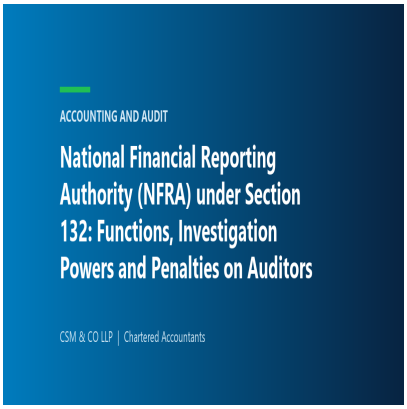

National Financial Reporting Authority (NFRA) under Section 132: Functions, Investigation Powers and Penalties on Auditors

Description

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Quick summary

- The NFRA is the audit regulator set up under section 132 of the Companies Act, 2013. It recommends accounting and auditing standards, monitors compliance with them and oversees the quality of audit services.
- It can investigate professional or other misconduct by chartered accountants and firms, with the powers of a civil court, and once it starts an investigation no other body can proceed on the same misconduct.
- Penalty on proof of misconduct: Rs 1 lakh up to five times the fees for an individual, and Rs 5 lakh up to ten times the fees for a firm, plus debarment from six months up to ten years.
- An aggrieved person can appeal to the Appellate Tribunal.

Until the Companies Act, 2013, audit quality in India was supervised mainly by the profession's own body, the Institute of Chartered Accountants of India. Section 132 brought in a statutory regulator, the National Financial Reporting Authority (NFRA), which the Central Government constitutes by notification.

What the NFRA does (section 132(2))

1. **Recommends** to the Central Government accounting and auditing policies and standards for companies or classes of companies and their auditors.
2. **Monitors and enforces** compliance with accounting standards and auditing standards, in the prescribed manner.
3. **Oversees the quality of service** of the professions associated with ensuring compliance with those standards, and suggests measures for improvement.
4. Performs other related functions as prescribed.

The Central Government prescribes accounting standards (section 133) and auditing standards (section 143(10)) as recommended by ICAI, **in consultation with and after examination of the NFRA's recommendations**. The Government can also direct that the audit report of a class of companies include a

statement on specified matters, in consultation with the NFRA (section 143(11)); the Companies (Auditor's Report) Order is made under this power.

Composition

A chairperson who is a person of eminence with expertise in accountancy, auditing, finance or law, and not more than fifteen other members, part-time and full-time, as prescribed. The chairperson and members declare that there is no conflict of interest. Full-time members cannot be associated with any audit firm, including related consultancy firms, during their appointment and for two years after. The NFRA works through divisions, each headed by the chairperson or an authorised full-time member, and an executive body of the chairperson and full-time members. Its head office is in New Delhi.

Investigation and enforcement (section 132(4))

- The NFRA can **investigate**, either on its own motion or on a reference from the Central Government, matters of **professional or other misconduct** by any member or firm of chartered accountants, for the class of bodies corporate or persons prescribed. "Professional or other misconduct" has the meaning given in section 22 of the Chartered Accountants Act, 1949.
- Once the NFRA has begun an investigation, **no other institute or body** may start or continue proceedings on that misconduct.
- It has the powers of a civil court for discovery and production of books and documents, summoning and examining persons on oath, inspecting books, registers and documents, and issuing commissions for examination of witnesses or documents.

Penalties and debarment

Where misconduct is proved, the NFRA can order:

Against	Penalty
An individual	Not less than Rs 1 lakh, up to five times the fees received
A firm	Not less than Rs 5 lakh, up to ten times the fees received

It can also **debar** the member or firm from being appointed as an auditor or internal auditor, from undertaking any audit of financial statements or internal audit, and from performing valuation under section 247, for a minimum of six months and up to ten years.

Appeal

A person aggrieved by an NFRA order imposing a penalty or debarment can appeal to the Appellate Tribunal in the prescribed manner and on payment of the prescribed fee (section 132(5)).

Accounts and reporting

The NFRA keeps accounts as prescribed, its accounts are audited by the Comptroller and Auditor-General,and its annual report and the CAG's audit report are laid before each House of Parliament.

What it means for companies and auditors

- Audit firms should treat the NFRA's standards and quality expectations as part of their working papers and engagement planning.
- Which bodies corporate fall under the NFRA's investigation jurisdiction is set in the Rules (the National Financial Reporting Authority Rules, 2018); these thresholds are not in the Act, so check the current Rules before concluding that your company or client is or is not covered.
- Where the NFRA starts an investigation, ICAI's disciplinary process on the same matter stops.

Points to check

- This post follows section 132 of the Companies Act as published on India Code, including amendments up to the footnotes in that edition.
- Details of the NFRA's procedure, jurisdiction thresholds and fees are in the Rules, which were not reviewed for this post.

Frequently asked questions

What is the NFRA?

The National Financial Reporting Authority is the audit and accounting regulator constituted by the Central Government under section 132 of the Companies Act, 2013, with its head office at New Delhi.

What does the NFRA do?

It recommends accounting and auditing policies and standards to the Central Government, monitors and enforces compliance with them, and oversees the quality of service of the professions associated with ensuring compliance, suggesting improvements.

Can the NFRA investigate chartered accountants?

Yes. It can investigate, on its own or on a reference from the Central Government, professional or other misconduct by a member or firm of chartered accountants, for the class of bodies corporate or persons prescribed. Once it has started, no other institute or body can start or continue proceedings on that misconduct.

What penalties can the NFRA impose?

On proof of misconduct, a penalty of Rs 1 lakh to five times the fees received for an individual, and Rs 5 lakh to ten times the fees for a firm, and a bar on being an auditor, internal auditor or valuer for six months

up to ten years.

Who can be on the NFRA?

A chairperson of eminence in accountancy, auditing, finance or law, and not more than fifteen other part-time and full-time members, who must declare no conflict of interest. Full-time members cannot be associated with an audit firm during their term and for two years after.

Can an NFRA order be appealed?

Yes, to the Appellate Tribunal in the prescribed manner and on payment of the prescribed fee.

Official sources

- India Code: The Companies Act, 2013 (sections 132, 133, 143)
- National Financial Reporting Authority

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Date
09/10/2026
Date Created
28/05/2026
Author
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