

Proposed (draft) amendment to the Securities and Exchange Rules, 1987

The Securities and Exchange Rules, 1987 shall be amended in the following manner, namely:-

1. In sub-rule (3) of rule 12, the existing 2nd proviso shall be replaced by the following new proviso, namely:-

“Provided further that the fee for such audit and all other expenses in relation thereto shall be borne by the Commission.”.

2. In sub-rule (3A) of rule 12, the existing 2nd proviso shall be replaced by the following new proviso, namely:-

“Provided further that if an issuer fails to get its financial statement audited in the manner as specified in sub-rule (3) and fails to submit the same to the Commission and the stock exchange within the said specified time or extended time as the case may be, the Commission may appoint an auditor to audit the financial statements of the issuer at the Commission’s cost.”.

3. After sub-rule (3B) of rule 12, the following new sub-rule (3C) shall be inserted, namely:-

“(3C) Special audit.-The audit mentioned in the proviso of sub-rule (3) and in the 2nd proviso of sub-rule (3A) shall be considered as “Special Audit”. The “Guidelines for conducting the special audit of companies, other than banks, non-bank financial institutions and insurance companies” has been annexed as SCHEDULE-2.” The Commission may take appropriate measures for conducting the special audit for banks, non-bank financial institutions and insurance companies in consultation with their respective primary regulators, as the case may be, if felt necessary.

4. After FORM-III, the existing 'SCHEDULE' shall be replaced by 'SCHEDULE-1';
and
5. After 'SCHEDULE-1', the following new 'SCHEDULE-2' shall be inserted,
namely:-

SCHEDULE-2

[See sub-rule (3) and (3A) of rule 12]

Guidelines for conducting special audit of companies other than banks, non-bank financial institutions and insurance companies.

In terms of power vested under the Securities and Exchange Rules, 1987, rule 12, sub-rule (3) and (3A) as amended and framed under the Securities and Exchange Ordinance, 1969, Securities and Exchange Commission may appoint an auditor in public interest to undertake special audit the financial statements of a listed company.

To conduct the aforesaid audit of listed companies meaningfully and objectively, the audit firm so appointed by the Securities and Exchange Commission shall perform the audit by giving special emphasis, among others, on the following matters:

1. Whether the company has kept proper books of accounts, register of members, minutes of the meetings of Board of Directors and kept these updated.
2. Whether the company has adhered to the Securities and Exchange Rules, 1987 and applicable Bangladesh Accounting Standards (BAS) and Bangladesh Financial Reporting Standards (BFRS), to state deviation thereof, if any, with particular reference to:
 - (a) Accuracy of turnover and major components of costs of sales;
 - (b) Accuracy of reporting of business/segment/unit wise revenue, if any;
 - (c) Position of current assets with particular emphasis on the realization, collection and adjustment status of debtors, advance, loan and/or investment to sister and other concerns, if any, deposits and prepayments. As regard

debtors and receivables, the auditor should obtain direct confirmations for such balances which constitutes for more than 5% of the total outstanding, if not realized subsequently. The auditor should also obtain direct confirmation for all the bank balances including loan balances. The objective(s) of giving advance, loan and/or investment to sister and other concerns, if any, should also be verified;

(d) Reconciliation of production and sales revenue and its relation to VAT payment, if applicable, as well as Income Tax payment. The auditor should check whether adequate provision for income tax has been made along with accuracy of deferred tax calculation, if applicable. As regard revenue, the auditor should verify the details of revenue with the control ledger and subsidiary ledger and confirm with invoices for its accuracy and completeness. The auditor should confirm that all the sales and its corresponding collection have been recorded and properly deposited to bank and there is no fake sale. As regard other income, the auditor should verify the details of other income and confirm the accuracy and calculation thereof with the available documents or sources;

(e) Valuation and physical existence of items of inventories. The closing inventories should be verified through physical verification and, where applicable, the balance should be confirmed by doing back calculation using the relevant book/records on inventory usage. Regarding the inventories, among others, the auditor also should give comment(s) on the following matters-

- whether the company has established proper system of maintaining the inventories;
- whether adequate provision has been made for obsolete and damaged items of inventories and whether these are written off accordingly;

- whether the company has properly arrived at the cost of the inventories and valuation has been done as per the BAS-2.

(f) Authenticity of purchases and cost of goods sold, the auditor should-

- Confirm that proper policies have been followed during procurement;
- Verify the ledgers and invoices to confirm the accuracy and completeness;
- Check the cost of purchases with documents;
- Confirm that the purchases have been made as per the requirement of the company;
- Confirm that all the expenditure relating to cost of goods sold has been properly accounted for;
- Check the accuracy and completeness of all the said expenses;
- Confirm the unit cost from the calculation;
- Check the consumption of raw materials with the information of stores department.

(g) Genuineness of expenses of the company for the relevant year(s). In this regard, the auditor should-

- Verify all the expenses with the source documents and check their relevancy;
- Confirm the calculation and formation;
- Confirm that all the expenses of the relevant period have been charged to the financial statements.

(h) Directors' remuneration/emoluments and related party transactions [associate and subsidiary company and sponsors as defined in the Securities and Exchange Commission (Public Issue) Rules, 2006 & BAS, as applicable]with special emphasis on compliance with the Commission's Order No. SEC/CMRRCD/2006-159/Admin/02-10 dated September 10, 2006 and

Notification No. SEC/CMRRCD/2008-183/Admin/03-03 dated June 01, 2009.

The auditor should confirm that the company has complied with relevant BAS in making/reporting transactions with related parties;

(i) Cost of acquisitions/constructions, valuation, including revaluation & physical existence and the title of the fixed assets, maintenance of fixed asset register, capital stock including plantation, if applicable. In this regard the auditor, among others, should do the following-

- Confirm the cost/valuation of fixed assets (including revaluation of fixed assets) shown in the relevant financial statements with the original sources including vouchers, invoices, L/Cs, books of accounts, fixed assets register and valuation report (where applicable);
- Physically verify the existence of all fixed assets;
- Confirm that the company has a good procurement policy and it has been properly followed for the procurement made during the relevant year(s);
- Confirm that the company has the ownership on all its assets;
- Confirm whether the assets are mortgage to any organization as security and proper approval in this regard has been taken from appropriate authorities/shareholders, as applicable;
- Confirm that the assets have been purchased for the purpose of the business of the company and the company has been benefited from the assets;
- Confirm that the assets have been accounted for and presented as per the relevant requirement of BASs;
- Evaluate the disposal of assets that the company made during the year and confirm it has been done following proper practice;

- Verify the capital work in progress with all the source documents and confirm the cost incurred so far.
3. Authenticity of the liabilities of the company including direct confirmation for major amounts (5% and above of total liabilities). As regard loans/overdraft and creditors, the auditor should do the followings-
- (a) Verify the loans taken from the banks as reflected in the company ledger along with the documents directly collected from the banks;
 - (b) Obtain confirmation from the lenders for the loans;
 - (c) Obtain the information from the lender about the security given by the company;
 - (d) Confirm the valuation and presentation of loans as per BAS;
 - (e) Confirm that the interest on loans has been properly accounted for;
 - (f) Verify the creditors' balances with the books of accounts and other relevant source documents;
 - (g) Verify the movement made in the creditors' balances with the transactions made during the relevant year(s);
 - (h) Obtain direct confirmation from the creditors, if the size of individual creditor is 5% or more of the total creditors;
 - (i) Verify the subsequent payment made by the company during the relevant year(s).
4. Particulars of investments. The auditor should-
- (a) Verify the investment amount(s) made by the company with the books of account and supporting documents (Share certificate, FDR scripts, Sanchoy patra etc.);
 - (b) Obtain the confirmation from the relevant organization for the amount shown as investment;
 - (c) Confirm that the company has the ownership on all the investment;
 - (d) Verify the income generated from the investment;

- (e) Confirm the accounting and presentation of investment and income thereof as per BAS.
5. Whether profit/loss properly attributes to the period as shown in the financial statements.
 6. Item-wise reconciliation of cash & cash equivalent as shown in the cash flows statements.
 7. Whether the financial statements are consistent with those of previous periods and whether the same have been prepared and presented as per BAS-1. Whether the amounts shown in the relevant financial statements and notes to the accounts are accurate.
 8. Acquisition and disposal of shares by the sponsors, if any.
 9. Composition and Effectiveness of internal check and internal control.
 10. Extra Ordinary items of cost, if any with reasons thereof.
 11. Any special remuneration or fees to any director.
 12. Details of technical fee or royalty, if any.
 13. Details of marketing, promotional or business development expenses.
 14. Details of foreign visits with reasons thereof on company account.
 15. Details of foreign remittance (inward/outward), if any with its purpose(s) and whether proper legal procedures and accounting treatment have been followed.
 16. Application of income tax and VAT laws in all the applicable areas including tax/VAT deducted at sources.
 17. As regards compliance with Commissions' Notification No. SEC/CMRRCD/2006-158/Admin/02-08 dated February 20, 2006, the auditor should report-

- (a) Whether independent director(s) have been duly appointed by the company;
 - (b) Whether the audit committee has been constituted in compliance with the Condition No. 3.1;
 - (c) Whether the chairman of the audit committee has been appointed in compliance with the Condition No. 3.2 (ii);
 - (d) Whether the audit committee made reports to the Board of Directors (BoD) and to the shareholders in compliance with the Condition No. 3.3.1 and 3.4 respectively;
 - (e) Whether the financial irregularities/weakness that the auditors appointed by the Commission have found out, if any, were earlier identified and duly reported by the audit committee to the BoD;
 - (f) Whether the company complied with the Condition No. 4.00 as regard obtaining service of the statutory/external auditors.
18. The auditor appointed by the Commission shall also assess the quality of the audit report issued by the statutory/external auditors of the company for the relevant year(s) and shall make comment on the deficiencies, if any, of the statutory auditors' report in light of Bangladesh Standards on Auditing (BSA).
19. In making comments on the deviations from applicable BAS and BFRS, if any, the auditor appointed by the Commission shall specifically point out the violation of particular Para of BAS or BFRS, as the case may be.
20. The said auditor shall make an inception report stating that it has started audit including expected staff hours and estimated cost within 15(fifteen) days from the date of receipt of the appointment letter and submit the audit report to the Commission within 02 (two) months thereafter. However, the Commission, considering a written application made by the auditor appointed by it within the said 02 (two) months time, in appropriate case may extend the time for submission of the report.

21. In addition to the points 1 to 20 above, the Commission during the duration of the audit may also request the auditor to conduct the said audit by giving emphasis on other matters/areas of the listed company.
22. The auditor appointed by the Commission shall-
 - (a) maintain a timesheet of working hours as an evidence of staff hours spent for carrying out the audit;
 - (b) maintain records/documents in support of their findings for future reference/use of the Commission; and
 - (c) immediately inform the Commission in case the concerned listed company does not cooperate with the auditor in conducting the said audit.