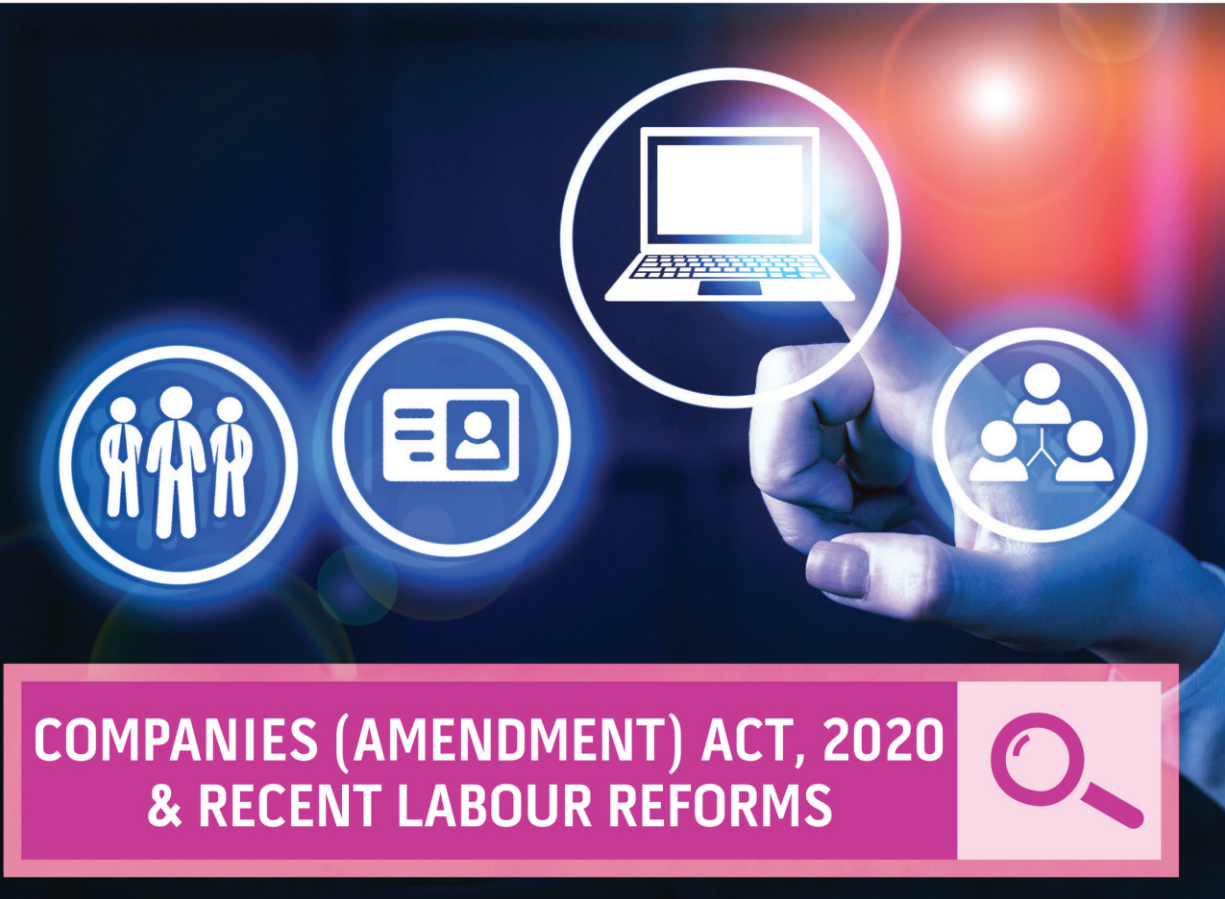


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STUDENT COMPANY SECRETARY

[e-Journal for Executive & Professional Students]



COMPANIES (AMENDMENT) ACT, 2020
& RECENT LABOUR REFORMS



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)



STUDENT COMPANY SECRETARY

[e-Journal for Executive & Professional Students]

November 2020

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Announcement for the Students

*Students are invited to contribute articles for Student Company Secretary e-journal at **academics@icsi.edu***

on the topic

“Governance : From Grassroots to Global”

Selected Articles will be published in the forthcoming issue of Student Company Secretary e-journal



“Excellence is never an accident; it is the result of high intention, sincere effort, intelligent direction, skilful execution and the vision to see obstacles as opportunities.”

~Aristotle

Dear Students,

The moment I read the above quote, the urge was to share it; not with my professional colleagues, not with my peers but with you all, the brigade which is to be the future of governance in India Inc., the brigade which is going to be the torchbearers of the vision and mission of this magnanimous Institute.

All of us might have, at some point or the other, been given words of advised by our elders. If we were to believe them, it was just the moment at hand, the current juncture that demanded our utmost sincerity and with hard work, patience and grit, we would sail through to achieve pinnacles of success. While their advice would definitely be true, what is quite intriguing is the fact that with each success, a new goal is created and the same statement is used as motivation towards that goal too.

While you would be smiling reminiscing your own such moments, let me share a very small word of advice of my own too. These words of advice of continuous efforts, hard work and learning shall continually stay in your life. And no, they don't mean any harm but at the same time, they shall be the ones driving you towards excellence continually.

To me, you all are like *'Ignited Minds'* and you need to traverse far in the journey of academics and professional excellence. Satiation, and most importantly one with knowledge can never lead to excellence, and striving for excellence my friends is the key to becoming a true professional, even when no one is watching.

Living in the era of globalisation, renders it imperative for us to be a connoisseur in order to gauge the impact of the changes taking place in the legal, economic and business environment. This e-Journal is a unique and innovative endeavour towards building an edifice of wisdom among the students who would join the legion of Governance Professionals in future. The idea is to strengthen the wisdom of the students by

providing information on various significant facets of company law; securities laws; valuations; insolvency laws; tax laws; economic and commercial laws etc. through authored articles and other inputs.

Friends, excellence comes through enthusiasm towards learning. Once the habit of learning is espoused by a student then excellence becomes as sure as sunrise.

Wishing all of you and your loved ones a very Happy and Prosperous Diwali.

Stay Safe, Stay Healthy!!!

(CS Ashish Garg)

President

The Institute of Company Secretaries of India

RECENT INITIATIVES FOR STUDENTS

1. The **Student Company Secretary e-journal** for Executive / Professional programme students of ICSI and CS Foundation course **e-bulletin for Foundation programme** students of ICSI have been released for the month of October, 2020. The same are available on the Academic Portal of the Institute's website at the link : <https://www.icsi.edu/e-journals/>
2. The **CSEET e-bulletin** for the month of October & November, 2020 containing the latest updates in respect of Papers of the CSEET has been placed on the ICSI Website. The same is also available at the CSEET Portal of the Institute's website at the link: <https://www.icsi.edu/cseet/cseet-e-bulletin/>
3. Dte. of Academics prepares **Info Capsule- A Daily update** for members and students, covering latest amendment on various laws for the benefits of our members and students. The same is available at ICSI website weblink : <https://www.icsi.edu/infocapsule/>
4. All India Company Law Quiz 2020 is being organized for the existing students of ICSI. Semi- Final Round of All India Company Law Quiz 2020 was held on 6th November, 2020 and date of final round is yet to be announced.
5. Institute is conducting All India Online GK Quiz for the students pursuing 11th and 12th class. Students passed 12th, pursuing Graduation /Post Graduation in any stream can also appear in the quiz. Final Round of All India Online GK Quiz is scheduled to be held on 10th December, 2020.
6. Online Doubt clearing classes for the students appearing in December 2020 examination – Classes were conducted for all stages and for the students of New and Old Syllabus.
Any Student who has missed any class can send request for video lecture of the class at Class Room Teaching tab at support.icsi.edu
7. 3rdCSEET will be held on 9th January 2021. Last date to register is 15th December 2020.
Click here to register: https://smash.icsi.in/Scripts/CSEET/Instructions_CSEET.aspx
8. Commencement of online CSEET classes by Regional/Chapter Offices for the students appearing in CSEET to be held in January 2021.
Click here to contact <https://www.icsi.edu/media/webmodules/websiteClassroom.pdf>
9. Commencement of online classes of Foundation/Executive/Professional Programme for June 2021 session of examination by Regional /Chapter Offices
Click here to contact <https://www.icsi.edu/media/webmodules/websiteClassroom.pdf>
10. Revision classes/special classes/Mock tests conducted by Regional and Chapter offices across the country for students appearing in December 2020 examination.
Click here to contact <https://www.icsi.edu/media/webmodules/websiteClassroom.pdf>

11. The result of CS Executive Entrance Test (CSEET) held on 21st and 22nd November, 2020 declared on Thursday, the 26th November, 2020 at 2:00 P.M. The result along with individual candidate's subject-wise break-up of marks available on the Institute's website: www.icsi.edu
12. Video link of the webinar held on 17.11.2020 on "Technical session on how to appear for 2nd CSEET through remote proctored mode is available at website of the institute at the following link. <https://youtu.be/IRQzCbcMzMc>
13. The details of 20th Essay writing competition for the students of ICSI are available at the following link
https://www.icsi.edu/media/webmodules/ESSAY_WRITING_COMPETITION_2020R.pdf



Articles

- **Overview of the Companies (Amendment) Act, 2020**
- **Foreign Contribution (Regulation) Amendment Act, 2020**
- **Key Announcements under Aatma Nirbhar Bharat 3.0**

Overview of the Companies (Amendment) Act, 2020*

Corporate laws form the bedrock of commercial regulation by governing entry of corporates into the market, regulating their functioning, ensuring accountability to their shareholders, as well as laying down corporate governance norms. Over the last few decades, India has witnessed a significant shift in its corporate governance framework. The enactment of the Companies Act, 2013, often noted to be one of the most significant legal reforms in India in the recent past, which was aimed at bringing Indian company law in tune with global standards. The enactment of the Companies Act, 2013 and various legal reforms undertaken since then in the field of companies' law have been intended to promote formation of corporate structures for conducting business, and making such conduct of business easier.

In view of constant effort of Government of India to facilitate ease of doing business in India to the corporates, a Company Law Committee (CLC) consisting of representatives from Ministry of Corporate Affairs, industry chambers, professional institutes and legal fraternity was constituted on the September 18, 2019 headed by Mr. Injeti Srinivas (Secretary of MCA), to give recommendations to decriminalize some more provisions of the Companies Act, 2013 and facilitate ease of living related changes.

Company Law Committee submitted its report on November 14, 2019. On the basis of this report, the Finance Ministry has proposed some major amendments in the Companies Act, 2013 under the Companies Amendment Bill, 2020 which was introduced in Lok Sabha on March 17, 2020. Later it was passed by the Lok Sabha on September 19, 2020 and by the Rajya Sabha on September 22, 2020. Finally on September 28, 2020, the Companies (Amendment) Act, 2020 received the assent of Hon'ble President of India.

Major Highlights of The Companies (Amendment) Act, 2020 :

1) Decriminalisation of the Companies Act, 2013- Reduction in Penalties:

The roots of necessity to decriminalize certain compoundable offences are elevated from the Ministry of Corporate Affairs (MCA) vide *order dated 13.07.2018*, wherein, The MCA has constituted a review committee under the chairmanship of Mr. Injeti Srinivas, to review the offences which are prescribed under the Act and to analyse, examine and peruse the need to decriminalize some of the offence by making recommendation to the Central Government *inter-alia* on re-categorisation of certain 'acts' punishable as compoundable offences to 'acts' carrying civil liabilities, improvements to be made in the in-house adjudication mechanism etc.

* Directorate of Academics

Views expressed in the Article may not express the views of the Institute.

The relevant recommendations regarding compoundable offences suggested by the Committee are as follows:

1. Re-categorizing of 16 offenses out of 81 which are in the category of compoundable offenses to an in-house adjudication framework wherein defaults would be subject to penalty by an adjudication officer.
2. Instituting a transparent and technology driven in-house adjudication mechanism and increasing the transparency in the in-house adjudication mechanism by minimizing physical interface, conducting proceedings on an online platform and publication of the orders on the website.
3. Strengthening the in-house adjudication mechanism by necessitating a concomitant order for making good the default at the time of levying penalty, to subserve the ultimate aim of archiving better compliance.
4. Declogging the NCLT by enlarging the jurisdiction of Regional Director (RD) by enhancing the pecuniary limits up to which they can compound offences under section 441 of the Companies Act, 2013.

Based on the recommendations made by the Committee, the Central Government brought in relevant changes by passing of the Companies (Amendment) Act, 2019.

Despite the ease in penal pressure brought about by the above enactment, the Government continued to feel the acute need to further liberalise and relax the stringent penal provisions of the Act. This clubbed with the urge to promote ease of doing business and to foster growth of corporates, led to the constitution of the Company Law Committee in September 2019.

Company Law Committee recommended for the decriminalization of the Companies Act, 2013, as the much needed change in today's corporate world. In line with global practices, it is essential to strike a balance between civil and criminal liabilities for corporates. It was noted that serious violations of the law, especially wrongful conduct involving fraudulent elements, should be dealt with under criminal law, due to the nature of such wrongs and the degree of public interest involved, it may be prudent to adopt a strict approach to fraudulent conduct. However, procedural, technical and minor non-compliances, especially the ones not involving subjective determinations, may be dealt with through civil jurisdiction instead of criminal.

The Companies (Amendment) Act, 2020 removes the imprisonment for certain offenses, substitutes fine by penalty in and reduces amount of payable as penalty across the board. In certain minor omissions, etc. penal consequence has been omitted. The various aspects of Decriminalisation of offences are:

- (i) Omission of certain offences** - The Companies (Amendment) Act, 2020 has omitted certain offences which relate to the non-compliance of orders of the NCLT, i.e. orders with respect to variation of shareholders rights, rectification of register of members, publication of order of the NCLT for reduction of Share Capital, redemption of debentures on maturity or payment of interest etc. Further, offences provided under Section 342(6) of the Companies Act, 2013 related to the penal provisions w.r.t. non-cooperation by the Liquidator or any present and past officer of the Company, is omitted, leaving it to the prosecuting court to mandate cooperation.

(ii) Removing imprisonment and subjecting the offences to fine alone

Based on the recommendation of the CLC, the legislature has removed imprisonment for the certain listed offences while retaining the criminal liability to payment of fine alone, such as, for the contravention of the matters prescribed or to be stated in the prospectus as per Section 26, failure of the Company to comply with the requirements of the special license given to Section 8 companies, default in complying with buy-back requirements under Section 68 etc.

(iii) Re-categorization of Offences

Keeping in mind the overall pendency of cases in courts and in an attempt to alleviate the burden of such courts, the Companies (Amendment) Act, 2020 seeks to enforce and adopt a principle-based approach in removing the imposition of penal consequences in case of minute and technical defaults. Further, the levying of such monetary penalties can now be adjudicated by In-house Adjudication Mechanisms (IAM) as provided under section 454 of the Companies Act, 2013, without having to approach criminal courts.

Thus in case the default relates to non-compliance of section 92(4) or sub-section (1) or sub-section (2) of section 137 and such default has been rectified either prior to, or within thirty days of, the issue of the notice by the adjudicating officer, no penalty shall be imposed in this regard and all proceedings under this section in respect of such default shall be deemed to be concluded.

(iv) Extended applicability of section 446B

The Companies (Amendment) Act, 2020 extended applicability of Section 446B relating to lesser penalties for small companies and one person companies, to all provisions of the Companies Act, 2013 which attract monetary penalties and also extend the same benefit to Producer Companies and start-ups.

In case of One Person Company, small company, Start-up company or Producer Company, or by any of its officer in default, or any other person in respect of such company, then such company, its officer in default or any other person, as the case may be, shall be liable to a penalty which shall not be more than one-half of the penalty specified in such provisions subject to a maximum of two lakh rupees in case of a company and one lakh rupees in case of an officer who is in default or any other person, as the case may be.

(v) Offences for which alternate mechanism is provided

The amendment has further brought in alternate framework or mechanism for the supervision of certain provisions such as non-compliance with the order of the RD directing change of name of the Company, the criminal fine provided under Section 16(3) is substituted by enabling the Central Government to allot a new name to the deterrent company and directed the Registrar to enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name, which the company shall use thereafter. Another important change brought in under this mechanism is with regard to Section 441(5), in the case of non-compliance with the order of the compounding authority, punishment by way of imprisonment and criminal fine is substituted by doubling the compounding fee

automatically. The intention of the legislature is to deter non-compliance by imposing a greater penalty, rather than by initiating a separate offence for the same non-compliance.

Further a contravention of Section 284 of the Companies Act, 2013 which deals with the failure of employees, promoters and directors to co-operate with the company liquidator, attracted an imposition of a fine as prescribed under the Act. However, the Amendment Act has removed such a fine and has empowered the company liquidator to apply to the NCLT in order to obtain directions from it.

2) Easing out of the framework for Corporate Social Responsibility

Under the Companies Act, 2013, every companies with net worth of Rs. 500 Crore or more, turnover of Rs. 1000 Crore or more or net profit of Rs. 5 Crore or more during the immediately preceding financial year are required to constitute CSR Committees and spend 2% of their average net profits of the company made during the three immediately preceding financial years, towards its CSR policy. The Companies (Amendment) Act, 2020 exempts companies with a CSR liability of up to Rs. 50 lakh a year from setting up CSR Committees. Further, companies which spend any amount in excess of their CSR obligation in a financial year can set off the excess amount towards their CSR obligations in subsequent financial years.

With regard to the penal provision, if a company is in default in complying with the provisions of sub-section (5) or sub-section (6) of Section 135 related to CSR expenditure, the company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII of the Companies Act, 2013 or the Unspent Corporate Social Responsibility Account, as the case may be, or one crore rupees, whichever is less, and every officer of the company who is in default shall be liable to a penalty of one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII of the Companies Act, 2013, or the Unspent Corporate Social Responsibility Account, as the case may be, or two lakh rupees, whichever is less.

3) Change in Definition of Listed Company under Section 2 (52)

Prior to the Amendment Act, the definition says that “a company which has listed any of its securities on any recognized stock exchange is a ‘Listed Company’”. The Company Law Committee felt that classifying a private limited company as a ‘listed company’ merely based on listing of certain debt securities offered on a private placement basis seems inappropriate and is required to be addressed as they are sceptical about the strict regulations imposed on listed companies as opposed to unlisted private companies. There was no differentiation under the Act that, whether the company is an equity listed company or a debt listed company and the compliances are the same, which is not the case with SEBI Listing Regulations, wherein the compliances are less for debt listed companies. In line with the Government’s steps to promote ease of doing business, the Committee decided that it would be more appropriate to exclude such private companies from the definition of a ‘listed company’.

The Central Government has now been empowered to exclude such class of companies under the definition of Listed Companies, which are listed or intended to list such class of securities, as may be prescribed in consultation with the SEBI. Thus, companies which have listed only

debt securities (NCDs) may be excluded from the definition of listed company for the purposes of the Companies Act, 2013.

4) Introduction of chapter on Producer Companies

The concept of producer companies was introduced in India in 2002 with the insertion of Part IXA in the 1956 Act. The purpose behind introduction of the concept of a producer company is to regulate the Indian agrarian economy more effectively. a producer company is a body corporate comprising of farmers and agriculturists who work in cooperation with each other to promote better standards of living and gain easier access to credit, technology, market etc. The Companies Act, 2013 does not contain any separate provisions for regulation of producer companies. By virtue of Section 465 of the Companies Act, 2013, producer companies continue to be governed by Part IXA of the Companies Act, 1956. Considering that the 1956 Act has been repealed, it is not feasible to amend any of the provisions of Part IXA of the Companies Act, 1956, even though these continue to remain in force. The procedure for amending provisions pertaining to producer companies even if it is assumed that such amendment is legally tenable, would become convoluted and tedious in the light of the repeal of the Companies Act, 1956.

CLC propounded that since the government is keen on promoting producer companies, it may be appropriate to take up amendments and relaxations to the applicable law for such companies instead of waiting for more time for a new law to be enacted in this regard. In line with CLC's proposal, the Companies (Amendment) Act, 2020 has introduced provisions that are similar to the Companies Act, 1956 for the governance of such companies. At the outset, these provisions relate to incorporation of producer companies and other matters, share capital and members right, general meetings, share capital, Powers and functions of Board, mergers and amalgamations of producer companies etc.

5) Reduction of timeline for rights issue

A rights issue is an option exercisable by existing shareholders of a company to purchase further share capital in proportion to their current holding, which is exercisable for a specified period. Companies typically pursue rights issue as an avenue to raise funds for various reasons, ranging from expansion or acquisitions to paying down debts. Section 62 of 2013 Act, governs this process.

Earlier this year, SEBI issued a discussion paper reviewing the process of rights issue. The paper highlighted the need to reduce the timelines in both the pre-issue opening phase and after issue closure to better serve the interests of both the issuers and investors. It also proposed several measures for the same by making amendments to the regulatory mechanism under relevant SEBI regulations. Through this, the timeline from the date of the board meeting to decide upon the rights issue to the date of listing of shares was proposed to be cut down from 55-58 days to roughly 31 days. In line with this, the CLC observed that as per market practice, the issuance of an offer completely closes within 2-3 days and allotment is completed within 5-7 days. The Committee was of the view that, in light of market practices that Section 62(1) of the Companies Act, 2013 be amended to enable the Central Government to prescribe a shorter time period than the mandatory 15 days' time period provided in this provision. In line with CLC recommendation the Amended Act has inserted the words 'or such lesser number of days as may be prescribed, after 'not being less

than fifteen days'. The amended provision now reads as *"the offer shall be made by notice specifying the number of shares offered and limiting a time not being less than fifteen days or such lesser number of days as may be prescribed and not exceeding thirty days from the date of the offer within which the offer, if not accepted, shall be deemed to have been declined;"*. This enables the companies to close the rights offer in a shorter period and to complete the process

6) Constitution of NCLAT benches

The Amendment Act has inserted section 418A with the objective of setting up more benches of National Company Law Appellate Tribunal (NCLAT) that will ordinarily sit in New Delhi or such other places as the Central Government may, in consultation with the Chairperson, notify. The said benches of NCLAT will be constituted by atleast one Judicial Member and one Technical Member. Considering the quantum of cases that NCLAT has to deal with, this is a welcome move which will not only reduce the burden of NCLAT but also will ensure speedy disposal of matters addressed to the NCLAT.

7) Provisions for allowing payment of Remuneration to Non-Executive Directors in case of Inadequacy of Profits

Sections 197 and 198 of the Companies Act, 2013 Act set out the provisions for the remuneration payable by a public company to its executive directors (including whole-time directors, managing directors and managers) and non-executive directors (other than whole-time directors, managing directors). Section 197(3) provides that if a company has no profits or its profits are inadequate, then the company shall not pay any remuneration (other than sitting fee) to its directors, including managing director, whole-time director or manager, except as provided under Schedule V of the Companies Act, 2013. The abovementioned provisions read together provide for remuneration payable to executive directors in every case, including in case of inadequacy of profits or losses. While Section II of Part II of Schedule V of the Companies Act, 2013 provides remuneration payable to managerial persons where the company has no or inadequate profits, similar provisioning has not been done for nonexecutive directors. The Committee also noted that in case of independent directors, Section 149(9) provides that *"notwithstanding anything contained in any other provision of this Act, but subject to the provisions of sections 197 and 198, an independent director shall not be entitled to any stock option and may receive remuneration by way of fee provided under subsection (5) of section 197, reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members."*

The Committee noted that non-executive directors, including independent directors, devote their valuable time and have experience to give critical advice to the company. Therefore, they should be appropriately compensated for the same even in case of inadequacy of profits or losses as is permissible for executive directors. The CLC also discussed the crucial role played by independent directors of a company in terms of bringing objectivity into the functioning of the Board and improving its effectiveness. Thus, the Committee felt the need for companies to adopt remuneration policies that would attract and retain talented and motivated directors. It was felt that inconsistency in payment of remuneration in case of inadequacy of profits or losses to executive directors *vis-à-vis* non-executive directors would dis-incentivise the latter. Therefore, Committee concluded that it would be appropriate to

bring specific provisions in this regard in Section 149 and 197 before any amendment is made to Schedule V in this regard.

Now by amendment to the provisions of section 149(5) and 197 (3) of the Companies Act, 2013, the payment of remuneration to non-executive directors including Independent Directors has been provided and such remuneration shall be payable in accordance with the provisions of Schedule V of the Companies Act, 2013. Such remuneration shall be exclusive of any fee payable for attending the meetings of the Board or Committees or for any other purpose whatsoever as may be decided by the Board under section 197(5) of the Act. This is another welcome feature and enable companies to attract talented directors on their Boards.

8) Listing of Securities on Foreign Stock Exchanges

New sub-sections 3 and 4 were introduced to section 23 of the Companies Act, 2013 relating to public offer and private placement empowering Central Government to permit certain class of public companies to issue certain class of securities for the purposes of listing on permitted stock exchanges, in permissible foreign jurisdictions or such other jurisdictions, as may be prescribed. The Central Government may exempt any class or classes of public companies referred to in the newly inserted sub-section (3) from any of the provisions of Chapter, III of the Companies Act, 2013 i.e. prospectus and allotment of securities, Chapter IV i.e. share capital and debentures, sections 89 i.e. declaration in respect of beneficial interest in any shares, section 90 i.e. to register significant beneficial owners in a company or section 127 i.e. failure to distribute dividends. This enables the Indian corporates which are well known in international markets, to list their securities in permissible foreign jurisdictions.

9) Exemptions from filing resolutions under section 117

Earlier, the provisions in respect of filing of resolutions passed to grant loans or give guarantee or provide security in respect of loans under clause (f) of sub-section (3) of section 179 in the ordinary course of its business was not applicable to a banking company. However, such exemption was not available to Non-Banking Financial Companies and Housing Finance Companies, though some of them are as big as banking companies and such confidentiality is required. Now the same has been extended to any class of non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 and to any class of housing finance company registered under the National Housing Bank Act, 1987. Therefore, any class of NBFC and any class of Housing Finance Company are also exempt from filing of resolutions passed to grant loans or give guarantees or to provide security in respect of loans in the ordinary course of their business.

10) Periodic financial results for unlisted companies:

At present, only listed companies are required to submit their financial results duly audited or limited reviewed with the stock exchanges under the SEBI Listing Regulations. However, Private companies and unlisted Public companies which are as big as listed companies in size are under obligation to file their results only annually with the Registrar.

A new sub-section 129A is inserted under which the Central Government may, require such class or classes of unlisted companies, as may be prescribed, —

- (a) to prepare the financial results of the company on such periodical basis and in such form as may be prescribed;
- (b) to obtain approval of the Board of Directors and complete audit or limited review of such periodical financial results in such manner as may be prescribed; and
- (c) file a copy with the Registrar within a period of thirty days of completion of the relevant period with such fees as may be prescribed.

11) Companies (Amendment) Act, 2020, *inter alia*, also provided for the following, namely:

- clarified the jurisdiction of trial court on the basis of place of commission of offence under section 452 of the Act for wrongful withholding of property of a company by its officers or employees, as the case may be;
- relaxed provisions relating to charging of higher additional fees for default on two or more occasions in submitting, filing, registering or recording any document, fact or information as provided in section 403;
- exempted any class of persons from complying with the requirements of section 89 relating to declaration of beneficial interest in shares and exempt any class of foreign companies or companies incorporated outside India from the provisions of Chapter XXII relating to companies incorporated outside India;

Conclusion

At the outset, the relaxations provided for under the Act can not only help the companies in the reduction of compliance costs but will also help them focus on their business activities. It will be easier for companies to rectify their defaults, pay the penalty and become compliant as well as aligns with the objective of promoting ease of doing business.

References:

- 1) Companies (Amendment) Act, 2020
- 2) Company Law Committee Report, 2019
- 3) Report of the Committee to Review Offences under Companies Act, 2013, dated 2018.

Foreign Contribution (Regulation) Amendment Act, 2020*

Introduction

The Foreign Contribution (Regulation) Act, 2010 was enacted to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.

In order to streamline the provisions of the Foreign Contribution (Regulation) Act, 2010 by strengthening the compliance mechanism, enhancing transparency and accountability in the receipt and utilisation of foreign contribution worth thousands of crores of rupees every year and facilitating genuine non-Governmental organisations or associations who are working for the welfare of the society, Parliament enacted the Foreign Contribution (Regulation) Amendment Act, 2020 and it came into force on 9th day of September, 2020.

The salient features of the Foreign Contribution (Regulation) Amendment Act, 2020 inter alia, are as under:—

- (a) Amended Section 3(1) (c) of the Act to include "public servant" also within its ambit, to provide that no foreign contribution shall be accepted by any public servant;
- (b) Amended of Section 7 of the Act to prohibit any transfer of foreign contribution to any association/person.
- (c) Amended section 8(1) of the Act to reduce the limit for defraying administrative expenses from existing "fifty per cent." to "twenty per cent."
- (d) Inserted of a new Section 12A empowering the Central Government to require Aadhaar number, etc., as identification document;
- (e) Inserted of a new Section 14A enabling the Central Government to permit any person to surrender the certificate granted under the Act;
- (f) Amended of Section 17 of the Act to provide that every person who has been granted certificate or prior permission under section 12 shall receive foreign contribution only in an account designated as "FCRA Account" which shall be opened by him in such branch of the State Bank of India at New Delhi, as the Central Government may, by notification, specify and for other consequential matters relating thereto.

Prohibition to Accept Foreign Contribution

Section 3 prohibits following person to accept foreign contribution:

- (a) candidate for election;

* Chittaranjan Pal, Assistant Director, The ICSI.

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- (b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- (c) public servant, Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;
- (d) member of any Legislature;
- (e) political party or office-bearer thereof;
- (f) organisation of a political nature as may be specified under section 5(1) by the Central Government;
- (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in section 2(1)(r) of the Information Technology Act, 2000 or any other mode of mass communication;
- (h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g).

It may be noted that for the purpose of clause (c), "public servant" means a public servant as defined in section 21 of the Indian Penal Code (45 of 1860).

Prohibition to Transfer Foreign Contribution to Other Person

Section 7 of the provides that person who (a) is registered and granted a certificate or has obtained prior permission under the Act; and (b) receives any foreign contribution, shall not transfer such foreign contribution to any other person.

Restriction to Utilise Foreign Contribution for Administrative Purpose

According to Section 8 of the Act, every person, who is registered and granted a certificate or given prior permission under the Act and receives any foreign contribution,—

- (a) shall utilise such contribution for the purposes for which the contribution has been received:
- (b) shall not defray as far as possible such sum, ***not exceeding twenty per cent.*** of such contribution, received in a financial year, to meet administrative expenses:

Provided that administrative expenses exceeding twenty per cent. of such contribution may be defrayed with prior approval of the Central Government.

Any foreign contribution or any income arising out of it shall not be used for speculative business. Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the purpose of this section;

The Central Government may prescribe the elements which shall be included in the administrative expenses and the manner in which the administrative expenses shall be calculated.

Inquiry & Restriction by Central Government

Section 11 empowers the Central Government, on the basis of any information or report, and after holding a summary inquiry, has reason to believe that a person who has been granted prior permission has contravened any of the provisions of this Act, it may, pending any further inquiry, direct that such person shall not utilise the unutilised foreign contribution or receive the

remaining portion of foreign contribution which has not been received or, as the case may be, any additional foreign contribution, without prior approval of the Central Government.

FCRA Account

According to Section 12(1A) of the Act every person who makes an application under sub-section (1) shall be required to open "FCRA Account" in the manner specified in section 17 and mention details of such account in his application.

Power of Central Government to require Aadhaar number

Section 12A provides that notwithstanding anything contained in the Act, the Central Government may require that any person who seeks prior permission or prior approval under section 11, or makes an application for grant of certificate under section 12, or, as the case may be, for renewal of certificate under section 16, shall provide as identification document, the ***Aadhaar number of all its office bearers or Directors or other key functionaries***, by whatever name called, issued under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, or a copy of the Passport or Overseas Citizen of India Card, in case of a foreigner.

Suspension of Certificate

According to Section 13 of the Act, where the Central Government, for reasons to be recorded in writing, is satisfied that pending consideration of the question of cancelling the certificate on any of the grounds mentioned in section 14(1), it is necessary so to do, it may, by order in writing, ***suspend the certificate for a period of one hundred and eighty days, or such further period, not exceeding one hundred and eighty days, as may be specified*** in the order.

Every person whose certificate has been suspended shall not receive any foreign contribution during the period of suspension of certificate.

It may be noted that the Central Government, on an application made by such person, if it considers appropriate, allow receipt of any foreign contribution by such person on such terms and conditions as it may specify;

Every person whose certificate has been suspended shall utilise, in the prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government.

Surrender of Certificate

Section 14A states that on a request being made in this behalf, the Central Government may permit any person to surrender the certificate granted under this Act, if, after making such inquiry as it deems fit, it is satisfied that such person has not contravened any of the provisions of this Act, and the management of foreign contribution and asset, if any, created out of such contribution has been vested in the authority as provided in section 15.

Foreign Contribution through Scheduled Bank

According to Section 17(1) of the Act every person who has been granted certificate or prior permission under section 12 shall receive foreign contribution only in an account designated as "FCRA Account" by the bank, which shall be opened by him for the purpose of remittances of foreign contribution in such branch of the State Bank of India at New Delhi, as the Central Government may, by notification, specify in this behalf:

Such person may also open another “FCRA Account” in any of the scheduled bank of his choice for the purpose of keeping or utilising the foreign contribution which has been received from his “FCRA Account” in the specified branch of State Bank of India at New Delhi:

Such person may also open one or more accounts in one or more scheduled banks of his choice to which he may transfer for utilising any foreign contribution received by him in his “FCRA Account” in the specified branch of the State Bank of India at New Delhi or kept by him in another “FCRA Account” in a scheduled bank of his choice:

It may be noted that no funds other than foreign contribution shall be received or deposited in any such account.

Ministry of Home Affairs vide its Notification S.O. 3479(E) dated 7th October, 2020 specifies the State Bank of India, New Delhi Main Branch, 11, Sansad Marg, New Delhi -110001 as the branch for the above purposes.

Section 17 (2) states that the specified branch of the State Bank of India at New Delhi or the branch of the scheduled bank where the person referred to in sub-section (1) has opened his foreign contribution account or the authorised person in foreign exchange, shall report to such authority as may be specified,—

- (a) the prescribed amount of foreign remittance;
- (b) the source and manner in which the foreign remittance was received; and
- (c) other particulars,

in such form and manner as may be prescribed.

Conclusion

The Foreign Contribution (Regulation) Amendment Act, 2020 definitely strengthen the compliance mechanism, enhancing transparency and accountability in the receipt and utilisation of foreign contribution worth thousands of crores of rupees every year and facilitate smooth functioning of genuine non-Governmental organisations or associations who are working for the welfare of the society.

Key Announcements under Aatma Nirbhar Bharat 3.0*

Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman announced 12 key measures, as part of Government of India's stimulus to the economy, under Aatma Nirbhar Bharat 3.0. The net stimulus announced on November 12, 2020 amounts to ₹2.65 Lakh crore. While addressing the Press Conference, Finance Minister also informed that the total stimulus announced by the Government and Reserve Bank of India till date, to help the nation tide over the COVID-19 pandemic, works out to ₹29.87 lakh crore, which is 15% of national GDP. Out of this, stimulus worth 9% of GDP has been provided by the government.

The following are the 12 key announcements under Aatma Nirbhar Bharat 3.0-

1. Aatma Nirbhar Bharat Rozgar Yojana

A new scheme to incentivize job creation during COVID-19 recovery has been launched. If EPFO-registered establishments take in new employees without EPFO registration or those who lost jobs earlier, the Yojana will benefit these employees.

Beneficiaries / New Employees under the scheme would be:

- any new employee joining employment in EPFO registered establishments on monthly wages less than Rs.15,000
- EPF members drawing monthly wage of less than Rs.15,000 who made exit from employment during COVID Pandemic from 01.03.2020 to 30.09.2020 and is employed on or after 01.10.2020.

Central Govt. will provide subsidy for two years in respect of new eligible employees engaged on or after 01.10.2020 at following scale:

- **Establishments employing up to 1000 employees:** Employee's contributions (12% of Wages) & Employer's contributions (12% of wages) totalling 24% of wages
- **Establishments employing more than 1000 employees:** Only Employee's EPF contributions (12% of EPF wages)

The scheme will be effective from October 1, 2020 and operational till 30th June 2021. Certain other eligibility criteria would have to be met, and Central Government will provide subsidy for two years in respect of new eligible employees.

* Mahesh Airan, Assistant Director, The ICSI.

Views expressed in the Article are the sole expression of the Author and may not express the views of the Institute.

2. **Emergency Credit Line Guarantee Scheme** for MSMEs, businesses, MUDRA borrowers and individuals (loans for business purposes), has been extended till March 31, 2021.

A Credit guarantee support scheme ECLGS 2.0 is being launched for Healthcare sector and 26 stressed sectors with credit outstanding of above Rs. 50 crore and up to ₹ 500 Crore as on 29.2.2020 stressed due to COVID-19, among other criteria. Entities will get **additional credit up to 20% of outstanding credit** with a tenor of five years, including 1 year moratorium on principal repayment. This scheme will be available till 31.3.2021.

3. **Production Linked Incentive worth ₹1.46 Lakh Crore to 10 champion sectors**

10 more Champion Sectors will be covered under the Production Linked Incentives Scheme to help boost competitiveness of domestic manufacturing. This will give a big boost to economy, investment, exports and job creation. A total amount of nearly 1.5 Lakh Crore has been earmarked across sectors, for next five years. The ten sectors are - Advance Cell Chemistry Battery, Electronic/Technology Products, Automobiles & Auto Components, Pharmaceuticals Drugs, Telecom & Networking Products, Textile Products, Food Products, High Efficiency Solar PV Modules, White Goods (ACs & LED), and Specialty Steel.

4. **₹18,000 Crore Additional outlay of for PM Awaas Yojana - Urban**

A sum of Rs 18000 cr is being provided for PMAY- Urban over and above Rs. 8000 Crore already allocated this year. This will help ground 12 Lakh houses and complete 18 Lakh houses, create additional 78 Lakh jobs and improve production and sale of steel and cement, resulting in multiplier effect on economy.

5. **Support for Construction & Infrastructure – Relaxation of Earnest Deposit Money & Performance Security on Government Tenders**

To provide ease of doing business and relief to contractors whose money otherwise remains locked up, performance security on contracts has been **reduced from 5-10% to 3%**. It will also extend to ongoing contracts and Public Sector Enterprises. EMD for tenders will be replaced by Bid Security Declaration. The relaxations in the General Financial Rules will be in force till December 31, 2021.

6. **Income Tax relief for Developers & Home Buyers**

Differential between circle rate and agreement value in real estate income tax under Section 43 CA of IT Act has been increased from 10% to 20%. This is for primary sale of residential units up to ₹ 2 Crore (from date of announcement of this scheme, till June 30 2021). Consequential Relief up to 20% shall also be allowed to buyers of these units under section 56(2) (x) of IT Act for the said period. The Income Tax relief provides incentive to middle class to buy homes.

7. **Platform for Infra Debt Financing**

Government will make ₹6,000 Crore equity investment in debt platform of National Investment and Infrastructure Fund (NIIF), which will help NIIF provide a debt of ₹1.1 Lakh Crore for infrastructure projects by 2025.

8. **Support for Agriculture: ₹65,000 Crore for subsidized fertilizers**

As fertilizer consumption is going up significantly, ₹65,000 Crore is being provided to ensure increased supply of fertilizers to farmers to enable timely availability of fertilisers in the upcoming crop season.

9. Boost for Rural Employment

Additional outlay of ₹10,000 Crore is being provided for PM Garib Kalyan Rozgar Yojana to provide rural employment. This will help accelerate rural economy.

10. Boost for Project Exports

₹3,000 Crore boost is being provided to EXIM Bank for promoting project exports under Indian Development and Economic Assistance Scheme (IDEAS Scheme). This will help EXIM Bank facilitate Lines of Credit development assistance activities and promote exports from India.

11. Capital and Industrial Stimulus

₹10,200 Crore additional budget stimulus is being provided for capital and industrial expenditure on domestic defence equipment, industrial infrastructure and green energy.

12. R&D grant for COVID Vaccine

₹900 Crore is being provided to Department of Biotechnology for Research and Development of Indian COVID Vaccine.

References:

- <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1672321>



**THE INSTITUTE OF
Company Secretaries of India**
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

August 14, 2020

Attention Students

Applicability of the Finance Act, 2019 for December, 2020 Examinations

Students may note that the Finance Act, 2019 i.e. Assessment Year 2020-21 / Previous Year 2019-20 is applicable in December, 2020 examinations for the following papers:

Executive Programme (Old Syllabus)

(i) Tax Laws and Practice (Module-1, Paper-4)

Executive Programme (New Syllabus)

(ii) Tax Laws (Module-1, Paper-4)

Professional Programme (Old Syllabus)

(iii) Advanced Tax Laws and Practice (Module-3, Paper-7)

Professional Programme (New Syllabus)

(iv) Advanced Tax Laws (Module-1 Paper-2)

Professional Programme (New Syllabus)

(v) Direct Tax Law and Practice (Module-3, Elective Paper-9.5)

Students may also note that: For Indirect Taxes:

- i.** Goods and Services Tax (GST) is applicable for **Executive Programme (Old Syllabus)**
- ii.** Goods and Services Tax (GST) & Customs Law are applicable for **Executive Programme (New Syllabus)**
- iii.** Goods and Services Tax (GST) & Customs Law are applicable for **Professional Programme (Old as well as New Syllabus)**.

Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBIC & Central Government, on or before six months prior to the date of the December, 2020 Examination.

**Joint Secretary (SG)
Dte. of Academics**



REGULATORY UPDATE

COMPANY LAW

The Companies (Prospectus and Allotment of Securities) Amendment Rules, 2020 (Notification No: G.S.R. 642(E) -, Dated October 16, 2020)

The MCA vide its notification dated October 16, 2020 has published the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2020 to further amend the Companies (Prospectus and Allotment of Securities) Rules, 2014.

In the Companies (Prospectus and Allotment of Securities) Rules, 2014, in rule 14 (1), after third proviso, the following proviso shall be inserted, namely: - “Provided also that in case of offer or invitation of any securities to qualified institutional buyers, it shall be sufficient if the company passes a previous special resolution only once in a year for all the allotments to such buyers during the year.”

Impact

Private Placement norms are being eased w.r.t. the offer or invitation of any securities made to Qualified Institutional Buyers. With this amendment, it shall be sufficient if the company passes a previous special resolution only once in a year for all the allotments to such buyers during the year.

For details:

<http://egazette.nic.in/WriteReadData/2020/222511.pdf>

SECURITIES LAWS AND CAPITAL MARKETS

1. **Standardisation of procedure to be followed by Debenture Trustee(s) in case of 'Default' by Issuers of listed debt securities**

(Circular No. SEBI/HO/MIRSD/CRADT/CIR/P/2020/203 dated October 13, 2020)

This circular prescribes the process to be followed by the Debenture Trustee(s) in case of 'Default' by issuers of listed debt securities including seeking consent from the investors for enforcement of security and/or entering into an Inter-Creditor Agreement ("ICA").

A. Event of default

Regulation 51 read with the Explanation to Clause A (11) in Part B of Schedule III of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements), 2015 ("LODR Regulations") defines 'default' as non-payment of interest or principal amount in full on the pre-agreed date which shall be recognized at the first instance of delay in the servicing of any interest or principal on debt.

In the manner of calling 'event of default', due to the presence of multiple ISIN's which may have been issued under the same Information Memorandum(s) ("IM(s)") or a single ISIN which may have been split across multiple IM(s), it is clarified that 'event of default' shall be reckoned at the ISIN level, as all terms and conditions of issuance of security are same under a single ISIN even though it might have been issued under multiple IMs.

B. Consent of investors for enforcement of security and for signing the ICA

The Reserve Bank of India ("RBI"), vide Circular dated June 07, 2019 issued the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019 which inter alia specified the mechanism for resolution of stressed assets by Lenders (viz. Scheduled Commercial Banks, All-India Term Financial Institutions, Small Finance Banks, Systemically Important Non-Deposit Taking Non-Banking Finance Companies (NBFCs) as well as Deposit Taking NBFCs). In terms thereof, investors in debt securities, being financial creditors, are approached by other lenders to sign an agreement, referred to as the Inter Creditor Agreement ("ICA"), under specific terms detailed in the framework as stipulated by RBI.

Regulation 59 of LODR Regulations provides that material modification in the structure of debt securities shall be made only after obtaining the consent of the requisite majority of investors. Regulation 18 of the Securities and Exchange Board of India (Issuer and Listing of Debt Securities) Regulations, 2008 ("ILDS Regulations"), applicable in case of public issue of debt securities, stipulates a period of fifteen days for giving notice in case of rollover of debt securities and further provides for approval to be obtained from not less than 75% of the holders by value of such debt securities.

As the resolution plan in the ICA may involve restructuring including roll-over of debt securities, requiring the consent of the investors, the process to be followed for seeking consent for enforcement of security and/or entering into an Inter-Creditor Agreement shall be as under:

1. The Debenture Trustee(s) shall send a notice to the investors within 3 days of the event of default by registered post/acknowledgement due or speed post/acknowledgement due or courier or hand delivery with proof of delivery as also through email as a text or as an attachment to email with a notification including a read receipt, and proof of dispatch of such notice or email, shall be maintained.
2. The notice shall contain the following:
 - 2.1. negative consent for proceeding with the enforcement of security;
 - 2.2. positive consent for signing the ICA;
 - 2.3. the time period within which the consent needs to be provided, viz. consent to be given within 15 days from the date of notice; and
 - 2.4. the date of meeting to be convened,
3. Debenture Trustee(s) shall convene the meeting of all investors within 30 days of the event of default (as per para 1 above):
 Provided that in case the default is cured between the date of notice and the date of meeting, then the convening of such a meeting may be dispensed with.
4. In view of Regulation 15(2)(b) of SEBI (Debenture Trustees) Regulations, 1993, in case of debt securities issued by way of public issue, the notice sent by the Debenture Trustee(s) in para 2 shall not contain the consent as per para 2.1 and the requirement to convene a meeting for enforcement of security, as per para 3, shall not be applicable.
5. The Debenture Trustee(s) shall take necessary action to enforce security or enter into the ICA or as decided in the meeting of investors, subject to the following:
 - 5.1. In case(s) where the majority of investors expressed their dissent against enforcement of the security, the Debenture Trustee(s) shall not enforce security.
 - 5.2. In case(s) where majority of investors expressed their consent to enter into ICA, the Debenture Trustee(s) shall enter into the ICA.
 - 5.3. In case(s) consents are not received for enforcement of security and for signing ICA, Debenture Trustee(s) shall take further action, if any, as per the decision taken in the meeting of the investors.
 - 5.4. The Debenture Trustee(s) may form a representative committee of the investors to participate in the ICA or to enforce the security or as may be decided in the meeting.
6. The consent of the majority of investors shall mean the approval of not less than 75% of the investors by value of the outstanding debt and 60% of the investors by number at the ISIN level.

C. Conditions for signing of ICA by Debenture Trustee(s) on behalf of investors

The Debenture Trustee(s) may sign the ICA and consider the resolution plan on behalf of the investors upon compliance with the following conditions:

1. The signing of the ICA and agreeing to the resolution plan is in the interest of investors and in compliance with the Companies Act, 2013 and the rules made thereunder, the Securities Contracts (Regulations) Act, 1956 and the Securities and

Exchange Board of India Act, 1992 and the rules, regulations and circulars issued thereunder from time to time.

2. If the resolution plan imposes condition(s) on the Debenture Trustee(s) that are not in accordance with the provisions of Companies Act, 2013 and the rules made thereunder, the Securities Contracts (Regulations) Act, 1956 and the Securities and Exchange Board of India Act, 1992 and the rules, regulations and circulars issued thereunder from time to time, then the Debenture Trustee(s) shall be free to exit the ICA altogether with the same rights as if it had never signed the ICA. Under these circumstances, the resolution plan shall not be binding on the Debenture Trustee(s).
3. The resolution plan shall be finalized within 180 days from the end of the review period. If the resolution plan is not finalized within 180 days from the end of the review period, then the Debenture Trustee(s) shall be free to exit the ICA altogether with the same rights as if it had never signed the ICA and the resolution plan shall not be binding on the Debenture Trustee(s). However, if the finalization of the resolution plan extends beyond 180 days, the Debenture Trustee(s) may consent to an extension beyond 180 days subject to the approval of the investors regarding the total timeline. The total timeline shall not exceed 365 days from the date of commencement of the review period.
4. If any of the terms of the approved Resolution Plan are contravened by any of the signatories to the ICA, the Debenture Trustee(s) shall be free to exit the ICA and seek appropriate legal recourse or any other action as deemed fit in the interest of the investors.

The Debenture Trustee(s) shall ensure that the conditions mentioned in above mentioned paragraphs are suitably incorporated in the ICA, before signing of the ICA.

(For more details:

https://www.sebi.gov.in/legal/circulars/oct-2020/standardisation-of-procedure-to-be-followed-by-debenture-trustee-s-in-case-of-default-by-issuers-of-listed-debt-securities_47855.html)

2. Utilization of Fund Created out of the Regulatory Fee Forgone by SEBI – Additional Guidelines

(Circular No. SEBI/HO/CDMRD/DNPMP/CIR/P/2020/206 dated October 19, 2020)

- In order to encourage the participation of Farmers / Farmers Producers Organizations (FPOs) in agricultural commodity derivatives markets, the Stock Exchanges have created a separate fund, out of the regulatory fee so forgone by SEBI. The Stock Exchanges have been permitted by SEBI to utilize the said fund exclusively for the benefit of and easy participation by Farmers / FPOs in the agricultural commodity derivatives market, in accordance with the guidelines specified vide SEBI circular no. SEBI/HO/CDMRD/DMP/CIR/P/2019/40 dated March 20, 2019.
- Due to low participation by Farmers / FPOs in agricultural commodity derivatives market coupled with the challenges posed by the pandemic situation, a sizeable portion of the fund has remained unutilized. The matter was, therefore, deliberated in the

Commodity Derivatives Advisory Committee (CDAC) and based on the recommendations of CDAC, it has been decided to permit the Stock Exchanges to utilize the said fund for the following additional activities:

1. **Reimbursement of Mandi tax** : Reimbursement of Mandi tax including any other mandi cess or whatever name it may be called, levied against the goods deposited in warehouses accredited with Clearing Corporations for the purpose of delivering on Exchange platform for which exchange specific Electronic Negotiable Warehouse Receipt (eNWR) is generated.
 2. **Reimbursement of assaying, cleaning, drying, sorting, storage and transportation charges** : Farmers/FPOs can be reimbursed the charges incurred towards assaying, cleaning, drying, sorting, storage and transportation in respect of goods deposited in warehouses accredited with Clearing Corporations with an intention to deliver them on Exchange Platform for which exchange specific eNWR is generated.
 3. **Incentivising Option Premium** : The Farmers / FPOs can be incentivized to participate in “options in goods”. For this purpose, the Farmers / FPOs can be reimbursed a certain percentage or fixed amount of the premium paid by them, for purchasing “options in goods” on the exchange platform.
 4. **Reimbursement of fees levied by Clearing Corporation** : Fees/cost levied by Clearing Corporation, if any, on Farmers/FPOs in the process of their participation in commodity derivatives trading can be reimbursed.
- The Stock Exchanges can revise their action plan for utilisation of regulatory fee foregone by SEBI for FY 2020-21 incorporating the abovementioned activities and the revised plan, if any, shall be disseminated on their website.
 - Further, in order to enhance transparency, the Stock Exchanges are advised to make disclosure regarding the corpus of the fund and its utilization, on their website, on a monthly basis.
 - The Stock Exchanges are further advised to include the details of the corpus of the fund and its utilization in the Monthly Development Report (MDR).
 - All other extant provisions of the circular dated March 20, 2019 shall continue to remain in force.

(For more details:

https://www.sebi.gov.in/legal/circulars/oct-2020/utilization-of-fund-created-out-of-the-regulatory-fee-forgone-by-sebi-additional-guidelines_47897.html)

3. Securities and Exchange Board of India (Alternative Investment Funds) (Amendment) Regulations, 2020 (October 19, 2020)

The SEBI has carried out the amendments under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, namely:—

I. Sub-clause (g) of regulation 4 shall be substituted with the following, namely, -

“(g) The key investment team of the Manager of Alternative Investment Fund has –

- (i) adequate experience, with at least one key personnel having not less than five years of experience in advising or managing pools of capital or in fund or asset or wealth or portfolio management or in the business of buying, selling and dealing of securities or other financial assets; and

- (ii) at least one key personnel with professional qualification in finance, accountancy, business management, commerce, economics, capital market or banking from a university or an institution recognized by the Central Government or any State Government or a foreign university, or a CFA charter from the CFA institute or any other qualification as may be specified by the Board:

Provided that the requirements of experience and professional qualification as specified in regulation 4(g)(i) and 4(g)(ii) may also be fulfilled by the same key personnel.”

II. After sub-regulation (5) of regulation 20, the following shall be inserted, namely, -

“(6) The Manager shall be responsible for investment decisions of the Alternative Investment Fund:

Provided that the Manager may constitute an Investment Committee (by whatever name it may be called), to approve investment decisions of the Alternative Investment Fund, subject to the following:

- (i) The members of Investment Committee shall be equally responsible as the Manager for investment decisions of the Alternative Investment Fund.
- (ii) The Manager and members of the Investment Committee shall jointly and severally ensure that the investments of the Alternative Investment Fund are in compliance with the provisions of these regulations, the terms of the placement memorandum, agreement made with the investor, any other fund documents and any other applicable law.
- (iii) External members whose names are not disclosed in the placement memorandum or agreement made with the investor or any other fund documents at the time of on-boarding investors, shall be appointed to the Investment Committee only with the consent of at least seventy five percent of the investors by value of their investment in the Alternative Investment Fund or scheme.
- (iv) Any other conditions as specified by the Board from time to time.”

These amendments shall come into force on the date of their publication in the Official Gazette i.e. October 19, 2020

(For more details:

https://www.sebi.gov.in/legal/regulations/oct-2020/securities-and-exchange-board-of-india-alternative-investment-funds-amendment-regulations-2020_47914.html)

4. Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) (Second Amendment) Regulations, 2020 (October 19, 2020)

The SEBI has carried out the amendments under Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, namely:—

I. In regulation 4, in sub-regulation (1), the following Explanation shall be inserted, namely: -

“Explanation.- For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are

listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.”

(For more details:

https://www.sebi.gov.in/legal/regulations/oct-2020/securities-and-exchange-board-of-india-prohibition-of-fraudulent-and-unfair-trade-practices-relating-to-securities-market-second-amendment-regulations-2020_47963.html)

5. Contribution by Issuers of listed or proposed to be listed debt securities towards creation of “Recovery Expense Fund”

(Circular No. SEBI/HO/MIRSD/CRADT/CIR/P/2020/207 dated October 22, 2020)

In order to enable the Debenture Trustee(s) to take prompt action for enforcement of security in case of ‘default’ in listed debt securities, a ‘Recovery Expense Fund’ (REF) shall be created which shall be used in the manner as decided in the meeting of the holders of debt securities.

A. Manner of creation and operation of REF

The issuer proposing to list debt securities shall deposit an amount equal to 0.01% of the issue size subject to maximum of Rs. 25 lakhs per issuer towards REF with the ‘Designated Stock Exchange’, as identified and disclosed in its Offer Document/ Information Memorandum.

The REF shall be created and maintained in the following form:

- a. The issuer shall deposit cash or cash equivalent(s) including Bank Guarantees towards contribution to this fund at the time of making the application for listing of debt securities.
- b. The Designated Stock Exchange shall invest cash in Government Securities or Treasury Bills or Fixed Deposit with a Scheduled commercial bank or gilt fund or debt mutual funds or debt Exchange Trade Funds and the income/interest earned thereof shall be added to the REF of the issuer.
- c. The issuer shall ensure that the Bank Guarantee remains valid for a period of 6 months post the maturity date of the listed debt security. The issuer shall keep the bank guarantee in force and renew the Bank Guarantee at least 7 working days before its expiry, failing which the Designated Stock Exchange shall invoke such Bank Guarantee.

In case of any change in status of issuer of the listed debt securities on account of corporate restructuring by way of Scheme of Arrangement etc., the Designated Stock Exchange shall make sure that the amount maintained in the REF is available as per paragraph 2 before issuing the ‘Observation letter’ in that regard.

B. Manner of utilization of Recovery Expense Fund

In the event of default, the Debenture Trustee/ Lead Debenture Trustee shall obtain the consent of holders of debt securities for enforcement of security and shall inform the same to the Designated Stock Exchange. The Designated Stock Exchange shall release the amount lying in the REF to the Debenture Trustee/ Lead Debenture Trustee within 5 working days of receipt of such intimation.

For the purpose of this Circular, Lead Debenture Trustee shall mean:

- a. A Debenture Trustee who has been chosen to be the Lead Debenture Trustee by other Debenture Trustees or
- b. A Debenture Trustee who is the Debenture Trustee of more than 50% of the outstanding value of debt securities.

The Debenture Trustee shall keep a proper account of all expenses incurred out of the funds received from REF towards Legal expenses, cost for hosting meeting etc. towards enforcement of security.

C. Refund of Recovery Expense Fund to the issuer

The balance in the Recovery Expense Fund shall be refunded to the issuer on repayment to holders of debt securities on their maturity or at the time of the exercise of call or put option, for which a 'No Objection Certificate (NOC)' shall be issued by the Debenture Trustee(s) to the Designated Stock Exchange. The Debenture Trustee(s) shall satisfy that there is no 'default' on any other listed debt securities of the issuer before issuing the NOC.

Applicability:

The provisions of this circular shall come into force w.e.f. January 01, 2021 and all the applications for listing of debt securities made on or after January 01, 2021 shall comply with the condition of creation of REF. The existing issuers whose debt securities are already listed on Stock Exchange(s) shall be given additional time period of 90 days to comply with this circular for creation of REF.

(For more details:

https://www.sebi.gov.in/legal/circulars/oct-2020/contribution-by-issuers-of-listed-or-proposed-to-be-listed-debt-securities-towards-creation-of-recovery-expense-fund-_47939.html)

6. Clarification on SEBI Circular SEBI/HO/OIAE/IGRD/CIR/P/2020/152 dated 13 August, 2020 on Investor grievances redressal mechanism – Handling of SCORES complaints by stock exchanges and Standard Operating Procedure for non-redressal of grievances by listed companies.

(Circular No. SEBI/HO/OIAE/IGRD/CIR/P/2020/208 dated 22 October, 2020)

SEBI Issued a Circular SEBI/HO/OIAE/IGRD/CIR/P/2020/152 dated 13 August, 2020 on Investor grievances redressal mechanism – Handling of SCORES complaints by stock exchanges and Standard Operating Procedure for non-redressal of grievances by listed companies.

In respect of Paras 16, 27, 32 and Point 2c of Annexure -1 to the said circular, please read the words “promoter and promoter group” and “promoter/promoter group” as “promoter(s)”.

(For more details: <https://www.sebi.gov.in/legal/circulars/oct-2020/clarification-on-sebi-circular-sebi-ho-oiae-igrd-cir-p-2020-152-dated-13-august-2020-on-investor-grievances->)

redressal-mechanism-handling-of-scores-complaints-by-stock-exchanges-and-standard-operati-_47953.html)

7. Processing of applications for registrations of AIFs and launch of schemes

(Circular No. SEBI/HO/IMD/DF6/CIR/P/2020/209 dated October 22, 2020)

- While processing applications for registration of AIFs and launch of new schemes, it has been observed that the Manager of AIF often proposes to set up an Investment Committee with the mandate to provide investment recommendations or advice to the Manager. In some applications, the Investment Committee is mandated to approve the investment decisions of the AIF. Such Investment Committees may consist of internal members (employees, directors or partners of the Manager) and/ or external members.
- Pursuant to the approval of SEBI Board, the SEBI (Alternative Investment Funds) Regulations, 2012 (“AIF Regulations”) have been amended to provide that the Manager may constitute Investment Committee (by whatever name it may be called) to approve investment decisions of the AIF, subject to certain conditions. The amendment to AIF Regulations has been notified on October 19, 2020 and is available at link given in the circular.
- Further, SEBI has written to Government and RBI seeking clarity on the applicability of clause (4) of Schedule VIII under FEM (Non-debt Instruments) Rules, 2019 to investment made by an AIF whose Investment Committee approves investment decisions and consists of external members who are not ‘resident Indian citizens’.
- Pending clarification as mentioned at Para 3, the applications for registration of AIFs and launch of new schemes shall be dealt with as under:
 - (i) The applications wherein Investment Committee proposed to be constituted to approve investment decisions of AIF includes external members who are ‘resident Indian citizens’, shall be duly processed.
 - (ii) The applications wherein Investment Committee proposed to be constituted to approve investment decisions of AIF includes external members who are not ‘resident Indian citizens’, shall be considered only after receipt of clarification as stated in Para 3 above.

(For more details:

https://www.sebi.gov.in/legal/circulars/oct-2020/processing-of-applications-for-registrations-of-aifs-and-launch-of-schemes_47956.html)

8. Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2020 (October 29, 2020)

The SEBI has carried out the amendments under Securities and Exchange Board of India (Mutual Funds) Regulations, 1996, namely:—

- I In sub-regulation (22) of Regulation 18**, after the words “specified in” and before the words “the Fifth Schedule”, the words and symbol “PART-A of” shall be inserted.

II Third Proviso to clause (b) of regulation 24 shall be substituted with the following, namely-

“Provided further that an asset management company may become a proprietary trading member for carrying out trades in the debt segment of the recognised stock exchanges, on behalf of its mutual fund schemes and may also become a self-clearing member of the recognised clearing corporations to clear and settle trades in the debt segment on behalf of its mutual fund schemes.”

III In Regulation 25,

i. In sub-regulation (6A), the words “whatever his designation may be” shall be substituted with the words “whatever be the designation”.

ii. sub-regulation (6A) shall be numbered as clause (a) thereof and after clause (a) so numbered, the following clause shall be inserted, namely-

“(b) Chief Executive Officer (whatever be the designation) shall also ensure that the Asset Management Company has adequate systems in place to ensure that the Code of Conduct for Fund Managers and Dealers specified in PART - B of the Fifth Schedule of these regulations are adhered to in letter and spirit. Any breach of the said Code of Conduct shall be brought to the attention of the Board of Directors of the Asset Management Company and Trustees.”

iii. In sub-regulation (6B), the words “whatever the designation may be” shall be substituted with the words “whatever be the designation”.

iv. sub-regulation (6B) shall be numbered as clause (a) thereof and after clause (a) so numbered, the following clause shall be inserted, namely-

“(b) The Fund Managers (whatever be the designation) shall abide by the Code of Conduct for Fund Managers and Dealers specified in PART - B of the Fifth Schedule of Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and submit a quarterly self-certification to the Trustees that they have complied with the said code of conduct or list exceptions, if any.

Explanation :- For the purposes of this sub-regulation, the phrase “Fund Managers” shall include Chief Investment Officer (whatever be the designation).”

v. After sub-regulation (6B) and before sub-regulation (7), the following sub-regulation shall be inserted, namely-

“(6C) (a) The Dealers (whatever be the designation) shall ensure that orders are executed on the best available terms, taking into account the relevant market at the time for transactions of the kind and size concerned to achieve the objectives of the scheme and in the best interest of all the unit holders.

(b) The Dealers (whatever be the designation) shall abide by the Code of Conduct for Fund Managers and Dealers specified in PART - B of the Fifth Schedule of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and submit a quarterly self-certification to the Trustees that they have complied with the said code of conduct or list exceptions, if any.”

- vi. In sub-regulation (16), after the words “specified in” and before the words “the Fifth Schedule”, the words and symbol “PART-A of” shall be inserted.

IV The amendments have been carried out in the Fifth Schedule, “Code of Conduct” pertaining to regulations 18(22), 25(16), 68(h)

(For more details: https://www.sebi.gov.in/legal/regulations/oct-2020/securities-and-exchange-board-of-india-mutual-funds-second-amendment-regulations-2020_48053.html)

9. SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF INSIDER TRADING) (SECOND AMENDMENT) REGULATIONS, 2020 (OCTOBER 29, 2020)

The SEBI has carried out the amendments under Securities and Exchange Board of India Prohibition of Insider Trading) Regulations, 2015, namely:—

I. in regulation 7A, in sub-regulation (1), in clause (h), after sub-clause (iii), the following explanation shall be inserted, namely-

“Explanation. – Information shall be considered timely, only if as on the date of receipt of the duly completed Voluntary Information Disclosure Form by the Board, a period of not more than three years has elapsed since the date on which the first alleged trade constituting violation of insider trading laws was executed.”;

II. in Schedule D,

- i. in the note, for the words “securities laws”, the words “insider trading laws” shall be substituted;
- ii. in the table, in the part III,
 - a. in clause 1, for the words “securities laws”, the words “insider trading laws” shall be substituted;
 - b. for clause 9, the following shall be substituted, namely, -
 - “9. Please describe in detail how the information submitted by you constitutes a violation of insider trading laws. The details must include specific information with respect to:
 - (i) details of the securities in which insider trading is alleged;
 - (ii) the unpublished price sensitive information based on which insider trading is alleged;
 - (iii) date on which the unpublished price sensitive information was made public;
 - (iv) details of circumstances/evidence leading to possession of unpublished price sensitive information by the alleged violator(s);

- (v) details of insiders/suspects and their trades (i.e. purchase/sale and quantity purchased/sold) along with dates/period of trades.”
- c. in the clause 10, after the words and symbol “based on?” and before the words “Please attach”, the words and symbols “Please include self-certified copies of all the relevant documents.”, shall be inserted.

(For more details:

https://www.sebi.gov.in/legal/regulations/oct-2020/securities-and-exchange-board-of-india-prohibition-of-insider-trading-second-amendment-regulations-2020_48084.html)

**10. Schemes of Arrangement by Listed Entities and (ii) Relaxation under Sub rule (7) of Rule 19 of the Securities Contracts (Regulation) Rules, 1957
(Circular No. SEBI/HO/CFD/DIL1/CIR/P/2020/215 dated November 3, 2020)**

SEBI Circular No. CFD/DIL3/CIR/2017/21 dated March 10, 2017 has laid down the framework for Schemes of Arrangement by listed entities and relaxation under Rule 19(7) of the Securities Contracts (Regulation) Rules, 1957.

Empowering the stock exchanges: It has been decided to further streamline the processing of draft schemes filed with the stock exchanges, and make certain amendments to the aforesaid Circular dated March 10, 2017, as provided in the Annexure to this Circular. These amendments are aimed at ensuring that the recognized stock exchanges refer draft schemes to SEBI only upon being fully convinced that the listed entity is in compliance with SEBI Act, Rules, Regulations and circulars issued thereunder.

Applicability of this Circular: This Circular shall be applicable for all the schemes filed with the stock exchanges after November 17, 2020.

The amendment indicated at Para 7 of the Annexure shall be applicable for all listed entities seeking listing and/or trading approval from the stock exchanges after November 3, 2020.

(For more details:

https://www.sebi.gov.in/legal/circulars/nov-2020/schemes-of-arrangement-by-listed-entities-and-ii-relaxation-under-sub-rule-7-of-rule-19-of-the-securities-contracts-regulation-rules-1957_48064.html)

11. Creation of Security in issuance of listed debt securities and ‘due diligence’ by debenture trustee(s)

(Circular No. SEBI/HO/MIRSD/CRADT/CIR/P/2020/218 dated November 03, 2020)

1. In order to secure the interest of investors in listed debt securities and to enable debenture trustee(s) to perform their duties effectively, amendments to the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (“ILDS Regulations) and SEBI (Debenture Trustees) Regulations, 1993 (“DT Regulations”) were approved by SEBI Board and notified vide Gazette Notifications no. 34 and 35 dated October 08, 2020. Following guidelines are issued to give effect to above amendments:

A. Documents/ Consents required at the time of entering into debenture trustee agreement

2. Regulations 17, 21 and 21B of ILDS Regulations require an Issuer to disclose a proposal to create security in offer document (“OD”) or private placement memorandum (“PPM”)/ information memorandum (“IM”). Schedule I of ILDS Regulations specifies that the type of security (movable, immovable, tangible, intangible etc.) and type of charge (pledge, hypothecation, mortgage etc.) shall be disclosed by the Issuer.
3. Regulation 13 of the DT Regulations stipulates that the debenture trustee shall enter into a written agreement (“debenture trustee agreement”) with the Issuer before the debenture trustee agrees to act as debenture trustee in respect of the said issue of debt securities.
4. In order to enable the debenture trustee to exercise due diligence with respect to creation of security, the Issuer at the time of entering into debenture trustee agreement shall provide the following information/ documents to the debenture trustee(s):
 1. Details of assets, movable property and immovable property on which charge is proposed to be created including title deeds (original/ certified true copy by issuers/ certified true copy by existing charge holders, as available) or title reports issued by a legal counsel/ advocates, copies of the relevant agreements/ Memorandum of Understanding, copy of evidence of registration with Sub-registrar, Registrar of Companies, Central Registry of Securitization Asset Reconstruction and Security Interest (CERSAI) etc.
 2. For unencumbered assets, an undertaking that the assets on which charge is proposed to be created are free from any encumbrances.
 3. For encumbered assets, on which charge is proposed to be created, the following consents along-with their validity as on date of their submission:
 - (a) Details of existing charge over the assets along with details of charge holders, value/ amount, copy of evidence of registration with Sub-registrar, Registrar of Companies, CERSAI, Information Utility (IU) registered with Insolvency and Bankruptcy Board of India (IBBI) etc. as applicable;
 - (b) Consent/ No-objection certificate (NOC) from existing charge holders for further creation of charge on the assets or relevant transaction documents wherein existing charge holders have given conditional consent/ permission to the Issuer to create further charge on the assets, along-with terms of such conditional consent/ permission, if any;
 - (c) Consent/ NOC from existing unsecured lenders, in case, negative lien is created by Issuer in favour of unsecured lenders.

4. In case of personal guarantee or any other document/ letter with similar intent is offered as security or a part of security:
 - (a) Details of guarantor viz. relationship with the Issuer;
 - (b) Net worth statement (not older than 6 months from the date of debenture trustee agreement) certified by a chartered accountant of the guarantor;
 - (c) List of assets of the guarantor including undertakings/ consent/ NOC as per para 2 and 3 above;
 - (d) Conditions of invocation of guarantee including details of put options or any other terms and conditions which may impact the security created;
 - (e) Executed copies of previously entered agreements for providing guarantee to any other person, if any.
5. In case of corporate guarantee or any other document/ letter with similar intent is offered as security or a part of security:
 - (a) Details of guarantor viz. holding/ subsidiary/ associate company etc.;
 - (b) Audited financial statements (not older than 6 months from the date of debenture trustee agreement) of guarantor including details of all contingent liabilities;
 - (c) List of assets of the guarantor along-with undertakings/ consent/ NOC as per para 2 and 3 above;
 - (d) Conditions of invocation of guarantee including details of put options or any other terms and conditions which may impact the security created;
 - (e) Impact on the security in case of restructuring activity of the guarantor;
 - (f) Undertaking by the guarantor that the guarantee shall be disclosed as “contingent liability” in the “notes to accounts” of financial statement of the guarantor;
 - (g) Copy of Board resolution of the guarantor for the guarantee provided in respect of the debt securities of the Issuer;
 - (h) Executed copies of previously entered agreements for providing guarantee to any other person, if any.
6. In case securities (equity shares etc.) are being offered as security then a holding statement from the depository participant along-with an undertaking that these securities shall be pledged in favour of debenture trustee(s) in the depository system.
7. Details of any other form of security being offered viz. Debt Service Reserve Account etc.;
8. Any other information, documents or records required by debenture trustee with regard to creation of security and perfection of security.

B. Due diligence by debenture trustee for creation of security

5. Regulation 15(6) of SEBI (Debenture Trustees) Regulations, 1993 (DT Regulations) inter-alia requires debenture trustee, to exercise independent due diligence and Regulation 15(1)(i) of DT Regulations places obligations on the debenture trustee to ensure that the assets of the Issuers are sufficient to discharge the interest and principal amount with respect to debt securities of the Issuers at all times.

6. Debenture trustee(s) by itself or through its advisers or experts shall independently carry out due diligence. The terms and conditions with respect to exercising due diligence shall also be included in the debenture trustee agreement. The due diligence to be exercised by debenture trustee(s) with respect to creation of security shall inter-alia include the following:
 1. Debenture trustee shall verify that the assets provided by Issuer for creation of security are free from any encumbrances or necessary permissions or consents has been obtained from existing charge holders by carrying out the following checks:
 - (a) Verify from Registrar of Companies, Sub-registrar, CERSAI, IU or other sources where charge is registered/ disclosed as per terms.
 - (b) In case of conditional consent/ permission received as per para 3(b) above:
 - i. Verify whether such conditional consent/ permission given to Issuer by existing charge holders is valid as per terms of transaction documents;
 - ii. Intimate to existing charge holders via e-mail about the proposal to create further charge on assets by Issuer seeking their comments/ objections, if any, to be communicated to debenture trustee within next 5 working days.
 2. In case of personal guarantee, corporate guarantee and any other guarantees/ form of security, the debenture trustee shall verify the relevant filings made on websites of Ministry of Corporate Affairs, Stock Exchange(s), CIBIL, IU etc. and obtain appraisal report, necessary financial certificates viz. from statutory auditor in case of corporate guarantee, certificate from Chartered Accountant in case of personal guarantee, as applicable, of the guarantor/ Issuer.
 7. Debenture trustee, by itself or through its appointed agencies viz. chartered accountant firm, registered valuer, legal counsel etc., shall prepare one or more reports viz. valuation report, ROC search report, title search report/ appraisal report, asset cover certificate, any other report/ certificate as applicable etc. and shall independently assess that the assets for creation of security are adequate for the proposed issue of debt securities.
 8. Debenture trustee shall issue 'due-diligence certificate' as per format specified in Annexure A to the Issuer subject to the following:
 1. Information on consents/ permissions required for creation of further charge on assets are adequately disclosed in OD or PPM/ IM.
 2. All disclosures made in the OD or PPM/ IM with respect to creation of security are in confirmation with the clauses of debenture trustee agreement.
 3. All covenants proposed to be included in debenture trust deed (including any side letter, accelerated payment clause etc.) are disclosed in OD or PPM/ IM.
 9. Debenture trustee(s) shall maintain records and documents pertaining to due diligence exercised for a minimum period of five years from redemption of the debt securities.
- C. Disclosures in the offer document or private placement memorandum/ information memorandum and filing of OD or PPM/ IM by the Issuer**

10. The Issuer, in addition to disclosures made under Schedule I of ILDS Regulations and circulars issued thereunder, shall also disclose the following in the OD or PPM/ IM:
 1. “Debt securities shall be considered as secured only if the charged asset is registered with Sub-registrar and Registrar of Companies or CERSAI or Depository etc., as applicable, or is independently verifiable by the debenture trustee.”;
 2. Terms and conditions of debenture trustee agreement including fees charged by debenture trustees(s), details of security to be created and process of due diligence carried out by the debenture trustee;
 3. Due diligence certificate as per the format specified in Annexure A.
11. An Issuer proposing to file draft OD or PPM/ IM for offering securities through electronic book mechanism or serially printing PPM/ IM as per Section 42 of Companies Act, 2013 and rules made thereunder shall submit the due diligence certificate from debenture trustee to stock exchange as per format specified in Annexure A.

D. Creation and registration of charge of security by Issuer

12. Before making the application for listing of debt securities, the Issuer shall create charge as specified in the OD or PPM/ IM, in favour of the debenture trustee and also execute debenture trust deed (DTD) with the debenture trustee.
13. The Stock Exchange(s) shall list the debt securities only upon receipt of a due diligence certificate as per format specified in Annexure B from debenture trustee confirming creation of charge and execution of the DTD.
14. The charge created by Issuer shall be registered with Sub-registrar, Registrar of Companies, CERSAI, Depository etc., as applicable, within 30 days of creation of such charge. In case the charge is not registered anywhere or is not independently verifiable, then the same shall be considered a breach of covenants/ terms of the issue by the Issuer.
15. **Applicability:** The provisions of this circular shall come into force w.e.f. January 01, 2021 i.e. for new issues proposed to be listed on or after January 01, 2021.

(For more details:

https://www.sebi.gov.in/legal/circulars/nov-2020/creation-of-security-in-issuance-of-listed-debt-securities-and-due-diligence-by-debenture-trustee-s_48074.html)

12. Advisory for Financial Sector Organizations regarding Software as a Service (SaaS) based solutions

(Circular No. SEBI/HO/MIRSD2/DOR/CIR/P/2020/221 dated November 03, 2020)

- Ministry of Electronics & Information Technology, Govt. of India (MoE & IT), has informed SEBI that the financial sector institutions are availing or thinking of availing Software as a Service (SaaS) based solution for managing their Governance, Risk & Compliance (GRC) functions so as to improve their cyber Security Posture. As observed by MoE & IT, though SaaS may provide ease of doing business and quick turnaround, but it may bring significant risk to health of financial sector as many a time risk and compliance data of the institution moves beyond the legal and jurisdictional boundary of India due to nature of shared cloud SaaS, thereby posing risk to the data safety and security.

- In this regard, Indian Computer Emergency Response Team (CERT-in) has issued an advisory for Financial Sector organizations. The advisory has been forwarded to SEBI for bringing the same to the notice of financial sector organization. The advisory is enclosed at Annexure A of this circular.
- It is advised to ensure complete protection and seamless control over the critical systems at your organizations by continuous monitoring through direct control and supervision protocol mechanisms while keeping the critical data within the legal boundary of India.
- The compliance of the advisory shall be reported in the half yearly report by stock brokers and DP to stock exchanges and depositories respectively and by direct intermediaries to SEBI with an undertaking, “Compliance of the SEBI circular for Advisory for Financial Sector Organizations regarding Software as a Service (SaaS) based solutions has been made.”
- The advisory annexed with this circular shall be effective with immediate effect.

(For more details:

https://www.sebi.gov.in/legal/circulars/nov-2020/advisory-for-financial-sector-organizations-regarding-software-as-a-service-saas-based-solutions_48081.html)

13. Guidelines for rights issue of units by an unlisted Infrastructure Investment Trust (InvIT)

(Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/223 dated November 04, 2020)

Chapter VIA of the of SEBI (Infrastructure Investment Trusts) Regulations, 2014 (InvIT Regulations) provides the framework for private placement of units by InvITs which are not eligible to be listed. In order to enable unlisted InvITs to raise further funds, it has been decided to provide a mechanism for raising of funds by unlisted InvITs through rights issue of units.

For the purpose of this circular “rights issue” shall mean an offer of units by an unlisted InvIT to the unit holders of the InvIT as on the record date fixed for the said purpose. The guidelines in respect of a rights issue of units by an unlisted InvIT are given below.

1. Conditions for issuance

- 1.1. No InvIT shall make a rights issue of units unless the following conditions are satisfied:
 - 1.1.1. A resolution of the board of directors of the investment manager approving the rights issue of units and determining the record date has been passed.
 - 1.1.2. Units of the same class, which are proposed to be allotted are already issued by the InvIT.
 - 1.1.3. None of the respective promoters or partners or directors of the sponsor(s) or investment manager or trustee of the InvIT is a fugitive economic offender declared under section 12 of the Fugitive Economic Offenders Act, 2018 (17 of 2018).
 - 1.1.4. None of the respective promoters or partners or directors of the sponsor(s) or investment manager or trustee of the InvIT
 - (a) is debarred from accessing the securities market by the Board;
 - (b) is a promoter, director or person in control of any other company or a sponsor, investment manager or trustee of any other InvIT which is debarred from accessing the capital market under any order or directions made by the Board;

2. Underwriting

- 2.1. If the InvIT desires to have the issue underwritten, it may appoint underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993.

3. Letter of Offer

- 3.1. The investment manager, on behalf of the InvIT shall file a letter of offer with the Board at least 5 days prior to opening of the issue
- 3.2. The investment manager, on behalf of the InvIT, shall carry out the obligations relating to the issue.
- 3.3. The investment manager shall ensure that disclosures made in the letter of offer contains material, true, correct and adequate disclosures and are in accordance with the InvIT Regulations and guidelines or circulars issued thereunder.
- 3.4. The letter of offer shall contain disclosures as specified in Annexure I of this Circular.
- 3.5. The letter of offer shall also be furnished to the Board in soft copy

4. Application

- 4.1. The application form for the issue shall be prepared by the investment manager and the investment manager shall make arrangements for distribution of the application form along with letter of offer to all unit holders as on the record date at least five days prior to the opening of the issue.

5. Pricing of Units

- 5.1. The investment manager on behalf of the InvIT shall decide the issue price before determining the record date.
- 5.2. The issue price shall be disclosed in the letter of offer.

6. Timelines

- 6.1. The rights issue shall open within three months from the record date.
- 6.2. The rights issue shall be kept open for at least three working days but not more than fifteen working days.

7. Manner of issuance of units

- 7.1. The units shall be allotted in the dematerialized form only.
- 7.2. The rights entitlements shall be credited to the demat account of the unitholders before the date of opening of the issue. The rights entitlements shall include a right exercisable by the person concerned to renounce the units offered to him/her or any of them in favour of any other person and letter of offer and the notice sent to the unitholders shall contain a statement to this effect.

8. Allotment

- 8.1. The minimum allotment to any investor shall be INR 1 crore.
- 8.2. Allotment shall be made in the following manner:

- 8.2.1. full allotment to those eligible unitholders who have applied for their rights entitlement either in full or in part and also to the renouncee(s), who has/have applied for the units renounced in their favour, in full or in part, as adjusted for fractional entitlement.
- 8.2.2. allotment to eligible unitholders who having applied for the units in full to the extent of their rights entitlement and have also applied for additional units shall be made as far as possible on an equitable basis, having due regard to the number of units held by them on the record date, provided there is an undersubscribed portion after making allotment in (a) above.
- 8.2.3. allotment to the renouncees, who having applied for the units renounced in their favour and also applied for additional units, provided there is an undersubscribed portion after making full allotment specified in (a) and (b) above. The allotment of such additional units may be made on a proportionate basis.
- 8.2.4. Allotment to the underwriter appointed for the issue, if any, at the discretion of the board of directors of the investment manager, subject to disclosure in the letter of offer as applicable.

9. Restriction on further capital issues

- 9.1. The InvIT shall not make any further issue of units in any manner during the period between the date of filing the letter of offer with the Board and the allotment of the units offered through the letter of offer.
- 9.2. The InvIT shall file an allotment report with the Board providing details of the allottees and allotment made within 15 days of the issue closing date.

(For more details:

https://www.sebi.gov.in/legal/circulars/nov-2020/guidelines-for-rights-issue-of-units-by-an-unlisted-infrastructure-investment-trust-invite_48082.html)

14. Enhancement of Overseas Investment limits for Mutual Funds

(Circular No. SEBI/HO/IMD/DF3/CIR/P/2020/225 dated November 05, 2020)

- In partial modification to clause 1(b) of SEBI Circular No. SEBI/IMD/CIR No.7/104753/08 dated September 26, 2007 and clause 2 of SEBI Circular SEBI/IMD/CIR No.2/122577/08 dated April 08, 2008, it has been decided to enhance the investment limits per Mutual Fund as follows:
 1. Mutual Funds can make overseas investments subject to a maximum of US \$ 600 million per Mutual Fund, within the overall industry limit of US \$ 7 billion.
 2. Mutual Funds can make investments in overseas Exchange Traded Fund (ETF(s)) subject to a maximum of US \$ 200 million per Mutual Fund, within the overall industry limit of US \$ 1 billion.
- The allocation methodology of the aforementioned limits shall be as follows:
 1. In case of overseas investments specified at Para 1.1, US \$ 50 million would be reserved for each Mutual Fund individually, within the overall industry limit of US \$ 7 billion.
 2. New Fund Offers (NFOs): Mutual Funds launching new schemes intending to invest in Overseas securities / Overseas ETFs shall ensure that the scheme documents shall disclose the intended amount that they plan to invest in Overseas securities /

Overseas ETFs subject to maximum limits specified at Para 1, as the case maybe. Such limits disclosed in scheme documents will be valid for a period of six months from the date of closure of NFO. Thereafter the unutilized limit, if any, shall not be available to the Mutual Fund for investment in Overseas securities / Overseas ETFs and shall be available towards the unutilized industry wide limits. Further investments should follow the norms for ongoing schemes.

3. Ongoing Schemes: For all ongoing schemes that invest or are allowed to invest in Overseas securities / Overseas ETFs, an investment headroom of 20% of the average AUM in Overseas securities / Overseas ETFs of the previous three calendar months would be available to the Mutual Fund for that month to invest in Overseas securities / Overseas ETFs subject to maximum limits specified at Para 1, as the case maybe
 - Further, Mutual Funds shall report the utilisation of overseas investment limits on monthly basis, within 10 days from end of each month. The format for reporting is enclosed at Annexure A.
 - All other conditions specified in the above mentioned circulars shall remain unchanged.
 - The circular shall come into force with immediate effect.

(For more details:

https://www.sebi.gov.in/legal/circulars/nov-2020/circular-on-enhancement-of-overseas-investment-limits-for-mutual-funds_48090.html)

15. Investor Grievance Redressal Mechanism

(Circular No. SEBI/HO/MIRSD/DOC/CIR/P/2020/226 dated November 06, 2020)

In order to further strengthen the Investor Grievance Redressal Mechanism, based on feedback received from market participants and Working Group constituted for the purpose, the following are issued as clarification to Circular No. CIR/MRD/DSA/24/2010 dated August 11, 2010, Circular No. CIR/MRD/DSA/2/2011 dated February 09, 2011, and Circular No. CIR/MRD/ICC/30/2013 dated September 26, 2013.

Resolution of complaints by Stock Exchange

Timeline

- Stock Exchange shall ensure that the investor complaints shall be resolved within 15 working days from the date of receipt of the complaint. Additional information, if any, required from the complainant, shall be sought within 7 working days from the date of receipt of the complaint. The period of 15 working days shall be counted from the date of receipt of additional information sought.
- Stock Exchange shall maintain a record of all the complaints addressed/redressed within 15 working days from the date of receipt of the complaint/additional information. If complaint is not resolved within stipulated time frame, then the reason for non redressal in given time frame shall also be recorded.

Service related complaints

- Stock Exchange shall resolve service related complaints at its end. However, in case the complainant is not satisfied with the resolution, the same may be referred to the Investor Grievance Redressal Committee ("IGRC"), after recording the reasons in writing by the Chief Regulatory Officer of the Stock Exchange or any other officer of the Stock Exchange

authorized in this behalf by the Managing Director. Service related complaints shall include non-receipt/ delay of Account statement, non-receipt/ delay of bills, closure of account/ branch, technological issues, shifting/closure of branch without intimation, improper service by staff, freezing of account, alleged debit in trading account, contact person not available in Trading member's office, demat account transferred without permission etc.

Complaints to be referred to IGRC

- For Complaints related to trade, settlement and 'deficiency in services', resulting into any financial loss, the stock exchange shall resolve the complaint on its own as per the time lines prescribed. However, if complaint is not resolved amicably, the same shall be referred to the IGRC, after recording the reasons in writing by the Chief Regulatory Officer of the Stock Exchange or any other officer of the Stock Exchange authorized in this behalf by the Managing Director.
- It shall be the responsibility of the Stock Exchange to provide documents/ necessary information after collecting the same from the member and/ or the complainant and provide necessary assistance to IGRC to ensure resolution of complaints in a timely manner.

Handling of complaints by IGRC

- IGRC shall have a time of 15 working days to amicably resolve the investor complaint through conciliation process. If IGRC needs additional information, then IGRC may request the Stock Exchange to provide the same before the initiation of the conciliation process. In such case, where additional information is sought, the timeline for resolution of the complaint by IGRC shall not exceed 30 working days.
- IGRC shall not dispose the complaint citing "Lack of Information and complexity of the case". The IGRC shall give its recommendation to Stock Exchange.
- IGRC shall decide claim value admissible to the complainant, upon conclusion of the proceedings of IGRC. In case claim is admissible to the complainant, Stock Exchanges shall block the admissible claim value from the deposit of the member as specified in this regard.
- Expenses of IGRC shall be borne by the respective Stock Exchange and no fees shall be charged to the complainant/member.
- The Stock Exchange shall organize regular training program for IGRC members in consultation with National Institute of Securities Markets ("NISM"). The cost of such program shall be borne by Investor Service Fund ("ISF") of the Stock Exchange.

Arbitration

- For any dispute between the member and the client relating to or arising out of the transactions in Stock Exchange, which is of civil nature, the complainant/ member shall first refer the complaint to the IGRC and/ or to arbitration mechanism provided by the Stock Exchange before resorting to other remedies available under any other law. For the removal of doubts, it is clarified that the sole arbitrator or the panel of arbitrators, as the case may be, appointed under the Stock Exchange arbitration mechanism shall always be deemed to have the competence to rule on its jurisdiction.
- A complainant/member, who is not satisfied with the recommendation of the IGRC, shall avail the arbitration mechanism of the Stock Exchange for settlement of complaints within six months from the date of IGRC recommendation.

(For more details:

https://www.sebi.gov.in/legal/circulars/nov-2020/investor-grievance-redressal-mechanism_48105.html)

16. Outsourcing of activities, Business Continuity Plan (BCP) and Disaster Recovery (DR) and Cyber Security and Cyber Resilience framework - Limited Purpose Clearing Corporation (LPCC)

(Circular No. SEBI/HO/MRD2/DCAP/CIR/P/227 dated November 06, 2020)

- The broad guidelines governing outsourcing of activities by Clearing Corporations have been prescribed by SEBI vide Circular SEBI/HO/MRD/DP/CIR/P/2017/101 dated September 13, 2017.
- Further, guidelines for Business Continuity Plan (BCP) and Disaster Recovery (DR) have been prescribed by SEBI vide Circular SEBI/HO/MRD/DMS1/CIR/P/2019/43 dated March 26, 2019 and the framework for Cyber Security and Cyber Resilience has been prescribed vide Circular CIR/MRD/DP/13/2015 dated July 06, 2015 and Circular CIR/MRD/CSC/148/2018 dated December 07, 2018.
- SEBI Board in its meeting held on September 29, 2020 permitted setting up of a Limited Purpose Clearing Corporation (LPCC) for clearing and settling repo transactions in debt securities and accordingly Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulations, 2020, have been notified on October 08, 2020 (SECC Amendment Regulations 2020).
- Further, the LPCC has been permitted to enter into outsourcing agreements with existing Clearing Corporations for the purpose of using their core and critical IT support infrastructure / activities for running the core activities (transaction process, clearing and settlement) of the LPCC and related operations.
- For the purpose of execution of repo in corporate bonds, LPCC shall enter into necessary agreements with the Stock Exchanges where it proposes to offer clearing / settlement of repo transactions and their associated Clearing Corporations for continuity purposes.
- Additionally, the LPCC has been permitted to have arrangements with any of the existing Clearing Corporations for the purposes of putting in place a BCP and DR mechanism, and Cyber Security.
- In view of the above, towards compliance with requirement under Regulation 7 of SECC Amendment Regulations 2020, the framework governing the outsourcing activities by the LPCC is placed at Annexure I to this circular.
- The framework governing arrangements with existing Clearing Corporations for the purpose of BCP and DR, and Cyber Security is placed at Annexure II to this circular.
- Stock Exchanges and Clearing Corporations, who enter into agreements with the LPCC, are directed to take necessary steps to put in place systems for implementation of the circular, including necessary amendments to the relevant bye-laws, rules, etc., if any. Stock Exchanges and Clearing Corporations are also advised to disseminate the provisions of this circular on their website.
- In respect of the LPCC, the provisions of Circular SEBI/HO/MRD/DP/CIR/P/2017/101 dated September 13, 2017, Circular CIR/MRD/DP/13/2015 dated July 06, 2015, Circular CIR/MRD/CSC/148/2018 dated December 07, 2018 and Circular SEBI/HO/MRD/DMS1/CIR/P/2019/43 dated March 26, 2019, stand modified to the extent as mentioned above.

(For more details:

https://www.sebi.gov.in/legal/circulars/nov-2020/outsourcing-of-activities-business-continuity-plan-and-disaster-recovery-and-cyber-security-and-cyber-resilience-framework-limited-purpose-clearing-corporation_48106.html)

17. Introduction of “Flexi Cap Fund” as a new category under Equity Schemes

(Circular No. SEBI/HO/IMD/DF3/CIR/P/2020/228 dated November 06, 2020)

- SEBI vide circular no. SEBI/HO/IMD/DF3/CIR/P/2017/114 dated October 06, 2017, has issued guidelines regarding categorization and rationalization of Mutual Fund Schemes.
- In order to give more flexibility to the mutual funds and taking into account the recommendations of Mutual Fund Advisory Committee (MFAC), a new category named “Flexi Cap Fund” under Equity Schemes will be available with the following scheme characteristics.

Category of Scheme	Scheme Characteristics	Type of scheme (uniform description of scheme)
Flexi Cap Fund	Minimum investment in equity & equity related instruments - 65% of total assets	An open ended dynamic equity scheme investing across large cap, mid cap, small cap stocks

- The AMC shall ensure that a suitable benchmark is adopted for the Flexi Cap Fund.
- For easy identification by investors and in order to bring uniformity in names of schemes for a particular category across Mutual Funds, the scheme name shall be the same as the scheme category.
- Mutual Funds have the option to convert an existing scheme into a Flexi Cap Fund subject to compliance with the requirement for change in fundamental attributes of the scheme in terms of Regulation 18(15A) of SEBI (Mutual Funds) Regulations, 1996.
- Scheme under the aforesaid mentioned new category can be launched with effect from the date of this circular.

(For more details:

https://www.sebi.gov.in/legal/circulars/nov-2020/circular-on-introduction-of-flexi-cap-fund-as-a-new-category-under-equity-schemes_48108.html)

18. Norms regarding holding of liquid assets in open ended debt schemes & stress testing of open ended debt schemes

(Circular No. SEBI/HO/IMD/DF3/CIR/P/2020/229 dated November 06, 2020)

1. In order to augment the liquidity risk management framework for all open ended debt schemes, defined in SEBI circulars SEBI/HO/IMD/DF3/CIR/P/2017/114 dated October 6, 2017 and SEBI/HO/IMD/DF3/CIR/P/2017/126 dated December 4, 2017, the following has been decided:
 - a. All open ended debt schemes (except Overnight Fund, Liquid Fund, Gilt Fund and Gilt Fund with 10 year constant duration) shall hold at least 10% of their net assets in liquid assets. For this purpose, ‘liquid assets’ shall include Cash, Government Securities, T-bills and Repo on Government Securities.

- b. The liquid assets specified at para 1(a) above shall not be included for determining the scheme characteristics of the open ended debt schemes as specified in SEBI circulars SEBI/HO/IMD/DF3/CIR/P/2017/114 dated October 6, 2017 and SEBI/HO/IMD/DF3/CIR/P/2017/126 dated December 4, 2017.
 - c. In case, the exposure in such liquid assets / securities falls below the threshold mandated at para 1(a) above, the Asset Management Companies (AMCs) shall ensure compliance with the above requirement before making any further investments.
2. SEBI vide circular No. CIR/IMD/DF/03/2015 dated April 30, 2015 mandated Stress Testing of Liquid Funds and Money Market Fund schemes. Based on the recommendations of Mutual Fund Advisory Committee (MFAC), it is decided to mandate all open ended debt schemes (except overnight scheme) to conduct stress testing. Further, on similar lines of Para 2 of aforementioned circular dated April 30, 2015, AMC shall stipulate the guidelines to carry out stress testing for the aforementioned debt schemes.
3. A committee has been set up to deliberate on the subject of the circular and give its recommendations. The recommendations will be evaluated and based on the same the norms regarding holding of liquid assets and methodology of stress testing may undergo change.
4. The provisions at para 1 above shall be effective from February 01, 2021 and the provision at para 2 above shall be effective from December 01, 2020.

(For more details:

https://www.sebi.gov.in/legal/circulars/nov-2020/circular-on-norms-regarding-holding-of-liquid-assets-in-open-ended-debt-schemes-and-stress-testing-of-open-ended-debt-schemes_48110.html)

ECONOMIC LAWS

Consolidated FDI Policy Circular of 2020

Foreign Direct Investment (FDI) is considered as a major source of non-debt financial resource for the economic development. FDI flows into India have grown consistently since liberalization and are an important component of foreign capital since FDI infuses long term sustainable capital in the economy and contributes towards technology transfer, development of strategic sectors, greater innovation, and competition and employment creation amongst other benefits. Therefore, it is the intent and objective of the Government of India to attract and promote FDI in order to supplement domestic capital, technology and skills for accelerated economic growth and development. FDI, as distinguished from Foreign Portfolio Investment, has the connotation of establishing a 'lasting interest' in an enterprise that is resident in an economy other than that of the investor.

The Government has put in place a policy framework on FDI, which is transparent, predictable and easily comprehensible. This framework is embodied in the Circular on Consolidated FDI Policy, which may be updated on an annual basis, to capture and keep pace with the regulatory changes, effected in the interregnum. The Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce & Industry, Government of India makes policy pronouncements on FDI through Consolidated FDI Policy Circular/Press Notes/Press Releases which are notified by the Department of Economic Affairs (DEA), Ministry of Finance, Government of India as amendments to the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 under the Foreign Exchange Management Act, 1999 (42 of 1999) (FEMA). These notifications take effect from the date of issue of Press Notes/ Press Releases, unless specified otherwise therein. In case of any conflict, the relevant Notification under Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 will prevail. The payment of inward remittance and reporting requirements are stipulated under the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 issued by the Reserve Bank of India (RBI). The regulatory framework, over a period of time, thus, consists of FEMA and Rules/Regulations thereunder, Consolidated FDI Policy Circular, Press Notes, Press Releases, Clarifications, etc.

The present consolidation subsumes and supersedes all Press Notes/Press Releases/Clarifications/Circulars issued by the DPIIT, which were in force as on October 15, 2020 and reflects the FDI Policy as on October 15, 2020. This Circular accordingly will take effect from October 15, 2020 and will remain in force until superseded in totality or in part thereof. Reference to any statute or legislation made in this Circular shall include modifications, amendments or re-enactments thereof.

For details:

https://dipp.gov.in/sites/default/files/FDI-PolicyCircular-2020-29October2020_1.pdf

IPR LAWS

Patents (Amendment) Rules, 2020

Consequent to Delhi High Court's Order dated 23-04-2018 in writ petition No. WPC- 5590 of 2015 in the matter of *Shamnad Basheer Vs UOI* and others, stakeholder consultation was undertaken in order to streamline the requirements related to submission of statement regarding the working of a patented invention on a commercial scale in India (Form 27).

The Patents (Amendment) Rules, 2020, which came into effect on 19 October 2020, have further streamlined the requirements related to filing of Form 27 and submission of verified English translation of priority documents, which is not in English language.

Important changes with reference to Form-27 and Rule 131(2) are as follows:

1. Patentee would get flexibility to file a single Form-27 in respect of a single or multiple related patents
2. Where a patent is granted to two or more persons, such persons may file a joint Form-27
3. The patentee would be required to provide 'approximate revenue / value accrued'
4. Authorized agents would be able to submit Form-27 on behalf of patentees
5. For filing Form-27, patentees would get six months, instead of current three months, from expiry of financial year
6. Patentee will not be required to file Form-27 in respect of a part or fraction of the financial year
7. While on one hand the requirements in Form-27 regarding submission of information by patentees have been eased, it may be noted that Section 146(1) of the Patents Act, 1970 empowers the Controller to seek information from the patentee, as may be deemed appropriate.

Important changes with reference to Rule 21 are as follows:

1. If the priority document is available in WIPO's digital library, the applicant would not be required to submit the same in the Indian Patent Office
2. Applicant would be required to submit verified English translation of a priority document, where the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable or not.

These changes will streamline the requirements related to submission of statement regarding the working of a patented invention on a commercial scale in India (Form 27) and the submission of verified English translation of priority documents.

For details:

<https://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1670910>

INDIRECT TAX LAWS

Goods and Services Tax

1. Notification for extension of due date of Form GSTR – 1 [Notification No. 74/2020–Central Tax, Dated October 15, 2020]

This Notification seeks to prescribe the due date for furnishing FORM GSTR-1 for the quarters October, 2020 to December, 2020 and January, 2021 to March, 2021 for registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year.

<i>Sl. No.</i>	<i>Quarter for which details in FORM GSTR-1 are furnished</i>	<i>Time period for furnishing details in FORM GSTR-1</i>
1	October, 2020 to December, 2020	January 13, 2021
2	January, 2021 to March, 2021	April 13, 2021

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-74-central-tax-english-2020.pdf>

2. Notification to prescribe the due date of Form GSTR-1 [Notification No. 75/2020 – Central Tax, Dated October 15, 2020]

This Notification seeks to prescribe the due date for furnishing FORM GSTR-1 by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from October, 2020 to March, 2021 till the eleventh day of the month succeeding such month.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-75-central-tax-english-2020.pdf>

3. Notification to prescribe the due date of Form GSTR 3B [Notification No. 76/2020–Central Tax, Dated October 15, 2020]

The Commissioner hereby specifies that the return in FORM GSTR-3B of the said rules for each of the months from October, 2020 to March, 2021 shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-76-central-tax-english-2020.pdf>

4. Notification regarding filing of Annual Return [Notification No. 77/2020– Central Tax, Dated October 15, 2020]

This notification seeks to make filing of annual return under section 44 (1) of CGST Act for Financial Year 2019-20 optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-77-central-tax-english-2020.pdf>

5. Notification regarding No. of HSN digits on Tax invoice [Notification No. 78/2020– Central Tax, Dated October 15, 2020]

This Notification seeks to notify the number of HSN digits required on tax invoice. A registered person having aggregate turnover up to five crores rupees in the previous financial year may not mention the number of digits of HSN Code, in a tax invoice issued by him under the said rules in respect of supplies made to unregistered persons.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-78-central-tax-english-2020.pdf>

6. 12th Amendment (2020) to CGST Rules, 2017 [Notification No. 79/2020– Central Tax, Dated October 15, 2020]

These rules may be called the Central Goods and Services Tax (Twelveth Amendment) Rules, 2020. A registered person who is required to furnish a Nil return under section 39 in FORM GSTR-3B or a Nil details of outward supplies under section 37 in FORM GSTR-1 or a Nil statement in FORM GST CMP-08 for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies or statement through a short messaging service using the registered mobile number and the said return or the details of outward supplies or statement shall be verified by a registered mobile number based One Time Password facility.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-79-central-tax-english-2020.pdf>

7. Exemption on Satellite launch services [Notification No. 05/2020 – Central Tax (Rate), Dated October 16, 2020]

This notification seeks to amend notification No. 12/ 2017- Central Tax (Rate) so as to exempt satellite launch services provided by ISRO, Antrix Co. Ltd. and NSIL as recommended by GST Council in its 42nd meeting held on October 05, 2020.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-05-2020-cgst-rate-english.pdf>

8. 12th Amendment (2020) to CGST Rules, 2017 [Notification No. 79/2020- Central Tax, Dated October 15, 2020]

These rules may be called the Central Goods and Services Tax (12th Amendment) Rules, 2020. A registered person who is required to furnish a Nil return under section 39 in FORM GSTR-3B or a Nil details of outward supplies under section 37 in FORM GSTR-1 or a Nil statement in FORM GST CMP-08 for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies or statement through a short messaging service using the registered mobile number and the said return or the details of outward supplies or statement shall be verified by a registered mobile number based One Time Password facility.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-79-central-tax-english-2020.pdf>

9. Notification regarding extension in due date of return [Notification No. 80/2020- Central Tax, Dated October 28, 2020]

This Notification seeks to amend notification no. 41/2020-Central Tax dated May 05, 2020 to extend due date of return under Section 44 from October 31, 2020 to December 31, 2020.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-80-central-tax-english-2020.pdf>

Customs

10. Faceless Assessment [Circular No. 45/2020, Dated, October 12, 2020]

Faceless Assessment - Measures for timely assessment of Bills of Entry and clarification on defacement of physical documents. The Port of Import should monitor clearance of time-sensitive/urgent consignments such as lifesaving drugs, security / defence related consignments etc. imported by Government and its agencies/PSUs etc. so that these are not delayed.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-45-2020.pdf>

11. Testing of outside samples by Revenue Laboratories [Circular No. 46/2020, Dated October 15, 2020]

As Revenue Laboratories can deal with the samples related to Drug Controller, FSSAI & Textile Committee, all the customs samples, are preferably to be tested in the Revenue Laboratories only. In case facility to test particular commodity or parameter is not available in the nearest Revenue Laboratory, such cases shall be referred to the nearest government laboratory where such facility is available. CRCL, New Delhi shall also function as Referral Laboratory along with other referral laboratories in Pharma, Textile & Food. Whenever CRCL laboratories are not in a position to carry out a test, they shall make use of nearest CDSCO/FSSAI approved laboratories/Textile Committee.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-46-2020.pdf>

12. Contactless delivery of international courier consignments [Circular No. 47/2020, Dated October 20, 2020]

The OTP based validation will be an alternative means of obtaining proof of delivery to the existing procedure of taking physical signatures. The authorized couriers will obtain the proof of delivery either by taking the physical signatures or through OTP based validation. The Authorised courier shall maintain the data relating to generation and validation of OTP as a proof of delivery for a period of 5 years. The full audit trail of the process shall be made available to the officer of customs upon request.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-47-2020.pdf>

13. Manufacturing and other operations undertaken in bonded warehouses [Circular No. 48/2020, Dated October 27, 2020]

A Unit registered under the Section 65 of the Customs Act, 1962, can perform job work operations and shall maintain due accounting of such job work as per the provisions of GST law. In case any imported inputs which are warehoused are consumed during the job work process, duty shall be paid on such goods (i.e. the warehoused goods) by filing Ex-Bond Bill of Entry, when such job worked goods are returned to the principal/owner.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-48-2020.pdf>

14. Schemes for Rebate of State Levies (RoSL) [Circular No. 49/2020, Dated November 03, 2020]

Government had notified the scheme for RoSL to mitigate the incidence of State VAT and other State taxes on export of garments and made-ups. The erstwhile RoSL scheme which was in operation till March 06, 2019 has been replaced by the Rebate of State and Central Taxes and Levies (RoSCTL) scheme. The remaining RoSL rebate is to be granted by DGFT in the form of electronic duty credit scrips. This will be on the lines of scrips issued under RoSCTL scheme. These scrips can be utilized for payment of duties of Customs and Central Excise. The scrips issued under the RoSL scheme will be freely transferable.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-49-2020.pdf>

15. Policy and Guidelines for setting up of ICDs, CFSs and AFSs [Circular No. 50/2020, Dated November 05, 2020]

The new policy takes in to account the present capacity, future growth potential and addresses the identified regulatory and logistics concerns associated with the hard and soft infrastructure of ICDs/CFSs/AFSs in India. The approval and notification of all new

ICD/CFS, including existing and new MMLPs will be processed in consonance with the national logistics action plan.

For more details:

<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-50-2020-updated.pdf>

DIRECT TAX LAW

1. Income tax (22nd Amendment) Rules, 2020 (October 1, 2020)

CBDT vide Notification No. 82/2020 dated October 1, 2020 issued Income tax (22nd Amendment) Rules, 2020 to notify changes in Form 3CD, Form No 3CEB and ITR6. Further, amended Rule 5 of Income Tax Rules, 1962 and inserted new Rules and Forms namely:

- Rule 21AG- Exercise of option under sub-section (5) of section 115BAC
- Rule 21AH- Exercise of option under sub-section (5) of section 115BAD
- FORM No. 10-IE- Application for exercise/ withdrawal of option under clause (i) of sub-section (5) of Section 115BAC of the Income-tax Act, 1961
- FORM No. 10-IF- Application for exercise of option under sub-section (5) of Section 115BAD of the Income-tax Act, 1961.

For details:

https://www.incometaxindia.gov.in/communications/notification/notification_82_2020.pdf

2. Notification No. 83 (October 19, 2020)

The Central Government vide Notification No. 83 Dated October 19, 2020 notifies that where the variation between the arm's length price determined under section 92C of the Income tax Act, 1961 and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed 1% of the latter in respect of wholesale trading and 3% of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for assessment year 2020-2021.

For details:

https://www.incometaxindia.gov.in/communications/notification/notification_83_2020.pdf

3. Equalisation levy (Amendment) Rules, 2020 (Notification No. 87 Dated October 28, 2020)

CBDT has made the Equalisation levy (Amendment) Rules, 2020 to amend the Equalisation levy Rules, 2016 as follows:

- a) **Definition of "electronic verification code" is added to definition Rules 2 by inserting a new clause (aa):** "electronic verification code" means a code generated for the purpose of electronic verification of the person furnishing the statement of specified services as per the data structure and standards laid down by the Principal Director- General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be.
- b) **Rounding off rules amended:** The heading of Rule 3 is amended to exclude the words "for specified services".
- c) **Amendment to payment of equalisation levy:** Rule 4 related to payment of equalisation levy is amended to include an e-commerce operator in addition to the assessee.
- d) **Filing of annual statements:** Rule 5 is amended to include a statement of e-commerce supply or services in addition to the statement of specified services. Further, provision to furnish a revised statement in Form No. 1 is incorporated.
- e) **Furnishing of a statement in response to notice:** Rule 6 is amended to include the furnishing of a statement of specified services or e-commerce supply or services in response to a notice issued by the Assessing Officer. Further, this rule is made applicable to an e-commerce operator apart from the assessee.

- f) **Notice of demand:** The notice of demand can now be served upon an assessee as well as on an e-commerce operator under Rule 7 by the Assessing Officer.
- g) **Amendment related to Appeals:** An e-commerce operator is also allowed to file an appeal before the CIT(A) as per Rule 8.
- h) **Amendment related to ITAT Appeals:** An e-commerce operator is also allowed to file an appeal before the ITAT as per Rule 9.
- i) **Substitution of Forms:** For the execution of amended provisions of the Rules, **Form 1, Form 3 and Form 4 under the Equalisation Levy Rules, 2016** has been substituted with effect from 28.10.2020.

For details:

https://www.incometaxindia.gov.in/communications/notification/notification_87_2020.pdf

BANKING

1. Interest Subvention Scheme for MSMEs – Co-operative banks [Notification no. RBI/2020-21/48 DOR (PCB).BPD. Cir No.3/13.05.001/2020-21, Dated October 7, 2020]

Government of India, Ministry of Micro, Small and Medium Enterprises (MSMEs) had announced the 'Interest Subvention Scheme for MSMEs 2018' on November 2, 2018 for Scheduled Commercial Banks. A copy of the salient features and operational guidelines for implementation of the Scheme released by the Ministry of MSMEs. Government of India has since decided to include Co-operative Banks also as Eligible Lending Institutions effective from March 3, 2020.

For more details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11976&Mode=0>

2. Individual Housing Loans – Rationalisation of Risk Weights (Notification No. RBI/2020-21/56 DOR.No.BP.BC.24/08.12.015/2020-21, Dated October 16, 2020)

In terms of circular No. DBR.BP.BC.No.72/08.12.015/2016-17 dated June 7, 2017, the capital charge for claims secured by residential property falling under the category of individual housing loans is assigned differential risk weights based on the size of the loan as well as the loan to value ratio (LTV).

For more details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11984&Mode=0>

3. Framework for Recognition of a Self-Regulatory Organisation for Payment System Operators (Notification no. RBI/2020-21/58 DPSS.CO.PD.No.503/02.12.004/2020-21, Dated October 22, 2020)

Industry self-governance helps in industry-wide smooth operations and ecosystem development. Reserve Bank of India's Payment and Settlement Systems Vision 2019-21, therefore, envisaged the setting up of a Self-Regulatory Organisation (SRO) for Payment System Operators (PSOs). The Statement on Developmental and Regulatory Policies of the Reserve Bank of India (RBI), as part of its Sixth Bi-monthly Monetary Policy Statement – 2019-20 (dated February 6, 2020), announced putting in place a Framework for Establishing a SRO for PSOs.

For more details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11986&Mode=0>

4. Review of regulatory framework for Housing Finance Companies (HFCs) [Notification no. RBI/2020-21/60 DOR.NBFC (HFC).CC.No.118/03.10.136/2020-21, Dated October 22, 2020]

In exercise of powers conferred under National Housing Bank Act, 1987, and Reserve Bank of India Act, 1934, and in supersession of relevant regulations issued by National Housing Bank (NHB), the instructions will be applicable to all HFCs. HFCs shall continue to comply with all extant instructions issued by NHB.

For more details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11988&Mode=0>

5. Scheme for grant of ex-gratia payment of difference between compound interest and simple interest for six months to borrowers in specified loan accounts (1.3.2020 to 31.8.2020) (Notification no. RBI/2020-21/61 DOR.No.BP.BC.26/21.04.048/2020-21, Dated October 26, 2020)

The Government of India has announced the Scheme for grant of ex-gratia payment of difference between compound interest and simple interest for six months to borrowers in specified loan accounts (1.3.2020 to 31.8.2020) on October 23, 2020, which mandates ex-gratia payment to certain categories of borrowers by way of crediting the difference between simple interest and compound interest for the period between March 1, 2020 to August 31, 2020 by respective lending institutions.

For more details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11989&Mode=0>

6. Co-Lending by Banks and NBFCs to Priority Sector (Notification no. RBI/2020-21/63 FIDD.CO.Plan.BC.No.8/04.09.01/2020-21, Dated November 05, 2020)

Based on the feedback received from the stakeholders and to better leverage the respective comparative advantages of the banks and NBFCs in a collaborative effort, it has been decided to provide greater operational flexibility to the lending institutions, while requiring them to conform to the regulatory guidelines on outsourcing, KYC, etc. The primary focus of the revised scheme, rechristened as “Co-Lending Model” (CLM), is to improve the flow of credit to the unserved and underserved sector of the economy and make available funds to the ultimate beneficiary at an affordable cost, considering the lower cost of funds from banks and greater reach of the NBFCs.

For more details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11991&Mode=0>



Company Law Corner

REMOVAL OF DIRECTOR IN THE LIGHT OF JUDICIAL PRONOUNCEMENTS

Power to remove directors has always been bestowed on shareholders, as directors are ultimately answerable to shareholders. Shareholders can remove any director before the expiry of his tenure, except any director appointed by Tribunal under Section 242 of the Companies Act, 2013 and where the company has availed itself the option given to it under Section 163 of the Companies Act, 2013 to appoint not less than two-thirds of the total number of directors according to the principle of proportional representation.

Power of Shareholders

Section 169(1) of the Companies Act, 2013 empowers a company to remove a director from its board. This power may be exercised by the shareholders by passing an ordinary resolution after giving him a reasonable opportunity of being heard.

In accordance with the first proviso to Section 169(1) of the Companies Act, 2013, a special resolution will be needed to remove an independent director re-appointed for second term under section 149 (10) of the Companies Act, 2013 after giving him a reasonable opportunity of being heard.

Procedure of Removal of Director

- **Special Notice to Company-** A special notice is required of any resolution, to remove a director under Section 169 of the Companies Act, 2013, or to appoint somebody in place of a director so removed, at the meeting at which he is removed. According to section 115 of the Companies Act, 2013 r/w Rule 23 of the Companies (Management and Administration) Rules, 2014 and with Section 169, the special notice with the intention of removal of director of the company is required to be sent by the members to the company not earlier than 3 months but at least 14 days before the date of the meeting at which the resolution is to be moved, exclusive of the day on which the notice is given and the day of the meeting.
 - ✓ Special notice required to be given to the company shall be signed, either individually or collectively by such number of members holding:
 - ✓ not less than 1% of total voting power on the date of the notice; or
 - ✓ shares on which an aggregate sum of not less than Rs. 5 lakh has been paid up on the date of the notice.
- **Intimation By Company to all shareholders-** The company shall immediately after receipt of the notice, give its members notice of the resolution at least 7 days before the meeting, exclusive of the day of dispatch of notice and day of the meeting, in the same manner as it gives notice of any general meetings.

However, where it is not practicable to do so, the notice shall be published in English language in English newspaper and in vernacular language in a vernacular newspaper, both having wide circulation in the State where the registered office of the Company is situated and such notice shall also be posted on the website, if any, of the Company. The notice shall be published at least 7 days before the meeting, exclusive of the day of publication of the notice and day of the meeting.

- **Intimation to concerned Director who is sought to be removed** - The Company shall forthwith send a copy of the notice of his removal, to the concerned director. Such director is entitled to be heard at the General Meeting where the resolution is sought to be moved. The said director has right of being heard at the meeting irrespective of whether he is a member of the company or not.
- **Representation of the concerned Director to be circulated to the members** - The concerned director has right to give his representation on the issue of his removal from the office of director. Accordingly, the director concerned makes a representation in writing to the company and requests its notification to members of the company, the company is bound, if the time permits it to do so:
 - (a) to state the fact of the representation having been made in any notice of the resolution given to members of the company and
 - (b) to send a copy of the representation to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representation by the company),

If a copy of the representation is not sent as aforesaid due to insufficient time or for the company's default, the director may without prejudice to his right to be heard orally require that the representation shall be read out at the meeting.

However, the copy of the representation need not be sent out and the representation need not be read out at the meeting if, on the application either of the company or any other person who claims to be aggrieved made to the Tribunal and the Tribunal is satisfied that the rights conferred are being abused to secure needless publicity for defamatory matter.

The Tribunal may also order the company's costs on the application to be paid in whole or in part by the director notwithstanding that he is not a party to it.

- **Filling-up of the vacancy caused-** Section 169(5) gives an option to fill the vacancy caused by removal of Director. It can be filled by appointment of another director in his place at the meeting at which he is removed, provided special notice of the intended appointment has been given. Therefore, in case removal and filling both are sought at the General Meeting, special notice for both will be needed in accordance to Section 169 (2) of the Companies Act, 2013.

A director so appointed to fill the vacancy caused by removal of another shall hold office only until the date up to which the removed person would have held the office if he had not been removed.

Section 169(7) of the Companies Act, 2013 provides that if vacancy is not filled as per Section 169(5) of the Companies Act, 2013, it may be filled as a casual vacancy in accordance with the provisions of the Companies Act, 2013. However, the director who was removed from his office shall not be re-appointed as a director by the Board of Directors.

- **Forms required to be filed with ROC -**
 - a) **E-form DIR-12**
 - b) **E- Form MGT-14** - Required to be filed with the ROC within 30 days of passing Special Resolution (for removing an Independent Director, serving his second term)
- **Right for Compensation or Damages-** Section 169(8) of the Companies Act, 2013 recognises the right of the removed director to claim compensation or damages payable to him in respect of termination of his appointment as director, as per the terms of his appointment as director or any other appointment terminating with that as director.

Removal of Director by the National Company Law Tribunal

Where an application has been made to the National Company Law Tribunal under Section 241 of the Companies Act 2013 for prevention of oppression or mismanagement and the Tribunal has conducted its proceedings on the application, it has the power under Section 242(2)(h) of the Companies Act, 2013 to remove any director of the Company.

Judicial Elucidations

1) A shareholder cannot be restrained from calling an extra ordinary general meeting for removal of a director.

The Supreme Court in the case of *LIC vs. Escorts Ltd. & Ors.* held that shareholders have an inherent right to remove directors of the company. It stated:

"The holders of the majority of the stock of a corporation have the power to appoint, by election, Directors of their choice and the power to regulate them by a resolution for their removal and, an injunction cannot be granted to restrain the holding of a general meeting to remove a director and appoint another. "

The Court held that minority of shareholders in the saddle of power could not be allowed to pursue a policy of venturing into a litigation to which the majority of the shareholders were opposed. The Court also observed that LIC, as a shareholder of Escorts Ltd., had the same right as every shareholder to call an extraordinary general meeting for the purpose of moving a resolution to remove some directors and appoint others in their place. It ruled that LIC could not be restrained from doing so.

2) Reason for Removal not mandatory in explanatory statement

The Supreme Court in the case of *LIC vs. Escorts Ltd. & Ors.* held that it is not necessary to give reasons in explanatory statement for removal of director as desired by Section 173(2) of the erstwhile Companies Act, 1956. Reason behind this judgement given by the court was that the company is acting on the basis of special notice given by the shareholder under Section 284 of the erstwhile Companies Act, 1956 (Now Section 169 of the Companies Act, 2013) and it is not resolution proposed by the Company.

3) The special notice is the foremost requirement for removal of director

In the matter of *B V Thirumalai vs. Best Ventures Trading (P) Ltd.* CLB held that removal of a director from his office without giving special notice u/s 284 of erstwhile Companies Act, 1956 (Now Section 169 of the Companies Act, 2013) was contrary to the provisions of the Act.

Any omission to serve a special notice to the director sought to be removed constitutes denial of his statutory right of reply and in the absence of a notice to the director, any resolution for his removal will be vitiated by such gross omission.

4) In the matter of *O P Achuthankutty vs. Ashwini Hospital Ltd* it was held that where directors are removed without serving special notice of extraordinary general meeting, the holding of the same was not valid and therefore directors could continue to be in office.

5) **A director sought to be removed is required to be given an opportunity for making a representation which is his statutory right**

In the matter of *Bhankerpur Simbhaoli Beverages Private Limited & Anr. vs. P.R. Pandya & Ors.*, where a director sought to be removed is not given an opportunity for making a representation which is his statutory right under Section 284 of the erstwhile Companies Act, 1956 [corresponding to Section 169 of the Companies Act, 2013] the resolution passed for removal would be of no effect.

6) **Shareholder's right to remove director is an Individual right and enforcement cannot be restrained even by a court of law**

The Karnataka High Court in the case of *Prakash Roadlines Ltd. vs. Vijaya Kumar Narang* held that every shareholder of a company has the right to call an extraordinary general meeting. It held that every shareholder has a right (which is his individual right) that can be enforced after complying with procedural and other requirements. The Court ruled:

"Enforcement of this right is independent of the requirements of section 188 of erstwhile Companies Act, 1956 (corresponding to section 111 of Companies Act, 2013) governing other kinds of resolutions. If the attempt of the individual to remove a director or to elect any other director in a vacancy is frivolous, the said attempt will be lost at the meeting and there will not be any undue harassment of the company at all to prevent speculative ventures to get elected."

7) **Omission to serve a special notice on the directors sought to be removed, would constitute denial of their statutory right**

In *S. Varadarajan and Anr. vs. Udhayem Leasing and Investments Pvt. Ltd* Company Law Board, held that "Any omission to serve a special notice on the directors sought to be removed, would constitute denial of their statutory right of reply and in the absence of such notice to the directors, any resolution for their removal would be vitiated by such omission".

8) **Removal of Director of a Limited Company is a matter related to internal management of the Company**

In *Khetan Industries Private Ltd., and others vs. Manju Ravindradas Khetan*, the Bombay High Court held that removal of Director of a Limited Company is a matter related to internal management of the Company and civil court has no jurisdiction since detailed procedures are provided in the Act itself which should be dealt with in accordance with such procedures.

9) **Removal of director due to loss of confidence as argued by the appellant does not appear in the Companies Act, 2013 and Managing Director is eligible for compensation**

CADS Software India Pvt. Ltd. and Ors. (Appellants) vs. K.K. Jagadish & Ors., (Respondents)

The 1st Respondent was functioning as Managing Director of the company since 17.04.1996 and was not appointed for a fixed tenure. 1st Respondent was removed from the company. Upon removal as Managing Director, first respondent is entitled to compensation for loss of office as per Section 202 of the Companies Act, 2013. The arguments advanced by the Appellant company that 1st Respondent was removed due to loss of confidence was not legally entitled to any compensation for the loss of office as Managing Director in the absence of any breach by the 1st Appellant and in the absence of any fixed period of appointment as Managing Director.

The NCLAT held that loss of confidence as argued by the Appellant does not appear in the Companies Act and accordingly, the NCLT, Chennai bench has rightly given his findings and arrived at to give compensation of Rs.105 lakhs (Rs.35 lakhs p.a. for three years) together with interest @ 10% from the date of removal of the 1st Respondent as Managing Director plus other benefits as already offered, till the date of payment by the company/other respondents.

Conclusion

Before removing any Director, the Board must ensure that requisite exit options are offered to such Director. Therefore, the company must observe all the provisions of the Companies Act, 2013 and other relevant laws in force pertaining to “Removal of Directors” along with landmark rulings.



Legal Maxims

LEGAL TERM	MEANING	USAGE
Ad hominem	At the person	Attacking an opponent's character rather than answering his argument. A asserts a fact that B is not doing any Job since last 2 years therefore he can lie in a proceeding for money. This assertion may be taken as ad hominem.
Ad infinitum	To infinity	To continue forever. The management signed a contract to use the auditorium ad infinitum.
Ad litem	For the case	Describes a party designated to represent another party who is deemed incapable of representing him/herself (e.g. a child or incapacitated adult). X, a child is not able to represent before the authority in a matter, therefore Y is appointed his guardian ad litem.
Ad quod damnum	According to the harm	Used in tort law. Implies that the reward or penalty ought to correspond to the damage suffered or inflicted. The compensation for the loss is to be awarded on the basis of the principle of ad quod damnum.
Adjournment sine die	Adjournment without a day	When an assembly adjourns without setting a date for its next meeting. The meeting has been given an adjournment sine die.



Legal World

CORPORATE LAWS

MAHARASHTRA STATE MINING CORPORATION v. SUNIL [SC]

Civil Appeal No. 2228 of 2006

Ruma Pal, Dalveer Bhandari & Markandey Katju, JJ. [Decided on 24/04/2006]

Equivalent citations: (2008) 142 Comp Cas 421; (2006) 76 CLA 145

Companies Act, 1956- powers of board of directors- ratification of action taken by MD- whether valid – Held, Yes.

Brief facts : The respondent was employed by the appellant. The order of dismissal was passed by the Managing Director. Challenging the order of dismissal, the respondent filed a writ petition before the Nagpur Bench of the Bombay High Court. While the writ petition was pending, the Board of Directors of the appellant Corporation passed a resolution ratifying the action taken by the Managing Director in respect of the disciplinary action against the respondent and also empowering the Managing Director to take decisions in respect of the officers and staff in the grade of pay the maximum of which did not exceed Rs. 4,700/-p.m. Prior to this resolution the Managing Director had powers only in respect of those posts where the maximum pay did not exceed Rs. 1,800/- p.m. Admittedly, the respondent at the relevant time was drawing more than Rs. 1,800/- p.m. Therefore when the Managing Director issued the order dismissing the respondent, he was incompetent to do so. The High Court allowed the petition and the management has challenged the decision before the Supreme Court.

The issue before the Supreme Court was whether the Board of directors could ratify an action, which was taken without authority, at a later stage and if taken whether the ratified action stands valid?

Decision : Appeal allowed.

Reason : Before us learned counsel appearing on behalf of the appellant has submitted that the High Court's decision was contrary to the decisions of this Court in *Parmeshwari Prasad Gupta v. Union of India (1973) 2 SCC 543* and *High Court of Judicature for Rajasthan v. P.P. Singh & Anr. (2003) 4 SCC 239*. The respondent on the other hand submitted that the resolution of the Board was subsequent to the order of dismissal and, therefore, could not operate retrospectively. The respondent relied upon the decision in *Krishna Kumar V. Divisional Assistant Electrical Engineer (1979) 4 SCC 289* in support of this contention.

The High Court was right when it held that an act by a legally incompetent authority is invalid. But it was entirely wrong in holding that such an invalid act cannot be subsequently 'rectified' by ratification of the competent authority. Ratification by definition means the making valid of an act already done. The principle is derived from the Latin maxim '*Ratihabitio priori mandato aequiparatur*' namely 'a subsequent ratification of an act is equivalent to a prior authority to perform such act'. Therefore ratification assumes an invalid act which is retrospectively validated.

In *Parmeshwari Prasad Gupta*, the services of the General Manager of a company had been terminated by the Chairman of the Board of Directors pursuant to a resolution taken by the Board at a meeting. It was not disputed that that meeting had been improperly held and consequently the resolution passed terminating the services of the General Manager was invalid. However, a subsequent meeting had been held by the Board of Directors affirming the earlier resolution. The subsequent meeting had been properly convened. The Court held:

"Even if it be assumed that the telegram and the letter terminating the services of the appellant by the Chairman was in pursuance to the invalid resolution of the Board of Directors passed on December 16, 1953 to terminate his services, it would not follow that the action of the Chairman could not be ratified in a regularly convened meeting of the Board of Directors. The point is that even assuming that the Chairman was not legally authorized to terminate the services of the appellant, he was acting on behalf of the Company in doing so, because, he purported to act in pursuance of the invalid resolution. Therefore, it was open to a regularly constituted meeting of the Board of Directors to ratify that action which, though unauthorized, was done on behalf of the Company. Ratification would always relate back to the date of the act ratified and so it must be held that the services of the appellant were validly terminated on December 17, 1953".

The view expressed has been recently approved in the case of High Court of Judicature for Rajasthan V. P.P. Singh (supra). The same view has been expressed in several cases in other jurisdictions. Thus in *Hartman vs. Hornsby* (142 Mo 368, 44 SW 242, 244) it was said "Ratification" in the approval by act, word, or conduct, of that which was attempted (of accomplishment), but which was improperly or unauthorized performed in the first instance".

In the present case, the Managing Director's order dismissing the respondent from the service was admittedly ratified by the Board of Directors on 20th February 1991, and the Board of Directors unquestionably had the power to terminate the services of the respondent. On the basis of the authorities noted, it must follow that since the order of the Managing Director had been ratified by the Board of Directors such ratification related back to the date of the order and validated it.

Reliance on the decision in *Krishna Kumar V. Divisional Assistant Electrical Engineer* (1979) 4 SCC 289 by the respondent is misplaced. In that case, the appellant had been appointed by the Chief Electrical Engineer, the departmental head. He was removed from service by the Divisional Assistant Engineer. The question for determination was whether the appellant had been removed from the service by an authority subordinate to that which had appointed him in violation of Article 311(1) of the Constitution. Having considered the affidavits filed, the Court came to the conclusion that the appellant had been removed from the service by an officer who was subordinate in rank to the officer by whom he was appointed. The Divisional Assistant Engineer was, subsequent to the appellant's appointment, given the power to make an appointment to the post which the appellant held. It was urged by the respondent State that he, therefore, had the power to remove all persons holding that post. The submission was rejected on the grounds first that the right under Article 311(1) is vested in an employee on the date of his appointment and that subsequent authorization of any subordinate officer would not confer the power on such subordinate officer to remove the employee. Secondly, merely because the subordinate officer was vested with the power to appoint would not make him equal in rank with the officer making the appointment. In other words, the Divisional Engineer did not cease to be subordinate to the Chief Electrical Engineer merely because the latter's power to make appointment to the post had been delegated to him.

That was not a case of ratification but of empowerment subsequent to the operative date. The case is, therefore, distinguishable not only on facts but also on the law applicable. In view of the above, this appeal is allowed, the impugned judgment and order of the High Court is quashed, and the dismissal order is upheld. There shall be no order as to costs.

*UMESH SARAF SUSPENDED DIRECTOR v. TECH INDIA ENGINEERS PVT LTD [NCLAT]**Company Appeal (AT) (Insolvency) No. 548 of 2020**Bansi Lal, Anant Bijay Singh & Kanthi Narahari. [Decided on 19/10/2020]**Insolvency and Bankruptcy Code, 2016- CIRP by operational creditor - application admitted- e-mails exchanged between parties, indicating existence of disputes overlooked by NCLT- whether admission of application tenable- Held, No.*

Brief facts : The present appeal arises against the order of the learned Adjudicating Authority (NCLT), whereby the Adjudicating Authority admitted the Application filed by the Respondent herein. The Adjudicating Authority admitted the Application on the ground that the Corporate Debtor has not raised any dispute by giving a suitable reply in pursuance of the Demand Notice dated 11.04.2019 issued under Section 8(1) of IBC by the Operational Creditor to the Corporate Debtor.

Decision: Appeal allowed.

Reason : Heard learned Counsel for the respective parties. Perused pleadings and citations relied upon by them. After analysing the pleadings, the only issue fell for consideration is whether there is existence of dispute prior to issuance of Demand Notice dated 11.04.2019 or not?

Having gone through the records and the law laid down by the Hon'ble Supreme Court and the precedents of this Tribunal, we are of the considered view that the correspondences i.e., e-mail/letters show that there is existence of disputes prior to issuance of Demand Notice.

Exchange of e-mails/correspondences, as referred above, clearly establishes that there is a pre-existing dispute between the parties regarding completion of the work and the Appellant/Corporate Debtor continuously made complaints regarding non-completion of work and deficiency in services, thereby loss caused to the Appellant/Corporate Debtor.

Therefore, it is quite clear that there is pre-existing of dispute regarding completion of the work and the learned Adjudicating Authority ought not to have admitted the Application under Section 9 of IBC filed by the Respondent/ Operational Creditor. Even in the Reply filed by the Appellant/Corporate Debtor before the learned Adjudicating Authority pursuant to Section 9 Application, it is quite clear that there was sufficient material produced before the learned Adjudicating Authority and the learned Adjudicating Authority ought to have considered the materials placed before it.

We are of the considered view that the learned Adjudicating Authority should have considered the substantial material placed before it in its correct perspective and law laid down by the Hon'ble Supreme Court in this regard, before passing the Impugned Order dated 04.06.2020 thus committed error.

It is re-iterated that the Code is a beneficial legislation intended to put the Corporate Debtor on its feet and it is not a mere money recovery legislation for the Creditors. For the above reasons, we set aside the Impugned Order.

INDUSTRIAL & LABOUR LAWS

GUJARAT MAZDOOR SABHA v. THE STATE OF GUJARAT [SC]

Writ Petition (Civil) No. 708 of 2020

Dr. Chandrachud, Indu Malhotra & K. M. Joseph, JJ. [Decided on 01/10/2020]

Factories Act, 1948- section 5- State Government's power to exempt- Covid-19 pandemic- State of Gujarat issued exemption notifications resulting in increased working hours with reduced overtime wages for such increased working hours- whether tenable-Held, No.

Brief facts: Invoking its powers under Section 5 of the Factories Act, 1948, the State of Gujarat has exempted factories from observing some of the obligations which employers have to fulfil towards the workmen employed by them. These notifications, inter alia, had the effect of increasing the daily working hours, weekly working hours, reduce the spread of work and allows payment of overtime wages at the normal rate and not at the double rate.

The government justified the action on the ground that industrial employers are faced with financial stringency in the economic downturn resulting from the outbreak of COVID -19. A trade union with a state-wide presence and another with a national presence were before the Supreme Court to challenge the validity of the State's notifications dated 17 April 2020 and 20 July 2020 [Notifications].

Decision: Petition allowed.

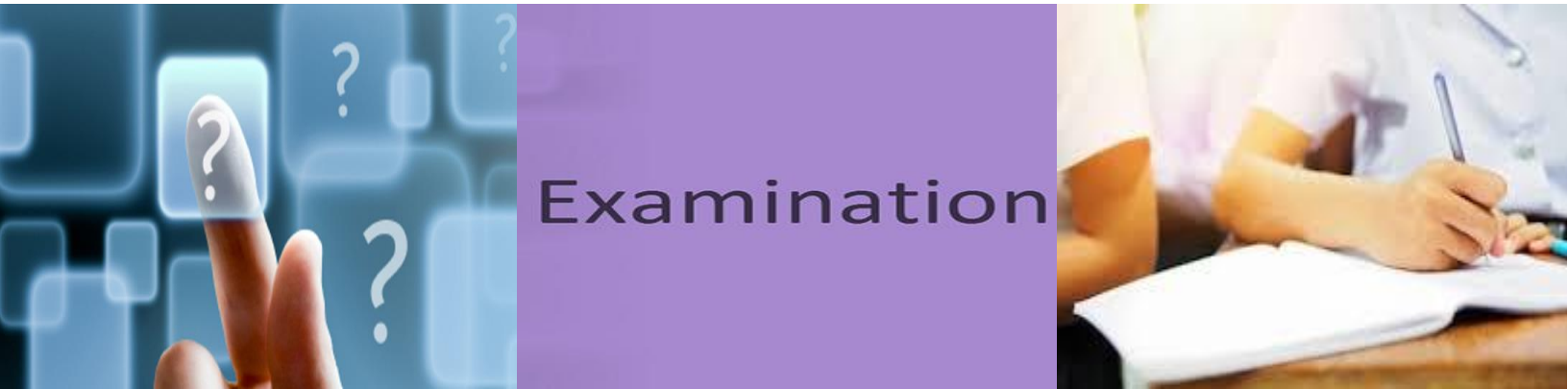
Reason: The notifications make significant departures from the mandate of the Factories Act. They (i) increase the daily limit of working hours from 9 hours to 12 hours; (ii) increase the weekly work limit from 48 hours to 72 years, which translates into 12 hour work-days on 6 days of the week; (iii) negate the spread over of time at work including rest hours, which is typically fixed at 10.5 hours; (iv) enable an interval of rest every 6 hours, as opposed to 5 hours; and (iv) mandate the payment of overtime wages at a rate proportionate to the ordinary rate of wages, instead of overtime wages at the rate of double the ordinary rate of wages as provided under Section 59.

While enacting the Factories Act, Parliament was cognizant of the occasional surge of the demand for, or requirement of, the manufacture of certain goods which would demand accelerated production. The law – makers were aware of the exigencies of the war effort of the colonial regime in World War II, with its attendant shortages, bottlenecks and, in India, famine as well. Section 64(2) of the Factories Act envisages exemption from certain provisions relating to working hours in Chapter VI, for instances such as urgent repairs, supplying articles of prime necessity or technical work, which necessarily must be carried on continuously. Section 65(2) enables classes of factories to be exempt from similar provisions in order to enable them to cope with an exceptional pressure of work. However, these exemptions are circumscribed by Section 64(4) and 65(3) respectively, at limits that are significantly less onerous than those prescribed by the notifications in question. Despite these concessions, these provisions do not enable an exemption of Section 59 which prescribes mandatory payment of overtime wages to the workers at double the ordinary rate of their wages.

During the course of the hearings, the Respondent has submitted that the exemption under the impugned notifications must be understood in the context of the “*extreme financial exigencies arising due to the spread of COVID-19 pandemic*” and have been deployed as “*a holistic approach to maintain the production, adequately compensate workers and take sufficient measures to safeguard the said factories and establishments in carrying out essential activities*”.

We are unable to find force in the arguments of the learned counsel for the Respondent. The impugned notifications do not serve any purpose, apart from reducing the overhead costs of all factories in the State, without regard to the nature of their manufactured products. It would be fathomable, and within the realm of reasonable possibility during a pandemic, if the factories producing medical equipment such as life-saving drugs, personal protective equipment or sanitisers, would be exempted by way of Section 65(2), while justly compensating the workers for supplying their valuable labour in a time of urgent need. However, a blanket notification of exemption to all factories, irrespective of the manufactured product, while denying overtime to the workers, is indicative of the intention to capitalize on the pandemic to force an already worn-down class of society, into the chains of servitude.

This Court is cognizant that the Respondent aimed to ameliorate the financial exigencies that were caused due to the pandemic and the subsequent lockdown. However, financial losses cannot be offset on the weary shoulders of the labouring worker, who provides the backbone of the economy. Section 5 of the Factories Act could not have been invoked to issue a blanket notification that exempted all factories from complying with humane working conditions and adequate compensation for overtime, as a response to a pandemic that did not result in an ‘internal disturbance’ of a nature that posed a ‘grave emergency’ whereby the security of India is threatened. In any event, no factory/ classes of factories could have been exempted from compliance with provisions of the Factories Act, unless an ‘internal disturbance’ causes a grave emergency that threatens the security of the state, so as to constitute a ‘public emergency’ within the meaning of Section 5 of the Factories Act. We accordingly allow the writ petition.



1. CONDUCT OF CS EXAMINATIONS - DECEMBER, 2020

The examination for Executive Programme (Old/New Syllabus) and Professional Programme (Old/New Syllabus) scheduled in December, 2020 will be held from 21st December, 2020 to 30th December, 2020 as per the Examination Time-Table (published elsewhere in this bulletin) at 172 examination centres, viz., 1. Agra, 2. Ahmedabad, 3. Ahmednagar, 4. Ajmer, 5. Akola, 6. Aligarh, 7. Alwar, 8. Ambala, 9. Amravati, 10. Amritsar, 11. Aurangabad, 12. Ballary 13. Bareilly, 14. Beawar, 15. Belagavi, 16. Bengaluru Zone-I, 17. Bengaluru Zone-II, 18. Bengaluru Zone-III, 19. Bengaluru Zone-IV 20. Bhagalpur, 21. Bhayander, 22. Bhilai, 23. Bhilwara, 24. Bhiwani 25. Bhopal, 26. Bhubaneswar-1, 27. Bhubaneswar-2, 28. Bikaner, 29. Bilaspur, 30. Bokaro, 31. Chandigarh, 32. Chandrapur, 33. Chennai Zone -I, 34. Chennai Zone -II, 35. Chennai Zone -III, 36. Chennai Zone -IV, 37. Chennai Zone -V, 38. Chennai Zone -VI, 39. Chennai Zone -VII, 40. Chittorgarh, 41. Coimbatore, 42. Dehradun, 43. Delhi (East), 44. Delhi (North), 45. Delhi (South), 46. Delhi (West), 47. Dewas, 48. Dhanbad, 49. Dhar, 50. Ernakulam, 51. Erode, 52. Faridabad, 53. Gandhidham, 54. Gandhinagar, 55. Ghaziabad, 56. Gorakhpur, 57. Guntur-Amaravati, 58. Gurugram, 59. Guwahati, 60. Gwalior, 61. Hisar, 62. Hooghly, 63. Howrah, 64. Hubli-Dharwad, 65. Hyderabad Zone-I, 66. Hyderabad Zone-II, 67. Hyderabad Zone-III 68. Imphal, 69. Indore, 70. Jabalpur, 71. Jalgaon, 72. Jamnagar, 73. Jaipur, 74. Jalandhar, 75. Jammu, 76. Jamshedpur, 77. Jhansi, 78. Jhunjhunu 79. Jodhpur, 80. Kanchipuram, 81. Kanpur, 82. Kannur, 83. Karnal, 84. Katni, 85. Kolhapur, 86. Kolkata Zone-I, 87. Kolkata Zone-II 88. Kolkata Zone-III, 89. Kolkata Zone-IV, 90. Kolkata Zone-V, 91. Kollam, 92. Kota, 93. Kottayam, 94. Kozhikode 95. Latur, 96. Lucknow, 97. Ludhiana, 98. Madurai, 99. Mangaluru, 100. Mathura 101. Meerut, 102. Moradabad, 103. Mumbai Zone-I, 104. Mumbai Zone-II, 105. Mumbai Zone-III, 106. Mumbai Zone-IV, 107. Mumbai Zone-V, 108. Mumbai Zone-VI, 109. Mumbai Zone-VII, 110. Mumbai Zone-VIII, 111. Muzaffarnagar, 112. Mysuru, 113. Nagpur, 114. Nanded, 115. Nashik, 116. Navi Mumbai Zone-I, 117. Navi Mumbai Zone-II, 118. Nellore, 119. Noida, 120. Palakkad, 121. Pali, 122. Panaji, 123. Panipat, 124. Patiala, 125. Patna, 126. Pimpri-Chinchwad, 127. Prayagraj 128. Puducherry, 129. Pune Zone-I, 130. Pune Zone-II, 131. Pune Zone-III, 132. Pune Zone-IV, 133. Raigad, 134. Raipur, 135. Rajkot, 136. Ranchi, 137. Ratlam, 138. Rewari, 139. Rohtak, 140. Rourkela, 141. Sagar, 142. Salem, 143. Sambalpur, 144. Satara, 145. Shimla, 146. Sikar, 147. Sirsi, 148. Siliguri, 149. Solapur 150. Sonapat, 151. Srinagar, 152. Surat, 153. Thane Zone-I 154. Thane Zone-II, 155. Thane Zone-III, 156. Thane Zone-IV, 157. Thiruvananthapuram, 158. Thrissur, 159. Tiruchirapalli, 160. Tirunelveli 161. Tiruppur, 162. Udaipur, 163. Udupi, 164. Ujjain, 165. Vadodara, 166. Valsad, 167. Vapi, 168. Varanasi, 169. Vijayawada, 170. Visakhapatnam, 171. Yamuna Nagar and 172. Overseas Centre — Dubai.


NOTES:

1. ***Bhagalpur (Bihar), Bokaro (Jharkhand) and Karnal (Haryana) are on Experimental Basis.***
2. ***Bhubaneswar-1, Bhubaneswar-2 (Odisha), Kolkata Zone-I, Kolkata Zone-II, Kolkata Zone-III, Kolkata Zone-IV, Kolkata Zone-V (West Bengal), Bhiwani (Haryana) Rohtak (Haryana), Hyderabad Zone-I, Hyderabad Zone-II, Hyderabad Zone-III (Andhra Pradesh/Telangana), Nellore (Andhra Pradesh), Bengaluru Zone-I, Bengaluru Zone-II, Bengaluru Zone-III,***

Bengaluru Zone-IV (Karnataka), Kannur (Kerala), Kollam (Kerala), Sirsi (Karnataka), Udupi (Karnataka), Chennai Zone -I, Chennai Zone -II, Chennai Zone -III, Chennai Zone -IV, Chennai Zone -V, Chennai Zone -VI, Chennai Zone -VII (Tamil Nadu), Erode (Tamil Nadu), Kanchipuram (Tamil Nadu), Tiruppur (Tamil Nadu), Valsad (Gujrat), Dewas (Madhya Pradesh), Dhar (Madhya Pradesh), Katni (Madhya Pradesh), Ratlam (Madhya Pradesh), Chandrapur (Maharashtra), Latur (Maharashtra), Navi Mumbai Zone-I, Navi Mumbai Zone-II (Maharashtra), Mumbai Zone-VII, Mumbai Zone-VIII (Maharashtra), Nanded (Maharashtra), Raigad (Maharashtra), Thane Zone-IV (Maharashtra), are on ad-hoc basis in view of COVID-19 pandemic.

3. *The Institute reserves the right to withdraw any centre at any stage without assigning any reason.*
4. *Please note that no request for change of examination venue will be entertained in respect of a particular city, where multiple examination venues exist.*

2. TIME-TABLE FOR DECEMBER, 2020 EXAMINATIONS

 THE INSTITUTE OF Company Secretaries of India भारतीय कम्पनी सचिव संस्थान <small>IN PURSUIT OF PROFESSIONAL EXCELLENCE</small> <small>Statutory body under an Act of Parliament</small> <small>(Under the jurisdiction of Ministry of Corporate Affairs)</small>				
COMPANY SECRETARIES EXAMINATIONS, DECEMBER, 2020 SESSION				
TIME-TABLE				
EXAMINATION TIMING : 2:00 P.M. TO 5:00 P.M.				
Date and Day	Executive Programme (Old Syllabus)	Executive Programme (New Syllabus)	Professional Programme (Old Syllabus)	Professional Programme (New Syllabus)
21.12.2020 Monday	Cost and Management Accounting (Module-I) (OMR Based)	Jurisprudence, Interpretation and General Laws (Module-I)	Advanced Company Law and Practice (Module - I)	Governance, Risk Management, Compliances and Ethics (Module - I)
22.12.2020 Tuesday	Industrial, Labour and General Laws (Module-II) (OMR Based)	Securities Laws and Capital Markets (Module-II)	Information Technology and Systems Audit (Module - II)	Secretarial Audit, Compliance Management and Due Diligence (Module - II)
23.12.2020 Wednesday	Tax Laws and Practice (Module-I) (OMR Based)	Company Law (Module-I)	Advanced Tax Laws and Practice (Module - III)	Corporate Funding and Listings in Stock Exchanges (Module - III)
24.12.2020 Thursday	Company Accounts and Auditing Practices (Module-II)	Economic, Business and Commercial Laws (Module-II)	Secretarial Audit, Compliance Management and Due Diligence (Module - I)	Advanced Tax Laws (Module - I)
25.12.2020 Friday	NO EXAMINATION	NO EXAMINATION	NO EXAMINATION	NO EXAMINATION
26.12.2020 Saturday	Company Law (Module-I)	Setting up of Business Entities and Closure (Module-I)	Financial, Treasury and Forex Management (Module - II)	Corporate Restructuring, Insolvency, Liquidation and Winding - up (Module - II)
27.12.2020 Sunday	Capital Markets and Securities Laws (Module-II)	Corporate and Management Accounting (Module-II) (OMR Based)	Drafting, Appearances and Pleadings (Module - III)	Multidisciplinary Case Studies (Module - III) [Open Book Exam.]
28.12.2020 Monday	Economic and Commercial Laws (Module-I)	Tax Laws (Module-I) (OMR Based)	Corporate Restructuring, Valuation and Insolvency (Module - I)	Drafting, Pleadings and Appearances (Module - I)
29.12.2020 Tuesday	NO EXAMINATION	Financial and Strategic Management (Module-II) (OMR Based)	Ethics, Governance and Sustainability (Module - II)	Resolution of Corporate Disputes, Non-Compliances and Remedies (Module - II)
30.12.2020 Wednesday	NO EXAMINATION	NO EXAMINATION	Elective 1 out of below 5 subjects (Module - III) [Open Book Exam.]	
			(i) Banking Law and Practice	(i) Banking - Law and Practice
			(ii) Capital, Commodity and Money Market	(ii) Insurance - Law and Practice
			(iii) Insurance Law and Practice	(iii) Intellectual Property Rights - Laws and Practices
			(iv) Intellectual Property Rights - Law and Practice	(iv) Forensic Audit
			(v) International Business - Laws and Practices	(v) Direct Tax Law and Practice
				(vi) Labour Laws and Practice
				(vii) Valuations and Business Modelling
(viii) Insolvency - Law and Practice				

Note: The Institute reserves 31st December, 2020, 1st, 2nd and 3rd January, 2021 to meet any exigency.

3. GRANT OF FACILITY OF SCRIBE AND/OR EXTRA TIME TO PHYSICALLY DISABLED/CHALLENGED CANDIDATES IN CS EXAMINATIONS - DECEMBER, 2020

Any Physically Challenged/Disabled Student having a minimum of 40% physical disability or deformity of permanent nature and who wishes to seek writer's help and/or extra time for the purpose of appearing in Company Secretaries Examination is requested to submit a separate application duly filled in own handwriting in the prescribed format as specified below in addition to submitting his/her online enrolment application for appearing in the examination together with the attested copies of following documents:

- (i) Disability Certificate issued by the Medical Board/doctor of not below the rank of Civil Surgeon/ Medical Superintendent of a Central or State Govt. Hospital /Medical College, certifying the nature (permanent or temporary) and percentage of disability and its duration affecting his/her ability and/or the normal physical functions.
- (ii) Letter of permission issued, if any, by Sr. Secondary Board/ University in 10th, 10+2 or degree examinations in which candidate had appeared.
- (iii) Permission granted by other reputed professional Institutes/examining bodies such as – UPSC, SSC, State Public Service Commission, *etc.*, allowing such assistance of a Scribe and/or Extra-time in the earlier examinations.
- (iv) Full size latest photograph.
- (v) Any other document(s) in support of request for grant of the facility of writer and/or extra time.

Physically disabled candidates who had been granted facility of writer's help/extra time in the previous CS examination(s) and wish to avail of such concession or assistance for writing the ensuing examination are required to apply again for each session of examination giving reference of communication allowing such facility granted in the past. In such cases, candidates are not required to submit the attested copies of above stated documents and full size photograph.

It is clarified that in case of injuries of disablement of temporary nature such as fracture in the arm, forearm or dislocation of shoulder, elbow, wrist or any other illness, the candidates are not eligible to seek any concession or assistance of writer and/or extra time.

The duly filled in application on the prescribed form along with the supporting documents, if any, should be sent to the Institute at the address given below at least 45 days in advance from the date of commencement of examination:

The Joint Secretary
 Directorate of Examinations
 The Institute of Company Secretaries of India
 'ICSI House', C-37, Sector-62, Institutional Area
 Noida – 201 309 (U.P.)

Communication regarding grant of writer's help and/or extra time for writing the examinations is normally sent to the respective candidates 5-8 days before the commencement of each session of examination after the issue of Admit Cards/Roll Number.

For quick disposal, the application for grant of writer's help and/or extra time should not be clubbed with any other query or correspondence.

The prescribed applications form for availing the facility of writer's help and/or grant of extra time can be downloaded from the website of the Institute: www.icsi.edu at the URL given below:

https://www.icsi.edu/webmodules/scribe_form.pdf

4. USE OF CALCULATORS IN EXAMINATIONS

Candidates are allowed to bring and use their own battery operated, noiseless and cordless pocket calculators with not more than 6 functions, 12 digits and 2 memories. Exchanging/ lending/borrowing of calculators among students is forbidden in the examination hall. Use of scientific calculators is strictly prohibited.

5. BAN ON USE OF MOBILE PHONE IN AND AROUND THE EXAMINATION CENTRE PREMISES

Candidates shall not bring/carry with them mobile phones, scientific or programmable calculator, pager, blue tooth, laptop, palmtop, smart watch, health band or any other electronic device or gadget, books, printed or hand written materials, costly items, etc., inside the examination centre premises. Candidates are therefore cautioned and advised in their own interest, not to carry any such banned items inside the examination centre premises.

Candidates carrying with them banned item(s) may not be allowed to enter in the examination hall/room premises. Any candidate, found in possession of such banned items in the examination hall/room shall be liable for willful violation of instructions to examinees and shall be tantamount to misconduct under Regulation 27 of the Company Secretaries Regulations, 1982, as in force.

However, the Institute or examination centre authorities shall neither in any way be responsible for arranging safe keeping and/or loss/damage of such items nor will entertain any complaint/correspondence in this regard.

6. HINDI AS AN OPTIONAL MEDIUM OF WRITING EXAMINATION

Candidates are allowed to use Hindi as an optional medium for writing all papers of Executive Programme (Old and New Syllabus) and Professional Programme (Old and New Syllabus) examinations on the following conditions:

- (i) Option of Hindi Medium for writing the examination is to be exercised for all papers of an examination OR a particular module of examination, [and not for any individual paper(s)] in the examination enrolment application form each time for appearing in the examination;
- (ii) Option of medium for writing examination once exercised is irrevocable for that particular session of examination;
- (iii) Answer books of candidates who write part of papers/answers in Hindi Medium and the remaining part in English Medium are liable to be cancelled without any notice;
- (iv) Candidates who have exercised option of writing in Hindi Medium in their examination enrolment form will be provided Question Papers printed both in English and Hindi version for three subjects of Module-II of Executive Programme (Old Syllabus) and two subjects of Module-II of Executive Programme (New Syllabus);

However, the Question Papers for Module-I of Executive Programme (New Syllabus) and Executive Programme (Old Syllabus) and all papers of

Professional Programme (Old and New Syllabus) examinations will be printed in English language only;

- (v) If a candidate writes his/her answers in Hindi medium without exercising such an option in the examination enrolment application form, he/she may not be given credit for his/her answers;
- (vi) Candidates opting Hindi Medium for the examination must darken the relevant circle against HINDI on the cover page of Answer Book; and
- (vii) Candidates opting Hindi Medium for examination may write answers to practical questions, headings, quotations, technical and legal terms, sections, rules, etc., in English, if they so desire.

7. INSTRUCTIONS TO EXAMINEES – DECEMBER, 2020

PART- A

GENERAL INSTRUCTIONS

1. Immediately, after taking the print-out of the Admit Card from the website of the Institute www.icsi.edu, every candidate is advised to carefully verify all the particulars mentioned in his/her Admit Card, i.e. his/her Name, Photograph, Signature, Registration Number, Stage and Module(s) of Examination enrolled for, Examination Centre (Name, Address, Code, etc.), Medium of Examination, Dates and Timings of Examination, Details of Paper-wise Exemption granted, Elective Subject in case of Professional Programme (Old & New syllabus), etc. In case of any discrepancy, the same must be brought to the notice of the Institute immediately at our support portal <http://support.icsi.edu>
2. Candidates are advised to carefully go through the “Instructions to Examinees” for their strict compliance. Since the particulars mentioned by the candidates on the OMR based cover page of the main answer book are to be read by a machine for result processing activities, any wrong information mentioned may affect the result of the candidate adversely and for that the Institute will not take any responsibility for rectifying such mistake(s).
3. Candidates should carry with them (i) Admit Card; and (ii) Student Identity Card to the Examination Centre every day for establishing their identity and securing admission to the examination, failing which they will not be allowed to enter the Examination Hall.
4. The Superintendent of Examination Centre and the Invigilators have been advised to verify the identity of each and every candidate at the time of entry into the Examination Hall and while taking candidate’s signature on the Attendance Sheet. Accordingly, each candidate must show his/her Admit Card and Student Identity Card to the Invigilator/Supervisory Staff on demand any time during the course of examination.
5. Candidates are advised to ensure that they are in possession of a valid Identity Card as downloaded from the individual online accounts at <https://smash.icsi.in> duly attested by the authorized official(s) of the Institute. In case, due to any reason, the photograph and signature of the student are not available in the downloaded Identity Card, the candidates should affix his/her photograph and

put the signature on the downloaded Identity Card and get it attested by Gazetted Officer/Member of ICSI/Principal of Recognized School/Manager of Nationalised Bank. For any reason, if some of the candidates are not holding the Identity Card due to technical/ practical problems, they may bring any other Photo Identity Card issued by the Government Departments, viz. Passport, Driving Licence, PAN Card, UID Aadhaar Card, Voter I-Card, etc. to establish their identity *vis-à-vis* the particulars appearing in the Enrollment Details/Attendance Sheet. The candidates should also bring Student Identity Card/other documents specified above as identification proof and also one identical photograph be handed over to the Superintendent of Examination Centre for affixing the same on the Attendance Sheet.

6. Provisionally registered students of Executive Programme 2017 (New Syllabus) were required to regularize their registration by submitting proof of passing Bachelor's Degree Examinations within six months from the date of registration. Candidates who have not complied with the requirements are not eligible to appear in the Executive Programme 2017 (New Syllabus) examinations in December, 2020. In case any candidate manages to appear in the examinations without complying with the said requirement, the appearance and/or the result are liable to be cancelled.
7. The students of Executive and Professional Programme Stages under 2017 (New Syllabus) were required to successfully complete the Pre-Examination Test to become eligible for enrollment to December, 2020 Session of examinations. In case any candidate manages to appear in the examinations without complying with the said requirement, the appearance and/or the result shall be cancelled without further notice. Therefore, candidate(s) are advised to ensure that they have successfully completed Pre-Examination Test of relevant Module(s) of Executive or Professional Programme, as the case may be, to avoid complications at the time of appearing in the examination and declaration of results.
8. Candidates are advised to visit the venue of the examination centre beforehand to know about the exact location so as to avoid any inconvenience on the day of the examination.
9. Candidates will be allowed to enter into the Examination Hall **60 minutes** before the time specified for the commencement of examination in a systematic manner (one candidate at a time) and occupy their allotted seats in Examination Hall after due screening and procedure.
10. The candidates should leave for the examination centre well before the stipulated time keeping in view the weather, traffic conditions, etc. No candidate shall be allowed to enter the Examination Hall **after the expiry of half-an-hour of the commencement of examination** and no candidate shall be permitted to leave the Examination Hall until the **expiry of one hour** after the commencement of examination.
11. The seating arrangements of the candidates shall be displayed on the notice board at the entrance of the examination centre. Candidates will find their roll

numbers written against the seats allotted to them at the examination hall/room. They should occupy their allotted seats only.

12. In case before the examination or during the currency of examination, any situation arises, due to which special seating arrangement is required to be made on medical grounds, such candidate may submit his/her application to Joint Secretary, Directorate of Examinations along with copies of supporting documents for consideration. **No facility including special seating arrangement shall be granted by the examination centre without permission from the Institute.**
13. **Candidates are not required to appear in the paper(s) in which they have been granted paper-wise exemption as shown in the Admit Card as well as the Attendance Sheet. The exemption(s) as appearing in the Admit Card should match with the exemption(s) as shown in the Attendance Sheet.** In case of any discrepancy in regard to paper-wise exemption(s) shown in the Admit Card and/or any mismatch with the exemption(s) as appearing in the Attendance Sheet, it should immediately be brought to the notice of the Superintendent of Examination Centre and the Directorate of Student Services of the Institute in writing through our support portal <http://support.icsi.edu> for necessary clarification and confirmation. **However, exemption in any paper(s) of examination should not be assumed unless confirmed in writing by the Institute.**
14. **The paper-wise exemption in any paper(s) of the examination, once sought by the candidate and granted by the Institute remains valid and is printed in his/her Admit Card (Roll No.) and taken on record for computation of his/her results unless it is cancelled by the student by submitting a formal request to the Institute at the online portal <https://smash.icsi.in> after logging into the individual accounts of the students. Exemption once cancelled on student's request shall not be revived subsequently under any circumstances. Candidates fulfilling the eligibility conditions under 60% marks criteria have been granted exemption(s) in the respective papers and such exemption(s) has/have been shown in the Admit Card as well as the Attendance Sheet. The status of available exemptions is also available in the individual accounts of the students at: <https://smash.icsi.in>. Further, if such candidates appear in any paper disregarding the exemption granted as shown in the Admit Card, the exemption will be cancelled by the Institute without notice and shall not be revived under any circumstances.**
15. **It is reiterated that the paper-wise exemptions granted to the students are cancelled on submission of a formal request to the Institute at the online portal <https://smash.icsi.in> or in the event of reappearance in the respective papers by the students despite an endorsement reflecting the exemption granted in the Admit Card.**
16. **It may be noted that in some cases, the exemptions granted in accordance with the various provisions contained under the Regulations are inter-related with other exemptions granted and cancellation (or appearance) in any one of the papers may result in cancellation of exemptions in all the inter-related papers. For example, if a candidate has been granted paper-**

wise exemptions in three papers on the basis of scoring 64, 59, 57 & 10 marks respectively in the four papers contained under Module-I of Executive Programme in previous session and in case he/she appears or cancels the exemption in any one out of the three exempted papers having scored 60% marks in aggregate, all the three exemptions shall be cancelled since the exemption criteria in this case is applicable only if all the three papers are taken together. Such guidelines are equally applicable for the students of Professional Programme also. Candidates are, therefore, advised to be extremely careful while seeking cancellation or while appearing in the exempted papers, as the final result will be computed considering the actual marks scored on reappearance and/or the deemed absence in the papers as the case may be. In other words, candidates appearing in the exempted papers despite an endorsement to the effect in the Admit Card shall be doing so at their own risk and responsibility and the Institute may not be held responsible for any eventuality which may arise at a later date. In case of any doubt regarding the applicability of rules regarding the exemptions, students should invariably seek prior clarifications from the Institute by writing through our support portal <http://support.icsi.edu> before deciding on their own to appear in the examination of exempted subjects or seeking cancellation of exemptions granted.

17. Candidates who have switched over from Professional Programme 2007 Syllabus to Professional Programme 2012 Syllabus, have been granted additional paper-wise exemptions in Information Technology and Systems Audit Paper and/or Elective Subject(s) as the case may be, according to eligibility conditions defined under the modified switchover scheme. Wherever particular module(s) have been exempted on the basis of granting exemptions as per the modified switchover scheme, the combination of Module(s) in respect of candidates concerned have been suitably modified and the candidates are advised to immediately point out discrepancies, if any.
18. If any candidate appears at a centre other than the centre indicated in his/her Admit Card, the answer book(s) of such a candidate is liable to be cancelled.
19. The medium of writing the examination for Executive Programme and Professional Programme (Old/New Syllabus) is English or Hindi as per the option exercised by the candidate and as indicated in the Admit Card. Candidates, who write some of the papers/answers in Hindi medium and some in English medium other than the opted one, will be treated as cancelled. In case of any doubt or discrepancy in Hindi language in the question paper, the English version of the questions shall prevail. Candidates should write the answer to the questions in the medium, i.e., English or Hindi as opted by them while enrolling for the examination.
20. All Question Papers will be provided in English language except the following three papers of the Executive Programme (Old Syllabus) and two papers of Executive Programme (New Syllabus) of Module -II, which will be provided in English with Hindi translation to those candidates who have opted Hindi Medium for writing their respective examinations and such Hindi Medium

candidates must darken the circle against the column 'Medium of Writing – HINDI' on the cover page of their main Answer Book No.1:

Executive Programme- Module II (Old Syllabus)	Executive Programme- Module II (New Syllabus)
1. Company Accounts and Auditing Practices	1. Securities Laws and Capital Markets
2. Capital Markets and Securities Laws	2. Economic, Business and Commercial laws
3. Industrial, Labour and General Laws (OMR Based Examination)	

Such candidates should ensure that they received the question paper printed in Hindi language along with English version. In case the question paper in Hindi medium as opted by him/her is not received, the matter should be immediately brought to the notice of invigilator/centre superintendent for immediate action. No representations shall be entertained subsequently in this regard.

21. No candidate shall bring with him/her or carry with him/her any Book, Study Material, Handwritten or Printed Notes, Pieces of Paper (chits), Mobile Phone, Scientific or Programmable Calculator, Blue Tooth, Laptop, Palmtop, Smart Watch, Health Band or any other electronic device or gadget in the Examination Hall. The candidates are warned to remain prepared that in the event of suspicious behaviour of any examinee in the Examination Hall/Room/Premises, he/she would be searched/ frisked to demonstrate that he/she does not possess any prohibited/objectionable item(s) with him/her.
22. Personal belongings including mobile phones are not allowed inside the examination room. **Candidates are advised not to bring valuable personal belongings to the examination venue and the Institute or examination centre shall not be responsible for arranging safe keeping of the item(s) brought to the examination centre or in case they are lost, damaged or stolen. No correspondence shall be entertained by the Institute in this regard.**
23. Candidates should refrain themselves from spreading rumours and hosting any kind of material including examination on social media websites like, WhatsApp, Instagram, Facebook, YouTube, Twitter, etc. Any suspicious activity observed/rumours being spread, should immediately be brought to the notice of Joint Secretary (Examinations)/Centre Superintendent of nearby examination centre.
24. Candidates are required to write answers to Questions in their own handwriting with blue colour ink pen/ball-point pen. **Writing answers with red or green ink or any other colour ink is prohibited.** Accordingly, candidates are advised to bring their own pen for their use. Borrowing/lending/exchanging of any item with other candidate(s) during the examination in the Examination Hall/Room is prohibited.

25. Candidates are allowed to use their own battery operated noiseless and cordless ordinary calculator with not more than 6 functions, 12 digits and 2 memories. Use of programmable, scientific or printing model of calculators or calculators not conforming to above specifications shall not be permitted. Borrowing or exchanging of calculators or any other item/material shall not be permitted in the Examination Hall.
26. Irrespective of the use of calculator in the examination, candidates are advised to invariably show all important steps and working notes relating to solutions of practical problems along with their answers and rough work done marked as "ROUGH WORK TO QUESTION No." and scored off by drawing two parallel lines across such rough work.
27. On receipt of Question Paper, first of all, every candidate must write his/her Roll Number on the top of Question Paper at the specified space provided on the front page. Further, every candidate is required to satisfy himself/herself that he/she has received correct and complete Question Paper and also verify it with reference to the Question Paper Code, Examination Time-Table as given in the Admit card, and see that the total number of questions and printed pages as mentioned on the front page of the Question Paper are in order/complete in all respects.
28. In case any candidate has received a wrong question paper, i.e., question paper of a different subject/stage of the examination, he/she should immediately bring it to the notice of the invigilator/Centre Superintendent and get it replaced with the correct question paper. No extra time for writing such examination and also no representation in this regard shall be entertained subsequently.
29. Candidates are warned not to write anything on the Question Paper (except their Roll Number and tick mark [✓] for the questions attempted), Admit Card, Student Identity Card, etc. and not to take away anything(s)/paper(s) from the Examination Room/Hall other than copy of their own Question Paper, Admit Card, Student Identity Card, Scale, Pen, Calculator, hand sanitizer, water bottle etc. Writing of hints, bullet points, short answers, etc., on Question Paper is strictly prohibited.
30. Candidates should write their Roll Number in words and figures inside the boxes and darken the corresponding OMR circles provided on the cover page of the main answer book in **blue or black ball point pen only** and nowhere else in the answer book including additional answer book(s). Any violation of this instruction will tantamount to adoption of unfair means and will attract punishment which may include debarring from appearing in the examination.
31. The Attendance Sheets contain the perforated 'Roll Number Barcode Stickers' for each day's paper for each candidate against his/her name. Before signing the Attendance Sheet on each day of examination, the candidate should remove the perforated 'Roll Number Barcode Sticker' of that particular paper from the Attendance Sheet and affix the same at the appropriate space in the box provided on the cover page of the main Answer Book. Since OMR machine will read the Roll Number, candidates should check and ensure that the Roll Number written in words, figures and circles darkened are correct. In case this

- information is filled wrongly, Institute will not take any responsibility for rectifying the mistake.
32. While affixing the 'Roll Number Barcode Sticker' on the space provided on the cover page of main Answer Book, it must be ensured by each candidate that the Roll Number Barcode Sticker belongs to him/her and it is related to that particular day's paper only. It must also be ensured that candidates sign the Attendance Sheet only after removal of the Roll Number Barcode Sticker and affixing it on the cover page of the Answer Book. This is to ensure that the candidate's signature on the Attendance Sheet does not cross over into the sticker and deface it.
 33. Every candidate on each day of the examination must sign the attendance sheet in the appropriate column against his/her Roll No. and in no case shall leave the examination hall without signing the attendance sheet. Candidates are required to carefully fill-up relevant particulars such as Roll Number, Date of Examination, Stage of Examination, Name of Subject, Medium of Writing, No. of Answer Books used, etc., at the appropriate space and put their signature(s) within the box provided for the purpose on the cover page of main Answer Book.
 34. Each candidate is required to maintain uniform pattern and style of his/her handwriting on answer book(s) as well as signature(s) in all correspondence with the Institute —particularly while signing his/her Attendance Sheet and on cover page of main Answer Book in the Examination Hall/ Room with reference to his/her specimen signature appended on the Admit Card, Student Identity Card and Examination Enrolment Form.
 35. Candidates should write answers on both sides of all pages of answer book(s) and use all pages of the main answer book before asking for additional answer book. In order to avoid wastage and possibility of misuse of answer book(s), candidates will be issued additional answer book only on demand after they have completely used the main answer book. Any attempt to tamper with the answer book(s) or tearing page(s) from the answer book(s) for any reason whatsoever, or taking them out of Examination Hall/ Room shall tantamount to misconduct punishable under the examination rules and regulations and shall entail stern disciplinary action.
 36. Candidates are strictly advised not to write any irrelevant/extraneous matter, mention name, roll no, mobile no, make appeal to examiners for award of pass marks, write name or put signature in the examiner's/checker's column, use different colours of pen (other than blue/black), write criticism of question paper, make religious symbols / sketches of God or salutation or invocation to God, etc., in the answer book(s). Candidates should not put a tick mark (✓) or cross mark (X) or write question numbers on the front page table of the main answer book meant for the examiner. Violation of this instruction shall tantamount to use of unfair means and may lead to the cancellation of result as well as student registration.
 37. No candidate should leave or will be allowed to leave the Examination Hall (i) within one hour of the commencement of examination; (ii) during last 15 minutes of the examination timing; (iii) without signing the Attendance Sheet;

- and (iv) without properly handing over his/her answer book(s) to the Invigilator.
38. **In case any candidate leaves the examination hall/room after the expiry of one hour but before two hours of commencement of examination, he/she should surrender his/ her question paper to invigilator and he/she shall not be entitled to claim it subsequently.**
39. Candidates must attempt questions in accordance with the directions as given on each Question Paper. If the questions are attempted in excess of the prescribed number, only the questions attempted first up to the required number will be valued and awarded marks and the remaining answer(s) will be ignored.
40. **Answer to each question must be started from a fresh page and all parts/sub-question(s) of that question should be attempted consecutively** and that the candidate must clearly and prominently mention the respective Question No. at the start of answer and draw parallel lines underneath the question number on the left-hand side margin of the page e.g., “Ans. to Q. No. ...”. Candidates are advised not to write anything on the left-hand side margin of pages of answer books except Question No./Sub-Question No. nor should they leave any blank space(s)/page(s) in between the answers or answer book(s).
41. Candidate must put a cross mark (X) against the respective Question No.(s) attempted by him/her in the appropriate box provided on the cover page of the answer book to indicate that cross (X) marked question(s) have been attempted by him/her.
42. Candidates are expected to write to-the-point answers to the questions in neat and legible handwriting quoting relevant provisions of the Acts/Rules, citing case law in support of the answers wherever applicable, and be conversant with the amendments to the laws made up to six months preceding the date of examination.
43. Candidates shall not seek/ask for any clarification/interpretation/advice on any question(s)/question paper from the Centre Superintendent/Invigilators/General Observers on duty during the currency of examination. Such candidate/(s) can make a separate representation to the Institute after completion of examination on the same day or within seven days after the conclusion of examinations in its entirety.
44. Candidates should write their answers in legible manner. Any answer book containing bad and illegible handwriting is liable to be awarded “ZERO” marks by the examiner.
45. The additional answer book(s) should be fastened to the main Answer Book No.1, in such a manner that it lies flat when opened. The total number of answer book(s) used (including main answer book) must be clearly indicated on the cover page of the Answer Book No.1, e.g., 1 + 1 = 2 to denote use of one main answer book plus one additional answer book.
46. No candidate, without specific permission of the Superintendent/Invigilator, shall leave his/her seat during the course of examination. It shall be the personal responsibility of the candidate concerned appearing in the examination to properly fill-up all relevant particulars on the cover page of main answer book.

On completion of examination or expiry of the prescribed examination timing, the answer books, even if the same is blank, must at once be handed over to the Invigilator on duty in his/her Room/Hall and the Invigilator's signature be obtained in the relevant column of acknowledgement printed on the Admit Card in token of having handed over his/her answer book(s). The Superintendents of Examination Centres have been advised to issue acknowledgement in the aforesaid manner, through the Invigilators, for submission of answer books by the candidates.

47. Any representation regarding omission to hand over the written answer book(s) and/or additional answer book(s) or not obtaining the acknowledgement from the Invigilator for handing over his/her answer book(s), for any reason whatsoever, shall not be entertained after the examination in that paper is over.
48. Any candidate attempting to copy or found copying or referring to or found in possession of any printed/handwritten material, notes, books, mobile phone or any electronic device etc., or exchanging notes or answer scripts with any other person or copying from the work of another candidate or writing answers in the answer book of any other candidate or answers got written by other candidate or person or allowing any other candidate to copy/refer to his/her work, helping or asking help from any other person in any manner or communicating by means of words, signs, gestures, codes, and other similar acts to exchange, impart or acquire relevant information in the examination hall/premises will be treated as adoption of unfair means in the examination. Similarly, any candidate found consulting, talking, whispering with any person in the Examination Hall/ Room or in the corridor/toilet within the premises of examination centre during the course of examinations shall be dealt with severely and punished sternly for adoption of unfair means under the rules and regulations of the Institute.
49. The Superintendent of Examination has absolute power to expel a candidate from the Examination Hall/ Room if in his/her opinion the candidate has adopted /attempted to adopt unfair means for the purpose of answering the questions in examination or behaved in a disorderly manner in and around the Examination Hall/ Room or obstructed the Superintendent or invigilating staff in carrying out his/her duties or attempted to offer illegal gratification or attempted to apply undue influence or threat or blackmail any person connected with conduct of examination. A candidate so expelled, must before leaving the Examination Hall, submit to the Institute his/her explanation in writing through the Superintendent of Examination. Once a candidate is so expelled, he/she may not be allowed to appear in the remaining paper(s) of the examination. Over and above, for any such misconduct of grave nature, the candidate shall be subject to disciplinary action under the provisions of the Company Secretaries Regulations, 1982 and/or other appropriate legal action under the laws of the country and particulars of such candidates or cases will be suitably notified in the Institute's official bulletin/on Institute's website.

PART-B**SPECIAL INSTRUCTIONS DUE TO COVID -19 PANDEMIC**

In view of the prevailing situation in the country due to COVID-19, candidates appearing in the examination are advised to follow the following instructions (in addition to the general instructions given above) to prevent the spread of virus infection in and around the examination halls/premises:

1. All candidates must ensure before reaching the examination centre that they do not have any symptom or suffering from COVID-19.
2. Candidates should not come to the examination centre for writing the examination, if he /she is tested COVID-19 positive whether symptomatic or asymptomatic or having any of the symptoms like fever, cough, sneezing, breathing problem, headache, running nose, chest congestion, sore throat etc., during the last 10 days or under self-isolation or quarantine or returned from any foreign country within the last 14 days of the examination.
3. Self-Declaration by the candidates regarding health status is required to be downloaded along with the Admit Card. Candidates have to take the print out of the “Self-Declaration Form” and fill the same carefully. The signed copy of the “Self-Declaration Form” shall be submitted by the candidates to the Superintendent of Examination Centre on the first day of Examination.
4. Candidates should maintain proper social distancing from each other while entering and leaving the examination premises and in the examination hall during the conduct of examination.
5. Candidates should mandatorily wear face mask covering the mouth and nose throughout the course of examination.
6. Candidates will be allowed to enter the examination hall in a systematic manner (one candidate at a time) 60 minutes before the commencement of the examination.
7. Candidates shall be allowed to enter the examination premises only after thermal screening.
8. Candidates should carry with them exam related documents (i.e., Admit Card, Identity Card) face mask, transparent drinking water bottle and hand sanitizer. Sharing of personal belongings shall not be allowed.
9. Candidates shall be provided with hand sanitizer to clean their hands before entering the examination premises/hall and also while leaving the examination premises.

10. Candidates shall remove the mask only at the time of their personal identification and signing of the attendance register.
11. Seating arrangement of the candidates for each day of examination shall be displayed at the notice board near the entrance of the examination centre to enable the candidates to locate their examination room/hall easily.
12. Candidates shall ensure that they reach the examination centre well in time. Candidates should not stand in groups outside and inside the centre premises either before or after the conclusion of examination and follow social distancing norms.
13. Candidates should maintain proper hygiene and not to spit anywhere in the examination premises.
14. Candidates can carry their own small transparent bottle of drinking water and hand sanitizer in the examination hall for personal use during the examination.
15. Candidates after using the wash rooms, should sanitize or wash their hands with sanitizer/soap or liquid soap made available by the centre inside the wash rooms.
16. Candidates should strictly follow the instructions given by the officials of the examination centre to avoid any inconvenience/confusion/difficulty at the examination centre.
17. In case any candidate feels unwell or any difficulty, he/she should immediately report the same to the invigilator /centre superintendent.
18. On completion of the examination, the candidates will be permitted to move out in systematic manner i. e., one candidate at a time. Please wait for instructions from invigilator and do not get up from your seat until advised.
19. All candidates are advised to co-operate with the examination functionaries for adherence to the COVID-19 and other guidelines during conduct of examination.

PART-C
INSTRUCTIONS FOR OMR BASED EXAMINATION
FOR EXAMINEES OF EXECUTIVE PROGRAMME (OLD AND NEW SYLLABUS)

1. Examination of the following three subjects of the Executive Programme (Old Syllabus) and Executive Programme (New Syllabus) shall be held in OMR mode:

Executive Programme - (Old Syllabus)	Executive Programme - (New Syllabus)
1. Cost and Management Accounting <i>(Module-I)</i>	1. Corporate and Management Accounting (Module -II)
2. Industrial, Labour and General Laws <i>(Module -II)</i>	2. Tax Laws (Module-I)
3. Tax Laws and Practice <i>(Module -I)</i>	3. Financial and Strategic Management (Module -II)

Examination of the above three papers of Executive Programme (Old Syllabus) will be held on 21st, 22nd and 23rd December, 2020 and Executive Programme (New Syllabus) on 27th, 28th and 29th December, 2020 respectively.

2. The candidates will be provided a Question Paper Booklet and an OMR answer sheet for answering the questions.
3. The candidate must write the 6 digit Roll Number as allotted to him/her and printed in the Admit Card, on OMR Answer Sheet in boxes and darken appropriate circles with **Blue/Black Ball Point Pen**. Similarly, write Question Paper Booklet Number and also the Question Paper Booklet Code, viz. A or B or C or D as the case may be, Subject Code and Exam Centre Code on OMR Answer Sheet. The candidate should not write his/her name, Registration Number and also not to make any noting/scribbling on the OMR Answer Sheet and Question Paper Booklet except in the space provided for rough work. In case any candidate fills in the information wrongly, the Institute will not take any responsibility of rectifying the mistake. The Question Paper Booklet Code as darkened by the candidate will be final and the result will be processed on the basis of the circle darkened by him/her.
4. Candidates must correctly fill in the Question Paper Booklet Code (as mentioned on the top of the Question Paper Booklet) in the OMR Answer Sheet, as the same will be considered final for result computation. Candidates not filling the Question Paper Booklet Code will not be awarded any marks.

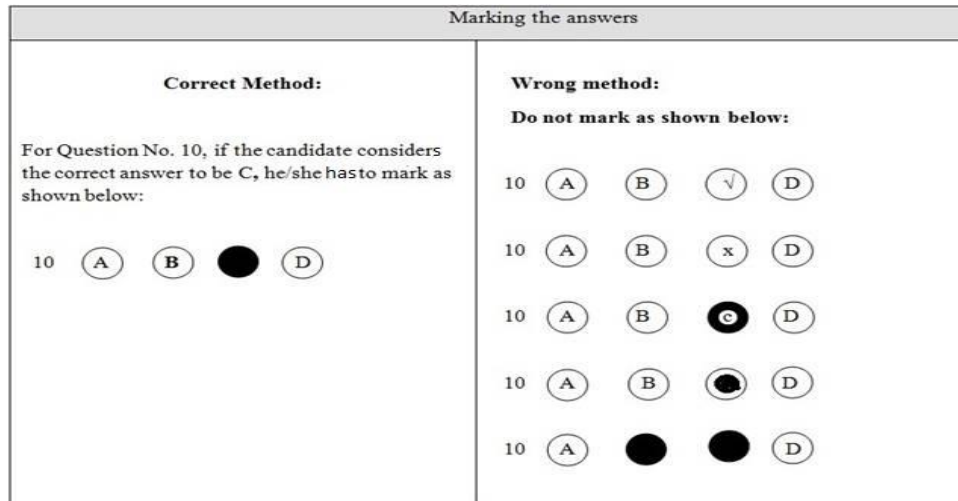
5. Question paper booklets for the OMR based examination in respect of the following subjects/papers shall be provided in English language only:

<i>Sr. No.</i>	<i>Executive Programme (Old Syllabus)</i>	<i>Executive Programme (New Syllabus)</i>
1.	Cost and Management Accounting	Corporate and Management Accounting
2.	Tax Laws and Practice	Tax Laws
3.	- - -	Financial and Strategic Management

However, candidates of Module II of Executive Programme (Old Syllabus) who opt for writing the examination in Hindi medium shall be provided question paper booklet of Industrial, Labour and General Laws (Module-II) paper in English along with its Hindi version and such candidates should ensure that they receive the same question paper. However, OMR Answer sheets for all the subjects would be provided in English language only.

6. Candidates should not open the seal of the Question Paper Booklet before the time specified for the commencement of the examination.
7. Every candidate is required to satisfy that the Question Paper Booklet given to him/her contains the number of pages as printed on the cover page of the booklet. In case of any discrepancy, he/she should ask for replacement of the Question Paper Booklet immediately.
8. Candidates are required to sign on the OMR Answer Sheet and Attendance Register/Sheet in the same manner as they have signed in their application form and Admit Card. Before signing the Attendance Sheet, candidate should remove the "Barcode Sticker" of that particular paper from the Attendance Sheet and affix the same vertically in the space provided on the OMR Answer Sheet.
9. The OMR Answer Sheet contains the serial number of questions as given in the Question Paper Booklet. Against each question number, there are four circles marked as A, B, C, and D which correspond to the four answer options out of which one is to be darkened on the OMR Answer Sheet only. No marking should be done on the Question Paper Booklet.
10. The Question Paper Booklet will consist of 100 Multiple Choice Questions (MCQ's). Each question will be of one mark and for every question, four answer options designated as A, B, C and D are given in the Question Paper Booklet. The candidate is required to select one amongst the options corresponding to the question as his/her correct answer and darken the circle i.e. A or B or C or D as the case may be, to be the answer in the OMR Answer Sheet **with Blue/Black ball point pen only. Use of pencil is prohibited for darkening the circle.**

Example:



11. Multiple darkened circles for a question will be treated as wrong answer. For question/(s) not answered i.e. blanks, no marks will be given or deducted.
12. Candidate has no option to change/alter/erase the answer once he/she has answered the question by darkening the circle. Therefore, before darkening the circle corresponding to the question number he/she is advised to ensure the correctness /authenticity of the answer. Use of white/correction fluid, eraser, blade, etc. is not allowed on the OMR Answer Sheet.
13. For each correct answer one mark will be awarded. There will be negative marking for wrong answers. **The negative marking will be applied in the ratio of 1: 4, i.e. deduction of one (1) mark for every four (4) wrong answers or proportion thereof, i.e., 0.25 mark** for each wrong answer and total marks obtained by the candidates would be rounded up to next whole number. Further, the negative marks would be limited to the extent of marks secured for correct answers so that no candidate shall secure less than zero mark in the subject concerned.
14. The candidate will be required to surrender the OMR Answer Sheet at the conclusion of each session of examination against acknowledgement by the Invigilator on the admit card.
15. Candidates may bring a card board or clip board on which nothing has been written so as to avoid any difficulty in darkening the circles in OMR Answer Sheet as the tables/furniture provided in the examination hall may or may not have even or smooth surface.

NOTE: Infringement of any of these instructions shall render the candidates liable for disciplinary action which could lead to cancellation of results of the examination and/or studentship registration under the Company Secretaries Regulations, 1982 as in force.

SMOKING, CHEWING OF TOBACCO, BETEL, INTOXICANT, CARRYING OR USE OF MOBILE PHONE/ELECTRONIC DEVICE, ETC., IS TOTALLY BANNED INSIDE THE EXAMINATION ROOM / HALL / CENTRE PREMISES.



OMR ANSWER SHEET

(USE BLUE/BLACK BALL POINT PEN ONLY)

OMR Sheet No.

EXECUTIVE PROGRAMME EXAMINATION

Roll Number (in words)

.....

Subject

.....

Date of Examination (DD/MM/YYYY)

How to mark answers:

CORRECT METHOD WRONG METHOD(S)

A ● C ○ ✗ ⊗ ⊙ ⊚

Roll Number (in words)

.....

Subject

.....

Roll Number	Question Paper Booklet No.	Question Paper Booklet Code																																																																																																																																																						
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CMA - 322 ①
TLP - 324 ②
ILGL - 327 ③
TL - 424 ④
CMA - 425 ⑤
FSM - 428 ⑥

(For details See Overleaf)

↑ Affix Barcode Sticker as provided in the Attendance Sheet, vertically in the space provided above.

- INSTRUCTIONS TO CANDIDATES**
- There shall be negative marks for wrong answers.
 - Use Only Blue/Black Ball Point Pen to fill-in the boxes and darken the appropriate Circles.
 - Write and darken correct Question Paper Booklet Code, viz. A or B or C or D carefully as the same will be taken as final for evaluation.
 - In case any candidate fills in any information wrongly, the Institute will not take any responsibility to rectify the same.
 - Darken one circle only for the answer which you consider to be correct against the corresponding question number.
 - Candidates are not allowed to change / alter / erase the answers, once darkened, with white / correction fluid, eraser, blade, etc.
 - Please do NOT make any stray marks on the answer sheet.
 - Rough work must NOT be done on the answer sheet.
 - As this OMR Answer Sheet is to be read by machine, do not fold or damage its edges.
- (CONTD. OVERLEAF.....)

Q.No.	Answer	Q.No.	Answer
1	A B C D	51	A B C D
2	A B C D	52	A B C D
3	A B C D	53	A B C D
4	A B C D	54	A B C D
5	A B C D	55	A B C D
6	A B C D	56	A B C D
7	A B C D	57	A B C D
8	A B C D	58	A B C D
9	A B C D	59	A B C D
10	A B C D	60	A B C D
11	A B C D	61	A B C D
12	A B C D	62	A B C D
13	A B C D	63	A B C D
14	A B C D	64	A B C D
15	A B C D	65	A B C D
16	A B C D	66	A B C D
17	A B C D	67	A B C D
18	A B C D	68	A B C D
19	A B C D	69	A B C D
20	A B C D	70	A B C D
21	A B C D	71	A B C D
22	A B C D	72	A B C D
23	A B C D	73	A B C D
24	A B C D	74	A B C D
25	A B C D	75	A B C D
26	A B C D	76	A B C D
27	A B C D	77	A B C D
28	A B C D	78	A B C D
29	A B C D	79	A B C D
30	A B C D	80	A B C D
31	A B C D	81	A B C D
32	A B C D	82	A B C D
33	A B C D	83	A B C D
34	A B C D	84	A B C D
35	A B C D	85	A B C D
36	A B C D	86	A B C D
37	A B C D	87	A B C D
38	A B C D	88	A B C D
39	A B C D	89	A B C D
40	A B C D	90	A B C D
41	A B C D	91	A B C D
42	A B C D	92	A B C D
43	A B C D	93	A B C D
44	A B C D	94	A B C D
45	A B C D	95	A B C D
46	A B C D	96	A B C D
47	A B C D	97	A B C D
48	A B C D	98	A B C D
49	A B C D	99	A B C D
50	A B C D	100	A B C D

FOR ICSI OFFICE USE ONLY	Signature of Candidate with Date	Signature of Invigilator with Date

P.T.O.

J0227

INSTRUCTIONS TO CANDIDATES (CONTD.....)

10. Candidate should write his/her Roll Number in words in the allotted space. The Roll Number should also be written in figures in the boxes and appropriate circles be darkened.
11. Before signing the Attendance Sheet, candidate should remove the "Barcode Sticker" of that particular paper from the Attendance Sheet and affix the same vertically in the space provided on the OMR Answer Sheet.
12. Candidates are required to fill-up relevant particulars and / darken the relevant circles such as Date of Examination, Subject, Question Paper Booklet No. and Question Paper Booklet Code (A, B, C or D) as printed on the Question Paper Booklet, Subject Code, Examination Centre Code and Medium of Examination at the appropriate boxes/space on the OMR Answer Sheet. Candidates wrongly darkening/not filling in or wrongly filling in any of the information as stated above, their answer sheet shall be liable to be rejected.
13. Candidates shall use **only blue or black ball point pen** for writing the particulars and darkening the circles. They should not use gel or ink pen.
14. Negative marking for wrong answers attempted by the Candidates will be applied in the ratio of 1:4, *i.e.*, deduction of one (1) mark for every four (4) wrong answers.
15. Candidates should not change, alter or erase their answers once darkened. Hence before darkening the circles corresponding to the question number, they are advised to ensure the correctness/authenticity of the answer.
16. Candidates must duly handover the OMR Answer Sheet to the Invigilator before leaving the Examination Hall and the invigilator's signature be obtained in the Admit Card as an acknowledgement of the same.
17. **Carrying mobile phones, pagers, any kind of communication device(s), books, printed or handwritten materials, etc. are totally banned inside the Examination Hall/Room/Premises.**
18. Any candidate found in possession of any banned item(s) (as stated above) inside the Examination Hall/Room/Premises will be deemed to have willfully infringed the "Instructions to Examinees" amounting to misconduct and liable to be expelled.
19. Candidate's eligibility to appear in any paper(s) and / or examinations shall be subject to the provisions of the Company Secretaries Regulations, 1982, as in force.
20. Subjects and their codes for OMR based examination are as under:

SUBJECT	STAGE OF EXAMINATION	SUBJECT CODE	MODULE
(i) Cost and Management Accounting	Executive Programme (Old Syllabus)	CMA-322	I
(ii) Tax Laws and Practice	Executive Programme (Old Syllabus)	TLP-324	I
(iii) Industrial, Labour and General Laws	Executive Programme (Old Syllabus)	ILGL-327	II
(iv) Tax Laws	Executive Programme (New Syllabus)	TL-424	I
(v) Corporate and Management Accounting	Executive Programme (New Syllabus)	CMA-425	II
(vi) Financial and Strategic Management	Executive Programme (New Syllabus)	FSM-428	II





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ICSI/TRG-TCC/2020

31.10.2020

!! ANNOUNCEMENT !!

**TRAINING CLEARANCE CERTIFICATE (TCC)
FOR APPLYING TO THE ASSOCIATE MEMBERSHIP
W.E F. 1st NOVEMBER 2020**

In order to apply for Associate membership of the Institute in accordance with CS Regulations 1982 and as amended from time to time, the students are required to submit their proof of passing of professional programme examination or final examination of ICSI & proof of completion of training as applicable under such Regulations along with other documents mentioned in the ACS checklist for applying admission as an Associate member of the Institute.

In order to simplify the process of applying for Associate Membership of the Institute, the students are required to obtain a Training Clearance Certificate (TCC) from the Directorate of Training stating the duration and place of training completion as applicable to them.

Hence, the students instead of giving different short term/long term practical training completion certificates at various point of time, are required to submit a single Training Clearance Certificate (TCC) stating the entire history of training completed by the students.

In order to get the Training Clearance Certificate (TCC), the eligible students are required to upload all their training completion certificate of various trainings undergone by them on Stimulate portal i.e., <http://stimulate.icsi.edu> by using their credentials (user ID and password of <https://smash.icsi.in>). The student can auto generate their training Clearance certificate from the stimulate portal once it is approved from the directorate of Training, ICSI and will submit along with their ACS application.

For any kind of training related queries and difficulties write through Single Window Grievance Redressal System i.e. <http://support.icsi.edu>.

Dte. of Training, ICSI



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ICSI/TRG/2020

07.10.2020

Circular No : Trg-04/2020

Directorate of Training

Extension in the provision of making e MSOP accessible to eligible students by relaxing the criterion of two years time bar up to 31.12.2020.

This is in continuation to Circular No ICSI/Trg/06/2020 dated 19.06.2020 wherein the students were provided relaxation by easing the eligibility in the provision of e MSOP upto 30th September 2020.

Keeping in view the current situation in the country due to Covid 19 pandemic, the Institute further extends the same relaxation upto 31.12.2020, in the eligibility criteria for taking admission in e-MSOP by temporarily removing the two years time bar between professional pass and e MSOP registration. Hence, all professional pass students irrespective of their year of passing in professional examination may avail the facility of e MSOP subject to fulfilment of other conditions as mentioned in the guidelines.

The students can click on the given link <https://icsiemsop.com> for registration.

This is for information of all concerned.

(CS Asish Mohan)
Secretary

To:

1. Regional Directors of Regional offices
2. Director-CCGRT and I/C CoE, Hyderabad
3. Eos /Office In-Charge of Chapters

CC:

1. President, The ICSI
2. Vice President, The ICSI
3. All Council Members of ICSI
4. All the registered companies and PCS for the purpose of imparting training
5. All students of ICSI undergoing Training



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ICSI/TRG/2020

07.10.2020

Circular No- Trg- 05/2020

(Directorate of Training)

Subject: - Guidelines for the CS trainees attending the office during the Period of Unlock-5.

This is in continuation to the Circular No. ICSI/TRG/2020 dated 30th March 2020 vide which the CS trainees were allowed to work from home during the lock down period and the outbreak of COVID-19 pandemic. The period was treated as continuity of Practical training since the trainees were instructed to work in accordance with the direction of their trainers.

Keeping in view the current situation and with reference to the Order (No. 40-3/2020-DM-I(A) of Ministry of Home Affairs (MHA), Government of India dated 30.09.2020 , the trainers /employers are now at their discretion to call the trainees to attend their office during the normal working hours or they may allow the trainees to continue to work from home in accordance with the directives issued from the respective State Governments/local administration from time to time. The trainers/ employers are advised to adhere to the COVID-19 guidelines issued by the Government during the unlock period in case the trainees are attending the office.

This is for information of all concerned.

(CS Asish Mohan)
Secretary

To:

1. Regional Directors of Regional offices
2. Director-CCGRT and I/C CoE, Hyderabad
3. Eos /Office In-Charge of Chapters

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ICSI/TRG/2020

07.10.2020

Circular No : 06/2020

Directorate of Training

Extension of Last date for submitting the training Quarterly report (2nd and 3rd Quarter) of trainees up to 31.12.2020.

This is in continuation to earlier Circular No ICSI/Trg/06/2020 dated 19.06.2020 wherein the last date of submitting the 1st and 2nd Quarterly report of the trainees were extended upto 30th September 2020.

Keeping in view the current situation in the country due to COVID-19 pandemic, the Institute further extends the last date of submitting the 2nd Quarterly report (April-June) and 3rd Quarterly report (July –September) of the trainees upto 31.12.2020.

This is for information of all concerned.

(CS Asish Mohan)
Secretary

To:

1. Regional Directors of Regional offices
2. Director-CCGRT and I/C CoE, Hyderabad
3. Eos /Office In-Charge of Chapters

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ICSI/Training/2020

07.10.2020

Circular No : Trg-07/2020

Directorate of Training

Relaxation to the students from undergoing 15 days Class room EDP out of 30 days EDP as mentioned in Regulation 46BB of CS (Amendment) Regulations 2020, if they have completed 15 days Academic Program under Previous training structure.

The Company Secretaries (Amendment) Regulations 2020, has been made effective from 3rd February 2020 vide Gazette Notification 710/1(M)/1. As per the Company Secretaries (Amendment) Regulations 2020, students (those who have enrolled prior to the commencement of this Regulation) have been given an option to switchover and complete their training requirements under new training structure.

Students under new training structure are required to complete 15 days EDP in classroom mode and another 15 days through online mode. However, the students who have already completed their 15 days Academic program under previous training structure or have been granted exemption therefrom and switching over to new training structure are exempted to undergo 15 days classroom EDP under new training structure.

This is for information of all concerned.

(CS Asish Mohan)
Secretary

To:

1. Regional Directors of Regional offices
2. Director-CCGRT and I/C CoE, Hyderabad
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2. Vice President, The ICSI
3. All Council Members of ICSI
4. All the registered companies and PCS for the purpose of imparting training
5. All students of ICSI undergoing Training

ICSI Academic Collaborations with Universities and Academic Institutions

ICSI “Academic Collaborations with Universities and Academic Institutions” initiative of the Institute is aimed to establish a connect between ICSI and various Universities and institutions of national repute, through a memorandum of understanding (MoU) covering a number of schemes under one umbrella towards learning and development of students, academicians and professionals.

MoUs were signed with the following universities and academic Institutions under the Academic Collaborations with Universities and Academic Institutions initiative of ICSI.

MoU signed in the Month of October, 2020

Sl. No	Name of University	Date of MOU
1	Sri Sri University, Cuttack, Ward No. 3, Godi Sahi, Cuttack, Odisha.	20.10.2020
2	Gandhi Institute of Engineering & Technology University, Gunupur, AT. Gobriguda, PO. Kharling, Dist. Rayagada, Odisha.	20.10.2020
3	National Law University, Kathajodi Campus, SEC - 13, CDA, Cuttack, Odisha.	21.10.2020
4	University Of Technology, Deepshikha College Of Technical Education, Varun Path, Mansarovar Sector-3, Mansarovar, Jaipur, Rajasthan.	1.10.2020
5	GNA University, Sri Hargobindgarh, Phagwara, Hoshiarpur Road, Phagwara, Kapurthala, Punjab	19.10.2020
6	Nehru Gram Bharati (Deemed to be University) KotwaJamunipur, Dubawal, Prayagraj, Uttar Pradesh.	22.10.2020
7	GGSIU University, Dwarka Sector-16C, New Delhi.	23.10.2020
8	CT University, Sidhwan Khurd, Ferozepur Road, Ludhiana, Punjab.	25.10.2020
9	Krantiguru Shyamji Krishna Verma Kachchh University, Mundra Road, Dist, near Changleshwar Mahadev Temple, Bhuj, Gujarat.	7.10.2020
10	Oriental University, Opp. Rewati Range Gate No. 1, Sanwer Road, PO Box No. 311, Vijay Nagar Post Office, Indore, Madhya Pradesh.	16.10.2020
11	Damodaram Sanjivayya National Law University, Vishakhapatnam, Andhra Pradesh.	27.10.2020

Training clearance certificate (TCC) for applying to the associate membership w.e f. 1st November 2020

In order to simplify the process of applying for Associate Membership of the Institute, the students are required to obtain a Training Clearance Certificate (TCC) from the Directorate of Training stating the duration and place of training completion as applicable to them. Hence, the students instead of giving different short term/long term practical

training completion certificates at various point of time, are required to submit a single Training Clearance Certificate (TCC) stating the entire history of training completed by the students.

In order to get the Training Clearance Certificate (TCC), the eligible students are required to upload all their training completion certificate of various trainings undergone by them on Stimulate portal i.e., <http://stimulate.icsi.edu> by using their credentials (user ID and password of <https://smash.icsi.in>). The student can auto generate their training Clearance certificate from the stimulate portal once it is approved from the directorate of Training, ICSI and will submit along with their ACS application.

Extension in the provision of making e MSOP accessible to eligible students by relaxing the criterion of two years time bar up to 31.12.2020.

This is in continuation to our earlier circular no ICSI/Trg/06/2020 dated 19.06.2020

Wherein the students were provided relaxation by easing the eligibility in the provision of e MSOP upto 30th September, 2020.

Keeping in view the current situation in the country due to Covid 19 pandemic, the Institute further extended the same relaxation (upto 31.12.2020), in the eligibility criteria for taking admission in e MSOP by temporarily removing the two years time bar between professional pass and e MSOP registration. Hence, all professional pass students irrespective of their year of passing in professional examination may avail the facility of e MSOP subject to fulfilment of other conditions as mentioned in the guidelines.

Guideline for the CS trainees attending the office during the Period of Unlock-5

This is in continuation to the Institute circular no. ICSI/TRG/2020 dated 30th March 2020 vide which the CS trainees were allowed to work from home during the lock down period and the outbreak of COVID-19 pandemic. The period was treated as continuity of Practical training since the trainees were instructed to work in accordance with the direction of their trainers. Keeping in view the current situation and with reference to the Order (No. 40-3/2020-DM-I(A) of Ministry of Home Affairs (MHA), Government of India dated 30.09.2020, the trainers/employers are now at their discretion to call the trainees to attend their office during the normal working hours or they may allow the trainees to continue to work from home in accordance with the directives issued from the respective State Governments/local administration from time to time. The trainers/employers are advised to adhere to the COVID -19 guidelines issued by the Government during the unlock period in case the trainees are attending the office.

Relaxation to the students from undergoing 15 days Class room EDP out of 30 days EDP as mentioned in Regulation 46BB of CS (Amendment) Regulations 2020, if they have completed 15 days Academic Program under Previous training structure.

The Company Secretaries (Amendment) Regulations 2020, has been made effective from 03rd February 2020 vide Gazette Notification 710/1(M)/1. Under the Company Secretaries (Amendment) Regulations 2020, students (those who have enrolled prior to the commencement of this Regulation) have been given an option to switchover and complete their training requirements under new training structure.

Students under new training structure are required to complete 15 days EDP in classroom mode and another 15 days through online mode. However, the students who have already

completed their 15 days Academic programme under previous training structure or have been granted exemption therefrom and switching over to new training structure are exempted to undergo 15 days classroom EDP under new training structure.

Extension of last date for submitting the training Quarterly Report (2nd and 3rd Quarter) of trainees up to 31.12.2020.

This is in continuation to earlier Circular No. ICSI/TRG/06/2020 dated 19.06.2020 wherein the last date of submitting the 1st and 2nd Quarterly report of the trainees were extended upto 30th September 2020. Keeping in view the current situation in the country due to COVID -19 pandemic, the Institute further extends the last date of submitting the 2nd Quarterly report (April-June) and 3rd Quarterly report (July - September) of the trainees upto 31.12.2020.





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LAUNCHING OF ONLINE LICENTIATE ENROLLMENT



ELIGIBILITY

A student who has:-

- (i) A person who has completed the Final examination or Professional Programme examination of the Institute may, within six months from the date of declaration of results in which he has passed the Final examination or Professional Programme examination can apply for enrolment as a licentiate.
- (ii) An Online application for enrolment as a Licentiate is to be made along with annual subscription of Rs. 1180/- (Rs. 1000/- Licentiate subscription + Rs. 180/- towards GST @18% applicable w.e.f. 1st July, 2017)

VALIDITY OF CERTIFICATE

- (i) A licentiate shall not ordinarily be allowed to renew his enrolment for more than five years after passing the Final examination or Professional Programme examination.
- (ii) The annual subscription of a licentiate shall become due and payable on the first date of April every year
- (iii) Non-payment of annual subscription on or before the thirtieth of June of a year shall disentitle the person to use the descriptive letters Licentiate ICSI &; from 1st July of that year, until his annual subscription for the year is received by the Institute. The name of the person so disentitled shall be published in the Journal

The Institute of Company Secretaries of India launches the online module of Licentiate enrollment as a Licentiate of The Institute of Company Secretaries of India in accordance with Regulation 29 of the Company Secretaries Regulations, 1982.

BENEFITS

Recognition as
'Licentiate ICSI
or entitled to use the
descriptive letters
Licentiate ICSI

Subscription of
Chartered Secretary
Journal

Participate in the activities
of the Institute, its Regional
Council or Chapter as the
case may be, subject to such
conditions as may be imposed
by the Council, Regional Council
or Chapter, as the case may be

Entitled to use
Library facilities
of the Institute,
Regional Council
or Chapter

Procedure to apply shall be available at <http://stimulate.icsi.edu/>

For queries, please write to member@icsi.edu or contact on phone number 0120-4522000

Connect with ICSI

www.icsi.edu



Online Helpdesk : <http://support.icsi.edu>



NEWS FROM REGIONS



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(Under the jurisdiction of Ministry of Corporate Affairs)

EASTERN
INDIA
REGIONAL
COUNCIL

3rd Batch of Online Classes for CSEET (Company Secretary Executive Entrance Test) for January 2021 Exam

Date of Commencement: 7th Dec. 2020
(Classes may end by 8th January, 2021)



- ✓ Experienced Faculty
- ✓ Complete Subject Coverage
- ✓ Tips and Guidance for Exam

Fee: Rs. 2000/-

Mode of Payment: Online Transfer

Name of Account: The Institute of Company Secretaries of India-EIRC
Punjab National Bank, Shakespeare Sarani Branch, Kolkata
SB Account No. 3190000100070126, IFSC: PUNB0319000

Students are required to send the details with Transaction Id at
shashi.bhushanprasad@icsi.edu after payment of fees.

Registered students will be provided the log in ID & password for online
classes separately by email.

For further details, please contact:

Mr. Shashi Bhushan Prasad
ICSI- EIRC HOUSE 3A, Ahiripukur 1st Lane, Kolkata- 700019
Ph: (033) 22902178/22901065/9973142757/7631465769
Email Id: shashi.bhushanprasad@icsi.edu; eiro@icsi.edu

ICSI Vision
"To be a global leader in
promoting good
corporate governance"

ICSI Motto
सत्यं वद। धर्मं चर।
Speak the truth: abide by the law

ICSI Mission
"To develop high calibre
professionals facilitating
good corporate governance"



**THE INSTITUTE OF
Company Secretaries of India**
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

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**Limited Seats Available
Hurry!!!!**

- ✓ Experienced Faculty
- ✓ Complete Subject Coverage
- ✓ Tips and Guidance for Exam
- ✓ Pre-test

EXECUTIVE CLASSES

for June 2021 Exam (Both Module).



**Registration
Open!!!**

Batch starts from 8th Dec, 2020

Fee: Rs.8000/- for any one Module

Rs. 15000/- for both Module

Mode of Payment: Online Transfer

Name of Account: The Institute of Company Secretaries of India-EIRC

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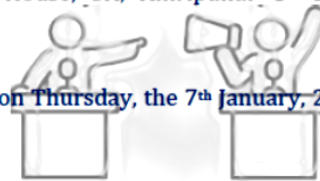
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19th All India Debate Competition-2020

(Regional Round)

The Institute of Company Secretaries of India is organizing the 18th All India Debate Competition for students of the ICSI. The regional round of the competition will be held on Wednesday, 11th December 2020 at ICSI-EIRC House, 3A, Ahiripukur 1st Lane, Kolkata- 700019, through videoconferencing.

The National Level will be held on Thursday, the 7th January, 2021 through online mode will be conducted by NIRC.



The Kolkata round will be held on 11th December, 2020 at ICSI-EIRC House. Two winners of Kolkata round will compete with the winners of The Chapters of EIRC in the Regional Round.

Topics

“Effectiveness of Independent Directors on Corporate Boards”

Eligibility Criteria

- Participation is restricted to the bonafide registered students of the ICSI. Students will be required to carry their Identity Cards of ICSI with them at the competition.
- Practicing Advocates, Chartered Accountants, Cost Accountants are not eligible to participate and the students of ICSI who have cleared all modules of Professional Programme are not eligible to participate.

Registration

Please fill google form for registration: <https://forms.gle/HfE4HqJchLnneKzR7>

For further details or any queries, please contact:

Ms. Rukmani Nag, Sr. Executive Assistant, ICSI-EIRO

Email: rukmani.nag@icsi.edu Ph: (033) 22832973

With Best Wishes

Dr Tapas Kumar Roy
Regional Director (East)



Motto

सत्यं वद। धर्मं चर।

इष्टार्थे त्थे त्थार्थे. अवैदे ह्ये त्थे त्थे.

Vision

“To be a global leader in promoting good corporate governance”

Mission

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Headquarters

ICSI House, 22, Institutional Area, Lodi Road, New Delhi 110 003

tel 011- 4534 1000 fax +91-11-2462 6727 email info@icsi.edu

Connect with ICSI

www.icsi.edu



Grievance Redressal Portal : <http://support.icsi.edu>