as defined in clause (c) of Section 5 of the Banking Regulation Act, 1949;
2. Insurance Companies, as defined under the Insurance Act, 1938;
3. Companies licensed under Section 8 of the Companies Act, 2013;
4. One Person Companies (OPC), as defined under Section 2(62) of the Companies Act, 2013;
5. Small Companies, as defined under Section 2(85) of the Companies Act, 2013.

### ➤ Definition of “Small Company” under Section 2(85) of the Companies Act, 2013. – Applicable Thresholds

#### Up to 30 November 2025

A company shall be classified as a Small Company if it satisfies both of the following conditions:

- **Paid-up Share Capital:** Less than ₹4 crore; and
- **Turnover:** Less than ₹40 crore.

#### Exclusions:

The following entities shall not be treated as Small Companies, irrespective of the above limits:

- Holding companies
- Subsidiary companies
- Section 8 companies
- Companies or bodies corporate governed by a special Act

#### From 1 December 2025 onwards

With effect from **1 December 2025**, a company shall be classified as a **Small Company** if it satisfies **both** of the following revised conditions:

- **Paid-up Share Capital:** Less than ₹10 crore; and
- **Turnover:** Less than ₹100 crore.

#### ➤ Effective Date

- The **revised thresholds** for Small Companies shall be **applicable from the date of publication in the Official Gazette, i.e., 1 December 2025.**

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6. Private Company, not being a subsidiary or holding company of a public company, having (cumulatively satisfying all the conditions below):

- Paid-up Share Capital and Reserves on reporting date < Rs. 1 Crore; and
- Total Borrowings from banks / FI anytime during the year < Rs. 1 Crore; and
- Total Revenue as disclosed in Scheduled III to the Companies Act for the year < Rs. 10 Crore

## AUDITOR'S REPORT TO CONTAIN MATTERS SPECIFIED IN PARAGRAPHS 3 AND 4

Every report made by the auditor under section 143 of the Companies Act on the accounts of every company audited by him, to which this Order applies, for the financial years commencing on or after the 1st April, 2019, shall in addition, contain the matters specified in paragraphs 3 and 4, as may be applicable:

Provided this Order shall not apply to the auditor's report on consolidated financial statements except clause (xxi) of paragraph 3.

## MATTERS TO BE INCLUDED IN AUDITOR'S REPORT.

### CLAUSE 3(I): PROPERTY, PLANT & EQUIPMENT AND INTANGIBLE ASSETS

The auditor's report on the accounts of a company to which this Order applies shall include a statement on the following matters, namely: -

1. (a) (i). whether the company is maintaining proper records showing full particulars, including quantitative details and situation of Property, Plant and Equipment;

(B) whether the company is maintaining proper records showing full particulars of intangible assets;

(a) whether these Property, Plant and Equipment have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;

(c) whether the title deeds of all the immovable properties (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) disclosed in the financial statements are held in the name of the company, if not, provide the details thereof in the format below: -

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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(d) whether the company has revalued its Property, Plant and Equipment (including Right of Use assets) or intangible assets or both during the year and, if so, whether the revaluation is based on the valuation by a Registered Valuer; specify the amount of change, if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment or intangible assets;

(e) whether any proceedings have been initiated or are pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, if so, whether the company has appropriately disclosed the details in its financial statements;

## **CLAUSE 3(II): INVENTORY**

a) whether physical verification of inventory has been conducted at reasonable intervals by the management and whether, in the opinion of the auditor, the coverage and procedure of such verification by the management is appropriate; whether any discrepancies of 10% or more in the aggregate for each class of inventory were noticed and if so, whether they have been properly dealt with in the books of account;

b) whether during any point of time of the year, the company has been sanctioned working capital limits in excess of five crore rupees, in aggregate, from banks or financial institutions on the basis of security of current assets; whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of account of the Company, if not, give details;

## **CLAUSE 3(III): INVESTMENTS, LOANS, GUARANTEES OR SECURITY**

whether during the year the company has made investments in, provided any guarantee or security or granted any loans or advances in the nature of loans, secured or unsecured, to companies, firms, Limited Liability Partnerships or any other parties, if so, -

a) whether during the year the company has provided loans or provided advances in the nature of loans, or stood guarantee, or provided security to any other entity ***[not applicable to companies whose principal business is to give loans]***, if so, indicate: -

- i. *the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to subsidiaries, joint ventures and associates;*
- ii. *the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to parties other than subsidiaries, joint ventures and associates;*

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;

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- c) 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;
- d) if the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest;
- e) whether any loan or advance in the nature of loan granted which has fallen due during the year, has been renewed or extended or fresh loans granted to settle the over dues of existing loans given to the same parties, if so, specify the aggregate amount of such dues renewed or extended or settled by fresh loans and the percentage of the aggregate to the total loans or advances in the nature of loans granted during the year *[not applicable to companies whose principal business is to give loans]*;
- f) 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(IV): SEC. 185 & 186 COMPLIANCE**

- In respect of loans, investments, guarantees, and security, whether provisions of sections 185 and 186 of the Companies Act have been complied with, if not, provide the details thereof;
- **References –**
  - Sec. 185 and 186 of the Act
  - Declarations in Form MBP-1 from all directors
  - Register maintained under section 189 of the Act
  - Relevant extract of Rules 11, 12 & 13 of the Companies (Meeting of Board and its Powers) Rules, 2014
- **Reporting in cases of non-compliance:**
  - the nature of non-compliance,
  - the maximum amount outstanding during the year and
  - the amount outstanding as at the balance sheet date in respect of:
    - (i) the directors; and
    - (ii) any person in whom any of the director of the company is interested (specify the relationship with the director concerned)

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- Whether, at any point of time during the year in case of aforesaid transactions, the company has exceeded the limit of:
  - sixty per cent of its paid-up share capital, free reserves and securities premium account or
  - one hundred per cent of its free reserves as defined in section 2(43) of the Act and securities premium account

**whichever is more.**

- If it exceeds the limits specified above, whether prior approval by means of a special resolution passed at a general meeting has been obtained.
- whether the Company has made investments through more than two layers of investment companies
- Whether rate of interest is not lower than the prevailing yield of one year, three-year, five year or ten-year government security closest to the tenor of the loan granted.
- If the company is in default in the repayment of any deposits accepted or in payment of interest thereon, then the company is not allowed to give any loan or guarantee or provide any security or make an acquisition till such default is subsisting.
- Whether the Company has maintained a register (as per Form MBP-2) in the manner as prescribed and also check the compliances of other provisions and relevant rules.

## **CLAUSE 3(V): DEPOSITS**

- In respect of deposits accepted by the company or amounts which are deemed to be deposits,
  - whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules made thereunder, where applicable, have been complied with, if not, the nature of such contraventions be stated;
  - if an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not;
- **No major change except inclusion of “deemed deposit/s”**
- **References –**
  - Sec. 73 to 76 of the Act
  - Companies (Acceptance of Deposits) Rules, 2014, as amended
  - Form DPT-3 [for (a) a return of deposit; (b) particulars of transaction not considered as deposit, or (c) both]

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- Rule 2(1)(c) of the above Rules - Sub-clause (xii) prescribes the instances, where an amount received in the course of, or for the purposes of, the business of the Company would be deemed to be deposit.

## **CLAUSE 3(VI): COST RECORDS**

- Whether maintenance of cost records has been specified by the Central Government under subsection (1) of section 148 of the Companies Act and whether such accounts and records have been so made and maintained;
- No change as compared to CARO 2016
- These books of account and records form part of the books of account of the company within the meaning of section 2(13) of the Act.
- The Companies (Cost Records and Audit) Rules, 2014 has specified the list of class of companies in which maintenance of cost record is prescribed under section 148 of the Act.
- Cost records – books relating to utilization of materials, labour and other items of cost as applicable to the production of goods or provision of services as provided in section 148 of the Act, and these rules. These rules also prescribed the items of cost to be included in the books of account.
- As per the said Rules, Cost records are required to be maintained as per the Form CRA-1.
- The Order does not require a detailed examination of the cost records. A general review of the cost records is expected to ensure that the records as prescribed are made and maintained.
- Where the auditor finds that the records have not been written or are not prima facie complete, it will be necessary for the auditor to make a suitable comment in his report.
- Rule 4 of these rules lays down the conditions subject to which the companies covered by these rules need to get their cost records audited.
- Reporting requirement is regardless of whether a cost audit has been ordered by the central government.
- Considerations – Consistency with the comments on applicability or maintenance of cost records / audit in the Board’s Report and CARO.

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## **CLAUSE 3(VII): STATUTORY DUES**

- (a. whether the company is regular in depositing undisputed statutory dues including Goods and Services Tax, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated;
- (b. where statutory dues referred to in sub-clause
- i. have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned (a mere representation to the concerned Department shall not be treated as a dispute);

## **CLAUSE 3(VIII): UNRECORDED INCOME**

whether any transactions not recorded in the books of account have been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (43 of 1961), if so, whether the previously unrecorded income has been properly recorded in the books of account during the year;

## **CLAUSE 3(IX): BORROWINGS**

(a) whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender, if yes, the period and the amount of default to be reported as per the format below: -

Nature of borrowing, including debt securities	Name of lender*	Amount not paid on due date	Whether principal or interest	No. of days delay or unpaid	Remarks, if any
	<ul style="list-style-type: none"><li>lender wise details to be provided in case of defaults to banks, financial institutions and Government.</li></ul>				

(b) whether the company is a declared wilful defaulter by any bank or financial institution or other lender;

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(c) whether term loans were applied for the purpose for which the loans were obtained; if not, the amount of loan so diverted and the purpose for which it is used may be reported; (d) whether funds raised on short term basis have been utilised for long term purposes, if yes, the nature and amount to be indicated;

(e) whether the company has taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures, if so, details thereof with nature of such transactions and the amount in each case;

(f) whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies, if so, give details thereof and also report if the company has defaulted in repayment of such loans raised;

## **CLAUSE 3(X): FUNDS RAISED THROUGH IPO/FPO**

a) whether moneys raised by way of initial public offer or further public offer (including debt instruments) during the year were applied for the purposes for which those are raised, if not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported;

b) whether the company has made any preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) during the year and if so, whether the requirements of section 42 and section 62 of the Companies Act, 2013 have been complied with and the funds raised have been used for the purposes for which the funds were raised, if not, provide details in respect of amount involved and nature of non-compliance;

## **CLAUSE 3(XI): FRAUD**

a) whether any fraud by the company or any fraud on the company has been noticed or reported during the year, if yes, the nature and the amount involved is to be indicated;

b) whether any report under sub-section (12) of section 143 of the Companies Act has been filed by the auditors in Form ADT-4 as prescribed under rule 13 of Companies (Audit and Auditors) Rules, 2014 with the Central Government;

c) whether the auditor has considered whistle-blower complaints, if any, received during the year by the company;

## **CLAUSE 3(XII): NIDHI COMPANY**

a) whether the Nidhi Company has complied with the Net Owned Funds to Deposits in the ratio of 1: 20 to meet out the liability;

b) whether the Nidhi Company is maintaining ten per cent. unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability;

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- c) whether there has been any default in payment of interest on deposits or repayment thereof for any period and if so, the details thereof;

## **CLAUSE 3(XIII): RELATED PARTY TRANSACTIONS**

Whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act where applicable and the details have been disclosed in the financial statements, etc., as required by the applicable accounting standards;

- No change as compared to CARO 2016
- Related Parties as defined in Sec 2(76) of the Act
- Completeness of related parties - Reference documents:
  - MBP-1 declarations by all Directors
  - Declarations made by directors of any changes during the year
  - Group structure with shareholding pattern
- Compliance with sections 177 and 188 of the Act.
- Sec 177 – approval of audit committee for transactions with related parties
- Sec. 188 - Transactions covered include sale / purchase of goods or services, leasing of property, buying or selling of any property etc.
- If transactions not on arm length – prior consent of Board require
- Accounting Standards applicable – AS 18 or IND AS 24

## **CLAUSE 3(XIV): INTERNAL AUDIT**

- a) whether the company has an internal audit system commensurate with the size and nature of its business;
- b) whether the reports of the Internal Auditors for the period under audit were considered by the statutory auditor;

## **CLAUSE 3(XV): NON-CASH TRANSACTIONS – SEC.192**

Whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act have been complied with;

- Section 192 of the Act - Restriction on non-cash transactions involving directors

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- Unless prior approval for such arrangement is accorded by a resolution of the company in general meeting, no Company shall enter into an arrangement with a director of the company or its holding, subsidiary or associate company or a person connected with him where:
  - a director of the company or its holding, subsidiary or associate company or a person connected with him acquires or is to acquire assets for consideration other than cash, from the company; or
  - the company acquires or is to acquire assets for consideration other than cash, from such director or person so connected
- **Documents / records for evidence of such transactions:**
  - Persons connected to the director –
    - Form No. MBP 1, *Notice of Interest by Director*, filed pursuant to the Companies (Meetings of Board and Its Powers) Rules, 2014
  - Acquisition by/ from the Company
    - Form No. MBP 2, *Register of Loans, Guarantee, Security and Acquisition Made by the company*, filed pursuant to the Companies (Meetings of Board and Its Powers) Rules, 2014
    - Form No. MBP 4, *Register of Contracts with Related Party and Contracts and Bodies etc in which Directors are Interested*,
    - Minutes book of the General Meeting and Meetings of Board of Directors
    - Report on Annual General Meeting pursuant to Companies (Management and Administration) Rules, 2014 in Form No. MGT 15

## **CLAUSE 3(XVI): NON-BANKING FINANCIAL INSTITUTIONS**

- whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934) and if so, whether the registration has been obtained;
- whether the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the Reserve Bank of India Act, 1934;
- whether the company is a Core Investment Company (CIC) as defined in the regulations made by the Reserve Bank of India, if so, whether it continues to fulfil the criteria of a CIC, and in case the company is an exempted or unregistered CIC, whether it continues to fulfil such criteria;
- 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;

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## **CLAUSE 3(XVII): CASH LOSSES**

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;

- The term “cash losses” is not defined in the Act and the accounting standards / Indian accounting standards. Also, no readily available from the financial statements.
- The term ‘cash losses’ needs to be distinguished from ‘distributable surplus’ and ‘realised profits/losses.’
- Cash Losses - normally determined by adjusting the figure of net profit/loss after taxes (PLAT) shown by the statement of profit and loss for effects of transactions of non-cash nature such as:
  - depreciation on Property, Plant & Equipment,
  - amortization of Intangible Assets,
  - impairment loss or its reversal accounting standard on Impairment of Assets,
  - deferred tax income/expense,
  - foreign exchange gain/loss,
  - fair value changes for determination of cash losses etc.

## **CLAUSE 3(XVIII): RESIGNATION OF STATUTORY AUDITORS**

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;

- Communication by the new auditor with the outgoing auditors important to understand and address any issues, objections or concerns raised by them.
- Such communication also required as per the ICAI Code of Ethics
- Section 140(2) of the Act read with Rule 8 of the Companies (Audit and Auditors) Rules 2014 requires the auditor who has resigned from the company to file within a period of thirty days from the date of resignation, a statement in Form ADT 3 - Notice of Resignation by the Auditor, with the Registrar of Companies (ROC) indicating the reasons and other facts as may be relevant with regard to his resignation.

## **CLAUSE 3(XIX): REPAYMENT OF LIABILITIES – MATERIAL UNCERTAINTY?**

on the basis of the financial ratios, ageing and expected dates of realisation of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor’s knowledge of the Board of Directors and management plans, whether the auditor is of the opinion that no material

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uncertainty exists as on the date of the audit report that company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date;

## **CLAUSE 3(XX): CSR**

- a) whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act;
- b) whether any amount remaining unspent under sub-section (5) of section 135 of the Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with the provision of sub-section (6) of section 135 of the said Act;

## **CLAUSE 3(XXI): QUALIFICATIONS / ADVERSE REMARKS IN CARO REPORTS OF ENTITIES CONSOLIDATED**

whether there have been any qualifications or adverse remarks by the respective auditors in the Companies (Auditor's Report) Order (CARO) reports of the companies included in the consolidated financial statements, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks.

- a) Be registered under the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 8 of the Companies Act, 2013 etc.
- b) Any person making an application for registration shall have an FCRA Account i.e. a bank account with state bank of India, main branch, New Delhi.
- c) An association should be in existence for at least 3 years and has undertaken reasonable activity in its chosen field for the benefit of the society for which the Foreign Contribution is proposed to be utilized.
- d) An association should have spent at least Rs. 15, 00,000/- over the last 3 years on its core activities for the benefit of the society during the last three financial years. The central government in exceptional cases or in cases where the person making the registration application is controlled by the CG or SG may waive this condition of Rs. 15,00,000.
- e) A person making an application may also include the existing capital investments, like bank, building, vehicles, etc. in computation of its eligibility of minimum spending of Rs.15 Lakh then such person shall:
  - ❖ Give an undertaking that the assets shall be vested henceforth with the person till the validity of the certificate.
  - ❖ They shall be utilised only for the activities covered under the Act.

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- ❖ The rules made thereunder and shall not be diverted for any other purpose till the validity of its certificate of registration remains valid.
- f) The organisation must have utilized at least 80% of the foreign contribution on its core activities. Not more than 20% of the funds can be utilized for administrative expenses. For all beyond 20%, central government clearance is required.
- g) NGOs that want to receive foreign donations of more than Rs. 1 crore per year must obtain prior permission from the Ministry of Home Affairs.
- h) Darpan ID is now mandatory to be filled in the FC-3 Forms during FCRA registration. You can obtain a Darpan ID from NITI Aayog portal.
- i) An association should have 12A registration certificate as well as registration certificate also.

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