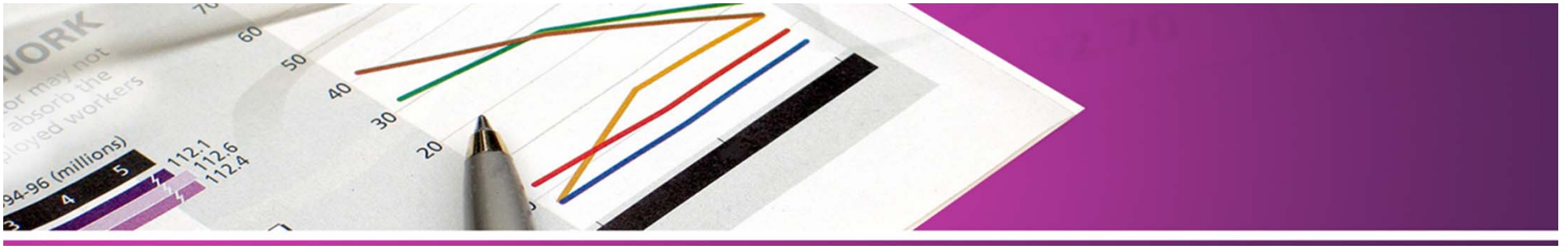


AUDIT OF COMPANIES FROM THE PERSPECTIVE OF A COMPANY SECRETARY

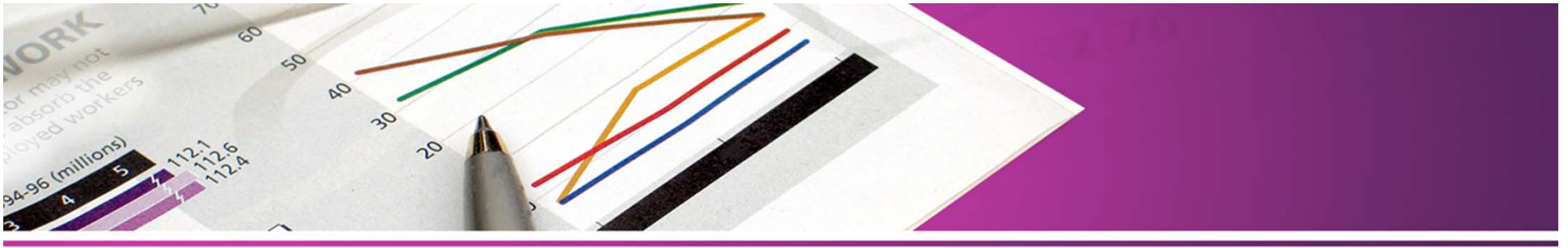


R. C. Jain & Associates LLP
Chartered Accountants



NEED FOR CORPORATE LAW COMPLIANCE AUDIT

- Ensures timely compliances and eliminates any un-intended non compliance
- Stringent penal provisions under Companies Act, 2013
- Lengthy procedure to make good the default



ANNUAL COMPLIANCES



- Filing of Financial Statements in Form AOC-4 within 30 days of the AGM
- Filing of Annual Return in Form MGT-7 within 60 days from the date of AGM

Form_MGT-7.pdf - Adobe Reader

File Edit View Window Help

Tools Sign Comment Extended

Please fill out the following form. You can save data typed into this form.

S. No.	Name	Designation	Gross Salary	Commission	Stock Option/ Sweat equity	Others	Total Amount
1							0
	Total						

XI. MATTERS RELATED TO CERTIFICATION OF COMPLIANCES AND DISCLOSURES

* A. Whether the company has made compliances and disclosures in respect of applicable provisions of the Companies Act, 2013 during the year ☐ Yes ☐ No

B. If No, give reasons/observations

XII. PENALTY AND PUNISHMENT - DETAILS THEREOF

(A) DETAILS OF PENALTIES / PUNISHMENT IMPOSED ON COMPANY/DIRECTORS /OFFICERS ☐ Nil



Secretarial Compliances:

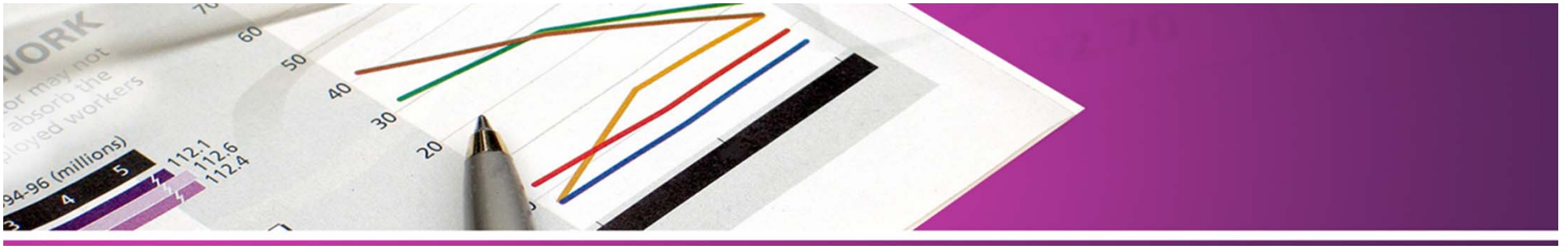
- Ensure that Minutes of Board Meeting, AGM, Extra-Ordinary General Meeting are being maintained as per SS.
- Disclosure of Interest in Form MBP-1 has been taken from each Director in the first Board Meeting of each FY
- Ensure that none of the Directors is holding office as a Director in more than 20 Companies at the same time (Max. no. of public companies should not be more than 10)



Contd...

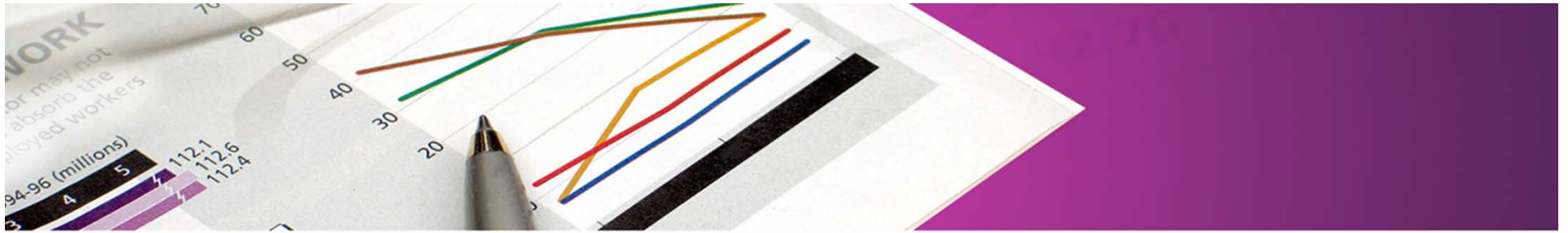
Ensure that the statutory registers are being updated in accordance with Companies Act, 2013-

- Register of members
- Register of charges
- Register of Directors
- Register of contracts and arrangements in which directors are interested



Section 158- Obligation to indicate DIN

- Every person or company, while furnishing any return, information or particulars shall mention the Director Identification Number (DIN) in such return, in case such return, information or particulars relate to the director *or contain any reference of any director*
- Hence, when the Directors sign Financial Statements and all its annexures, it is mandatory to indicate the DIN of Directors.



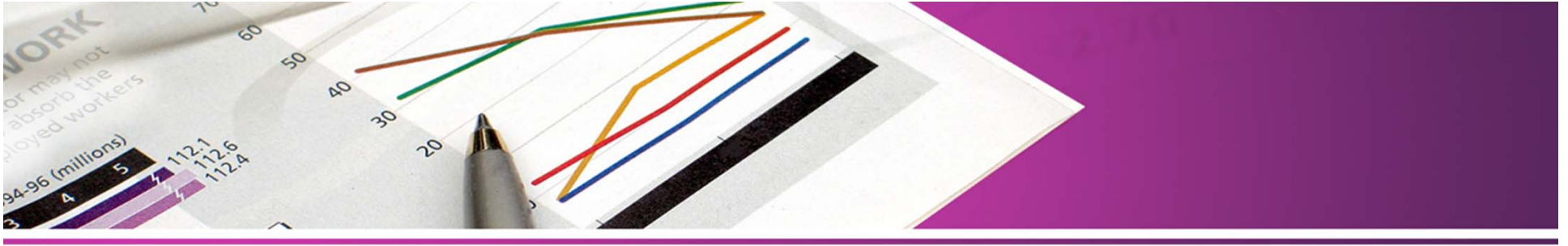
Applicability of Audit Committee and Nomination & Remuneration Committee (Section 177 and 178)

- Every Listed Company
- All Public Companies having paid up share capital of Rs. 10 Crore or more
- All Public Companies having turnover of Rs. 100 Crore or more
- All Public Companies which have, in aggregate, outstanding loans, debentures and deposits, exceeding Rs. 50 Crore



Vigil Mechanism- Whistle Blower Policy

- Every Listed Company
- Companies which accept deposits from the public
- Companies which have borrowed money from banks and public financial institutions in excess of Rs. 50 Crore or more



Stakeholders Relationship Committee

A company which consists of more than 1000 shareholders, debenture-holders, deposit-holders or any other security holders *at any time during a financial year* need to constitute a Stakeholders Relationship Committee.



Internal Complaints Committee

{under Sexual Harassment of Women at Workplace
(Prevention, Prohibition and Redressal) Act, 2013}

Every employer of a workplace shall constitute a
Committee known as “Internal Complaints Committee”

Further, as per the amendment dated 31st July, the Board’s
Report of every Company shall include a statement that
the company has complied with provisions relating to the
constitution of ICC under the said Act.



Section 135- Corporate Social Responsibility

Applicable to a Company having -

- Net worth of Rs. 500 crore or more, or
- Turnover of Rs. 1000 Crore or more or
- Net profit of Rs. 5 Crore or more

in any of the three preceding FYs

Every such company has to spend in every financial year at least 2 % of the average net profits of the company made during the 3 immediately preceding financial years.

Also, if the company fails to spend such amount, the Board shall, specify the reasons for not spending the amount in its Board's Report.



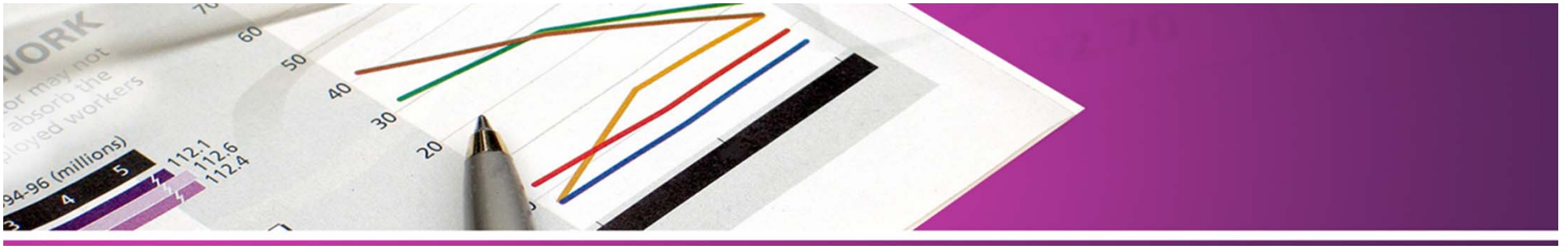
Event-based Compliance checks



Section 185- Loan to Directors etc.

Post Companies (Amendment) Act 2017, the provisions of Section 185 have been made partly prohibitive and partly restrictive (w.e.f. 07th May, 2018)

Category A		Category B	
Prohibitive to:		Restrictive to:	
1.	Directors of the Company	1.	Private Company in which any such director is a director/member
2.	Directors of a Company which is its Holding Company ("HC")	2.	Any body corporate at a GM of which at least 25% of the total voting power is exercised or controlled by any such director, or by two or more such directors, together;
3.	Any partner of the Director of the Company/HC	3.	Any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.
4.	Relative of any Director of the Company/Holding Company		
5.	Any firm in which any such Director/relative is a partner		



POINTS TO BE CHECKED-

- ✓ **In case of Private Companies, check whether the exemption Notification dated 05th June, 2015 applies to the Company?**

Section 185 does not apply to a Private Company if it fulfills all of the following conditions:

- Body Corporate should not be Shareholder
- Borrowings from Bank/ Financial Institution/ Body Corporate is not exceeding-
 - Twice of its Paid up capital
 - Rs. 50 crore*whichever is lower*
- No default in repayment of borrowings is subsisting at time of giving loan



✓ Check whether the loan given is exempted from the provisions of Section 185?

Loans exempted from the provisions of Section 185-

- Any loan made by a HC to its WOS.
- Any guarantee/security provided by a HC in respect of any loan made to its WOS
- Any guarantee given or security provided by a HC to its subsidiary company in respect of loan made by any bank or financial institution

[provided above loans are utilized by WOS/Subsidiary Company for its principal business activities and not for further investment or grant of loan]

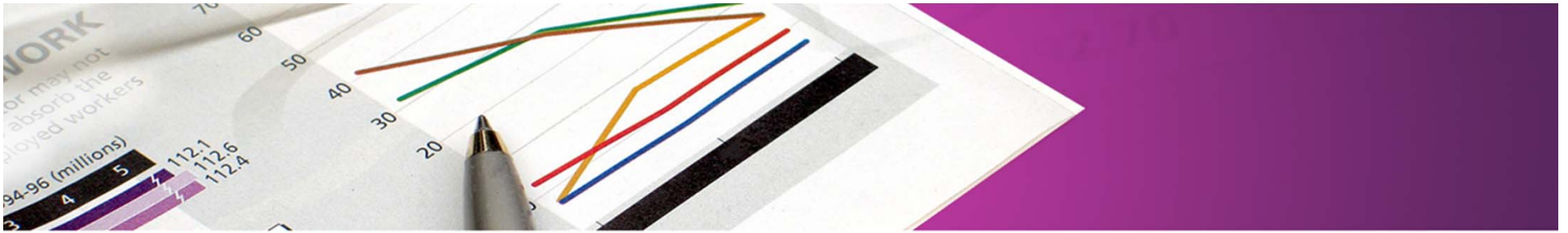
- Loan to MD/WTB (as a part of part of condition of service extended to employees or pursuant to a scheme approved by members by passing a Special resolution)
- Loan to a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and charges interest on such loans at a rate not less than that prevailing on Government securities. (1/3/5 year yield - closest to tenor of the Loan)



✓ Check whether there is any other transaction with the Director which might be considered as a Loan to Director under Section 185?

- Supply of goods to Director on credit
- Travelling advance/ conveyance advance
- Advance salary given to Director

In all the above cases, the answer shall depend on facts of the case. It has to be found out in each case whether the sale on credit/travelling advance/salary advance was a genuine one or a loan disguised as a credit sale/advance.



Section 186- Loan and Investment by Company

Limits under Section 186

- 60% of the paid-up share capital, free reserves and securities premium account, or
- 100% of free reserves and securities premium account

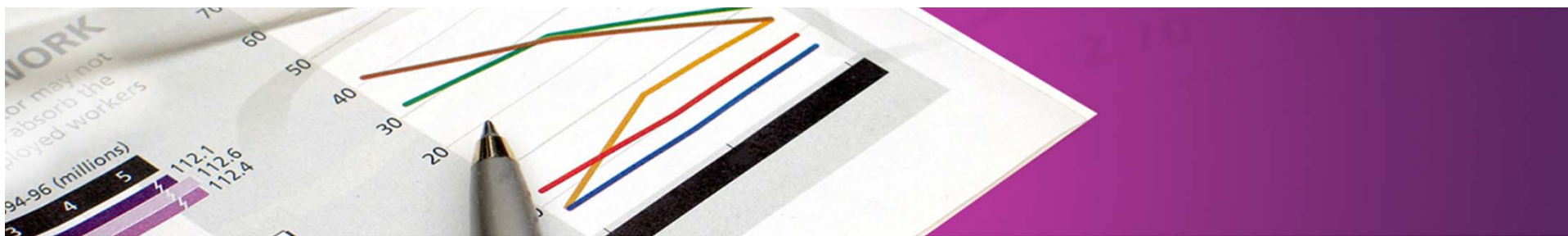
whichever is more

- ✓ **In case the loan, guarantee or security given exceeds the above limits, check whether previous approval by way of SR has been obtained and the same has been filed in Form MGT-14?**



Contd...

- Further, full particulars of the loans given, investment made or guarantee given or security provided **and the purpose for which the loan or guarantee or security is proposed to be utilised by the recipient** are to be disclosed to the members in the Financial Statement.



HUL Annual Report 2016-17 (1).pdf - Adobe Reader

File Edit View Document Tools Window Help

130 (132 of 220) 141% 186

(All amounts in ₹ crores, unless otherwise stated)

44 DISCLOSURES PURSUANT TO SECURITIES AND EXCHANGE BOARD OF INDIA (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015 AND SECTION 186 OF THE COMPANIES ACT, 2013

	Year ended 31st March, 2017	Year ended 31st March, 2016
(a) Loans to subsidiaries		
Loan to subsidiary: Pond's Exports Limited, India		
Balance as at the year end	4	4
Maximum amount outstanding at any time during the year	8	12
[Pond's Export Limited has utilised the loan for meeting working capital requirements. It is repayable over a period of 7 years and carries an average rate of interest at 7.58% (2015-16: 8.46%)]		
Loan to subsidiary: Lakme Lever Private Limited, India		
Balance as at the year end	194	158
Maximum amount outstanding at any time during the year	200	168
[Lakme Lever Private Limited has utilised the loan for meeting capital projects for job work business and working capital requirements of salon business. It is repayable over a period of 7 years and carries an average rate of interest at 7.60% (2015-16: 8.46%)]		
(b) Investment by the loanees in the shares of the Company		
The loanees have not made any investments in the shares of the Company		

45 DISCLOSURE ON SPECIFIED BANK NOTES (SBNs)

During the year, the Company had specified bank notes (SBNs) and other denomination notes as defined in the MCA notification G.S.R. 308(E) dated 31st

21:14
17-08-2018



- ✓ **Check whether Board Meeting was convened for granting approval to the Investment made/ loan / guarantee/ security given?**
- ✓ **Check whether consent of all directors present at the Meeting was obtained?**
- ✓ **Check whether the approval of Banks/ PFI has been obtained, in cases where a term loan is subsisting? (*Not required if the limits do not exceed)**
- ✓ **Check that the loan has not been given at a rate of interest lower than prevailing yield 1 year/ 3 year/ 5 year/10 year Government Security closest to the tenor of the loan**
- ✓ **Check that there is no subsisting default in the repayment of deposits**



Deposits- Section 73 to 76

- As per Section 2 (31) "deposit" includes any receipt of money by way of deposit or loan or in any other form by a company, but *does not include such categories of amount as may be prescribed* in consultation with the Reserve Bank of India.
- The amounts which are not considered as deposit have been mentioned in Rule 2 (1) (c) of the Companies (Acceptance of Deposits) Rules, 2014.



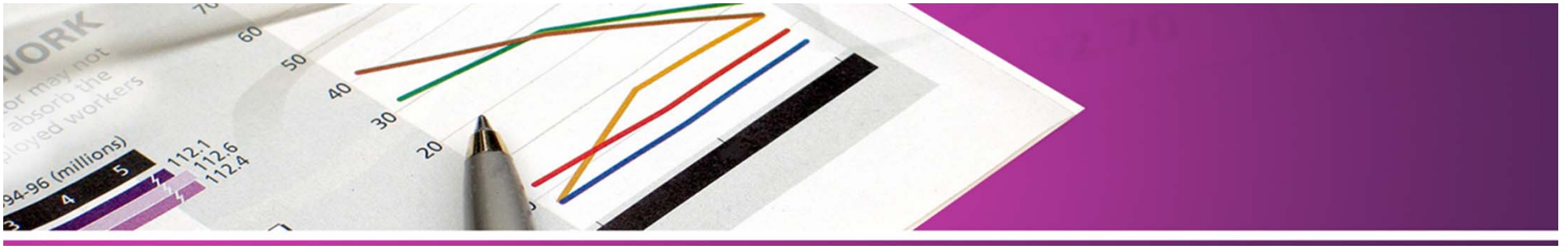
Points to be checked-

- ✓ Where any amount has been received from a Director/Relative of Director, check whether **a declaration in writing has been obtained** from such person that the amount is not being given out of funds acquired by him by borrowing or accepting loans or deposits from others .
- ✓ Check whether there is any advance received for the supply of goods or services which has not been **appropriated against supply of goods or provision of services within a period of 365 days** from the date of acceptance of such advance.
- ✓ Where any amount has been received as an advance towards consideration for an immovable property under an agreement or arrangement , **check whether such advance has been adjusted against such property** in accordance with the terms of agreement or arrangement.



Section 188 – Related Party Transactions

- Any transaction with a Related party which is in its ordinary course of business and on arm's length basis is outside the purview of Section 188.
- Thereafter, check whether the transaction with a Related Party is falling under clause (a) to (g) of section 188(1), if yes check the limits specified under rules for each transaction.



Section 188 – Related Party Transactions

- Every RPT shall be referred to in the Board's report to the shareholders along with the justification for entering into such contract or arrangement.
- It is to be noted that AOC-2 shall include details of all RPT in two categories- transactions not at arm's length basis and material transactions not at arm's length basis.



Section 180- Borrowings

Limits for which SR is required-

When the total borrowings exceed

paid-up share capital + free reserves + securities
premium

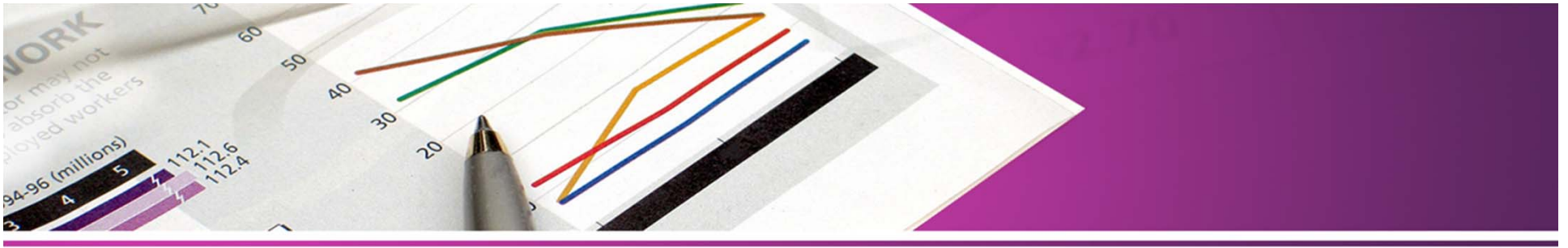
(excluding temporary loans obtained from the company's
bankers in the ordinary course of business)

This section is not applicable to Private companies.



OTHER IMPORTANT POINTS-

- Date of signing of Financial Statements, Board Report etc.
- Ensure that the Financial Statements are complete i.e. BS, P&L, Cash Flow Statement, Audit Report, CARO, Notice of AGM, Director Report, MGT-9, AOC-1, AOC-2 etc. (Consolidated Financials – if applicable)



THANK YOU!!!