



FINAL EXAMINATION
MODEL ANSWERS
PAPER – 13
CORPORATE AND ECONOMIC LAWS

SET - 1
TERM – December 2025
SYLLABUS 2022

Time Allowed: 3 Hours

Full Marks: 100

The figures in the margin on the right side indicate full marks.

SECTION – A (Compulsory)

1. Choose the correct option: [15 x 2 = 30]

Western India Industries Ltd., a public limited company engaged in manufacturing microchips, made substantial profits from 2010 to 2015, declaring high dividends ranging from 500% to 2000%. In 2016, the company issued public equity, raising its share capital from ₹5 crores to ₹15 crores. Post-expansion, the dividend rate was drastically reduced to 20%–50% between 2016 and 2021.

Although a few shareholders have raised concerns during the last 3 AGMs, their views were not supported by the majority. The Chairman clarified that profits were being reinvested into new projects—a fact supported by annual reports.

Answer the question from (i) to (iv) based on the above case study:

- (i) Can minority shareholders object to lower dividend?
- A. Yes, they can force the Board to declare higher dividends
 - B. No, dividends are solely decided by the shareholders in the AGM
 - C. No, only the Board can recommend dividends; shareholders can only approve or lower them
 - D. Yes, if they hold majority voting rights
- (ii) Does this reduction of dividend amount to oppression of minority shareholders?
- A. Always, if the dividend is reduced
 - B. No, reduction of dividend alone does not amount to oppression
 - C. Yes, it is always oppressive if it affects minority profits
 - D. Yes, if it can be proved that minorities are unfairly deprived of genuine benefits
- (iii) 75 shareholders want to file a petition against the management's decision. Is that sufficient? Where should they file it?
- A. Yes, they can file in SEBI
 - B. No, at least 100 shareholders are needed or shareholders holding 10% of issued capital
 - C. Yes, they can file a complaint in Consumer Forum
 - D. No, only directors can file such petitions
- (iv) Do minority shareholders have any forum to raise their grievances in such matters?
- A. Yes, they can approach the Investor Relations Committee or the NCLT
 - B. No, minority shareholders have no legal rights
 - C. Yes, they can raise the issue in Lok Adalat
 - D. No, they can only sell their shares and exit



- (v) **Interim dividend is decided by:**
- A. **Board of Directors**
 - B. **AGM**
 - C. **CMD**
 - D. **Audit Committee**
- (vi) **ABC Ltd. is registered in India with 100% shares being held by KYZ Ltd., a company registered in UK having no business in India. ABC Ltd. is a:**
- A. **An Indian Company**
 - B. **Foreign company**
 - C. **Wholly owned subsidiary of a foreign company but Indian Company**
 - D. **Does not come under definition of foreign company**
- (vii) **The adjudicating authority in case of personal insolvency is: The Insolvency and Bankruptcy Board has power of Court in respect of issue of summons, discovery and production of books, inspection of books/registers and issue of commissions for examination of witnesses:**
- A. **Session Court**
 - B. **High Court**
 - C. **Supreme Court**
 - D. **Civil Court**
- (viii) **At which level corporate governance is more relevant in a company?**
- A. **top level**
 - B. **middle level**
 - C. **lower level**
 - D. **all levels**
- (ix) **CG ratings are done by:**
- A. **Commercial banks**
 - B. **RBI**
 - C. **Credit Rating Agencies**
 - D. **SEBI**
- (x) **Which of the following do not require prospectus**
- A. **Rights issue**
 - B. **Bonus issue**
 - C. **IPO**
 - D. **FPO**



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- (xi) Selling products/services below the cost is called ____.
- A. Undercut pricing
 - B. Under invoicing
 - C. Predatory pricing
 - D. Introductory pricing
- (xii) The Competition Act has replaced
- A. Companies Act, 1956
 - B. Consumer Protection Act
 - C. MRTP Act, 1969
 - D. None
- (xiii) Banking Regulation Act was enacted in the year:
- A. 1940
 - B. 1942
 - C. 1947
 - D. 1949
- (xiv) IRDA was established in the year:
- A. 1999
 - B. 2000
 - C. 2001
 - D. 2002
- (xv) Access someone's computer without the right authorization of the owner and does not disturb, alter, misuse, or damage data or system by using wireless internet connection, is called:
- A. Squatting
 - B. Vandalism
 - C. Hacking
 - D. Trespass

Answer:

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)	(x)	(xi)	(xii)	(xiii)	(xiv)	(xv)
C	D	B	A	A	A	D	A	C	C	C	C	D	A	D



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SECTION – B

(Answer any five questions out of seven questions given. Each question carries 14 Marks.)

[5x14=70]

2. (a) The following is the extract from the Balance Sheet of XYZ Ltd., as on 31-3-2025:

Sl. No.	Particulars	Amount (` in lakhs)
(i)	Authorised capital	100
(ii)	Paid-up Capital	40
(iii)	P & L Account balance	22
(iv)	Share Premium Account	10
(v)	Machinery Revaluation Reserve	11
(vi)	Secured loan taken from a nationalised bank (at 11% rate of interest)	35

The yield of Government security may be taken as under:

Tenure	Yield
1 year	6.5%
2 years	6.7%
3 years	6.9%

ABC Ltd., has approached the company for grant of secured loan for 40 lakhs for a tenure of 40 months. Evaluate, can this loan be granted by the Board of Directors at the interest rate of 6.5%? Critically assess will your answer be different, if the loan is for 45 lakhs? [7]

- (b) Explain the limit with regard to remuneration fixed by the Central Government or the company under Section 200 of the Companies Act, 2013? [7]

Answer:

- (a) **Grant of loan by a public company**

Section 186 of the Act provides Loan and Investment by a Company.

As stated therein, a company will not acquire by way of subscription, purchase or otherwise, the securities of any other body corporate

- exceeding 60% of its paid-up share capital, free reserves and securities premium account and debit or credit balance of profit or loss account or
- 100% of its free reserves and securities premium account, whichever is higher.

However, a company can give loans, guarantees and securities or make investments above the prescribed limit when it is previously authorised by a special resolution passed in a general meeting.



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Loan amount ₹40 lakhs.

In the present case, Limit (a) above is

Particulars	Amount (₹ in lakhs)
Authorised capital	Not relevant
Paid-up capital	40
P&L account balance	22
Share premium account	10
Machinery revaluation reserve	Not to be considered
Secured loan taken from a Nationalised Bank (at 11% rate of interest)	Not relevant
Total	72
Eligible amount 60% of 72	43.2

Limit (b) above is

P&L account balance	22
Share premium account	10
Eligible amount (100%)	32

Higher of the above is 43.2 lakhs. Hence as regards the quantum of loan, ₹40 lakhs can be granted by the Board.

Loan amount ₹45 lakhs

The Company can give loan with approval of Board. Where the giving of any loan or guarantee or providing any security or the acquisition under Sub-Section (2) exceeds the limits specified in that Sub-Section, prior approval by means of a special resolution passed at a general meeting shall be necessary.

Rate of interest

No loan shall be given under this Section at a rate of interest lower than the prevailing yield of one year, three year, five year or ten-year Government Security closest to the tenor of the loan.

The tenor is 40 months and hence 3 years yield has to be taken, i.e. 6.9%

Hence, the loan cannot be granted at 6.5%, it must be minimum 6.9.

- (b) The Central Government or a company may, while according its approval under section 196, to any appointment or to any remuneration under section 197 in respect of cases where the company has inadequate or no profits, fix the remuneration within the limits specified in this Act, at such amount or percentage of profits of the company, considering the following.
- (1) the financial position of the Company
 - (2) the remuneration or commission drawn by the individual concerned in any other capacity.
 - (3) the remuneration or commission drawn by him from any other company.
 - (4) professional qualifications and experience of the individual concerned.
 - (5) any other matters as may be prescribed

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The Central Government or the company shall also have regard to the following matters, namely:

- (1) the Financial and operating performance of the company during the 3 preceding financial years.
- (2) the relationship between remuneration and performance.
- (3) the principle of proportionality of remuneration within the company, ideally by a rating methodology which compares the remuneration of directors to that of other directors on the board and employees or executives of the company.
- (4) whether remuneration policy for directors differs from remuneration policy for other employees and if so, an explanation for the difference.
- (5) the securities held by the director, including options and details of the shares pledged as at the end of the preceding financial year.

3. (a) **Describe the procedural requirements and conditions for issuing a notice of Board Meeting under Section 173(3) of the Companies Act, 2013.** [7]

(b) **In a scheme of reconstruction by a multinational company listed in India, the company wanted the minority shareholders to get out of the company by selling their shares back to the promoters at a price determined by the promoters. The minority shareholders were not given a choice whether they wanted to tender their shares or not. In the meeting, there were six non-promoter shareholders who voted against the scheme, but Chairman declared that the motion was carried with an overwhelming majority of more than 90% shareholding. However, minority shareholders contended that they had a right to reject the offer.**

Critically assess the situation and advice, will minority shareholders succeed? [7]

Answer:

(a) (I) Section 173(3) provides that, every board meeting shall be called by giving at least 7 days' notice in writing to all the directors at their registered address (whether in India or outside India). The notice may be sent by hand delivery or by post or by electronic means.

Meeting of the Board of Directors may be called on a shorter notice (than 7 days) in order to transact an urgent business, subject to the condition that at least one independent director, if any, shall be present at the meeting. If no independent director is present, then the decisions taken at such a meeting shall be circulated to all the directors and shall be final only on ratification thereof by at least one independent director, if any. The fact that meeting is being called at shorter notice, shall be stated in the notice.

(II) The Companies (Meetings of Board and its Powers) Rules, 2014 further provides that

(i) The notice of the meeting shall inform the directors regarding the option available to them to participate through video conferencing mode or other audio visual means, and shall provide all the necessary information to enable the directors to participate through video conferencing mode or other audio visual means.

(ii) On receiving such a notice, a director intending to participate through video conferencing or

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audio visual means shall communicate his intention to the chairperson or the company secretary of the company. He shall give prior intimation to that effect sufficiently in advance so that the company is able to make suitable arrangements in this behalf.

- (iii) If the director does not give any intimation of his intention to participate that he wants to participate through the electronic mode, it shall be assumed that the director shall attend the meeting in person.
- (iv) The director, who desires, to participate may intimate his intention of participation through the electronic mode at the beginning of the calendar year and such declaration shall be valid for one calendar year. In the absence of any such intimation from the director, it shall be assumed that he will attend the meeting in person.
- (v) Notice of the meeting, wherein the facility of participation through Electronic mode is provided, shall clearly mention a venue to be the venue of the meeting and it shall be the place where all the recordings of the proceedings at the meeting would be made.

Otherwise, it shall be assumed that the director shall attend the meeting in person.

(III) The SS-1 (Secretarial Standards on the Meeting of Board) provides that:

- (i) Where director specifies a particular means of delivery of notice, notice shall be given to him by such means only.
- (ii) Notice shall be issued by the Company Secretary or where there is no Company Secretary, by any director or any other person authorized by the Board for the purpose.
- (iii) The notice shall specify the serial number, day, date, time and full address of the venue of the meeting.
- (iv) In case the facility of participation through Electronic Mode is being made available, the notice shall provide the available option of such facility, information to avail such facility, and contact number or e-mail address of the Chairman or Company Secretary or any other authorized person to whom director shall confirm as to whether they will participate through electronic mode in the meeting.
- (v) The Agenda, setting out the business to be transacted at the meeting, and Notes to agenda shall also be sent to all the directors along with Notice of the Board Meeting.
- (vi) Each meeting and item of the business to be taken up in the meeting shall be serially numbered.
- (vii) Proof of sending notice, agenda and notes on agenda and their delivery shall be maintained by the company.
- (viii) Every Meeting shall have a serial number.
- (ix) A meeting may be convened at any time and place, on any day, excluding a National Holiday.

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- (b) In the scheme of reconstruction by a Multinational Company listed in India, the company wanted to acquire the minority shareholders by selling their shares to the promoters at a price determined by the promoters. As per Section 236(1) of the Companies Act, 2013 (the Act), in the event of an acquirer, or a person acting in concert with such acquirer, becoming registered holder of ninety per cent or more of the issued equity share capital of a company, or in the event of any person or group of persons becoming ninety per cent. Majority or holding ninety per cent of the Issued equity share capital of a company, by virtue of an amalgamation, share exchange, conversion of securities or for any other reason, such acquirer, person or group of persons, as the case may be, shall notify the company of their intention to buy the remaining equity shares.

According to Section 236(2) of the Act, the acquirer, person or group of persons, shall offer to the minority shareholders of the company for buying the equity shares held by such shareholders at a determined price on the basis of valuation by a Registered Valuer.

The minority shareholders of the Company may offer to the majority shareholders to purchase the minority equity shareholding of the Company at the determined price as above.

In the given case, the minority shareholders were not given a choice whether they wanted to tender their shares or not. Also, 6 minority shareholders were dissenting from the scheme. Chairman declared that such a scheme was passed by a majority of more than 90% shareholding. Further the price of the shares was determined by the Promoters and not by a Registered Valuer.

Accordingly, in the given instance, the said procedure of acquisition of shares of minority shareholders is not in compliance with the procedure given in Section 236 of the Act.

Further, as per the Section 236(9) of the Act, when a shareholder or the majority equity shareholder fails to acquire full purchase of the shares of the minority equity shareholders, then, the provisions of this section shall continue to apply to the residual minority equity shareholders.

Therefore, as per the above provisions of the Act, minority shareholders will succeed in rejecting the said offer of purchasing minority shareholding in the Company.

4. (a) Explain the required quorum for holding a Board meeting, as per the provisions of the Companies Act, 2013? Examine the following cases in this context:
- In a Board meeting, only 3 directors were present out of the total of 11 directors. None of the 3 directors was interested in any of the items of the agenda. Examine the validity of meeting.
 - In a meeting of the Board, out of the total of 11 directors, 5 directors were present, of which only 2 directors were not interested in one of the transactions. Suggest, how should the meeting deal with the matter? [7]
- (b) United Social Services Ltd is a company formed by 10 professionals with ₹1 lakh paid up capital by each promoter. The company intends to give various services to NGOs and social sector organisations with marginal profit. Though the registered office is in Delhi, the company wants to work on pan India basis.



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Critically assess the following perception of the company and advise the management of the company, in line with the provisions of law.

- (i) The company claims that it is a non-profit company.
- (ii) If not, can it be converted as NPO?
- (iii) What is to be done for conversion?
- (iv) Once converted, would the promoters get dividend out of profit? [7]

Answer:

(a) Quorum for Board meetings

The provisions relating to quorum for a Board meeting are contained in section 174.

Unless the articles provide for a higher quorum, the quorum shall be 1/3rd of the total strength' (any fraction contained in that 1/3rd shall be rounded off to one) or two directors whichever is higher [Section 174(1)].

However, section 174(3) states that where at any time the number of interested directors (present in the Board meeting) exceeds or is equal to 2/3rd of the 'total strength' (any fraction contained in that 2/3rd shall be rounded off as one), the number of disinterested directors present at the meeting, being not less than two, shall be the quorum

- In the instant case, 1/3rd of 11 comes to 3.67; the fraction 0.67 shall be rounded off to 1. Thus, at least 4 disinterested directors must be present in the Board meeting. However, only 3 directors are present in the Board meeting.
Moreover, there is no interested director present in the meeting and so, the benefit of section 174(3) cannot be availed.
Hence, the quorum was not present and so the meeting has not been validly held.
- In the given case, the required quorum comes to 4 directors, 5 were present, so the basic requirement is fulfilled.
During one of the transactions, only 2 directors were not interested. The requirement of section 174(3) is met with.
The quorum requirement is thus fulfilled.

- (b)**
- (i) The perception of the management of United social service is being classified as follows - the company is not a non-profit company as it is for gain that is marginal cost to gain, to qualify as NPO the company needs to be registered under section 8 and obtain separate license from MCA.
 - (ii) Yes, it can be converted into NPO.
 - (iii) In order to convert itself into NPO, it has to take following steps for conversion:
 1. Alter the memorandum by incorporating objects for promotion of art, science, education etc. or any charitable purpose:
 2. Application to MCA GOI has to be made in the form Inc. 12 along with memorandum of articles and association financial statement of last 2 years;
 3. Statement of asset and liabilities which are estimated income plans by practicing advocate of

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the resolution of board meeting;

4. Make a public notice of such proposed consortium with also need to be filled with ROC.
 5. Registrar may require for the information like minutes of the meeting, consider objection of others and after being satisfied, shall issue license to operate as sec 8 company.
- (iv) Once the company is converted into a non-profit organization (Section 8 Company), the promoters or any members cannot receive dividends from profits. Section 8 mandates that the profits are used solely for promoting the company's objects and cannot be distributed to members.

5. (a) Discuss the disqualifications of auditors under Section 141(3) of the Companies Act, 2013. [7]
- (b) Mr. Ajay, an advocate, is in the business of providing professional services like filing of petitions before Tribunals and Courts. Mrs. Sonali, wife of Mr. Ajay, is a registered Insolvency Professional (IP) with the Insolvency Bankruptcy Board of India. Mr. Ajay, in his capacity of an advocate, filed many applications relating to admission of corporate debtors before National Company Law Tribunal (NCLT) and his wife Mrs. Sonali being insolvency professional in her own professional capacity acts as Insolvency Professional in all the cases her husband takes up. Mrs. Sonali within 6 months of becoming Insolvency Professional accepted 8 such assignments. She does not have any prior experience as an Insolvency Professional. While considering one such application for initiation of Corporate Insolvency Resolution Professional (CIRP), NCLT observed that the fees charged by Mrs. Sonali for acting as insolvency resolution professional is exorbitant. Mrs. Sonali contracted with the applicant to not only act as Interim Resolution Professional but also as Resolution Professional in all the 8 assignments that she accepted. With reference to the above-mentioned facts, Analyse the situation and Discuss the answers with reasons of the following questions:
- i) Is Mrs. Sonali right in accepting the assignments when it was her husband who proposed her name?
 - ii) IBBI has issued a show cause notice to Mrs. Sonali based on the adverse remarks made by NCLT. Is IBBI is empowered by the Code to issue a show cause notice even without a complaint made against?
 - iii) Examine the Duties of Mrs. Sonal as an Interim resolution professionals.
 - iv) Discuss the Time-limit for completion of insolvency resolution process. [7]

Answer:

- (a) The following persons shall not be qualified for appointment as auditor of a company:
1. A body corporate other than a limited liability partnership registered under the Limited Liability Partnership Act, 2008.
 2. an officer or employee of the company.
 3. a person who is a partner, or who is in the employment, of an officer or employee of the company.
 4. a person who, or his relative or partner
 - (i) is holding any security of or interest in the company or its subsidiary, or of its holding or



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associate company or a subsidiary of such holding company:

Provided that the relative may hold security or interest in the company of face value not exceeding ₹ 1 Lakh as prescribed under the Company (Audit and Auditors) Rules, 2014.

The Company (Audit and Auditors) Rules, 2014 provides that a relative of an auditor may hold securities in the company of face value not exceeding ₹1 Lakh. Further, the above condition shall, wherever relevant, be also applicable in the case of a company not having share capital or other securities. If the relative acquires any security or interest above the prescribed threshold i.e., ₹1 Lakh, the corrective action to maintain the limits as specified above shall be taken by the auditor within 60 days of such acquisition or interest.

- (ii) is indebted to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of ₹5 Lakhs, or
 - (iii) has given a guarantee or provided any security in connection with the indebtedness of any third person to the company, or its subsidiary, or its holding or associate company or a subsidiary of such holding company, in excess of ₹ 1 Lakh.
5. a person or a firm who, whether directly or indirectly, has business relationship with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company. According to the Companies (Audit and Auditors) Rules, 2014, the term business relationship shall be construed as any transaction entered into for a commercial purpose, except:
- (1) commercial transactions which are in the nature of professional services permitted to be rendered by an auditor or audit firm under the Act and the Chartered Accountants Act, 1949 and the rules or the regulations made under those Acts.
 - (2) commercial transactions which are in the ordinary course of business of the company at arm's length price - like sale of products or services to the auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications, airlines, hospitals, hotels and such other similar businesses.
6. a person whose relative is a director or is in the employment of the company as a director or key managerial personnel.
7. a person who is in full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment holding appointment as auditor of more than 20 companies other than one person companies, dormant companies and private companies having paid-up share capital less than one hundred crore rupees. [MCA vide Notification No. 464(E) dated 05/06/2015]. It may be clarified that now the Limit of 20 Companies includes only:
- Public Companies and
 - Private Companies having paid up capital of ₹100 crores or more.
8. a person who has been convicted by a court of an offence involving fraud and a period of 10 years has not elapsed from the date of such conviction.
9. a person who, directly or indirectly, renders any service referred to in section 144 to the company or its holding company or its subsidiary company.



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- (b) (i) The Code of Conduct requires the IP to maintain complete independence in professional relationships. It is not correct on the part of Mrs. Sonali to accept assignments which will affect her independence.
- (ii) IBBI is empowered by the Code to issue a show cause notice even without a complaint made against IP if it has reasonable grounds to believe IP has contravened any provisions.
- (iii) As per Section 18(1) of Insolvency and Bankruptcy Code, 2016, the interim resolution professional shall-
- (a) collect all information relating to the assets, finances and operations of the corporate debtor including information relating to—
 - (i) business operations for the previous two years
 - (ii) financial and operational payments for the previous two years
 - (iii) list of assets and liabilities as on the initiation date; and
 - (iv) such other matters as may be specified.
 - (b) receive and collate all the claims submitted by creditors to him
 - (c) constitute a committee of creditors.
 - (d) monitor the assets of the corporate debtor and manage its operations until a resolution professional is appointed by the committee of creditors.
 - (e) file information collected with the information utility, if necessary; and
 - (f) take control and custody of any asset over which the corporate debtor has ownership rights as recorded in the balance sheet or with information utility or the depository of securities or any other registry that records the ownership of assets.
 - (g) perform such other duties as may be specified by the Board.
- The personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor shall extend all assistance and cooperation to the interim resolution professional as may be required by him in managing the affairs of the corporate debtor. If they do not cooperate, application can be made by interim resolution professional to the Adjudicating Authority (NCLT) for necessary directions. NCLT will issue suitable orders.
- (iv) The corporate insolvency resolution process shall be completed within a period of 180 days from the date of admission of the application.
- The resolution professional shall file an application to the Adjudicating Authority to extend the period of the corporate insolvency resolution process beyond 180 days, if instructed to do so by a resolution passed at a meeting of the committee of creditors by a vote of 66% of the voting shares. Adjudicating Authority, may by order extend the duration of such process beyond 180 days by such further period as it thinks fit, but not exceeding 90 days.
- Provided that the process be mandatory completed within 330 days including any extension.

6. (a) **Discuss the Objectives and Features of Corporate Governance.** [7]

(b) **Describe the types of Cyber Crime?** [7]



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Answer:

(a) Objectives of CG.

1. Company to justifiably satisfy the stakeholders by balancing conflict of interest amongst the stakeholders;
2. Company adopts transparent, logical and justifiable policies effecting the stakeholders in all areas of management;
3. Ideal composition of the board of directors: to justify independence if decision making; this is now regulated under LODR.
4. Optimum use of resources of the company the resources belong to shareholders and thereafter the employees. Customers, financiers are also effected if the resources available is not properly used.
5. To reduce risks by following risk management through due diligence process.
6. Establishing strong relationship of trust between the company and the stakeholders which enhances the value of the company.

Features of Corporate Governance

1. A proper tool for transparency: disclosing the status of the affairs company at every step to every stakeholder i.e. required to maintain transparency. The concept goes against the theory of suppression of material facts by the company to its stakeholders, may be or may not be, for the benefit of the shareholders only.
2. Prudent and participative management: the management should use its full intelligence and knowledge for the benefit of the stakeholders. Hence, it may be taken that management is prudent and wise in its decision making.
3. Enhancing value of the enterprise: Any company should grow from year to year, if it wants to satisfy its stakeholders. Value may be monetary or reputation, image, goodwill etc. Better governing companies will have better reputation, trust of the stakeholders and there will be enhancement of business, leading to more profit and better enterprise valuation.
4. Accountability: Success and accountability has to go together. Successful companies will make themselves accountable to the stakeholders. There are many combinations of relationships, i.e. with the customer, creditors, shareholders, employees, etc. The company cannot say it is accountable to one stakeholder only. It has to be accountable to all stakeholders.
5. Innovation: Doing something new or doing the same thing in a novel manner is the essence of growth and sustainability of an enterprise. The governance structure should encourage new things in the company for enhancing value of the company.
6. Professionalism and specialization: The basics of professionalism is that the job shall not be compromised at any level and there should not be conflict of interest of the directors and senior managers between his duty and personal gain. It also takes into account the competence of the person doing job having obviously adequate domain knowledge either by academic qualification or track record of experience
7. Stakeholder recognition: All stakeholders should be recognized and respected. The Company should believe that all these stakeholders have contribution in making the company work and grow.



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(b) Cyber crimes can be basically divided into three major categories:

A. **Cyber crimes against persons** like harassment occur in cyberspace or through the use of cyberspace. Harassment can be sexual, racial, religious, or other.

B. **Cyber crimes against property** like computer wreckage (destruction of others' property), transmission of harmful programs, unauthorized trespassing, unauthorized possession of computer information.

C. **Cyber crimes against Government** like Cyber terrorism

A. **Cyber crimes against persons are:**

- **Cyber-Stalking:** It means to create physical threat that creates fear to use the computer technology such as internet, e-mail, phones, text messages, webcam, websites or videos.
- **Obscenity:** It includes Indecent exposure/ Pornography (basically child pornography), hosting of web site containing these prohibited materials.
- **Defamation:** It is an act of imputing any person to lower down the dignity of the person by hacking his mail account and sending some mails with using vulgar language to unknown persons.
- **Hacking:** unauthorized control/access over computer system and act of hacking completely destroys the whole data as well as computer programmes.
- **Cracking:** Cracking means that a stranger has broken into your computer systems without your knowledge and consent and has tampered with precious confidential data and information.
- **Spoofing:** A spoofed e-mail may be said to be one, which misrepresents its origin. It shows its origin to be different from which actually it originates. Spoofing is a blocking through spam which means the unwanted uninvited messages. Wrongdoer steals mobile phone number of any person and sending SMS via internet and receiver gets the SMS from the mobile phone number of the victim.
- **Carding:** It means false ATM cards i.e. Debit and Credit cards used by criminals for their monetary benefits through withdrawing money from the bank account mala-fidely.
- **Fraud:** It means the person who is doing the act of cybercrime i.e. stealing password and data storage has done it with having guilty mind which leads to fraud and cheating.
- **Threat:** refers to threatening a person with fear for their lives or lives of their families through the use of a computer network i.e. E-mail, videos or phones.

B. **Cyber crimes against property**

There are certain offences which affects person or properties which are as follows: Any unlawful act by which the owner is deprived completely or partially of his rights is an offence. The common form of IPR violation may be said to be software piracy, infringement of copyright, trademark, patents, designs and service mark violation etc.

- **Squatting:** It means where two persons claim for the same Domain Name either by claiming that they had registered the name first on by right of using it before the other or using something similar to that previously.

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- **Vandalism:** Vandalism means deliberately destroying or damaging property of another. Thus cyber vandalism means destroying or damaging the data when a network service is stopped or disrupted. It may include within its purview any kind of physical harm done to the computer of any person.
- **Hacking:** Hacktivism attacks those included Famous Twitter, blogging platform by unauthorized access/ control over the computer. Due to the hacking activity there will be loss of data as well as computer.
- **Virus:** Viruses are programs that attach themselves to a computer or a file and then circulate themselves to other files and to other computers on a network. They usually affect the data on a computer, either by altering or deleting it. Worm attacks plays major role in affecting the computerize system of the individuals.
- **Trespass:** It means to access someone's computer without the right authorization of the owner and does not disturb, alter, misuse, or damage data or system by using wireless internet connection.

C. Cyber crimes against Government

There are certain offences done by group of persons intending to threaten the international governments by using internet facilities. It includes:

- **Terrorism:** Cyber terrorism is a major burning issue in the domestic as well as global concern. The common form of these terrorist attacks on the Internet is by distributed denial of service attacks, hate websites and hate e-mails, attacks on sensitive computer networks etc. Cyber terrorism activities endanger the sovereignty and integrity of the nation.
- **Warfare:** It refers to politically motivated hacking to damage and spying. It is a form of information warfare sometimes seen as analogous to conventional warfare although this analogy is controversial for both its accuracy and its political motivation.
- **Piracy:** It means distributing pirated software from one computer to another intending to destroy the data and official records of the government.
- **unauthorized Information:** It is very easy to access any information by the terrorists with the aid of internet and to possess that information for political, religious, social, ideological objectives.
 - (i) Tampering with Computer source documents - Sec.65
 - (ii) Hacking with Computer systems, Data alteration - Sec.66
 - (iii) Publishing obscene information - Sec.67
 - (iv) Un-authorized access to protected system Sec.70
 - (v) Breach of Confidentiality and Privacy - Sec.72
 - (vi) Publishing false digital signature certificates - Sec.73

7. (a) **Explain the obligations of the target company and obligations of the acquirer.** [7]
- (b) **Discuss about the penalty imposable under section 45 of the Indian Competition Act, 2002 for offences in relation to furnishing of information.** [7]



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Answer:

- (a) Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 is commonly called as takeover regulation or takeover code. It applies to direct and indirect acquisition of shares or voting rights in, or control over target company. these regulations shall not apply to direct and indirect acquisition of shares or voting rights in, or control over a company listed without making a public issue, on the Innovators Growth Platform of a recognised stock exchange.

Obligations of the target company

- (i) the board of directors of such target company shall ensure that during the offer period, the business of the target company is conducted in the ordinary course consistent with past practice.
- (ii) the target company shall be prohibited from fixing any record date for a corporate action on or after the third working day prior to the commencement of the tendering period and until the expiry of the tendering period.
- (iii) furnish to the acquirer within two working days from the identified date, a list of shareholders as per the register of members of the target company containing names, addresses, shareholding and folio number, in electronic form, wherever available, and a list of persons whose applications, if any for registration of transfer of shares are pending with the target company.
- (iv) during the offer period:
 - (a) unless the approval of shareholders of the target company by way of a special resolution by postal ballot is obtained, the board of directors of either the target company or any of its subsidiaries shall not —
 - (b) alienate any material assets whether by way of sale, lease, encumbrance or otherwise or enter into any agreement therefor outside the ordinary course of business.

Obligations of the acquirer

The acquirer has the following obligations.

- To ensure that firm financial arrangements have been made for fulfilling the payment obligations under the open offer.
- to ensure able to implement the open offer, subject to any statutory approvals for the open offer that may be necessary.
- acquirer shall not alienate any material assets of the target company or of any of its subsidiaries, whether by way of sale, lease, encumbrance or otherwise outside the ordinary course of business, unless the acquirer the acquirer has not declared an intention in the detailed public statement and the letter of offer. If such intention wasn't declared, then for alienation - special resolution via postal ballot is required and notice must mention the reasons for such alienation.
- the acquirer and persons acting in concert with him shall not sell shares of the target company held by them, during the offer period.
- the acquirer and persons acting in concert with him shall be jointly and severally responsible for fulfillment of applicable obligations under takeover code.

**(b) Penalty for offences in relation to furnishing of information**

Without prejudice to the provisions of section 44, if a person, who furnishes or is required to furnish under this Act any particulars, documents or any information, —

- Makes any statement or furnishes any document which he knows or has reason to believe to be false in any material particular; or
- Omits to state any material fact knowing it to be material; or
- Wilfully alters, suppresses or destroys any document which is required to be furnished as aforesaid, such person shall be punishable with fine which may extend to rupees one crore as may be determined by the Commission.

Then they are liable to a penalty of up to ₹1 lakh for each day during which such failure continues, subject to a maximum of ₹1 crore.

The Commission may, if it is satisfied impose lesser penalty where it is satisfied that any person has made a full and true disclosure in respect of the alleged violations, a lesser penalty.

However, lesser penalty shall not be imposed by the Commission in cases where the report of investigation directed under section 26 of the Indian Competition Act has been received before making of such disclosure. Lesser penalty shall not be imposed by the Commission if the person making the disclosure does not continue to cooperate with the Commission till the completion of the proceedings before the Commission.

8. (a) Discuss the process of Money Laundering and Examine the procedure of Investigation [7]**(b) An asset reconstruction company may, for the purposes of asset reconstruction, provide for any one or more of the measures. Discuss and analyze the measures to be taken for asset reconstruction. [7]**

Answer:

(a) The process of Money Laundering

- Placement:** The Money Launderer introduces the illegal funds into the financial systems. This might be done by breaking up large amount of cash into less conspicuous smaller sums which are deposited directly into Bank Account or by purchasing a series of instruments such as Cheques, Bank Drafts etc., which are then collected and deposited into one or more accounts at another location.
- Layering:** In this stage, the Money Launderer typically engages in a series of continuous conversions or movements of funds, within the financial or banking system by way of numerous accounts, so as to hide their true origin and to distance them from their criminal source. The Money Launderer may use various channel for movement of funds, like a series of Bank Accounts, sometimes spread across the globe, especially in those jurisdictions which do not co-operate in anti Money Laundering investigations.
- Integration:** The Launderer moves to this third stage in which the funds reach the legitimate economy, after getting inseparably mixed with the legitimate money earned through legal sources of income. The Money Launderer may invest the funds into real estate, business ventures & luxury assets, etc. so that he can enjoy the laundered money, without any fear of law enforcement agencies.

**CORPORATE AND ECONOMIC LAWS****Procedure of Investigation**

PMLA empowers certain officers of the Directorate of Enforcement to carry out investigations in cases involving offence of money laundering and also to attach the property involved in money laundering. PMLA envisages setting up of an Adjudicating Authority to exercise jurisdiction, power and authority conferred by it essentially to confirm attachment or order confiscation of attached properties. It also envisages setting up of an Appellate Tribunal to hear appeals against the order of the Adjudicating Authority and the authorities like Director FIU-IND.

PMLA envisages designation of one or more courts of sessions as Special Court or Special Courts to try the offence punishable under PMLA and offences with which the accused may, under the Code of Criminal Procedure 1973, be charged at the same trial.

The Act provides for reciprocal arrangements for processes/assistance with regard to accused persons. In order to enlarge the scope of this Act. The Act provides for bilateral agreements between countries to cooperate with each other and curb the menace of money laundering. These agreements shall be for the purpose of either enforcing the provisions of this Act or for the exchange of information which shall help in the prevention in the commission of an offence under this Act or the corresponding laws in that foreign State.

Special Courts have been set-up in a number of States / UTs by the Central Government to conduct the trial of the offences of money laundering. The authorities under the Act like the Director, Adjudicating Authority and the Appellate Tribunal have been constituted to carry out the proceedings related to attachment and confiscation of any property derived from money laundering.

The Government has constituted the Financial Intelligence Unit, India, in November, 2004, headed by Director in the rank of a Joint Secretary to the Government of India. The organization has become functional and has started receiving Cash Transaction Reports and Suspicious Transactions Reports from the banking companies etc. in terms of Section 12 of the PMLA.

Powers of investigation and prosecution for offences under the Act have been conferred on the Director, Enforcement Directorate.

In addition, the Adjudicating Authority in terms of section 6 of the Act and the Appellate Tribunal under section 25 of the Act have also been constituted and have become functional.

(b) Measures for assets reconstruction (Section 9 of SARFAESI Act, 2002)

An asset reconstruction company may for the purposes of asset reconstruction, provide for any one or more of the following measures, namely

- i. the proper management of the business of the borrower, by change in or takeover of, the management of the business of the borrower,
- ii. the sale or lease of a part or whole of the business of the borrower,
- iii. rescheduling of payment of debts payable by the borrower,



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- iv. Enforcement of security interest in accordance with the provisions of this Act.
- v. settlement of dues payable by the borrower,
- vi. taking possession of secured assets in accordance with the provisions of this Act,
- vii. Conversion of any portion of debt into shares of a borrower company Provided that conversion of any part of debt into shares of a borrower company shall be deemed always to have been valid, as if the provisions of this clause were in force at all material times.

The Reserve bank for this purpose shall determine the policy and issue necessary directions including the directions for regulation of management of the business of the borrower and fees to be charged. The asset reconstruction company shall take measures as per the directions of RBI.