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ANSWER TO 350+ PAST ICSI QUESTIONS

CS Vikas Vohra *Corporate BaBa*

TEAM YES



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: Capital Market & Securities Laws
PROFESSIONAL : Drafting, Pleadings & Appearances



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: Corporate Accounting & Financial Management



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: Jurisprudence, Interpretation & General Laws
: Economic, Commercial & Intellectual Property Laws
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ADV. AMRUTA CHHAJED

LAW COURSE DIRECTOR



ADV. VISHISHTA NAYAK

CSEET : Current Affairs
: Economics
LAW ENTRANCE : Current Affairs
: General Knowledge

CHAPTER 1- BASICS OF CAPITAL MARKETS

Q) Differentiate between Primary Market and Secondary Market. (2 marks)

Answer-

Sr. No.	PRIMARY MARKET	SECONDARY MARKET
(i)	Where the securities are offered for the first time to the investors, it is termed as primary market.	Where the existing securities already issued exchange hands, it is termed as secondary market.
(ii)	Primary markets serve as a fund raising activity for the issuer companies.	The participants include the investors i.e., the Company has no role to play in such market.
(iii)	Ex- IPO, FPO, ESOP	Ex – Stock Exchange Trading.

Q) The financial markets have 2 major components – money market and capital market. Discuss. (4 marks)

Answer-

- Money market refers to the market where short-term funds are borrowed and exchange to solve their liquidity needs MM is regulated by RBI and Ministry of Finance. The tenure of instruments of MM is 1 year. These instruments usually have
 - and high marketability.
- Capital Market– The market from where the companies arrange long term funds for carrying on business activities is known as Capital Market. It is wider than securities market and includes all forms of lending and borrowing capital market comprises of securities market and debt market.
- In securities market funds are arranged by issuing different kinds of securities such as shares debentures, bonds etc.
- In debt market funds are arranged by taking long term and other forms of borrowings.

Q) List out the regulations as are applicable to an issuer company in the capital markets. (2 marks)

Answer-

1. SEBI Act, 1992
2. Securities Contracts (Regulation) Act, 1956
3. Depositories Act, 1996
4. Companies Act, 2013

Q) Explain the following:

a. Categories of AIF

b. Foreign Portfolio Investor. (3 marks)

Answer-

a. Categories of AIF

- Category 1: Funds that invest in startups or social ventures or small medium enterprises(SMEs) or other sectors which the government is considered as socially or economically desirable.

Example: VCF, INFRA FUNDS.

- Category 2: funds that do not fall in category 1 and 3 AIF and those that do not undertake borrowing.

Example: PVT EQUITY FUNDS.

- Category 3: Funds that employ complex trading strategies & may employ leverage through investment in listed and unlisted derivatives.

Example: HEDGE FUNDS.

b. Foreign portfolio investor:

1. FPI means a person who satisfies the eligibility criteria and has been registered under FPI regulations, which shall be deemed to be an intermediary.

2. This class has been formed by merging the existing classes of investors such as FIIs & QIBs.

Q) Write a short note on QIBs (3 marks)

Answer- Qualified Institutional Buyers (QIBs) shall mean the following:

- a) Public Financial Institutions;
- b) Scheduled Commercial Banks;
- c) Mutual Funds;
- d) Foreign Institutional Investors;
- e) Multilateral and Bilateral Development Financial Institutions;
- f) State Industrial Development Financial Institutions;
- g) Insurance Companies;
- h) Provident Funds with minimum corpus of Rs 25 Crores;
- i) Pension Funds with minimum corpus of Rs 25 Crores; and

- j) National Investment Fund;
- k) Insurance Funds set up and managed by Army, Navy and Air Force; and
- l) Insurance Funds set up and managed by Department of Posts.

Q) Define Alternative Investment Fund (AIF). Name the entities which are not to be considered as AIF. (5 marks)

Answer-

Alternative Investment Funds (AIFs) refers to any privately pooled investment fund, which is defined in the SEBI (Alternative Investment Funds) Regulations, 2012. It means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which,

(i) is a privately pooled investment vehicle which collects funds from investors, whether Indian or foreign, for investing it in accordance with a defined investment policy for the benefit of its investors; and

(ii) is not covered under the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996, Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 or any other regulations of the Board to regulate fund management activities.

The following shall not be considered as an Alternative Investment Fund for the purpose of SEBI (Alternative Investment Funds) Regulations, 2012; -

- i. Family trusts set up for the benefit of relatives as defined under Companies Act, 2013.
- ii. ESOP Trusts set up.
- iii. Employee welfare trusts or gratuity trusts set up for the benefit of employees.
- iv. Holding companies.
- v. Other special purpose vehicles not established by fund managers, including securitization trusts, regulated under a specific regulatory framework.

vi. Funds managed by securitization company or reconstruction company which is registered with the Reserve Bank of India.

vii. Any such pool of funds which is directly regulated by any other regulator in India.

Q) Write short notes on the following:

(a) Private Equity

(b) Book Closure and Record Date

(c) Bankers to an issue

(d) Venture capital

(e) Pension Fund. (3 marks)

Answer-

(a) Private Equity:

- Private equity is a type of equity financing.

- Private equity is essentially a way to invest in some assets that aren't publicly traded, or to invest in a publicly traded asset with the intention of taking it private.
- Unlike stocks, mutual funds, and bonds, private equity funds usually invest in more illiquid assets, i.e. companies. By purchasing companies, the firms gain access to those assets and revenue sources of the company, which can lead to very high returns on investments.
- Another feature of private equity transactions is their extensive use of debt in the form of high-yield bonds. By using debt to finance acquisitions, private equity firms can substantially increase their financial returns.
- The major of private equity consists of institutional investors and accredited investors who can commit large sums of money for long periods of time. Generally, the private equity fund raise money from investors like Angel investors, Institutions with diversified investment portfolio like – pension funds, insurance companies, banks, funds of funds etc.

(b) Book Closure and Record Date

- Book closure is the periodic closure of the Register of Members and Transfer Books of the company, to take a record of the shareholders to determine their entitlement to dividends or to bonus or right shares or any other rights pertaining to shares.
- Record date is the date on which the records of a company are closed for the purpose of determining the stock holders to whom dividends, proxy's rights etc. are to be sent.
- In accordance with Section 91 of the Companies Act, 2013 a company may close the register of members for a maximum of 45 days in a year and for not more than 30 days at any one time.
- Book closure/record date is necessary for the purpose of paying dividend, rights issue, bonus issue, etc. for the companies whose securities are listed on the Exchange are required to comply with the SEBI (LODR) Regulation 2015. As per SEBI (LODR) Regulation 2015 the companies are required to give 7 working days advance notice of book closure or record date to stock exchange where the securities of the companies are listed.

(c) Bankers to an issue

1. Banker to an Issue means a scheduled bank carrying on all or any of the following activities:

(i) Acceptance of application and application monies;

(ii) Acceptance of allotment or call monies;

(iii) Refund of application monies;

(iv) Payment of dividend or interest warrants.

2. Bankers to the issue, carries out all the activities of ensuring that the funds are collected and transferred to the Escrow accounts. While one or more banks may function as Bankers to the Issue as well as collection banks, others may do the limited work of collecting the applications for securities along with the remittance in their numerous branches in different centers.

(d) Venture capital

1. Venture Capital is one of the innovative financing resource for a company in which the promoter has to give up some level of ownership and control of business in exchange for capital for a limited period, say, 3-5 years.
2. Venture Capital is generally equity investments made by Venture Capital funds, at an early stage in privately held companies, having potential to provide a high rate of return on their investments. It is a resource for supporting innovation, knowledge based ideas and technology and human capital intensive enterprises.
3. Essentially, a venture capital company is a group of investors who pool investments focused within certain parameters. The participants in venture capital firms can be institutional investors like pension funds, insurance companies, foundations, corporations or individuals but these are high risk investments which may give high returns or high loss.

(e) Pension Fund

1. Pension Fund means a fund established by an employer to facilitate and organize the investment of employees retirement funds which is contributed by the employer and employees.
2. The pension fund is a common asset pool meant to generate stable growth over the long term, and provide pensions for employees when they reach the end of their working years and commence retirement.
3. Pension funds are commonly run by some sort of financial intermediary for the company and its employees like N.P.S. scheme is managed by UTIAMC (Retirement Solutions), although some larger corporations operate their pension funds in- house. Pension funds control relatively large amounts of capital and represent the largest institutional investors in many nations.

Q) Write short notes on the following:

(a) Benefits of REITs

(b) Steps to calculate SENSEX

(c) Types of Private Equity

(d) Atal Pension Yojana

(e) Accredited Investor and Large Value Accredited Investor (3 marks each)

Answer-

(a) Benefits of REITs include:

1. **Less Capital Intensive:** Direct investment in real estate property is very capital intensive. But each share of REITs will be comparatively more affordable.
2. **Suitable for small Investors:** Investing through REITs will eliminate dealing with builders, thereby avoiding potential exposure to big builders.
3. **Transparency:** REITs stocks are listed in stock market; hence details will be available on public domain.

4. Assured Dividends: REITs generates income in form of dividend. REITs dividend payment is relatively assured as most of their income is in the form of rental (lease) income.

5. Tax Free: Dividend earned by the investors of REIT will be tax free.

6. Easy to buy: Investment in REITS easier than investment in Real Estate properties.

(b) Steps to calculate Sensex

- The market capitalization is taken into account. This is done by multiplying all the shares issued by the company with the price of its stock.
- BSE determines a Free-Float factor that is a multiple of the market capitalization of the company. This helps in determining the Free-Float market capitalization based on the details submitted by the company.
- Ratio and Proportion are used based on the base index of 100. This helps to determine the Sensex.

(c) Types of Private Equity

Private equity investments can be divided into the following categories:

1. Leveraged Buyout (LBO): This is a type of equity financing in which majority stakes is bought generally with the help of debt. Investment is made in mature companies.
2. Venture Capital: It is a broad sub-category of private equity that refers to equity investments made, typically in less mature companies, for the launch, early development, or expansion of a business.
3. Growth Capital: This refers to equity investments, mostly minority investments, in the companies that are looking for capital to expand or restructure operations, enter new markets or finance a major acquisition without a change of control of the business.

b) Atal Pension Yojana (APY)

APY is a scheme formulated for the benefit of workers engaged in unorganized sector. The scheme helps workers from unorganized sector to save their money and secure their old age. The scheme promises a guaranteed minimum pension of up to 5000.ppm to its subscribers. The scheme was introduced in the budget of 2015-2016. It is formulated and administered by Pension Fund Regulatory and Development Authority

(e) Accredited Investor & Large Value Accredited Investor

As per SEBI (Portfolio Managers) Regulations, 2020, “Accredited Investor” means any person who fulfils the eligibility criteria as specified by the SEBI and is granted a certificate of accreditation by an accreditation agency.

“Large value accredited investor” means an accredited investor who has entered into an agreement with the portfolio manager for a minimum investment amount of ten crore rupees.

Q) Write short notes on the following :

1. Angel Fund

2. Municipal Bonds

Answer-

1. Angel fund: angel fund is a sub category of venture capital. Angel investments are the earliest equity investments made in start up companies. Angel fund is a money pool

created by high-net-worth individuals or companies (generally called angel investors), for investing in business start-ups. Angel funds can raise funds only by issuing units to angel investors which should have a corpus of at least a hundred million rupees.

2. **Municipal Bonds:** municipal bonds are also referred as muni bonds. Municipal bonds are usually issued by urban local govt and agencies. These are issued when a govt body wants to raise funds for projects. Municipal bonds (munis) are debt securities issued by state and local governments. Interest paid on municipal bonds is often tax free, making them an attractive investment option for individuals in high tax brackets.

Q) Both FCEB's & FCCB's are convertible into equity shares. Since both are convertible into equity shares. You are required to highlight the advantages of FCEB's over FCCB's (4 marks)

Answer- FCEB's differ from FCCB's in the following ways:

FCCB	FCEB
FCCBs are optionally convertible.	FCEBs are compulsorily convertible.
FCCBs may either be converted or redeemed at the end of the tenure.	They are compulsorily converted into equities of some other company.
It involves only one company i.e., the issuer company.	It involves two companies i.e. issuing company & offering company.
FCCBs if not converted, does not attract FDI limits.	FCEBs at the time of issue requires adherence to FDI limits.

CHAPTER 2 - SECONDARY MARKET IN INDIA

Q) What do you mean by FED policy? Briefly state how change in US fed rate can impact India? (4 marks)

Answer-

- The federal reserve system is the central bank of US. It performs five general functions to promote the effective operation of US. Economy and more of the public interest.
- The fed funds rate is the interest at which the top US banks borrow overnight money from common reserves.
- Fed fund rate gives the direction in which US interest rates should be heading at any given point of time. If the fed is increasing the interest rates, lending rates for companies and retail borrowers will go up and vice versa.

Q) What is Inflation rate? How to calculate it? M bought his morning coffee for Rs. 12 in 2019, but now he is paying Rs. 16 in 2023. Calculate the inflation rate.(5 marks)

Answer-

- Inflation is the rate of increase in prices over a given period of time. Inflation is typically a broad measure, such as the overall increase in prices or the increase in the cost of living in a country.
- Subtract the past date CPI from the current date CPI and divide your answer by the past date CPI. Multiply the results by 100.
- Inflation rate = $\frac{(16-12)}{12} \times 100 = \frac{4}{12} \times 100$
 $= \frac{1}{3} \times 100 = 33\%$.
- Therefore, inflation for 4 years is 33%.and thus inflation for 1 year is $\frac{33}{4} = 8.25\%$.

Q) Write short notes on the following:

- a. Key difference between WPI & CPI**
- b. Basis of SENSEX**
- c. Bulk Deal. (3 marks each)**

Answer-

a. Key difference Between WPI and CPI

- WPI is based on wholesale prices for primary articles, administered prices for fuel items and ex-factory prices for manufactured products whereas CPI is based on retail prices, which include all distribution costs and taxes.
- Prices for WPI are calculated on voluntary basis while price data for CPI are collected by investigators by visiting markets.
- WPI covers all goods while CPI covers only consumer goods & services.
- Primary use of WPI is to have inflationary trend in the economy as a whole. However, CPI is used for adjusting income & expenditures & change in cost in living.

b. Basis of sensex:

- Sensitive index or Sensex is the stock market index indicator for BSE. It was first published in 1986 and is based on the market weighed stock index of 30 companies based on financial performance. The large, established companies that represent various industrial sectors are part of this.
- The calculation of Sensex is done by a free- float method that came into existence from 1 sept, 2003.
- The free float method takes into account the proportion of the shares that can be readily traded in the market. This does not include the ones held by various shareholders & promoters or other locked in shares not available in the market.

Steps to calculate sensex:

- The market capitalization is taken into account. This is done by multiplying all the shares issued by the company with the price of its stock.

- BSE determines a free float factor that is a multiple of the market capitalization of the company. This helps in determining the free float market capitalization based on the details submitted by the company.

- Ratio and proportion are used based on the base index of 100. This helps to determine Sensex

c. **Bulk deal:**

- i. Bulk deal is a trade, where total quantity bought or sold is more than 0.5% of the no. of equity shares of listed company.
- ii. Bulk deal can be transacted by the normal trading window provided by brokers throughout the trading hours in a day.
- iii. The stock broker who facilitates the trades is required to reveal to the stock exchange about the bulk deals on a daily basis.
- iv. Bulk orders are visible to everyone. If the bulk deal happens through a single trade, it should be notified to the exchange immediately upon the execution of the order. If it happens

through multiple trades, it should be notified to the exchange within 1 hour from the closure of trading.

Q) What is meant by Block deal? How is it being executed in the Stock Exchange? (4 marks)

Answer- Block Deal mechanism is a separate window, provided for High value transaction.

Session Timings:

- c) Morning Block Deal Window: This window shall operate between 08:45 AM to 09:00 AM.
- d) Afternoon Block Deal Window: This window shall operate between 02:05 PM to 2:20 PM.
- In the block deal the minimum order size for execution of trades in the Block deal window shall be Rs.10 Crores.

- The orders placed shall be within $\pm 1\%$ of the applicable reference price in the respective windows as stated above.
- The stock exchanges disseminate the information on block deals such as the name of the scrip, name of the client, quantity of shares bought/sold, traded price, etc. to the general public on the same day, after the market hours.

Q) Differentiate between futures and options? (4 marks)

Answer

Future

Future is a contract which is exercisable at a future date wherein the price date and the quantity is predecided. It puts an obligation on both the parties to perform such contract, and the risk is shared by both the parties.

There are mainly two positions in future contract, long position which is buy and short position which is sell.

Options

Options is a contract which gives the right to the option holder to exercise the contract at a future date. It is not obligatory to perform such option contract, the option holder reserve the right to either perform or default, the option writer is bound by the decision of options holder, the option writer receives premium for such additional risk taken by him.

There are mainly two types of option one being call option i.e right to buy and the other put option which is right to sell.

Q) Explain the following:

- a. Option Contract**
- b. Futures**
- c. Global depository receipts (4 marks)**

Answer-

a. Option contract

1. An options contract is an agreement between two parties to facilitate a transaction involving an asset at a present price and date.
2. Buying an option offers the right, but not the obligation to purchase or sell the underlying asset.
3. Options contracts are an important tool which gives traders the opportunity to hedge their stock positions.

b. Futures

1. Futures are financial contracts that obligate the parties to transact an asset at a predetermined future date & price regardless of the current market price.
2. A futures contract allows an investor to speculate on the direction of a security, commodity, or a financial instrument.
3. Futures are used to hedge the price movement of the underlying asset to help prevent losses from unfavorable price movements.

c. Global Depository Receipt:

1. GDR is a negotiable instrument created by Overseas Depository & issued to foreign investors on behalf of the Issuer Company.

2. They entitle the shareholders to all associated dividends and gains and can be bought and sold like any other securities.

GDRs enable the issuer company to access foreign capital markets and increase the shareholder base of the company.

Q) Tarun purchases the following European Call options of TCS. He also purchases the following European put option of ACC. What decision he would take on expiry if TCS closes at ` 835 and ACC closes at ` 565, spot prices? Ignore premium paid.

(i) TCS 830 Call

(ii) ACC 510 Put

(iii) TCS 840 Call

(iv) ACC 520 Put. (5 marks)**Answer-**

Tarun has purchased European option. Therefore, he can exercise them only on expiration date.

(i) He would exercise a call option only if the stock price ($S=835$) is greater than the strike price (X). Call option are right to buy the underlying. Therefore, he would exercise TCS 830 call ($835 > 830$). By doing this he makes a gain of Rs.5.

(ii) He would exercise a put option only if the stock price ($S=565$) is less than the strike price (X). Put options are right to sell the underlying. Therefore, he would not exercise ACC 510 Put ($565 > 510$). This is because he can sell stocks at a higher rate of Rs.565 in the market rather than exercising the put at lower rate.

(iii) He would not exercise TCS 840 call (835<840). This is because he can buy stocks cheaper at Rs.835 in the market rather than exercising at Rs.840.

(iv) He would exercise a put option only if the stock price ($S=565$) is less than the strike price (X). Put options are right to sell the underlying. Therefore, he would not exercise ACC 520 Put (since $565>520$). This is because he can sell stocks at a higher rate of Rs.565 in the market rather than exercising the put at lower rate.

Q) Write short notes on the following :

1.Currency Derivatives

Answer-

Currency derivatives: these are the financial contracts between the buyer and seller involving the exchange of two currencies at a future date and at a stipulated rate. The major

participants of the currency derivative trading in India are banks, corporations, exporters and importers.

Q) Explain various investment strategies under derivatives trading. (3 marks)

Answer-

Investment Strategies

Straddle: Combination of one put and two call option is known as straddle. Here, the investor is insured against any movement on either side and has opportunity to gain from upward move and down move.

Strap: Combination of one put and two call option is known as strap. Here, the investor is confident that scrip price will change, but it is more likely to go up.

Strip: Combination of two puts and one call option is known as strip. Here, the investor is confident that scrip price will change, but it is more likely to go down.

CHAPTER 3 - SECURITIES CONTRACTS (REGULATION) ACT, 1956

Q) What are the provisions for continuous listing requirement under Securities Contracts (Regulation) Rules, 1957? List any six methods for achieving minimum public shareholding by a listed company. (4 marks)

Answer- Minimum Public shareholding is the part of total shareholding that has to be vested with the public, the concept of Minimum public shareholding was introduced to increase public participation.

Following is the minimum public shareholding that has to be maintained according to the post issue paid-up-capital

Post issue paid-up-capital	Minimum Public shareholding as a percentage of total
Up to 1600 crores	25%
More than 1600 to 4000 crores	400 crores
More than 4000 crores up to 1 lakh crores	10% (to be increased till 25% by end of 3 years)
More than 1 lakh crores	5% (To be increased till 10 % by the end of 2 years and up to 25% within next 3 years)

Methods for achieving minimum public shareholding are as follows:

- i. Issuance of shares to public through prospectus;
- ii. Offer for sale of shares held by promoters to public through prospectus;
- iii. Sale of shares held by promoters through the secondary market.

- iv. Institutional Placement Programme (IPP).
- v. Rights Issue to public shareholders,
- vi. Bonus Issues to public shareholders,
- vii. Allotment of eligible securities under Qualified Institutions Placement.
- viii. Any other method as may be approved by the Board on a case-to-case basis.

Q) Briefly explain the provisions related to continuous listing requirements as enshrined under SCRA. (3 marks)

Answer-

Rule 19A (1) stipulates that every listed company other than public sector company shall maintain public shareholding of at least 25%. However, any listed company which has public shareholding below 25% on the commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2018, shall increase its public shareholding to at

least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by the SEBI.

For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of clause (b) of sub-rule (2) of rule 19, shall maintain minimum 25% public shareholding from the date on which the public shareholding in the company reaches the level of 25% in terms of said sub-clause.

Sub-rule (2) provides that where the public shareholding in a listed company falls below 25 % at any time, such company shall bring the public shareholding to 25% within a maximum period of twelve months from the date of such fall in the manner specified by the SEBI.

However every listed public sector company whose public shareholding falls below twenty five per-cent. at any time after the commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2018, shall increase its public shareholding to at least twenty five per-cent, within a period of two years from such fall, in the manner specified by the SEBI.

Where the public shareholding in a listed company falls below 25% in consequence to SCRR (Amendment) Rules, 2015, such company shall increase its shareholding to atleast 25%, in the manner specified by the SEBI within a period of three years, as the case may be, from the date of notification of:

- (a) the Depository Receipts Scheme, 2014;
- (b) the SEBI (Share Based Employee Benefits) Regulations, 2014.

Sub rule (5) provides that where the public shareholding in a listed company falls below twenty-five per cent, as a result of implementation of the resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016, such company shall bring the public shareholding to twenty-five per cent within a maximum period of three years from the date of such fall, in the manner specified by the Securities and Exchange Board of India.

However, if the public shareholding falls below ten per cent, the same shall be increased to at least ten per cent, within a maximum period of 12 months from the date of such fall, in the manner specified by the Securities and Exchange Board of India. It is further provided that every listed company shall maintain public shareholding of at least five per cent as a result of implementation of the resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016.

CHAPTER 4 - SEBI

Q) The securities market has two inter-dependent and inseparable segments – Comment. (4 marks)

Answer-

- 1) Securities market is a sub component of capital market. It deals with 2 specific categories i.e., primary market and secondary market.
- 2) Primary market is a market where issue of sec. takes place for the first time. Example: A company coming up with IPO or rights issues.
- 3) Secondary market is a market where exchange listed securities are bought and sold at stock exchange.
- 4) Though both the markets are separate from each other, but they , interdependent in a way, that only those securities which are issued in the primary market are available for

trading in secondary market. Thus, it can be stated that securities market has 2 inter-dependent and inseparable segments.

Q) What are the functions of SEBI in the capital markets? (5 marks)

Answer-

The functions include the following:

- (i) Regulating the business in Stock Exchanges;
- (ii) Registration and regulating the work of various intermediaries such as Brokers, Sub-brokers, Registrar and Share Transfer Agents, Merchant Bankers, Underwriters, Portfolio Managers, etc.;
- (iii) Registration and regulating the work of Depositories and Depositories Participants;
- (iv) Registration and regulating the work of Foreign Institutional Investors, Credit Rating Agencies, etc.

- (v) Registration and regulating the work of Venture Capital Funds, Mutual Funds, Collective Investment Schemes;
- (vi) Promoting Investor's Education.
- (vii) Prohibiting insider trading in securities;
- (viii) Prohibiting fraudulent practices and unfair trading practices;
- (ix) Regulating substantial acquisition of shares and takeover of companies;
- (x) Undertaking inspection, conduction inquiries and audits of the Stock Exchanges, Mutual Funds and other persons associated with the securities market.

Q) The financial markets have 2 major components – money market and capital market. Discuss. (4 marks)

Answer-

- Money market refers to the market where short-term funds are borrowed and exchange to solve their liquidity needs MM is regulated by RBI and Ministry of Finance. The tenure of instruments of MM is 1 year. These instruments usually have
- and high marketability.
 - Capital Market– The market from where the companies arrange long term funds for carrying on business activities is known as Capital Market. It is wider than securities market and includes all forms of lending and borrowing capital market comprises of securities market and debt market.
 - In securities market funds are arranged by issuing different kinds of securities such as shares debentures, bonds etc.
 - In debt market funds are arranged by taking long term and other forms of borrowings.

Q) List out the regulations as are applicable to an issuer company in the capital markets. (2 marks)

Answer-

5. SEBI Act, 1992
6. Securities Contracts (Regulation) Act, 1956
7. Depositories Act, 1996
8. Companies Act, 2013

Q) Write a short note on SAT. (5 marks)**Answer-**

SAT shall comprise of the following :

- a) One Presiding Officer; and
- b) Two or more Judicial or Technical Members as he may deem fit. However, every Bench constituted shall include at least one Judicial Member and one Technical Member.

The Presiding Officer and the Members shall be appointed by the Central Government.

Presiding Officer

The Presiding Officer of SAT shall be appointed by the Central Govt. in consultation with the Chief Justice of India.

The person to be appointed as the Presiding Officer must be a sitting or retired Judge of the Supreme Court or a sitting or a retired Chief Justice of a High Court or a Judge of High Court for at least seven years. It may be noted that a person who is a Member of SEBI or holding a position equivalent to Executive Director in SEBI shall not be appointed as Presiding Officer of SAT during his tenure with the SEBI as well as within two years from the date on which he ceases to hold office.

The Presiding Officer shall hold his office for a period of five years or up to the age of 70 years, whichever is earlier.

Members

Judicial member is, or has been, a Judge of High Court for at least five years, in the case of a Judicial Member; or

The Presiding Officer and Judicial Members of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.

The Technical Members of the Securities Appellate Tribunal shall be appointed by the Central Government on the recommendation of a Search-cum-Selection Committee.

Technical Member

- (i) is, or has been, a Secretary or an Additional Secretary in the Ministry or Department of the Central Government or any equivalent post in the Central Government or a State Government; or
- (ii) is a person of proven ability, integrity and standing having special knowledge and professional experience, of not less than fifteen years, in financial sector including securities market or pension funds or commodity derivatives or insurance.

A person shall not be qualified for appointment as Member of SAT, unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems

relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy.

It may be noted that a person who is a Member of SEBI or holding a position equivalent to Executive Director in SEBI shall not be appointed as Member of SAT during his tenure with the SEBI as well as within two years from the date on which he ceases to hold office.

The Members shall hold their office for a period of five years or up to the age of 70 years, whichever is earlier.

Q) Shakti is aggrieved by the order of the Securities Appellate Tribunal [SAT] and intend to appeal before appropriate authority / court. Briefly explain the procedure and time limit for filing of appeal. (4 marks)

Answer-

- SAT was made for the purpose of making appeals against the orders of SEBI.

- Any person who is aggrieved by the order of SAT can file an appeal to the Supreme Court. Also the appeal can only be made on the questions of law.
- So Shakti can file an appeal before the supreme court only on question of law
- The time limit for filing the appeal is 60 days from the date of receiving a copy of the order of SAT
- Supreme court also has the power to further allow a period of 60 days for making an appeal only if the supreme court is satisfied with the reason.

Q) Short notes on powers of SAT. (4 marks)

Answer-

Powers of SAT

The SAT shall have the same powers as are given to a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:

- (i) Summoning and enforcing the attendance of any person and examining him on oath;

- (ii) Requiring the discovery and production of documents;
- (iii) Receiving evidence on affidavits;
- (iv) Issuing commissions of the examination of witnesses or documents;
- (v) Reviewing its own decisions;
- (vi) Dismissing an application for default or deciding it ex parte;
- (vii) Setting aside any order of dismissal of any application for default or any order passed by it ex parte;
- (viii) Any other matter which may be prescribed.

Q) SEBI has been given necessary autonomy and authority to regulate and develop an orderly market. Elucidate the statement in the light of statutory powers vested with SEBI.

Answer-

Statutory powers vested with SEBI are as follows:

- i. Regulating the business of stock exchanges and any other securities market.
- ii. Registering and regulating the working of intermediaries.
- iii. Registering and regulating the working of venture capital funds, CIS, MF.
- iv. Powers to impose monetary penalties on capital market intermediaries and other participants.
- v. Prohibiting fraudulent and unfair trade practices.
- vi. Prohibiting insider trading in securities.
- vii. Calling for information, undertaking inspection, conducting enquires and audit of stock exchanges, mutual funds, and other persons associated with securities market.

Q) “The Securities Appellate Tribunals shall have, for the purposes of discharging their functions under Securities and Exchange Board of India Act, 1992. The same power as

are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit”.

(5 marks)

Answer-

Powers with SAT are

- Summoning the attendance of any person and examining him on oath.
- Requiring the discovery and production of documents.
- Receiving evidence on affidavits.
- Issuing commissions for the examination of documents or witnesses.
- Reviewing its own decision.
- Dismissing an application for default or deciding it ex-parte.
- Setting aside any order of dismissal of any application on default or order passed by it ex parte.
- Any other matter as may be prescribed.

Q) Hon'ble Justice A, a retired Chief Justice of a High Court, attained the age 62 years on December 31, 2017. The Central Government had appointed him as the Presiding Officer of the Securities Appellate Tribunal (SAT) with effect from January 1, 2018. You are required to state with reference to SEBI Act, 1992, (a) the term for which he may be appointed as Presiding Officer of the SAT (b) Whether he can be re-appointed as such and remains as Presiding Officer of the Securities Appellate Tribunal? (5 marks)

Answer-

- i) The Presiding Officer and every other member of Securities Appellate Tribunal shall hold office for a term of five years from the date he enters upon his office and is eligible for reappointment.
- ii) It has also been provided that the person attaining the age of 70 years cannot hold office as the presiding officer of Securities Appellate Tribunal.
- iii) By applying the above provisions to the given cases:
 - a) Presiding Officer can be appointed for a term of up to 5 years.

b) Justice A cannot be re-appointed as he will attain the age of 70 years after completion of 1st Term.

Q) “SEBI has been established with objective of protecting the interest of investors and to promote the development of and to regulate the securities market (SEBI Act, 1992)”. Discuss its composition and initiatives taken by SEBI for development and regulation of securities market. (4 marks)

Answer-

The composition of SEBI includes:

The Board of securities & Exchange Board of India (SEBI) is comprised of 9 members, excluding the chairman. It is managed by the members, in the following manner –

- a. A chairman is nominated by the Central Govt.
- b. Two members from amongst the officials of the Ministry of the Central Government dealing with Finance.

- c. One member from amongst the officials of RBI.
- d. Five other members out of which 3 shall be whole time members.

Initiatives taken by SEBI for development and regulation of securities market are:

1. Screen based trading system: It is a system where a member can put the quantity of shares and the price at which he wants to transact. The transaction is executed as soon the rate quoted by the seller matches the rate quoted by buyer.
2. Settlement guarantee: A variety of measures were taken to address the risk in the market. Clearing corporations emerged to assume counter party risk. Trades are done on a particular day and are settled on T+1 basis. Thus, the stock exchange within the time period checks the authenticity of the transaction.
3. Green shoe option: It allows companies to intervene in the market to stabilize share prices during the 30 days of stabilization period immediately after listing.

4. SLBM: Short selling means selling of a stock that the seller does not own at the time of the trade. The securities lending and borrowing mechanism allows short sellers to borrow securities for making delivery.
5. IPO Grading: It is a service for facilitating the assessment of equity shares offered to public for the first time, where there is no track record of their market performance.
6. Fast track issue: It is a faster and cost-effective method of raising capital by listed companies, where they need not to file draft offer document with SEBI.
7. Mandatory requirement of PAN: PAN is mandatory for trading in securities market.

Q) Explain the role of securities market in economic growth. (4 marks)

Answer-

The securities market fosters economic growth to the extent that it-

Helps in mobilizing saving by investing investible surplus lying around with investors and channelizing in to companies who are in need of funds.

- a) Increases net capital inflow from abroad,
- b) raises the productivity of investment by improving allocation of investible funds, and
- c) reduces the cost of capital.

For the economy as a whole, productive investment may thus fall short of its potential level. In these circumstances, the securities market provides a bridge between ultimate savers and ultimate investors and creates the opportunity to put the savings of the cautious at the disposal of the enterprising, thus promising to raise the total level of investment and hence of growth.

Q) Explain the factors to be considered by SEBI to arrive at the settlement terms. (4 marks)

Answer-

Regulation 9 deals with the factors to be considered by SEBI while arriving at the settlement terms, including but not limited to the following:

- a) Conduct of the applicant in the investigation;
- b) The role played by the applicant in case the alleged default is committed by a group of persons;
- c) Nature, gravity and impact of alleged defaults;
- d) Whether any other proceeding against the applicant for non-compliance of securities laws is pending or concluded;
- e) Whether the alleged default is minor or major in nature;
- f) The extent of amount of harm and/or loss to investors“ and/or gain by the applicant;
- g) Processes which have been introduced since the alleged default to minimize future defaults or lapses;
- h) Compliance schedule proposed by the applicant;
- i) Economic benefits accruing to any person from the non-compliance or delayed compliance;

- j) Conditions which are necessary to deter future non-compliance by the same or another person;
- k) Satisfaction of claim of investors regarding payment of money due to them or delivery of securities to them;
- l) Whether the applicant has undergone any other enforcement action for the same violation;
- m) Any other factors necessary in the facts and circumstances of the case.

Q) SEBI expects the investors to make investments with their eyes & ears open.

Comment. (5 marks)

Answer-

➤ As an investor there is a basic understanding that before making any investments in the market, the investor must have gone through the offer document of the said company and also must have been sure of making such investments.

- SEBI from time to time organizes various seminars, symposia, various TV programmes & investor meeting are held in order to educate the investors regarding their rights & duties.
- The sole idea behind conducting such programmes is that an investor is not misguided by any intermediary or the issuer company & he has made his rational decision before making such investments.
- Thus, it is stated that SEBI expects the investors to make investments with their eyes & ears open.

Q) SEBI may take any of the measures either pending investigation or inquiry or on completion of such investigation. Enumerate such measures in the light of the provisions of the SEBI Act. (4 marks)

Answer-

The SEBI may, by an order or for reasons to be recorded in writing, in the interest of investors or securities market take any of the following measures either pending investigation or inquiry or on completion of such investigation or inquiry namely:

- 1) Suspend the trading of any security in a recognized Stock Exchange.
- 2) Restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities.
- 3) Suspend any office-bearer of any stock exchange from holding such position.
- 4) Seize and retain the proceeds of securities arising from such transaction.
- 5) Attach, for a period not exceeding 90 days, bank accounts for other property of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act.

Q) SEBI has imposed a penalty of Rs. 25 crores on Sunset co. ltd. However, due to problem of liquidity, the co. is unable to pay the amount of penalty. Explain, how the amount can be recovered under provisions of the SEBI Act. (4 marks)

Answer-

Recovery of amount by adjudicating officer if any person fails to pay the penalty recovery from such person the amount by one or more of the following modes, namely:

- a) Attachment and sale of the person's movable property;
- b) Attachment of the persons bank account;
- c) Attachment and sale of the person's immovable property;
- d) Arrest of the person and his detention in prison;
- e) Appointing a receiver for the management of the person's movable and immovable properties.

Q) Under what circumstances and how the recovery officer will proceed to recover the amount of penalty etc. imposed by adjudicating officer under SEBI Act? (4 marks)

Answer-

1) The SEBI Act, deals with recovery of the amount of penalty by a recovering officer.

If a person-

- a. Fails to pay the penalty imposed under the act, or
- b. Fails to comply with any direction of SEBI for refund of monies, or
- c. Fails to comply with a direction of disgorgement order issued under section 11B, or
- d. Fails to pay any fees due to SEBI, recovery officer may draw up under his signature a statement in the specified form specifying the amount due from the person.

2) The recovery officer shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:

- a) attachment and sale of the person's movable property;
- b) attachment of person's bank accounts;

- c) attachment and sale of the person's immovable property;
- d) arrest of the person and his detention in prison;
- e) appointing a receiver for the management of person's movable & immovable properties.

Q) M/s XYZ company Ltd aggrieved by the decision of Adjudicating Officer under the SEBI Act 1992 moved to civil court to contest the cases. Is the action of company correct in light of SEBI provision? Give your views & suggest to the management the action to be initiated by XYZ Ltd. (4 marks)

Answer-

Any person aggrieved by the order of SEBI or adjudicating officer shall make an application with SAT within 45 days from such order, SAT may condone delay and provide further 45 days if sufficient cause is established.

Appeals can be made from the following authorities:

- a) PFRDA
- b) IRDA
- c) SEBI
- d) Adjudicating officer of SEBI

The civil court shall not have jurisdiction over such matter which relates to Securities law. The action of XYZ limited is not in line with the provisions of SEBI provisions.

Q) Short notes on SCORES. (5 marks)

Answer-

- 1) SCORES is a web based centralized grievance redress system of SEBI (<http://scores.gov.in>).
- 2) SCORES enables investors to lodge and follow up the complaints of track the status of redressal of such complaints online from the above website from anywhere.

- 3) This enables the market intermediaries and listed companies to receive the complaints online from investors, redress such complaints and report redressal online.
- 4) All the activities from lodging of a complaint till its closure by SEBI would be online in an automated environment and the complaint can view the status of his complaint online.
- 5) An E-mail is generated instantaneously acknowledging, the receipt of complaint and allotting a unique complaint registration number to the complaint for future reference and tracking.
- 6) The entity concerned uploads an Action taken Report (ATR) on the complaint.
- 7) SEBI peruses the ATR and closes the complaint if it is satisfied that the complaint has been redressed adequately.

The concerned investor can view the status of the complaint online from the above website lodging in the unique complaint registration number.

Q) Explain what is Informal Guidance under SEBI (Informal Guidance) Scheme, 2013 and who can seek guidance from SEBI? (4 marks)

Answer-

SEBI has issued (Informal Guidance) Scheme 2013, for better regulation and orderly development of the securities market. The following persons may make request for informal guidance under the scheme:

- Any intermediary registered with SEBI.
- Any listed company.
- Any company which intends to get any of its securities listed & has filed a listing application with stock exchange or draft offer document with the SEBI.
- Any mutual fund or AMC
- Any acquirer or prospective acquirer under SEBI [SAST] Regulations, 2011.

Q) “SEBI complaints redress system (SCORES) is efficient system of investor grievance redressal mechanism of SEBI”. Discuss the statement and salient features of scores. (4 marks)

Answer-

1. SCORES is a web based centralized grievance redress system of SEBI.
 2. SCORES enables investors to lodge and follow up their complaints and track the status of redressal of such complaints online.
 3. This enables the market intermediaries & listed companies to receive the complaints online from investors, redress such complaints and report redressal online.
 4. All the activities starting from lodging of a complaint till its closure by SEBI would be online in an automated environment and the complainant can view the status of his complaint online.
-

5. An email is generated instantaneously acknowledging the receipt of complaint and allotting a unique complaint registration number to the complainant for future reference and tracking.
6. The entity concerned uploads an Action Taken Report (ATR) on the complaint.
7. SEBI pursues the ATR & closes the complaint if it is satisfied that the complaint has been redressed adequately.
8. The concerned investor can view the status of the complaint online from the above website by logging in the unique complaint registration number.

Q) Wadhvani Enterprise Limited an unlisted company has decided to bring an initial public offer and filed draft offer document with SEBI. The company is not able to correctly interpret a circular issued by SEBI. The managing director of the Company wants to seeks informal guidance under SEBI Informal Guidance Scheme. Ramesh director of the company is of view that since the company is not yet listed

so company cannot seek informal guidance from SEBI. Being a company secretary advice on the following matters;

(i) Who can apply for informal guidance? Whether company can apply for informal guidance in the given situation?

(ii) What are the matters on which informal guidance cannot be sought? (5 marks)

ANSWER-

- i. The following person may make a request for informal guidance under the SEBI (Informal Guidance) scheme 2003;
1. Any intermediary registered with the SEBI;
 2. Any Listed Entity;
 3. Any company which intends to get any of its securities listed and which has filled either a listing application with any stock exchange;
 4. Any mutual fund trustee company or asset management company;

5. Any acquirer or prospective acquirer under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulation 2011;

In the given case since Wadhvani enterprise limited is an unlisted company and filed draft offer document with SEBI therefore, it can apply to SEBI under informal guidance scheme.

ii. With respect to following matter informal guidance cannot be sought:

1. Those which are general and those which do not completely and sufficiently describe the factual
2. Those which involve hypothetical situations;
3. Those requests in which the requestor has no direct or proximate interest;
4. Where the application legal provision are not cited;
5. Where a no- action or interpretive letter has already been issued by that or any other Department on a substantially similar question involving substantially similar facts as that to which the request relates;

6. Those cases in which investigation, enquiry or other enforcement action has already been initiated;
7. Those case where connected issue are pending before any tribunal or court and on issue which are sub-judice ; and
8. Those cases where policy concern require that the department does not respond.

Q) PTM Ltd., a listed company has declared dividend to its registered shareholders on 1st January, 2021 but the company did not pay the dividend till 31st January, 2021.

- (i) Whether the registered shareholder can lodge the complaint on SCORES Portal?**
- (ii) What happens if registered shareholders fail to lodge a complaint on SCORES within the stipulated period?**
- (iii) Can the shareholder file complaint on SCORES portal without first approaching to the company?(4 marks)**

Answer-

- This case pertains to the provisions of lodging a complaint in SCORES
- As per the provisions SCORES enables investors to lodge and follow up their complaints and track the status of redressal of such complaints online
- In this case a listed company has declared dividend and did not pay it so therefore :
 - i. Yes the registered shareholders can file a complaint on SCORES portal as the investor is aggrieved
 - ii. As per the provisions an investor may lodge a complaint on SCORES within 1 year from the date of cause of complaint, in case if the investor fails to lodge a complaint within the stipulated time then the investor may directly take up the complaint with the entity concerned or may approach appropriate court of law

iii. In case if an investor seeks to file a complaint with SCORES then he must file a complaint with the company first and in case the company fails to redress the said complaint within 30 days then the investor may lodge the complaint with the SCORES

Q) “Complaints against certain companies cannot be dealt through SCORES, despite the complaint may be against a listed entity”. Explain briefly. (4 marks)

Answer-

- SCORES is an online grievance redressal system of SEBI which enables investors to lodge complaints against listed companies and market intermediaries.
- Following complaints cannot be dealt through scores:
 - i) Complaints against companies which are delisted/unlisted or are on dissemination board.
 - ii) Companies which are sick companies or are in a moratorium or are being liquidated.
 - iii) Companies which are struck off by ROC or are vanishing company.

- iv) Complaints regarding the companies which are sub-judice.
- v) Complaints against a company which has its Own regulatory body like RBI, IRDA, PFRDA.

Q) ABC Ltd. is a public company listed on stock exchange. The company declared a dividend in the Annual General Meeting held on 1st May, 2020. However, the dividend was distributed on 5th June, 2020. One of the shareholders Jyoti made a complaint on SCORES platform on 5th June, 2022. Answer the followings:

- (a) Whether the action of ABC Ltd. is as per the Companies Act, 2013?**
 - (b) Can Jyoti make a complaint to SCORES?**
 - (c) What happens if investor fails to lodge complaint on SCORES within stipulated period?**
- (4 marks)**

Answer-

(a) The provisions of the Companies Act, 2013 require distribution of dividend to shareholder within 30 days from the date of declaration of dividend. Therefore, ABC Limited's action is not as per the Companies Act, 2013.

(b) SCORES is an online platform designed to help investors to lodge their complaints, pertaining to securities market, online with SEBI against listed companies and SEBI registered intermediaries. All complaints received by SEBI against listed companies and SEBI registered intermediaries are dealt through SCORES.

Yes, Jyoti can make complaint to SCORES as the complaints arising out of issues that are covered under the SEBI Act, Securities Contract Regulation Act, Depositories Act and rules and regulation made there under and relevant provisions of Companies Act, 2013, are under the purview of the SEBI. The only issue here being the time period as the time to file the complaint has already expired (being 1 year from the date of cause of action).

(c) In case investor fails to lodge a complaint within the stipulated time of 1 year, he may directly take up the complaint with the entity concerned or may approach appropriate court of law.

Q) “Mobile applications provide convenience to the investors for lodging their complaints on SEBI Complaints Redress System.” Comment on the statement. (5 marks)

Answer-

To improve the ease of doing business, SEBI launched a Mobile Application for the convenience of investors to lodge their grievances in SEBI Complaints Redress System (SCORES).

SCORES mobile app will make it easier for investors to lodge their grievances with SEBI, as they can now access SCORES at their convenience of a smart phone. The Mobile App will

encourage investors to lodge their complaints on SCORES rather than sending letters to SEBI in physical mode.

This is another effort of SEBI in improving digitalization in securities market. The app has all the features of SCORES which is presently available electronically where investors have to lodge their complaints by using internet medium. After mandatory registration on the App, for each grievance lodged, investors will get an acknowledgement via SMS and e-mail on their registered mobile numbers and e-mail ID respectively. Investor can not only file their grievance but also track the status on their complaint redressal.

SCORES is a platform designed to help investors to lodge their complaints online with SEBI, pertaining to securities market, against listed companies, SEBI registered intermediaries and SEBI recognized Market Infrastructure Institutions. As per SEBI norms, entities against which complaints are lodged are required to file an Action Taken Report with SEBI within thirty days of receipt of complaints. The Mobile App 'SEBI SCORES is available on both iOS and android platforms.

CHAPTER 5 - DEPOSITORIES

Q) Differentiate between Dematerialization and Re-materialization. (2 marks)

Answer-

No	Dematerialization	Rematerialization
.		
1)	Conversion from physical form to Demat form is known as dematerialization.	Conversion from electronic form to physical form is known as re-materialization.
2)	An application in form DRF is made to DP.	An application in form RRF is made to DP.
3)	Existing physical certificates are cancelled.	New physical certificates are created & issued to investors.

Q) What do you know about Dematerialization? What is the procedure for Dematerialization? (5 marks)

Answer-

- Dematerialization is the process of converting physically held shares into electronically held shares in demit account.
- Following is the procedure to be followed for conversion of shares into electronic form:
 - i. A person who wishes to convert his physical shares into electronic form shall open an account with DP
 - ii. After opening account with DP such person shall submit form DRF (Dematerialization Request Form) along with share certificate and necessary documents.
 - iii. DP after receiving such application shall verify such share certificate with the issuer company and inform Depository regarding the same

iv. The depository after verifying such documents shall confirm such application, DP after receiving such confirmation shall electronically credit the shares

Q) Depository system works much like a banking system. Comment. (4 marks)

Answer-

- Like a bank holds money on behalf of its customer, a depository holds securities on behalf of the investors.
- A bank apart from holding the money on behalf of the customers also deals with funds transfer & other instructions related to banking services. Likewise, a depository not only holds securities but also assists the investors in transferring the same.
- All the benefits as it becomes due to the investors are collected by the depositories on behalf of the investors.
- Like a bank, a depository also maintains a record of its client on daily basis and generates various reports as are required in this regard.

Q) Write a note on reconciliation of share capital under SEBI (Depositories & Participants) Regulations, 2018. (4 marks)

Answer-

- As per SEBI regulations, every listed company is obligated to get an audit known as Reconciliation of Share Capital Audit.
- Such audit is conducted by a practicing CA or a CS & is conducted at the end of every quarter.
- The Auditor submits his report with the Company and the company then submits the same with the stock exchanges where the shares of the company are listed within 21 days from the end of the quarter.
- Such audit is carried out in order to reconcile the shares of a company in physical and demat form.

Q) Briefly explain the role of a CS in concurrent audit of depository participant. (5 marks)

Answer-

The Practicing Company Secretary is responsible for carrying out an audit of all the depository participants registered with SEBI.

The Audit Report is required to be submitted with the depository at quarterly rests. However, the Audit activity goes on a daily basis. Even if the audit process is accumulated, it cannot be extended for a period more than 7 days.

Amongst others, the auditor shall be responsible for:

- a. KYC of all the clients
- b. Issuance of DIS
- c. Utilization of DIS
- d. Transfer of securities within the stipulated time
- e. Verification of DIS with actual transaction.

Q) Dematerialization is the process by which the shares in physical form are held & converted in the electronic form & are maintained on a highly secured system at the depository. Comment. (2 marks)

Answer-

Ever since the inception of Depositories Act, 1996, investors started to convert their holding in demat form. Both NSDL and CDSL has an effective system, wherein, all the data is recorded in secured system. After introduction of electronic trading the existence of physical share has become negligible. This type of system is cost effective and simple and has been adopted in India. Thus, it is rightly stated that Dematerialization is the process by which the shares in physical form are held & converted in the electronic form & are maintained on a highly secured system at the depository.

Q) Online trading of corporate securities has originated the depository service in capital market. (4 marks)

Answer-

Previously trading in the market used to be in physical form. With the advent in technology, physical form of trading was transformed into electronic form of trading, which is called as online trading and the need was felt to see the same transformation from physical form of securities into electronic form & that's how depositories services were introduced in the Act. At present more than 90% securities of listed Companies are traded in electronic form.

Q) “Depository is to indemnify loss caused to the beneficial owner due to the negligence of the depository or the depository participant”.

Answer-

1. As per Sec 16 of Depositories Act 1996, it is the liability of the depository to make good the loss caused to the beneficial owner due to negligence of the depository.
2. Where the loss due to negligence of DP, it has to be indemnified by the depository, the depository shall have a right to recover the same from DP.

Q) Write notes on the following:

i. Clearing Corporation (4 marks)

Answer-

i. Clearing Corporations

a) A Clearing corporations fulfill the main obligation of ensuring transactions are made in a prompt and efficient manner.

b) It is an organization associated with the exchange to handle the confirmation, delivery and settlement of transactions.

For example – IF A & B agrees to enter into a financial transaction of sale and purchase of securities, a clearing corporation will act as a middle man facilitating the purchase on one hand and the sale on the other.

Q) Explain the following:

i. Dematerialization

ii. Fungibility (4 marks)**Answer-****Dematerialization:**

- It is a process of conversion of physical share certificates into electronic form.
- The investors can dematerialize only those shares certificate that are already registered in their name and belong to the list of securities admitted for dematerialized at the depositories.
- An Investor will have to first open an account with a Depository Participant and then request for Dematerialization of his share certificate through the Depository Participant so that the dematerialized holdings can be credited into that account.

Fungibility:

- Fungibility means interchangeable or exchangeability. All securities held in depository shall be fungible i. e. all certificates of the same security shall become interchangeable & that

investor loses the right to obtain the exact certificate he surrendered at the time of entry into depository.

- If a security or commodity is fungible it is perfectly interchangeable with any other of the same type and class securities or commodities. Most financial securities are fungible. A share in a particular company is exactly the same as another share in the same company. Fungibility is the property of a good or a commodity whose individual units are capable of mutual substitution.

Q) Write notes on the following:

- Concurrent Audit**
- Models of Depository (4 marks)**

Answer-

i. Concurrent Audit:

- It is applicable on the depository of NSDL.
- The audit is performed by practicing CA, CS or internal auditor.
- The concurrent auditor should conduct the audit in respect of all accounts opened, DIS issued and control and verification of DIS.
- The audit shall be completed within the next working day and if not then within a week.

ii. Models of depository:

- Dematerialization, wherein, there is no physical scrip in existence as neither the individual owns the shares nor the depository keeps scrips. The depository maintains the electronic ledger of the securities under his control.
- Immobilization, wherein the physical scrips are held in depository vaults, supporting the book entry records kept on the computer.

Q) Write notes on the following:

Eligibility for Depository Services (4 marks)

Answer-

Eligibility for Depository Services:

Any company or other institution to be eligible to provide depository services must:

- be formed and registered as a company under the Companies Act, 2013
- be registered with SEBI as a depository under SEBI Act, 1992.
- Net worth of Rs 100 crores or more.
- has framed byelaws with the previous approval of SEBI.
- has one or more participants to render depository services on its behalf.
- has adequate systems and safeguards to prevent manipulation of records and transactions to the satisfaction of SEBI.
- complies with Depositories Act, 1996 and SEBI (Depositories and Participants) Regulations, 2018

- meets eligibility criteria in terms of constitution, network, etc.

Q) The holding of securities in dematerialize form is not mandatory. Explain the relevant provision with Depositories Act. (4 marks)

Answer-

- 1) Depositories Act 1996 gives the option to investors to receive securities in physical form or in dematerialized mode.
- 2) In case of fresh issue of securities, all securities issued have to be in dematerialized form.
- 3) According to the Depositories Act 1996, an investor has the option to hold securities either in physical or electronic form. Part of holding can be in physical form & part in demat form. However, SEBI has notified that settlement of market trades in listing securities should take place only in demat mode.

Q) Due to rapid surge of Initial Public Offers in the primary market, the participation of retail investors in the market has also increased substantially. To tap this opportunity, XYZ Ltd. is planning to start the depository services. Narrate in brief, the eligibility conditions for rendering of depository services. (4 marks)

Answer-

A person who intends to provide depository services shall follow the conditions mentioned below.

- i) Net worth of at least 100 crores
- ii) Is registered as a company under the Companies Act, 2013
- iii) Has registered itself with SEBI.
- iv) Has required byelaws governing internal matter and the same if approved by SEBI.
- v) Has one or more participants to act as Depository participants.
- vi) Has adequate infrastructure.

CHAPTER 6 - SECURITIES MARKET INTERMEDIARIES

Q) List out all the credit rating agencies in India. (3 marks)

Answer-

Following are the important Credit Rating Agencies in India:

- 1) Credit Analysis and Research Limited (CARE)
- 2) Investment Information and Credit Rating Agency of India Limited (ICRA)
- 3) Credit rating and Information Services (India) Limited (CRISIL)
- 4) India Ratings and Research Private Limited
- 5) Brickworks Rating Private Limited
- 6) SME Rating Agency of India Limited (SMERA)

Q) Credit Rating is a powerful marketing for a company. Explain. (4 marks)

Answer-

- In case of any issue of debt securities, it is mandatory for an issuer company to obtain rating from one such credit rating agency.
- Credit Rating Agency understands the financials & business of the company & it allocates a suitable rating on a scale of 5 to such company.
- Such ratings help the investors in identifying the risk factors associated with such investments.
- From the issuer company point of view, it becomes easy to reach out to the investors if a company has good ratings & attract better investments.
- Since it eases the job of the company as the ratings are published in all the offer documents of the company, a good rating acts as a marketing tool for such companies.

Q) Credit rating is a one-time job on the part of credit rating agencies. Comment. (4 marks)

Answer-

- Credit Rating means analyzing the credits, based upon its financial position, business standing & its credit worthiness.
- In case of debt instruments, the validity of the instrument remains for more than a year. And also, the financial position of the company may change over this period.
- Therefore, a rating agency not only rates the company at the time of its public issue but also in cases of change in such rating it is required to intimate the issuer company about such change.
- Over the tenure of the instrument rating can be upgraded or downgraded & the same change is required to be informed to the issuer company. It is therefore an ongoing activity.

Q)What do you mean by Capital Market Intermediaries? What are different kinds and general obligations of Capital Market Intermediaries?(5 marks)

Answer-

- Capital market intermediaries are the entities who facilitate capital market transactions and act as a middle man between investors, and issuers.
- Capital market intermediaries are classified as follows:
 - a. Primary market
 - i. Merchant bankers
 - ii. Debentures trustees
 - iii. Share transfer agents
 - b. Secondary market
 - i. Stock brokers
 - ii. Portfolio managers
 - iii. Custodian

- General obligations of capital market intermediaries are as follows
 - a. Abide by the code of conduct at all times
 - b. Keep and maintain proper books of accounts and records
 - c. Appoint a compliance officer

Q) Priyanka Ltd. is planning to come up with an IPO. For this purpose, it has obtained IPO grading from 3 agencies which are IPO-3, IPO-4 & IPO-5. Explain the meaning of IPO grading. Advice which IPO grading should be reported by the company in its prospectus. (6 marks)

Answer-

- IPO Grading means grading of the instrument issued by a company in case of an IPO.
- As per SEBI Regulations, it is mandatory for all the companies to obtain & publish CR from at least one of the CRAs in India.

- The CRAs rate the issuer company on a scale of 5 after considering the financial strength of the company.
- Such ratings help the investors in taking a better investment decision in the shares of a company.
- A company has a choice to obtain ratings from more than one CRAs. However, it is not necessary to disclose all the ratings obtained by it. It is the discretion of the Board to decide which ratings to publish in the offer document.
- In the given case, Priyanka Ltd. obtained ratings from 3 CRAs which were IPO-3, IPO-4 & IPO-5. It may either publish all of them or any one at its discretion.

Q) Briefly discuss the code of conduct for credit rating agencies. (8 marks)

Answer-

- (1) A credit rating agency should observe high standards of integrity and fairness in all its dealings.

- (2) A credit rating agency should fulfill its obligations in an ethical manner.
- (3) A credit rating agency should render high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgement.
- (4) The credit rating agency should avoid any conflict of interest of any member of its rating committee.
- (5) A credit rating agency should not indulge in unfair competition nor they should solicit client of any other rating agency on assurance of higher rating.
- (6) A credit rating agency should not make any exaggerated statement, whether oral or written, to the client either about its qualification or its capability.
- (7) A credit rating agency should always endeavor to ensure that all professional dealings are affected in a prompt and efficient manner.
- (8) A credit rating agency should not divulge to other clients, press or any other party any confidential information about its client, which has come to its knowledge, without making disclosure to the concerned person of the rated company/client.

Q) What do you understand by Registrar to an Issue? State various activities carried out by the registrar. (4 marks)

Answer-

➤ Registrar to an Issue means a person authorized by a body corporate to carry on the following activities on its behalf:

- (i) Collecting applications from investors in respect of an issue.
- (ii) Keeping a proper record of applications & money received from investors.
- (iii) Assisting body corporate in the following:
 - a) Determining the basis of allotment of securities.
 - b) Finalizing the list of persons entitled to allotment of securities, and
 - c) Processing & dispatching allotment letters & refund etc.

Q) Capital market intermediaries are a vital link between SEBI and Investors in a public issue. Comment. (4 marks)

Answer-

- SEBI was formed & enacted in order to protect the interest of the investors. Moreover, SEBI also regulates the trading activities in the market.
- All the intermediaries in the market are registered with SEBI. They act as a link between the issuer company & the investors.
- Investors while investing expects that their money is saved & it grows as the companies earn profits.
- Intermediaries ensure that the issuer company discloses all the material facts before issuing securities to the public. This helps the investors take a sound decision before investing their money.
- Thus, intermediaries make the job of SEBI easy by ensuring compliance of all the applicable laws.

Q) Enumerate the provisions related to underwriting obligations of a Merchant Banker. (4 marks)

Answer-

- Underwriting means a commitment to subscribe to the securities of a company in case of a public issue if the securities are not fully subscribed.
- Underwriting commitment by an underwriter cannot go beyond 10% of the total issue size.
- However, as per SEBI (ICDR) Regulations, 2018, a Merchant Banker shall also subscribe to a portion of the underwriting commitment i.e., he must subscribe to the shares to the extent of 15% of the total issue size.
- As per SEBI (Merchant Banker) Regulations, 1992, a Merchant Banker must subscribe to the extent of 5% of the total underwriting commitment or Rs.25 lakhs whichever is less.

Q) SEBI noticed a spurt in the volume of trading of the script of ABC Ltd. both at NSE & BSE during May 2013 – July 2013. Though the script was not very liquid, it was observed that during the said period, the price of script ranged between Rs.25 – Rs.125. It was found on an investigation that a stock broker of BSE himself got registered as a client with a NSE broker & placed order in large quantities in the script of ABC Ltd. On the basis of these facts, examine whether SEBI can initiate any action against the said BSE broker. (5 marks)

Answer-

➤ SEBI as an authority has a right to carry on investigations in cases where they think that some fraudulent transactions here done in the shares of some company. A stock broker apart from acting in his capacity as a broker may also invest in the securities of any company provides, it does not breach any SEBI regulations.

- In the given case, the stock broker opened demat account with a NSE broker & dealt in the shares of ABC Ltd. During the period from May – July 2013, the stock saw an upside in its prices & consequently SEBI conducted investigations proceedings.
- As an investor, if the broker has not contravened any SEBI regulations, SEBI has no right to punish such broker, however, as a regulatory body, it can always conduct investigations, proceedings against the said broker.

Q) Mr. X, a practicing CS while carrying out his professional duties on behalf of his clients also started advising them on investments in securities markets. The adjudicating officer on a complaint made by an investor started investigation proceedings in the said matter & levied a fine of Rs.50 lakhs for breaching the code of conduct as a capital market intermediary. Mr. X approaches you to seek advice on the said matter. (5 marks)

Answer-

Any person engaged in the business of providing investment advice to the clients or other persons for consideration is called an investment advisor.

As per SEBI Regulations, any person carrying out such activities is required to be registered as an investment advisor.

In the given case the person doing such advisory business is a Practicing Company Secretary whose office is exempt from obtaining certificate of registration from SEBI because giving investment advice is very incidental to his professional practice.

Therefore, the fine imposed by the adjudicating officer is unjustified & unreasonable.

Format of Advice Answers:

<p>Name of the Firm</p> <p>Address</p>
--

Tel: **Fax:** **Email:**

19th Sept 2015

Mr. X. (Name)

Sub: Advice on Registration as an Investment Advisor

Dear Sir,

.....
.....
.....
...

Thanking you,

Yours faithfully,

Sd/-

(Name)

(Designation)

Q) Investment advisor provide guidance about the firm dealings and investments. Comment on this statement State the role of investment advisor in financial market. (5 marks)

Answer-

➤ Investment advisor means any person who for consideration, is engaged in the business providing investment advice to clients or other persons or group of persons of

includes any person, who holds out himself as an investment adviser, by whatever name called.

- Investment Advisors have a great role to play in the financial market as they facilitate the retail investors to invest their money in the markets directly.
- While fulfilling their duties they shall ensure that they are acting in good faith and in the interest of such investors.
- They shall act diligently and work towards best interest of clients. As such there is no eligibility criteria for becoming an investment adviser and any person with sound financial knowledge may act as an adviser after obtaining due regulation from SEBI.

**Q) Comment on the role of Stock Brokers & Sub-Brokers in the Indian Stock Market.
(5 marks)**

Answer-

- Both Stock brokers & Sub-brokers act as a vital link between investors.

- From the issuer company point of view, they build a demand in the securities of the Company.
- They help & assist the investors in executing appropriate trades in the market.
- From the Regulators point of view, they ensure compliance with the necessary trade transactions.
- They assist the depositories in settlement of trade on a daily basis.

Q) What do you mean by 'Research Analysts'? Elucidate the net worth requirements, and role and responsibilities of Research Analyst as per SEBI (Research Analyst) Regulations, 2014. (4 marks)

Answer- "Research analyst" means a person who is primarily responsible for-

1. preparation or publication of the content of the research report; or
2. providing research report; or
3. making 'buy/sell/hold' recommendation; or

4. giving price target;

5. offering an opinion concerning public offer, with respect to securities that are listed or to be listed in a stock exchange, whether or not any such person has the job title of 'research analyst' and includes any other entities engaged in issuance of research report or research analysis.

The **net worth** of Research Analyst is:

- Body corporate or limited liability partnership firm – not less than Rs.25 Lakh
- Individual or partnership firm shall have net tangible assets of value not less than Rs.1 Lakh

ROLE & RESPONSIBILITY: They study Companies and industries, analyses raw data, and make forecasts or recommendations about whether to buy, hold or sell securities. They analyze information to provide recommendations about investments in securities to their clients. Investors often view analysts as experts and important sources of information

about the securities they review and often rely on their advice. There are basically three broad types of analysts, viz. sell-side analysts, buy-side analysts and independent analysts.

Q) Write short notes on the following:

Custodian of Securities (4 marks)

Answer-

Custodian of securities:

- i. A custodian is a person who carries on the business of providing custodial services to the client.
- ii. The custodian also provides incidental services such as maintaining the accounts of securities of the client, collecting the benefits or rights accruing thereto.
- iii. Every custodian should have adequate facilities, sufficient capital and financial strength to manage the custodial services.

Q) i. Define the debenture trustee.

ii. Describe responsibilities and obligations of debenture trustees. (4 marks)

Answer-

(i) Debenture trustee means a trustee of a Trust Deed for securing any issue of debentures of a body corporate. The following persons can act as a debenture trustee:

- a) A scheduled bank carrying on commercial activity.
- b) A public financial institution.
- c) An insurance company.
- d) A body corporate.

(ii) Responsibilities and obligations of Debenture trustee are:

- a) Protect the interest of debenture holders.
- b) Exercise due diligence to ensure compliance by the body corporate with all the applicable acts.

- c) To ascertain that debentures have been converted or redeemed in accordance with the provisions.
- d) Ensure creation of debenture redemption reserve.
- e) Ensure disclosure of all material events to SEBI.

Q) Write notes on the following:

Share Transfer Agent Services (5 marks)

Answer-

Share Transfer Agent

A share transfer agent is an agent who, on behalf of the body corporate, maintains records of holders of securities issued by such body corporate and deals with the process of transfer and redemption of securities.

The activities performed by a share transfer agent are:

- Endorsement of certificates for allotment.

- Transmission, consolidation and sub division of securities.
- Cancel the name and certificate of the shareholder who had sold the shares.
- Enter the name of the new shareholder in the register of members.

Q) Credit Rating Agencies may not be taking cognizance of information for delays in servicing debt obligations while reviewing of its ratings. What are the material events requiring a review by the Credit Rating Agencies as per SEBI's circular? (4 marks)

Answer-

1. CRAs shall carry out a review of the ratings upon the occurrence of or announcement/news of material events including, but not restricted to, the following:
 - i. Quarterly/ Half-yearly/ annual results
 - ii. Merger/ Demerger/ Amalgamation/ Acquisition
 - iii. Corporate debt restructuring, reference to BIFR and winding-up petition filed by any party /creditors.

- iv. Significant decline in share prices/bond prices of the issuer or group companies which is not linked to overall market movement
- v. Significant increase in debt level or cost of debt of the issuer company
- vi. Losses, sharp revenue de-growth etc. based on publicly disclosed financial statements, which are not in line with CRA's earlier estimates
- vii. Granting, withdrawal, surrender, cancellation or suspension of key licenses or regulatory approvals.
- viii. Disruption/ commencement/ postponement of operations of any unit or division of the listed entity.
- ix. Any attachment or prohibitory orders against the Issuer
- x. Any rating action taken by an International Rating Agency with respect to rating assigned to the Issuer/ Instruments issued by the Issuer.

Q) Chapter III consisting of Regulations 13 to 18 of SEBI (Underwriters) Regulations 1993, deals with obligations and responsibilities of underwriters. (5 marks)

Answer-

Chapter III of the Regulations containing Regulations 13 to 28 deal with general obligations and responsibilities of Merchant Bankers. Regulation 13 stipulates that every merchant banker shall abide by the code of conduct which has been specified in Schedule III. The code of conduct as provided in the schedule is as under:

1. A merchant banker shall make all efforts to protect the interests of investors.
2. A merchant banker shall maintain high standards of integrity, dignity and fairness in the conduct of its business.
3. A merchant banker shall fulfill its obligations in a prompt, ethical, and professional manner.
4. A merchant banker shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment.

Regulation 13A provides that no merchant banker other than a bank or a public financial institution who has been granted a certificate of registration shall carry on any business other than that of the securities market.

Regulations 14 to 17 deal with maintenance of books of accounts, records, submission of half-yearly results, rectifying deficiencies pointed out in the auditor's report etc.

Q) Explain the services rendered by Share Transfer Agent. (4 marks)

Answer-

- 1) Collecting applications from investors in respect of an issue;
- 2) Keeping a proper record of applications and moneys received from investors;
- 3) Assisting body corporate in the following:
 - a) Determining the basis of allotment of securities;
 - b) Finalizing the list of persons entitled to allotment of securities; and
 - c) Processing and dispatching allotment letters and refund order.

Q) What are the amended allocation criterion in the non-institutional investors category, if an issue is made through book-building process? (4 marks)

Answer-

Allocation in the net offer

- An individual who invests more than 2 lakh rupees in a book-building issue is considered as a non-institutional investor/High net worth Individual.
- Following are the allocation for non-institutional category:
 - i. 1/3 of the portion of non-institutional investors shall be reserved for the applicants making an application of more than 2 lakhs but less than 10 lakhs.
 - ii. 2/3 of the portion shall be reserved for non-institutional investor applicants making an application of more than 10 lakh rupees.

Q) The certificate granted by the SEBI to an intermediary is subject to certain conditions. Elaborate the conditions and state the period of validity of certificate. (5 marks)

Answer-

Conditions of Certificate: Any certificate granted by the SEBI to an intermediary has to be subject to the following conditions that:

- where the intermediary proposes to change its status or constitution, it has to obtain prior approval of the SEBI for continuing to act as an intermediary after such change in status or constitution;
- it has to pay the applicable fees in accordance with the relevant regulations;
- it has to abide by the provisions of the securities laws and the directions, guidelines and circulars as may be issued there under;
- it has to meet the eligibility criteria and other requirements specified in these regulations and the relevant regulations.

The SEBI may impose other conditions as it may deem fit in the interest of investors or orderly development of the securities market or for regulation of the working of the intermediary and the intermediary has to comply with such conditions.

Period of validity of certificate

The certificate granted to an intermediary has to be permanent unless surrendered by the intermediary or suspended or cancelled in accordance with the SEBI (Intermediaries) Regulations, 2008.

Q) Who is a custodian? State the obligations & responsibilities and net worth requirement for custodians. (5 marks)

Answer-

- Custodian is a person who carries on or proposes to carry on the business of providing custodial services to the client. The custodian keeps the custody of the securities of the client. The custodian also provides incidental services such as maintaining the accounts

of securities of the client, collecting the benefits of the rights accruing to the client in respect of securities. Every custodian should have adequate facilities, sufficient capital and financial strength to manage the custodial services.

● **Obligations and Responsibilities:**

- Every custodian shall abide by the Code of Conduct.
- Where a custodian is carrying on any activity besides that of acting as custodian then the activities relating to his business as custodian shall be separate and segregated from all other activities.
- Every custodian shall have adequate mechanisms for the purposes of reviewing, monitoring and evaluating the custodian's controls, systems, procedures and safeguards.
- No custodian shall assign or delegate its functions as a custodian to any other person unless such person is a custodian.

- Every custodian shall open a separate custody account for each client, in the name of the client whose securities are in its custody and the assets of one client shall not be mixed with those of another client.
- Every custodian shall enter into an agreement with each client on whose behalf it is acting as custodian.
- Every custodian shall have adequate internal controls to prevent any manipulation of records and documents.
- Every custodian shall maintain the records and documents.
- Every custodian shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act.
- Where any information is called for by the SEBI, it shall be the duty of the custodian to furnish such information within such reasonable period as the SEBI may specify.

Net worth requirements: Minimum of Rs.50 crores.

Q) Write short notes on the following :

2.Currency Derivatives

3.Angel Fund

4.Block Deal

5.Municipal Bonds

6.Appointment of compliance officer by intermediaries.(3 marks each)

Answer-

Currency derivatives: these are the financial contracts between the buyer and seller involving the exchange of two currencies at a future date and at a stipulated rate. The major participants of the currency derivative trading in India are banks, corporations, exporters and importers.

Angel fund: angel fund is a sub category of venture capital. Angel investments are the earliest equity investments made in start up companies. Angel fund is a money pool created by high-net-worth individuals or companies (generally called angel investors),

for investing in business start-ups. Angel funds can raise funds only by issuing units to angel investors which should have a corpus of at least a hundred million rupees.

Block Deal: block deal provides the stock exchanges to provide separate trading window to facilitate execution of large trades. In the block deal, the minimum order size for execution of trades in the block deal window shall be Rs.10 cr. The orders placed shall be within $\pm 1\%$ of the applicable reference price in the respective windows as stated above. The stock exchanges disseminates the information on block deals such as the name of the scrip, name of the client, quantity of shares bought/sold, traded price, etc to the general public on the same day, after the market hours.

Municipal Bonds: municipal bonds are also referred as muni bonds. Municipal bonds are usually issued by urban local govt and agencies. These are issued when a govt body wants to raise funds for projects. Municipal bonds (munis) are debt securities issued by state and local governments. Interest paid on municipal bonds is often tax free, making them an attractive investment option for individuals in high tax brackets.

Appointment of compliance officer by intermediaries: appointment of compliance officer is mandatory for monitoring the compliance of any Act, rules and regulations. Compliance officers are expected to discharge a responsible role in the corporate functioning. The standards of good compliance aid and build up good corporate governance to add value and confidence to the market and its investors.

CHAPTER 8 - ISSUE OF CAPITAL & DISCLOSURE REQUIREMENTS

Q) Short note on Market Capitalization. (3 marks)

Answer-

Market capitalization means the total value or worth of a listed company. It is calculated by multiplying total number of shares offered by company with its current market price. It helps an investor in identifying how much % of equity he holds in a company. It may be arrived by the following formula.

Market Capitalization = Total no. of shares X listed price per share.

Q) Book building process of determining price of a public issue is preferred in case of 100% while fixed price process is used for FPO. Comment. (4 marks)

Answer-

In case of an IPO under book building method, the investors are given an opportunity to decide the price of securities. Such method is preferable because the investors are the ones

who invest money in the shares of the company. So, the value they think appropriate, they make an application for. Thus, for an IPO, book-building method is more preferred.

In case of FPO, the Company's shares are already quoted at a stock exchange. Therefore, there is no need for price discovery. Thus, mostly in case of FPO, an issuer company prefers issuing shares at a fixed price.

Q) Public issue aims at selling & marketing of shares to the public. Comment. (4 marks)

Answer-

SEBI (ICDR) Regulations, 2018 requires every unlisted company to issue and approve its draft offer document from SEBI & ROC. As a part of the issue, the Company holds various seminars, investors meet, print & electronic media tools to create awareness about the company & its shares. This in turn helps the investors to connect to the brand equity of the company & therefore, public issue aims at selling and marketing of shares to the public.

Q) Explain promoter's contribution and lock-in period under SEBI (ICDR) Regulations, 2018. (4 marks)

Answer-

- 1) In case of a public issue of unlisted company as per SEBI (ICDR) Regulations, 2018 promoters shall subscribe to a minimum of 20% of post issue paid up share capital of the company.
- 2) In case of public issue of listed company as per SEBI (ICDR) Regulations, 2018 promoters shall subscribe to the extent of 20% of the proposed issue or 20% of the post issue capital.
- 3) In case of a composite issue of listed company as per SEBI (ICDR) Regulations, 2018 promoters shall subscribe 20% of the proposed public issue or 20% of the post-issue capital.
- 4) Any subscription made up to 20% shall be locked in for a period of 18 months & any subscription beyond 20% shall be locked in for a period of 6 months beginning from the

date of allotment or date of commencement of commercial production, whichever happens later.

5) During lock-in period, inter-se transfer of shares amongst the promoters is allowed.

Q) Write a short note on Draft Offer Document. (4 marks)

Answer-

“Draft Offer document” means the offer document in draft stage. The draft offer documents are filed with SEBI, at least 30 days prior to the filing of the Offer Document with ROC/SEs. SEBI may specify changes, if any, in the Draft Offer Document and the Issuer or the Lead Merchant banker shall carry out such changes in the draft offer document before filing the Offer Document with ROC/SEs. The Draft Offer document is available on the SEBI website for public comments for a period of 21 days from the filing of the Draft Offer Document with SEBI.

Q) Pricing under SEBI (ICDR) Regulations, 2018. (4 marks)**Answer-**

(1) There are two types of prices i.e., Fixed Price and Floor Price/Price Band. The issuer can mention a price in the prospectus (in case of a fixed price issue) and floor price or price band in the red herring prospectus (in case of a book-built issue) and determine the price at a later date before registering the prospectus with the Registrar of Companies.

(2) The issuer should announce the floor price or price band at least 5 working days before the opening of the bid (in case of an initial public offer) and at least 1 working day before the opening of the bid (in case of a further public offer), in all the newspapers in which the pre issue advertisement was released.

(3) The cap on the price band shall be less than or equal to one hundred and twenty percent of the floor price.

4) The company and the lead merchant banker, however, are required to give full disclosure of the parameters which they had considered while deciding the issue price.

Q) Short note on Basis of Allotment. (4 marks)**Answer-**

As per SEBI (ICDR) Regulations, 2018, the company does the allotment against application only.

- 1) In case if the issue is under subscribed but it has attracted application up to 90% full allotment shall be done to all the applicants.
- 2) In case if the issue is over-subscribed, the allotment shall be done on a proportionate basis.
- 3) The company while giving offer shall ensure that the application has been submitted in lots and the size of each lot shall range between Rs.10000 to 15,000.

Example: If the in case of IPO is Rs.80 to 100 then the size of one lot may be 150 shares i.e. on the lower band its value is Rs.12000 and on the upper side, its value is Rs.15000.

Q) Whether these entities are eligible or not to make initial public offer? Answer with reasons in accordance with the SEBI [Issue of Capital and Disclosure Requirements] Regulations, 2018.

- (I) the promoters' group was earlier debarred from accessing the capital market by the SEBI and the period of debarment is already over on the date of filing of the DRHP with the SEBI.**
 - (ii) Recently, one of the promoter is declared as willful fugitive offender.**
 - (iii) The issuer has changed the name in the last one year and earned 40% of the revenue for the preceding one full year from the activity in the new name.**
 - (iv) The issuer has a net worth of one crore and fifty lakh rupees in each of the preceding three years, calculated on a restated and consolidated basis.**
 - (v) The issuer has an average operating profit of Rs. 10 crore during the three preceding years, with operating profit in each of the preceding three years.**
- (5 marks)**

Answer-

This case pertains to the provisions of initial public offer.

- i) In this case the issuer is allowed to make an initial public offer as the period of debarment is already over on the date of filing of the DRHP with SEBI.
- ii) In this case the issuer is not eligible as one of the promoter is declared as willful fugitive offender
- iii) As the issuer has changed its name in the last one year and only 40% of the revenue for the preceding year is earned in the new name, it cannot issue an IPO unless made through book building process and the issuer undertakes to allot at least 75% of the net offer to qualified institutional buyers.
- iv) The issuer is eligible as it has 1.5cr of net worth and as it is over the threshold limit of 1cr
- v) The issuer is not eligible for IPO as it doesn't have average operating profit of at least 15cr, calculated on a restated and consolidated basis, during the 3 preceding years. It

can make an initial public offer only if the issue is made through book building process and the issuer undertakes to allot at least 75% of the net offer to qualified institutional buyers.

Q) Short note on issue opening date. (3 marks)

Answer-

- 1) In case of fixed price issue the issue shall be completed within a period of 12 months from the date of issuance of observation letter by SEBI.
- 2) In case of book building method, the issue shall be completed within 3 months succeeding the month in which draft offer document was approved by SEBI.
- 3) If the company fails to begin the issue within stipulated time period, it shall have to file fresh offer document with SEBI for approval.

Q) PAN has to be the sole identifier number for all the transactions in securities market. (2 marks)

Answer-

While opening a demat an investor has to fulfill KYC norms which includes submission of PAN Card. Now since 100% securities are issued in demat form it is mandatory for an investor to have PAN. Thus, it has become the sole identifier number for all the transactions in securities market.

Q) What is Book Building? What is the difference between fixed price and book building issue. (4 marks)

Answer-

Book building in case of public issue means the price discovery of the issue price to be done by investors themselves in such issues the company offers instead of fixed price.

No	Fixed Price	Book Building
1)	The prices are fixed by company	Prices are decided by investors
2)	Only one price is offered to the investors	Price band is offered to investors
3)	There is no categorization of investors	Investors falls in the following categories QIB's, HNI's RII's.

Q) M/s Highspeed Ltd. manufacturing a car component for leading car manufacturer. Its public issue of ` 500 crore was fully subscribed. The public issue money ought to be utilized for setup an assembly-line for the existing business. Out of ` 500 crore, the company spent ` 400 crore for assembly-line. The management consultant, hired for business Process re-engineering has suggested to invest balance amount to setup bike components manufacturing unit. You, being company secretary of the company, advise

on the opinion of management consultant by referring provisions of SEBI Guidelines.

(5 marks)

Answer-

- a. A Company shall not, vary the objects for which the prospectus was issued, except subject to approval of shareholders in GM by way of special resolution.
- b. The dissenting shareholders who have not agreed to the proposal to vary the terms or objects of contract shall be given an exit opportunity.
- c. By applying the above provisions to the given case, the company can use funds as suggested by the management consultant provided, they take the approval of shareholders by SR & give exit opportunity to dissenting shareholders.

Q) The financial data of Natural Energy Limited as on 31st March, 2018 are as under:

- i. Authorized Share Capital: 700 crore**
- ii. Paid-up Capital: 300 crore**

iii. Free Reserves: 800 crore

The company has pending convertible debenture of ` 150 crore, due for conversion in financial year 2018-19. The company proposes to issue bonus shares in the ratio of 1: 1 after conversion of debenture. You being a company secretary, advise on the procedure to be followed by referring SEBI regulations. (8 marks)

Answer-

The procedure for issue of bonus shares by a listed company is as follows:

- i. A Company which has pending conversion of fully convertible debentures/partly convertible debentures, issue any shares by way of bonus unless similar benefit is extended to the holders of fully convertible debentures/partly convertible debentures, through reservation of shares in proportion to such convertible part of fully convertible debentures/partly convertible debentures.
- ii. Bonus issue is capitalization of profit. Bonus shares should be issued from free reserves created out of genuine profits or share premiums collected.

- iii. Any reserve created through revaluation of fixed assets cannot be capitalized.
- iv. At the time of issuing bonus shares, there should not be partly paid up shares
- v. There should not be any default on the part of the company in payment of statutory dues to employees such as provident fund, gratuity, bonus, etc. Similarly, there should not be default in payment of interest on fixed deposits or interest or principal amount thereof.
- vi. Hold a board meeting and get the proposal approved by the BOD.
- vii. The resolution to be passed at the GM should also be approved by the BOD in BM.
- viii. Hold a GM and get the resolution for issue of bonus shares passed by the members.
- ix. Fix the record date and prepare the list of members entitled to bonus shares on basis of ROM.
- x. Ensure that the allotment is made within 15 days of the date on which BOD approved the bonus issue.

Q) Girdhar (Retail Individual Investor) had applied for Initial Public Offer of Six Sigma Ltd. through Applications Supported by Block Amount (ASBA) process. The Self Certified Syndicate Banks (SCSBs) failed to make bids in the Stock Exchange system even after the amount has been blocked. The issue was oversubscribed. Based on the SEBI guidelines/circulars, answer the following:

(i) What are the factors that have been taken into account by SEBI for finalization of uniform policy for calculation of the minimum fair compensation? (5 marks)

Answer-

- i) A need has been felt to have a uniform policy for calculation of minimum compensation payable to investors. While doing so, the following factors have been taken into account:
- a) The opportunity loss suffered by the investor due to non-allotment of shares;
 - b) The number of times the issue was oversubscribed in the relevant category;
 - c) The probability of allotment; and
 - d) The listing gains if any on the day of listing.

Q) Define “Dissenting shareholders”. What are the conditions for applicability of Exit offers by dissenting shareholders according to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018? (4 marks)

Answer-

“Dissenting shareholders” means those shareholders who have voted against the resolution for change in objects or variation in terms of a contract, referred to in the prospectus of the issuer;

In case the company is utilizing less than 75% of the issues proceeds for the purpose which is not mentioned in the object clause mentioned in prospectus company shall pass a special resolution and they shall give exit opportunity to share holder who are dissenting to such variation. Provided there are at least 10% shareholder who are dissenting.

It is presumed that investors in the secondary market take an informed decision of investing in the equity shares of the company after doing a full background check on the same. This

includes the objects of the company for which the company has raised money from the market. Thus, investors who invested in the company through secondary market should also be given a fair opportunity of exiting the company in case they do not agree to the change in objects of the company. Therefore, investors who are holding shares as on the date on which the proposal to change the objects becomes public should be allowed to exit under this provision.

Q) Write notes on the following:

Fast Track Issue (4 marks)

Answer-

Fast Track issue:

- The fast track route of fund raising is an alternative available for companies to access public funds by way of further capital offerings.

- Such companies are not required to file draft offer document with SEBI and Stock Exchanges.
- Already Listed companies are fully complaint and all the requisite information about such companies is available in public domain.
- The equity shares of the issuer have been listed on any stock exchange for a period of at least three years immediately preceding the reference date;
- Entire shareholding of the promoter group of the issuer is held in dematerialized form on the reference date;
- The average market capitalization of public shareholding of the issuer is at least one thousand crore rupees in case of public issue and two hundred and fifty crore rupees in case of rights issue;

Q) Promoter's contribution to be brought in before public issue opens. (4 marks)

Answer-

- i. Promoter's contribution to be brought in before public issue opens. Promoters shall bring in the full amount of the promoters' contribution including premium at least one day prior to the issue opening date which shall be kept in an escrow account with a Scheduled Commercial Bank and the said contribution/ amount shall be released to the company along with the public issue proceeds.
- ii. However, where the promoters' contribution has been brought prior to the public issue and has company, the company shall give the cash flow statement in the offer document disclosing the use of such funds received as promoters' contribution.
- iii. If the promoter's minimum contribution exceeds `100 crores, the promoters shall bring in 100 crores before the opening of the issue and the remaining contribution shall be brought in by the promoters in advance on pro-rata basis before the calls are made on public.

Q. Hope Ltd. Makes an issue worth Rs.125 crores to the public, out of which Rs.20 crores was for sale to existing shareholders. Explain the provisions regarding the Utilization of proceeds and state whether any exception is available. (4 marks)

Answer-

- 1) SEBI (Issue of Capital and Disclosure Requirements) Regulation, 2018, if the issue size excluding the size of offer for sale is more than 100 crores, a monitoring agency has to be appointed. In the given case, the issue exceeds Rs.100 crores i.e. Rs.5 crores excluding Rs.20 crores by selling shareholders. Hence a monitoring agency should be appointed to track the issue proceeds.
- 2) Further the monitoring agency shall submit its report to the issuer in the format specified in the ICDR Regulation, 2018 on a quarterly basis, till at least 100% of the proceeds of the issue excluding the proceeds raised for general corporate purpose have been utilized.

- 3) The Board of Directors and the management of the issue shall provide their comments on the filing of the monitoring agency.
- 4) The issuer shall within 45 days from the end of each quarter, publicly disseminate the report of monitoring agency by uploading the same on its website as well as submitting the same stock exchange(s) on which its equity shares are listed.
- 5) However, the above mentioned rule is not applicable if the issuer is a bank or public financial institution or insurance company.

Q) Actnow Edge Limited, an unlisted company, is in the process of expanding its business. For expansion, it needs funds of Rs.200 crores. For raising Rs.200 crores, a company has decided to bring an initial public offer through book building mechanism. It has fixed a price band of Rs.500- Rs.600. Referring to the provision of SEBI (Issue of Capital and Disclosure Requirements) Regulation 2018, advice the company on the following matters:

- (i) What should be minimum application value and minimum number of equity shares in one application?**
- (ii) What will be minimum sum payable on application?**
- (iii) What should minimum time period for which issue should remain open for subscription? (5 marks)**

Answer –

1. Application and Minimum Application Value-

The issuer shall stipulate in the offer documents the minimum application size in terms of number of specified securities which shall fall within the range of minimum application value of ten thousand rupees to fifteen thousand rupees. Thus, in the given case Actnow Edge Limited should fix the minimum number of shares in one application in such manner that application value should be between the limit of Rs.10000 to Rs.15000. Hence, minimum number of shares in one application will be:

- At lower level of price band: 20 Shares (10000/ Rs.500) & 30 shares (Rs.15000/ Rs.500)
- At higher level of price band: 17 shares (Rs.10000 / Rs.600) & 25 shares (Rs.15000/ Rs.600)

The minimum sum payable on application per specified security shall be at least twenty-five per cent of the issue price.

2. Period of Subscription:

- a. An IPO shall be kept open for at least three working days and not more than ten working days.
- b. In case of a revision in the price band, the issuer shall extend the bidding (issue) period disclosed in the red hearing prospectus, for a minimum period of three working days.
- c. In case of force majeure, banking strike or similar circumstances, the issuer may, for reasons to be recorded in writing, extend the bidding (issue) period disclosed in the red hearing prospectus (in case of book building of issue) or the issue period disclosed in

the prospectus (in case of a fixed price issue), for a minimum period of three working days.

Q) Karuna Ltd made an Initial Public Offer (IPO) of equity shares in March 2020 and was granted listing on stock exchange. Soon, thereafter, the promoters of the company started contemplating a change in the objects clause mentioned in the offer document. To give effect to the same, the company convened an extra ordinary general meeting of shareholders in April 2020. Though the requisite resolution was passed by the company, there were, nevertheless, the dissenting shareholders too. The promoters decided to provide an exit opportunity to the dissenting shareholders.

In light of the above, Answer the following:

- i. Who are the dissenting shareholders?**
- ii. What are the eligibility of shareholders for availing the exist offer?**

iii. Enumerate the condition required to be complied with to give effect to this recourse which was availed by the promoters.

iv. How the exit offer price will be determined? (7 marks)

Answer:

- (i) “Dissenting Shareholders” means – those shareholders who have voted against the resolution for change in object or variation in the terms of contract, referred to in the offer document of the issuer.
- (ii) Only those dissenting shareholders of the issuer who are holding shares as on the relevant date shall be eligible to avail the exist offer.
- (iii) Conditions for Exit Offer: The promoters or shareholders in control of Karuna Ltd shall make the exit offer to the dissenting shareholders, in cases only if a public issue has opened after April 1, 2014:
 - a) In case the company is utilizing less than 75% of the issues proceeds for the purpose which is not mentioned in the object clause mentioned in prospectus company shall

pass a special resolution and they shall give exit opportunity to share holder who are dissenting to such variation. Provided there are at least 10% shareholder who are dissenting.

- iv) The exit price for such dissenting shareholders shall be highest of the following:
- a) Volume weighted average price of preceding 52 weeks.
 - b) Highest price paid by the acquirer during preceding, preceding 26 weeks.
 - c) Volume weighted average market price of preceding sixty trading day
 - d) Where the shares are infrequently traded, price determined by promoters in consultation with merchant banker.

Q) Turnkey Ltd. Is a listed company, manufacturing auto ancillary components one of the Director of the company is a fugitive economic offender. The company wants to bring further public offer (FPO). You being the company secretary of the

company, advise whether the company can issue FPO. State the general condition and the eligibility requirements for FPO under SEBI Regulation. (8 marks)

Answer –

An issuer shall not make a further public offer:

- If the issuer, any of its promoter or promoter group is debarred from accessing the capital market by SEBI
- If any of the promoter or director of the issuer is promoter or director of any other company which is debarred.
- If the issuer or any of its promoter or director is a willful-defaulter
- If any promoter or director of the issuer is a fugitive offender.
- If there are any outstanding convertible securities.

Therefore, applying the above provision to the given case, Turnkey Ltd. Whose One of the Director of the company is a fugitive offender shall not make a further public offer.

2. General condition for FPO as per the SEBI (ICDR) Regulations:

➤ An application is made for listing of specified securities to one or more RSE & select one of the Stock Exchange as designated stock exchange.

2 Eligibility conditions for IPO:

- A. An application to one or more stock exchange is made for in-principal approval.
- B. Agreement with depository, for dematerialization of securities.
- C. All the holding of promoters is in dematerialized form
- D. Firm arrangement of finance through verifiable means is up to 75% of total issue excluding issue proceeds and internal accruals.

3. Eligibility norm for FPO: In case the company has changed its name within the last one year at least 50% of the revenue for the preceding 1 full year is earned by the company from the activity suggested by the new name.

Q) Is there any mechanism for monitoring of use of proceeds raised through public issue? Explain briefly. (4 marks)

Answer-

- A company which intends to make a public issue of more than 100 crores excluding offer for sale shall appoint a monitoring agency to ensure the whether the issue proceeds are being utilized for the objective that is mentioned in the prospectus.
- The monitoring agency shall be appointed until the entire proceeds of issue are utilized for the mentioned objective.
- The monitoring agency shall submit its report to board of directors on a quarterly basis, the board in turn shall submit such report to the stock exchange.

Q) Write a short note on SCSBs. (4 marks)

Answer- An issuer company in case of public issue through book building method, provides a facility called Application Supported by Blocked Amount (ASBA). In such facility, the applicant's money is not transferred to Company's Escrow Account but it is locked in the Bank Account of the investor itself. After the Company has decided the allotment criteria,

excess application money is unlocked in the investors account & the value of money against issue of shares is transferred to Company's Escrow Account. Such facility can only be provided by Self Certified Syndicate Banks as approved by & SEBI.

Q) A detailed note on Anchor Investors. (5 marks)

Answer- Anchor Investor means a Qualified Institutional Buyer who makes an application for a value of ten crore rupees or more in a public issue made through the book-building process in accordance with SEBI (ICDR) Regulations, 2018.

Out of the portion available for allocation to QIBs, allocation to Anchor Investors may be made subject to following conditions:

- a) An Anchor Investor shall make an application of a value of at least Rs.10 crores in the public issue;

- b) Allocation to Anchor Investors shall be on a discretionary basis and subject to a minimum number of 2 such investors for allocation of up to Rs.250 crores and 5 such investors for allocation of more than Rs.250 crores;
- c) Up to 30% of the portion available for allocation to qualified institutional buyers shall be available to anchor investor(s) for allocation/allotment (“anchor investor portion”);
- d) One-third of the anchor investor portion shall be reserved for domestic mutual funds;
- e) The bidding for Anchor Investors shall open one day before the issue opening date;
- f) Allocation to Anchor Investors shall be completed on the day of bidding by Anchor Investors;
- g) If the price fixed as a result of book building is higher than the price at which the allocation is made to Anchor Investor, the Anchor Investor shall bring in the additional amount. However, if the price fixed as a result of book building is lower than the price at which the allocation is made to Anchor Investor, the excess amount shall not be refunded

to the Anchor Investor and the Anchor Investor shall take allotment at the price at which allocation was made to it;

h) There shall be a lock-in of 30 days on the shares allotted to the Anchor Investor from the date of allotment in the public issue.

Q) What is meant by Anchor Investor? What are the limitations of allocation to anchor investors in the Book building process? (5 marks)

Answer-

- "Anchor investor" means a qualified institutional buyer who makes an application for a value of ten crores rupees or more in a public issue made through the book building process in accordance with these regulations.
- Anchor investor means a qualified institutional buyer who makes an application for a value of Rs.10 crores or more in a public issue made through the book building process subject to the following regulations:

(i) Allocation to Anchor Investors shall be on a discretionary basis and subject to the following:

(a) Maximum of 2 such investors shall be permitted for allocation up to 10 crores;

(b) Minimum of 2 and maximum of 15 such investors shall be permitted for allocation above Rs.10 crores and up to Rs.250 crores, subject to minimum allotment of Rs.5 crores per such investor;

(c) Minimum of 5 and maximum of 25 such investors shall be permitted for allocation above Rs.250 crores, subject to minimum allotment of Rs.5 crores per such investor.

(ii) Up to 30% of the portion available for allocation to QIB shall be available to anchor investor(s) for allocation/allotment.

One – third of the anchor investor portion shall be reserved for domestic mutual funds.

Q) “The book building process is very transparent. All investors including small investors can see on an hourly basis where the book is being built before applying”. Explain the offer to public through Book Building Process. (4 marks)

Answer-

Book building is basically a process used in initial public offer [IPO] for efficient price discovery. The process comprises of these following steps –

- The issuing company appoints an underwriter who is tasked with determining the price range the security can be sold for and for drafting a prospectus.
- Invites investors, normally large scale buyers, to submit bids on the no. of shares that they are interested in buying & the prices they would be willing to pay.
- The book is built by listing & evaluating the aggregate demand for the issue from the submitted bids.
- The underwriter analyzes the information then uses a weighted average to arrive at a final price for the security, which is termed as ‘cut off’ price.

- The underwriter has to, for the sake of transparency; publicize the details of all the bids that were submitted.
- Finally, allocate the shares to the accepted bidders.

Q) Who are Anchor Investors? How is allocation made to Anchor Investors? (5 marks)

Answer-

Anchor investor means a Qualified Institutional Buyer (QIB) who makes an application for a value of at least 10 crore rupees in a public issue on the main board made through the book building process or makes an application for a value of at least Rs.2 crores for a public issue on the Small and Medium Enterprises (SME) exchange.

Allocation to anchor investors shall be on a discretionary basis and subject to the following:

In case of public issue on the main board, through the book building process:

- (i) Maximum of 2 such investors shall be permitted for allocation up to Rs.10 crores.

(ii) Minimum of 2 and maximum of 15 such investors shall be permitted for allocation above Rs.10 crores and up to Rs.250 crores, subject to minimum allotment of Rs.5 crores per such investor.

(iii) In case of allocation above Rs.250 crores; a minimum of 5 such investors and a maximum of 15 such investors for allocation up to Rs.250 crores and an additional 10 such investors for every additional Rs.250 crores or part thereof, shall be permitted, subject to a minimum allotment of Rs.5 crores per investor.

(iv) Up to 30% of the portion available for allocation to qualified institutional buyers shall be available to anchor investor(s) for allocation/ allotment ("anchor investor portion") and one-third of the anchor investor portion shall be reserved for domestic mutual funds.

CHAPTER 9 - SHARE BASED EMPLOYEE BENEFITS AND SWEAT EQUITY

Q) Your Board of directors is contemplating to take-up the agenda to issue ESOS in next meeting. Being a Company Secretary, advise your Board of directors about brief procedure for issuing of securities under SEBI Employees Stock Option Scheme (ESOS) by a listed Company. (4 marks)

Answer-

Procedure for issuing of securities under SEBI ESOS by a listed company:

- Hold a Board meeting to consider & approve ESOP and formation of compensation committee.
- Compensation committee shall plan and draft the scheme of ESOP.
- Hold board meeting to adopt the final scheme, appoint the merchant banker & approve the notice of GM for shareholder's approval.
- Hold GM for shareholder's approval.

- Make an application to the stock exchange for obtaining in principle approval of the stock exchange.
- Issue of letter of grant of option to the eligible employees along with the letter of acceptance of option.
- On receipt of letter of acceptance of option along with upfront payment (if any) from the employee.
- After expiry of vesting period, not less than 1 year the options shall vest in the employee. The company shall issue a letter of vesting along with the letter of exercise of options.
- Hold a BM at the suitable interval during the exercise period for allotment of shares on options exercised by the employees.
- Dispatch of letter of allotment along with the share certificates or credit the shares so allotted with the depositories.
- Make an application to the stock exchange for listing of Shares so allotted.
- The stock exchange provides the receipt of listing of shares.

Q) Write notes on the following:

Employee Stock Purchase Scheme. (4 marks)

Answer-

Employee Stock Purchase Scheme

Employee stock purchase scheme is a scheme formulated by company for the benefit of its employees. Such scheme gives the employee of the company an option to purchase shares of the company at a pre-determined price which is usually less than the market price, the company is free to decide the eligibility criteria for ESOP. Such ESOP shall have a compulsory vesting period of 1 year.

Q) Explain the Stock Appreciation Rights Scheme (SARS). (4 marks)

Answer-

SARS is a scheme formulated by company for benefit of its employees. SARS does not give an option or right to buy shares but gives right to receive appreciation linked to such shares (if

any). There shall be a minimum vesting period of 1 year. The employee do not have right to receive dividend or to vote. Such SARS can be equity settled or cash settled

Q) Answer the following with reference to the Companies (Share Capital and Debentures) Rules, 2014, as to whether these are the eligible employees under Employee Stock Option? (Yes/No with reasons)

- i. Ankit is a permanent employee deputed in USA for a specific project.**
- ii. Smart is an independent director.**
- iii. Anil is a promoter and employee.**
- iv. Aneesh is a director holding 11% of outstanding equity shares of the company.**
- v. If it is a startup company, will the situation be the same in (iii) & (iv) above? (5 marks)**

Answer-

“Employee”, except in relation to issue of sweat equity shares, means, -

- i. an employee as designated by the company, who is exclusively working in India or outside India; or
- ii. a director of the company, whether a whole time director or not, including a nonexecutive director who is not a promoter or member of the promoter group, but excluding an independent director; or
- iii. an employee as defined in sub-clauses (i) or (ii), of a group company including subsidiary or its associate company, in India or outside India, or of a holding company of the company, but does not include—
 - an employee who is a promoter or a person belonging to the promoter group; or
 - a director who, either himself or through his relative or through anybody corporate, directly or indirectly, holds more than ten per cent of the outstanding equity shares of the company

By applying the above provisions to the given case:

- (i) Yes, Ankit is eligible as he is permanent employee and even if he is outside India still, he is eligible.
- (ii) No, Smart cannot act as an employee as he is acting under the capacity of an independent director.
- (iii) No, Anil is not eligible as he is promoter as well as employee.
- (iv) Avneesh is eligible to employee for the purpose of ESOP.
- (v) If it is a startup company then, they will be eligible for five years from the date of its incorporation as per the provisions defined.

Q) Differentiate between Direct Route and Trust Route for ESOP. (4 marks)

Answer-

A) Direct Route for ESOPs

1. Company forms a compensation committee and define the eligibility criteria of ESOPs.
2. Company issue fresh shares for ESOPs.

3. After vesting period employees can exercise the option.

4. On exercise of an option company issues the shares to the eligible employees.

B) Trust route for ESOPs.

1. Company forms an Employee Welfare Trust.

2. Company grants loan to the trust for subscribing shares.

3. Company issue fresh shares to the trust and option to the eligible employee

4. Employees exercise the options

5. Trust transfers the shares to the employee upon receipt of exercise price.

6. Trust repays the loan to the company.

Q) Prikshit is appointed as an independent director on the Board of PQR Ltd. The Company has issued ESOPs to Prikshit deeming him to be its employee. Answer the following:

(a) Whether Prikshit is entitled to receive the ESOPs [give reason]?

(b) What would be your answer, if Prikshit is a non-executive director belongs to the promoters group and holds 12% outstanding equity shares of the company?(4 marks)

Answer-

- As per the provisions of SEBI (Share based Employee Benefits and Sweat Equity) Regulations, 2021 for the purpose of ESOPs an employee is a person who is in record of the company working in India or outside India or a director whether whole time or nonexecutive who is not a promotor or belongs to the promoter group and excludes an independent director and also includes employee working for subsidiary, associate or holding company but excludes employee belonging to promoter, promoter group or a director who holds more than 10% of equity shares of the company directly or indirectly
- In light of the above provisions
 - a. No Prikshit is not entitled to receive the ESOPs as he is an independent director and it is not included in the definition of employee

b. Assuming that Prikshit is a not an independent director , still he won't be entitled to receive ESOPs as he belongs to the promoter group and holds 12% of outstanding equity shares

Q) 'SEBI Share Base Employee Benefit Regulations shall apply to any company, whether listed or not on any recognized stock exchanges in India and has a scheme'. Comments on the statement discuss the scheme or purpose of the regulation. (4 marks)

Answer-

The provision of these regulations shall apply to any company whose shares are listed on recognized stock exchange in India and has a scheme:

- i) For direct or indirect benefits of the company;
- ii) Involving dealing in or subscribing to or purchasing securities of the company, directly or indirectly and

iii) Satisfying directly or indirectly any of the following conditions:

- The scheme is set up by the company or any other company in its groups;
- The scheme is controlled or managed by the company or guaranteed by the company in its groups;
- The scheme is controlled or managed by the company or any other company in its groups;

Q) Explain the provision of pricing, vesting period and consequence of failure to exercise Employee Stock Option Scheme. (4 marks)

Answer-

- 1) Pricing: The company granting option to its employees pursuant to ESOS will have the freedom to determine the exercise price subject to conforming to the accounting policies as specified in these regulation.
- 2) Vesting period: There shall be a minimum vesting period of one year in case of ESOS.

However, in case where options are granted by the company under an ESOS in lieu of options held by a person under an ESOS in another company which has merged or amalgamated with that the company, the period during which is options granted by transfer or company were held by the transfer or company were held by him shall be adjusted against minimum vesting period required under this sub-regulation. The company may specify the lock in period for the shares issued pursuant to exercise of option.

- 3) Consequence of failure to exercise option: The amount payable by the employee, if any at the time of grant of option.
- a) May be forfeited by the company if the option is not exercised by the employees within the exercise period; or
 - b) May be refunded to the employee if the options are not vested due to non fulfilment of conditions relating to vesting of option as per the ESOS.

Q) Z Ltd. has issued Sweat Equity Shares for a non-cash consideration. What are the possible accounting treatments in the books of Z Ltd? (4 marks)

Answer-

Where the sweat equity shares are issued for a non cash consideration, such non cash consideration shall be treated in the following manner in the books of accounts of the company:

1. Where the non-cash consideration takes the form of a depreciable or amortizable asset, it shall be carried to the balance sheet of the company in accordance with the relevant accounting standards or
2. Where the above clause is not applicable, it shall be expensed as provided in the relevant accounting standards.

Q) A listed NBFC has been granted license to run as small finance bank by the Reserve Bank of India under recently announced policy to improve the financial inclusion of

the country. During the last three years, the attrition rate for top level management employees was not too high. As, RBI has granted licenses to many small banks, therefore, the promoters of the Bank feels that attrition rate will be high in coming period. The Board of directors wishes to allot Sweat Equity shares to employees. You, being compliance officer of the Bank, advise the Board about pricing of the Sweat Equity shares. (5 marks)

Answer-

Pricing guidelines related to sweat equity shares are as under:

The price of sweat equity shares shall not be less than the higher of the following:

1. 10 trading days volume weighted average price of the equity shares quoted on the stock exchange preceding the relevant date or 90 trading days volume weighted average price of the equity shares quoted on the stock exchange preceding the relevant date;
2. If the shares are listed on more than one stock exchange, but quoted only on one stock exchange on the given date, then the price on that stock exchange shall be considered.

3. If the share price is quoted on more than one stock exchange, then the stock exchange where there is highest trading volume during that day shall be considered.
4. If the shares are not quoted on the given date, then the share price on the next trading day shall be considered.

Q) The Board of directors of Vijay Ltd., a listed entity proposes to issue sweat equity shares to Ganesh, an employee belonging to the promoter's group. Ganesh also participated in the Shareholders' resolution for allotment of sweat equity shares. By referring the relevant SEBI Regulations, answer the followings:

- (i) Can Ganesh participate in the resolution (Give reason)?**
- (ii) Briefly explain the provisions for issuing of sweat equity shares under SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021. (4 marks)**

Answer –

- In terms of SEBI (Share Based Employee Benefits and Sweat Equity) Regulation, 2021 Employee for the purpose of sweat equity means any person who is an employee of the company working in India or outside or a director of the company whether acting as whole-time director or not.
- Such issue of sweat equity shall be approved by shareholders by way of a special resolution, in the case where such sweat equity is being issued to a person belonging to promoter/promoter group an approval by way of an ordinary resolution is required, it should be noted that promoter/promoter group shall not participate in such resolution.
- By applying the above provisions to the given case:
 - i. Ganesh being an employee who is from promoter/promoter group shall not participate in such resolution.
 - ii. A listed company which intends to issue sweat equity share shall adhere to SEBI (Share Based Employee Benefits and Sweat Equity) Regulation, 2021 and other relevant provisions of Companies Act, 2013. A company cannot issue sweat equity

shares for more than 15% of the existing paid-up equity capital in a year and not more than 25% at anytime. A necessary resolution is to be passed. The pricing regarding sweat equity shares shall be according to price of preferential issue.

Q) Answer with reference to SEBI Regulations:

(i) ABC Ltd., a leading software development company is having outstanding Paid-up equity share capital of `20 crore as on 31st March, 2021. On 20th April, 2021, it has issued sweat equity shares of `2 crore to the eligible employees. To control the high attrition rate, it is planning to allot further sweat equity shares of `2 crore during the year. Is it permissible under the law?

(ii) Can a company allot sweat equity shares to an employee working outside India, who has been deputed outside India for last three years?

(iii) Himanshu, a non-executive director, approached the company for allotment of sweat equity shares. Whether he is eligible?

(iv) Whether the company is free to fix the price of sweat equity shares? (7 marks)**Answer-**

- According to SEBI (Share Based Employee benefit and Sweat Equity) Regulations 2021, a company can issue sweat equity shares upto 15% of paid up equity capital in a year and 25% of paid up equity capital in its life.
 - i) By applying the above provisions to the given case Abc Ltd. Has already issued sweat equity share of 2 crores which is 10% of the total paid up equity share capital, the company is permitted to further issue sweat equity shares worth 1 crore (5% of paid up equity capital) the proposal of the company to issue further 2crores sweat equity shall be invalid as the aggregate issue size would exceed the limit i.e 15% in a year.
 - ii) In terms of SEBI (Share Based Employee Benefits and Sweat Equity) Regulation, 2021 Employee for the purpose of sweat equity means any person who is an employee of the company working in India or outside or a director of the company whether acting as

whole-time director or not. Hence, a company can allot sweat equity shares to an employee working outside India.

- iii) By referring to the second point, a company can issue sweat equity to non-executive directors.
- iv) The price of sweat equity share shall be in accordance with provisions of preferential issue.

Q) A Company shall specify a trading period for trading in its securities. (4 marks)

Answer-

- Pursuant to SEBI (Prohibition to Insider Trading) Regulations, 1992, a person who is declared to be an insider shall not deal in the securities of the company during its trading windows closure period.
- Trading window closure means that time period during which the company is to discuss some price – sensitive information.

- Such beginning of the closure period shall be decided by the company itself. However, the closure period ends after 24 hours from the date on which the information is made public.
- During such window closure period, no insider of the company is allowed to deal in the securities of the company. Subject to this period, an insider may trade in the securities of the company after obtaining pre-clearance from its compliance officer.

Q) Insider trading normally means trading in shares of a Company by the persons who are in the management of the company or close to them on the basis of price sensitive information, which they possess but others not. In the light of this, state whether the following information is price sensitive:

- (i) The CEO of a company met with an accident & had been hospitalized.**
- (ii) Intended declaration of rights issue in near future.**
- (iii) RBI has increased repo rate by 25 basis points.**

(iv) The company is going to have another plant at Rudrapur, Uttarakhand.

(v) The Chairman of the Company has submitted his resignation to the Board under protest for selling a particular brand to another company. (5 marks)

Answer-

UPSI is any information that relates to the company which relates to the company and is not generally available in public which if made public will cause material change in the price of the shares of the company, UPSI includes but is not limited to:

- a) Dividend
- b) Financial result
- c) Change in capital structure
- d) Change in KMP
- e) Merger, demerger, amalgamation.

- (i) The CEO of a company met with an accident & had been hospitalized – This information is not price sensitive as the CEO is just hospitalized and thus will not have any effect on the price of the shares.
- (ii) Intended declaration of rights issue in near future – Rights issue to leads to increase in the share capital of the company and thus such information is price sensitive information.
- (iii) RBI has increased repo rate by 25 basis points - Change in RBI policy is declared openly by RBI & it is for all the businesses & not any specific company. Hence it is not price sensitive.
- (iv) The Company is going to have another plant at Rudrapur, Uttarakhand – Any expansion plans about the company is price sensitive information.
- (v) The Chairman of the company has submitted his resignation to the Board under protest for selling a particular brand to another company - There's a change in KMP and thus such information will be considered as price sensitive information.

Q) David, General Manager [finance] of Suren Enterprises Ltd., was found to be indulging in insider trading activities. As a result, the company terminated his services. The SEBI also took cognizance of the matter and initiated proceedings against him under Insider Trading Regulations. David pleaded that since his service had already been terminated, SEBI could not initiate any proceedings against him. Suggest, what type of action can be taken by SEBI against him?(5 marks)

Answer-

- As per the provisions of SEBI (Prohibition of Insider Trading) Regulations, 2015 no insider shall deal in securities of the company without fulfilling the requirements as provided under the said regulations.
- Even if any action is taken against such officers or employees it doesn't take away the rights of SEBI to initiate any legal proceedings.
- In light of the above provisions, the company terminated the services of David on grounds of insider trading. Also SEBI initiated proceedings against David, SEBI can impose fine

which shall not be less than 10 lakh rs and which may extend up to rs 25 cr or 3 times the amount of profit made out of the insider trading , whichever is higher.

Q) In light of SEBI Insider Trading Regulations, explain with reasons whether the following information is deemed as price sensitive:

- (i) Managing Director of ABC Ltd. met with an accident and was hospitalized.**
- (ii) EF Ltd. is under negotiation to enter into a foreign collaboration with a Korean company for technical knowhow.**
- (iii) RBI has increased its repo rate by 25 basis points.**
- (iv) XY Ltd. is proposing for issue of bonus shares for its shareholders.**
- (v) The Chairman of RN Ltd. has submitted his resignation to the Board after reading a news article proposing to sell a particular brand to another company by the promoters of the company.(5 marks)**

Answer-

- This case pertains to the provisions of unpublished price sensitive information. It means any information relating to the company or its securities, directly or indirectly, that is not generally available which upon becoming generally available is likely to materially affect the price of the securities.
 - In light of the above provisions it is not a price sensitive information as there is no change in the KMP
 - In this case it is not a price sensitive information as EF Ltd is under negotiation and it is not yet confirmed
 - In this case it is not a price sensitive information as REPO rate is not company specific and does not affect the company
 - It is a price sensitive information as XY Ltd. Is proposing to issue bonus shares and it affects the price of the securities
 - It is a price sensitive information as the resignation of the chairman is a change in KMP of the company

Q) Raghav, General Manager (Accounts) of X Ltd. was found to be indulging in insider trading & as a consequence, the company terminated his services. The SEBI also took cognizance of the matter & initiated proceedings against him under the SEBI (Prohibition of Insider Trading) Regulations, 1992. Raghav pleaded that since X Ltd. had already penalized him by terminating his services, SEBI could not initiate any proceedings against him. As per the SEBI Regulations & decided case laws, suggest whether the SEBI has a right to take any action against Raghav in this case of insider trading. (8 marks)

Answer-

➤ In terms of SEBI (Prohibition of Insider Trading) Regulations, 2015, no insider shall deal in the securities of the company without fulfilling the requirements as provided under the said regulations.

- Even in cases where an action against such officers or employees has been initiated by the company, it certainly does not take away the rights of SEBI to initiate any legal prosecution.
- In the given case, the Company terminated the services of Raghav on grounds of insider trading. However, as a market regulator & in order to curb the practices of such act, SEBI has suo moto powers to initiate action against the wrong doers. In such a case, SEBI may initiate prosecution against Raghav & the fine may go up to Rs.25 crores or 3 times of the profits, whichever is higher, or imprisonment or with both. Thus the contention of Raghav is incorrect.

Q) Sunil, a Company Secretary & Executive Director of a company had bought shares of that company on behalf of his family members on the basis of unpublished price sensitive information, which was not known to general public but to him as an employee of the company. Family members later on tendered the said shares in an

open offer announced by some acquiring company at a higher price, thereby making huge gains. The SEBI found Sunil guilty of misconduct of insider trading & imposed penalty. Sunil admitted that he had made a mistake but contested the penalty. He, however, was willingly to pay back the profit earned by sale of shares.

Considering the facts of the case, you are required to suggest whether as per the relevant legal provisions relating to insider trading, the SEBI should waive the penalty considering the fact that Sunil admits indulgence in insider trading & is willing to pay back the whole profit earned. (8 marks)

Answer-

The provisions of SEBI (Prohibition of Insider Trading) 2015, states that no insider shall indulge into an act of insider trading without obtaining pre-clearance of the compliance officer of the company. SEBI has explicit powers to look into the matters of insider trading along with the powers to impose fine which may go up to 25 crores or 3 times of the profit, whichever is higher or imprisonment or both.

By referring to the said provisions, Sunil admitted the fact that he was involved in an act of insider trading & accordingly he decided to surrender the amount of profits. However, the powers of SEBI to impose fine or initiate legal proceedings against him are not taken off. SEBI in such cases have discretionary powers to decide the punishment to be given to such insiders.

Q) The price of equity share of a listed company viz. NextDial Ltd. (NDL) increased from ` 10 to high of ` 50 i.e. a rise of 500% during the period 1st April, 2018 to 30th Sept., 2018. NDL had entered into a Share Purchase Agreement (SPA) with the proposed acquirer(s) to acquire 40% of the subscribed equity share capital as of 31st Aug., 2018 which would result in change of management. This initial discussion on the deal was made on 1st April, 2018 but SPA was signed on 25th April, 2018. During 1st April, 2018 to 30th Sept., 2018, the promoter and his wife dealt in the script of Next Dial Ltd. Referring to the provisions of SEBI (PIT) Regulations, answer the following:

- i. Define Unpublished Price Sensitive Information.**
- ii. Whether there was any Unpublished Price Sensitive Information (UPSI)?**
- iii. What will be the date of UPSI?**
- iv. What are the factors to be taken into account by the adjudicating officer while imposing penalty for the act? (7 marks)**

Answer-

- i. Unpublished price sensitive information means any information relating to a company or its securities, directly or indirectly, that is not generally available, which upon being generally available is likely to affect the price of the securities and includes:
 - Financial results
 - Dividends
 - Change in capital structure
 - Mergers, demergers, acquisitions, disposals of business & such other transactions.
 - Changes in KMP

- Material events in accordance with the listing agreement.
 - i. change in management is an unpublished price sensitive information.
 - ii. date of UPSI shall be 25th April, 2018 when the share purchase agreement was signed.
 - iii. The following factors shall be considered by an adjudicating officer:
 - The amount of disproportionate gain or unfair advantage, wherever quantifiable made as a result of default.
 - The amount of loss caused to an investor or a group of investor as a result of default
 - The repetitive nature of the default.

Q) Give exemptions under Regulation 4 of SEBI (Prohibition of Insider Trading) Regulations 2015 which prescribes that an insider shall not trade in securities which are listed or proposed to be listed on stock exchange when in possession of unpublished price sensitive information. (4 marks)

Answer-

The general rule says that a person shall not trade when he is in possession of UPSI, although regulation 4 sets out its exception i.e. any person can deal in securities of the company even if he is in possession of any UPSI if he such trading is done pursuant to such exception.

The exemptions are:

- Off market transfers between promoters who are aware of price sensitive info and both parties had made a conscious and informed trade decision.
- The trades were pursuant to trading plans.
- In case of company where the person responsible for taking investment, decision is different from person who is in possession of UPSI.
- When the transaction was carried pursuant to exercise of stock options.
- The transaction was carried through the block deal window mechanism.
- Such transaction is carried pursuant to any fulfill any statutory obligation.

Q) What is Trading Plan under SEBI (Prohibition of Insider Trading) Regulations, 2015? State the requirements to be complied with in this regard. (4 marks)

Answer-

An insider may submit a trading plan to the compliance officer of the company, the trading plan allows such insider to trade in the shares of the company.

Following are some requirements of trading plan:

- a) It shall be for a minimum period of 1 year.
- b) It shall not overlap any existing trading plan.
- c) It shall come into effect after 6 months from the date it was submitted
- d) The compliance officer must be responsible for approving such trading plan.
- e) Either value of trades or number of securities to mentioned in such trading plan.

Q) You are working as the Company Secretary of a listed company viz. Mindspare Ltd. The company is in advance stage of negotiation with a buyer, who will drastically

improve the profitability and financial position of the company. You have got some information that one of the employees of the company, who is involved in the negotiation may indulge in trading of shares of the company. Being a compliance officer, you are required to formulate a code of conduct to regulate, monitor and report trading by employees and other connected persons towards achieving compliance with the SEBI (Prohibition of Insider Trading) Regulations, 2015. (5 marks)

Answer-

Code of conduct

1. Prompt public disclosure of unpublished price sensitive information that would impact price discovery no sooner than credible and concrete information comes into being in order to make such information generally available.
2. Uniform and universal dissemination of unpublished price sensitive information to avoid selective disclosure.

3. Designation of a senior officer as a chief investor relations officer to deal with dissemination of information and disclosure of unpublished price sensitive information.
4. Prompt dissemination of unpublished price sensitive information that gets disclosed selectively, inadvertently or otherwise to make such information generally available.
5. Appropriate and fair response to queries on news reports and requests for verification of market rumors by regulatory authorities.
6. Ensuring that information shared with analysts and research personnel is not unpublished price sensitive information.
7. Developing best practices to make transcripts or records of proceedings of meetings with analysts and other investor relations conferences on the official website to ensure official confirmation and documentation of disclosures made. Handling of all unpublished price sensitive information on a need-to-know basis.

Q) Schedule A of Insider Trading Regulations lays down the principles and procedures of fair disclosure. (5 marks)

Answer-

Schedule A of these regulations lays down the following principles of fair disclosure for purposes of Code of Practices and Procedures for Fair Disclosure of Unpublished Price Sensitive Information:

1. Prompt public disclosure of unpublished price sensitive information that would impact price discovery no sooner than credible and concrete information comes into being in order to make such information generally available.
2. Uniform and universal dissemination of unpublished price sensitive unpublished price sensitive information to avoid selective disclosure.
3. Designation of a senior officer as a chief investor relations officer to deal with dissemination of information and disclosure of unpublished price sensitive information.

4. Prompt dissemination of unpublished price sensitive information that gets disclosed selectively, inadvertently or otherwise to make such information generally available.
5. Appropriate and fair response to queries on news reports and requests for verification of market rumors by regulatory authorities.
6. Ensuring that information shared with analysts and research personnel is not unpublished price sensitive information.
7. Developing best practices to make transcripts or records of proceedings of meetings with analysts and other investor relations conferences on the official website to ensure official confirmation and documentation of disclosures made.
8. Handling of all unpublished price sensitive information on a need-to-know basis.

Q) As a company secretary in employment of Deluxe Ltd. A listed company what will be your role in monitoring trading window under SEBI (Prohibition of Insider Trading) Regulation, 2015. (4 marks)

Answer-Role of Company Secretary in monitoring trading window under SEBI (Prohibition of Insider Trading) Regulation 2015 is as under:

- To ensure that the trading window shall be closed when designated person or class of designated person can reasonably be expected to have possession of unpublished price sensitive information. Such closure shall be imposed in relation to such securities to which such unpublished price sensitive information relates.
- To ensure that the trading window is closed at the time of-
 1. Declaration of financial results
 2. Declaration of dividend;
 3. Change in capital structure.
 4. Merger, demerger, acquisition, delisting, disposals and expansion of business and such other transaction;
 5. Changes in key managerial personnel

- To ensure that designated persons and their immediate relatives shall not trade in securities when the trading window is closed.
- To ensure that no trading shall between 20th day prior to closer of financial period and 2nd trading day after disclosure of financial results.
- To approve that trading plan and after the approval of trading plan as compliance officer shall notify the plan to the stock exchange on which securities are listed.
- To keep records of period specified as 'close period' and the 'trading window'.

Q) 'Trading plan is an exception to the general rule that an insider should not trade when in possession of unpublished price sensitive information. In the light of this statement, explain the concept of trading plan and its essential elements. (4 marks)

Answer-

- 1) An insider shall be entitled to formulate a trading plan and present it to the compliance officer for approval and public disclosure pursuant to which traders may be carried out on his behalf in accordance with such plan.
- 2) The trading plan shall:
 - ii) Not entail commencement of trading on behalf of the insider earlier than six months from the public disclosure of the plan;
 - iii) Not entail trading for the period between the twentieth trading day prior to the last day of any financial period for which result are required to be announced by the issuer of the securities and the second trading period after the disclosure of such financial results;
 - iv) Entail trading for a period of not less than twelve months;
 - v) Not entail overlap of any period for which another trading plan is already in existence;

- vi) Set out either the value of trades to be affected or the number of securities to be traded along with the nature of trade and the intervals at or dates on which such trade shall be effected; and
- vii) Not entail trading in securities for market abuse.

Q) Referring to the SEBI Insider Trading Regulation answer the following

(a) What is unpublished price sensitive information?

(b) State with reasons whether the following information is price sensitive:

(i) RBI has increased its statutory Liquidity Ratio (SLR) by 15 basis points.

(ii) The company is increasing its authorized share capital. (4 marks)

Answer-

- (a) Unpublished price sensitive information means any information relating to a company or its securities directly or indirectly that is not generally available which upon becoming

generally available is likely to materially affect the price of the securities and shall ordinarily including but not restricted to information relating to the following:

- Financial results;
 - Dividends;
 - Changes in capital structures
 - Mergers, de mergers, acquisitions, delisting, disposal and expansion of business and such other transaction;
 - Changes in key managerial personnel.
- b. (i) RBI has increased its Statutory Liquidity Ratio (SLR) by 15 basis points. It is not an unpublished price sensitive information as it does not relate to any of the events defined under 'Unpublished price sensitive information.'

2. The company is increasing its authorized capital: It is unpublished price sensitive information as it is related to change in capital structure which is define under 'Unpublished price sensitive information.'

Q) Ankur traded in shares of Sitez Ltd., a listed company. The trading plan was approved by compliance officer on May 19, 2022. Ankur comes to know on July 20, 2022 that this transaction involve unpublished price sensitive information.

(i) What will be the impact on the transactions of Ankur?

(ii) What conditions are attached to the trading plan? (5 marks)

Answer-

(i) As per Regulation 5 of the SEBI (Prohibition of Insider Trading) Regulations, 2015, an insider shall be entitled to formulate a trading plan in advance and present it to the compliance officer for approval and public disclosure pursuant to which trades may be carried out on his behalf in accordance with such plan. Such trading plan shall not entail

commencement of trading on behalf of the insider earlier than six months from the public disclosure of the plan.

In the present case, Ankur traded in shares of Sitez Ltd. as per trading plan approved on May 19, 2022 by compliance officer and Ankur comes to know on July 20, 2022 that this transaction involves unpublished price sensitive information, therefore, such transaction (within six months from public disclosure of the plan) is an insider trading transaction.

(ii) Conditions attached to trading plan are as follows:

- Trading Plan shall entail trading for a period of not less than 12 months.
- Overlapping of trading plans not permitted.
- Trading plan to specify the value of trades/number of securities to be traded and dates etc.
- Trading plan shall not entail trading of securities for market abuse.

- Trading plan not to entail trading for a reasonable period around to declaration of financial results.
- Compliance officer to review, approve and notify the trading plan to stock exchanges.
- Trading plan once approved shall not be revoked.
- Commencement of trading not earlier than 6 months from the public disclosure of the plan. Unpublished Price Sensitive Information (UPSI) not in possession from formulation of plan to implementation.

CHAPTER 11 - LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS

Q) Discuss briefly the composition, role & responsibilities of Audit Committee under listing agreement. (8 marks)

Answer-

All listed companies shall constitute a Committee of Directors to be known as 'Audit Committee of Directors' to look into accounting, financial and audit aspects of a company. Audit Committee of Directors shall consist of at least three directors, out of which at least 2/3rd shall be independent directors. All members of Audit Committee shall be financially literate and at least one member shall have accounting or related financial management expertise. The Chairman of the Audit Committee shall be an independent director and he shall present himself at the AGM to answer the shareholders' queries.

In case the company has issued SR equity shares all of the members of such Audit committee shall be Independent Directors.

The role of the audit committee shall include the following:

- Oversight of the company's financial reporting process and the disclosure of its financial information to ensure that the financial statement is correct, sufficient and credible.
- Recommending to the Board, the appointment, re-appointment and, if required, the replacement or removal of the statutory auditor and the fixation of audit fees.
- Approval of payment to statutory auditors for any other services rendered by the statutory auditors.
- Reviewing, with the management, the annual financial statements before submission to the board for approval, with particular reference to:
 - a) Matters to be included in the Director's Responsibility Statement to be included in the Board's report;
 - b) Changes, if any, in accounting policies and practices and reasons for the same;

- c) Major accounting entries involving estimates based on the exercise of judgement by management.
 - d) Significant adjustments made in the financial statements arising out of audit findings;
 - e) Compliance with listing and other legal requirements relating to financial statements;
 - f) Disclosure of any related party transactions;
 - g) Qualifications in the draft audit report.
- Reviewing, with the management, the quarterly financial statements before submission to the board for approval.
 - Reviewing, with the management, the statement of uses / application of funds raised through an issue (public issue, rights issue, preferential issue, etc.), the statement of funds utilized for purposes other than those stated in the offer document / prospectus / notice and the report submitted by the monitoring agency monitoring the utilization of proceeds of a public or rights issue, and making appropriate recommendations to the Board to take up steps in this matter.

- Review and monitor the auditor's independence and performance, and effectiveness of audit process.
- Approval or any subsequent modification of transactions of the company with related parties.
- Scrutiny of inter-corporate loans and investments.
- Valuation of undertakings or assets of the company, wherever it is necessary.
- Evaluation of internal financial contracts and risk management systems.

Q) Corporate Governance Compliance Certificate. (3 marks)

Answer-

The provisions of Compliance Certificate are covered under clause 49 of the listing agreement. The clause provides that the company shall obtain a certificate from either the auditors or practicing company secretary regarding compliance of conditions of corporate governance as stipulated in this clause and annex the certificate with the directors' report.

Q) RJS Ltd. is in the list of top 500 listed entities. P is a non-executive chairman of the company. Q, R & T are the promoters of the company. P is related to one of the promoters T. A is the only woman director [executive director] in the Board. Further, the company is planning to appoint C [aged 70 years] as a non-executive director. Answer the following with reference to the SEBI [LODR] Regulations, 2015:

- (i) Whether the company still requires to appoint another woman director?**
- (ii) What is your view for the requirement of independent directors of RJS Ltd.?**
- (iii) Who shall approve the related party transactions in the Audit Committee meeting of a listed company?**
- (iv) Whether the appointment of C is valid? (4 marks)**

Answer-

- As per the relevant provisions of the SEBI (LODR) Regulations, 2015 the board of directors shall have optimum combination of executive and non-executive directors with at least one woman director.

- As per the provisions, the top 500 listed entities shall ensure that the chairman shall be a non-executive director and not be related to the managing director or the CEO
- In light of the above provisions:
 - i. It is not mandatory to appoint another woman director in the company
 - ii. As per the provisions if the chairman is a non-executive director then at least 1/3rd of the board must comprise of independent directors
 - iii. All the related party transactions shall be approved by the independent directors on the audit committee
 - iv. Appointment of C (aged 70 years) is valid as it doesn't require any special resolution

Q) A listed company can apply to stock exchange for re-classification of the Promoter's holdings as public shareholders under SEBI regulations. Whether following promoters can apply for re-classification with reference to SEBI regulations?

a. Promoter is declared as willful defaulter as per RBI guidelines.

- b. Promoter is holding 12% of total voting rights in the listed entity.**
- c. Promoter is acting as CEO of the listed entity.**
- d. The promoter company has outstanding listing fees only for one year. (5 marks)**

Answer-

As per SEBI (LODR) Regulations, 2015; Conditions applicable for promoters/ persons belonging to promoter group to be eligible for reclassification as public:

- i. In all cases of promoter reclassification, the promoters seeking reclassification and persons related to him shall not:
 - Together hold more than 10% of the total voting power in the listed entity.
 - Exercise control over the affairs of the listed entity directly or indirectly;
 - Have any special rights with respect to the listed entity through formal or informal arrangements including through any shareholder agreement;
 - Be represented on the board of directors (including nominee director) of the listed entity for a period of 3 years from the date of re-classification;

- Act as key managerial persons in the listed entity for a period of 3 years from the date of reclassification;
- Be willful defaulters as defined by RBI
- Be a fugitive economic offender.

The listed entity shall:

1. Be complaint with the requirement for minimum public shareholding as required under these regulations.
2. Not have trading in its shares suspended by the stock exchanges.
3. Not have any outstanding dues to the board, stock exchanges or the depositories.

By applying the above conditions to the given cases:

- a. Promoters declared as willful defaulters by RBI cannot apply for reclassification.
- b. Promoters holding 12% of total voting rights which is more than 10% cannot apply.
- c. Promoter is acting as CEO (a key managerial person) cannot apply for reclassification of their holdings as public shareholders.

d. Promoter Company having outstanding listing fees from 1 year cannot apply.

Q) For ensuring independence in the spirit of Independent Directors and their active participation in functioning of the company, SEBI has accepted many recommendations of Committee setup under the Chairmanship of Shri Uday Kotak and made amendments in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. Explain any four amended provisions related to Independent Directors. (4 marks)

Answer-

Following are the provisions related to Independent Directors:

1. At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, whether incorporated in India or not.

2. The evaluation of independent directors shall be done by the entire board of directors which shall include –
- (a) Performance of the directors; and
 - (b) Fulfillment of the independence criteria as specified in these regulations and their independence from the management
3. Two-thirds of the members of audit committee shall be independent directors.
4. The quorum for a meeting of the nomination and remuneration committee shall be either two members or one third of the members of the committee, whichever is greater, including at least one independent director in attendance.

Q) XYZ Limited is having three subsidiaries X Ltd., Y Ltd. and Z Ltd. The consolidated income of XYZ Limited is Rs. 300 crore and net worth is Rs. 600 crore. The income and net worth of X Ltd., Y Ltd., and Z Ltd. are as follows:

Company	Income [Rs.]	Net worth [Rs.]
X Ltd.	10 Crore	65 Crore
Y Ltd.	45 Crore	14 crore
Z Ltd.	10 crore	18 crore

Examine if there is any material subsidiary of XYZ Limited.(4 marks)

Answer-

- Material subsidiary is a subsidiary of a listed company where in the subsidiary company contributes more than 10% of income or net worth in the consolidated financial statement of the listed company
- As in this case the 10% of income or net worth would be 30cr and 60 cr respectively, X Ltd. And Y Ltd. Has crossed the threshold of 10% income or net worth and therefore

are material subsidiary. And Z Ltd. Has not crossed the threshold limit therefore is not a material subsidiary.

Q) You are the Company Secretary of Sunglow Ltd., which being listed on the Stock Exchange after an IPO is made by the company. The Managing Director desires to know about quarterly compliance requirements under listing agreement. Prepare a list of quarterly compliances as per the listing regulations. (8 marks)

Answer-

Following are the quarterly compliances for a listed company as per SEBI (LODR) Reg:

A company which has made its listing on any stock exchange having nationwide terminals shall adhere to the provisions of the LODR, regulation if they wish to continue to be listed.

Following are some quarterly compliances that a company need to follow:

- i) The listed entity shall within 21 days from end of quarter file a statement regarding investors complaint, which are received, redressed and pending.

- ii) The listed entity shall submit a compliance report on corporate governance within 21 days from close of quarter.
- iii) The listed entity shall submit a report showing shareholding pattern within 21 days from end of quarter.
- iv) The listed entity shall submit financial statements audited or unaudited on standalone basis or consolidated within 45 days from end of quarter.

Q) MCS Ltd. Is a listed company with Bombay Stock Exchange Ltd. The Company enters into related party transactions frequently with MAP Ltd. In which one of director of MCS Ltd. Holds 3% paid up capital of MAP Ltd. MCS Ltd. Feels that getting the approval of Audit Committee for each transaction is time-consuming and delaying the operational plan. You, being a Company Secretary of MCS Ltd., advise the management with reference to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 for approval of the related party transactions from the Audit Committee for next

one year. Will your answer be different if MAP Ltd. Is wholly owned subsidiary of MCS Ltd? (5 marks)

Answer-

1. All related Party transaction shall require prior approval of Audit committee, although in case where the nature of transaction is frequent the Audit committee may grant omnibus approval, which acts as a blanket approval for all such transaction within a certain threshold.
2. The Audit committee shall lay down the criteria for approving such omnibus approval.
3. Value of such transaction shall be subject to maximum limit of 1 crore per transaction.
4. Such approval shall be granted for a period of 1 year and further can be extended. The Audit committee shall review nature of such transaction on a quarterly basis.
5. The above provisions won't be applicable incase the transaction is entered between government company and wholly owned subsidiary.

6. By applying the above provision to the given case, MCS Ltd can make an application to Audit committee for granting such omnibus approval, which will save time effectively
7. In case of wholly owned subsidiary such above provisions shall not apply and the need for approval is eliminated.

Q) Diamond company Ltd. Entered into listing agreement on 21st May, 2018 as per SEBI(LODR) Regulation 2015 with Bombay stock exchange (BSE). The company is planning to conduct a Board Meeting of its Directors on 28th June 2018 for consideration of its Annual Financial Results. Whether the company needs to give prior intimation to the BSE? Explain the matters for which prior intimation of the Board Meeting shall be given to the BSE under SEBI Regulation. (4 marks)

Answer-

The matters for which the prior intimation of the Board Meeting shall be given to the BSE are as follows:

- i. Financial Result viz quarterly, half yearly or annual;
- ii. Proposal for Buy –back of securities
- iii. Proposal for Voluntary delisting by the listed entity from the stock exchange(s)
- iv. Fund raising by way of FPO, Right Issue, ADR, GDR, QIP, FCCB, Preferential Issue, debt issue or any other method and for determination of issue price.
- v. Declaration/ recommendation of dividend
- vi. Proposal for declaration of bonus securities etc.

Q) Audit committee may grant omnibus approval for related party transaction. Elucidate the statement. (4 marks)

Answer-

- a. All related Party transaction shall require prior approval of Audit committee, although in case where the nature of transaction is frequent the Audit committee may grant omnibus

approval, which acts as a blanket approval for all such transaction within a certain threshold.

- b. The Audit committee shall lay down the criteria for approving such omnibus approval.
- c. Value of such transaction shall be subject to maximum limit of 1 crore per transaction.
- d. Such approval shall be granted for a period of 1 year and further can be extended. The Audit committee shall review nature of such transaction on a quarterly basis.
- e. The above provisions won't be applicable incase the transaction is entered between government company and wholly owned subsidiary.

Q) You are the Company Secretary of Fortune Limited, a listed company on the leading Stock Exchange. Your Managing Directors desired a list of yearly compliance under the listing regulation. Briefly list out the yearly compliances. (5 marks)

Answer-

Yearly compliance as per the SEBI (LODR) Regulations, 2015:

- 1.- ANNUAL LISTING FEES: The listed entity shall pay all such fees or charges as applicable to recognized stock exchange in the manner specified by SEBI within 30 days from the end of FY.
- 2.- FINANCIAL RESULTS: The listed entity shall submit annual audited standalone financial results along with audit report and statement on impact of audit qualification applicable only for audit report with modified option to the stock exchange within 60 days from the end of FY.
- 3.- ANNUAL REPORT: The listed entity shall submit the annual report along with the notice of the annual general meeting to the stock exchange not later than the day of commencement of dispatch to its shareholders.
- 4.- CHANGES TO THE ANNUAL REPORT: In case any changes to the annual report, the revised copy along with the details of and explanation for the changes shall be sent within 48 hours after the general meeting.

5. - ANNUAL REPORT TO THE SECURITIES HOLDERS: The listed entity shall send annual report to the holders of securities not later than 21 days before the Annual General Meeting.

Q) Suzan Limited is in top 1000 listed companies. Referring to provision of SEBI (Listing Obligation and Disclosure Requirement) Regulation, 2015, the Board of directors seeks your advice as a company secretary regarding the following two matters:

1. Quorum in Board meeting

2. Maximum number of Directorship in a listed entity by a director. (4 marks)

Answer-

- In terms of provisions of SEBI (LODR) Regulations, 2015 the quorum for top 2000 listed company shall be $1/3^{\text{rd}}$ or three directors whichever is higher and shall also include 1 independent director.

➤ A person shall not be director in more than 7 listed entities, although a person acting as WTD/ managing director shall not act as independent director as in more than 3 listed companies.

Q) SEBI (LODR) Regulation 2015 as amended imposes an obligation on every listed company constitute Nomination & Remuneration Committee and Risk Management Committee. Briefly explain the constitution and role of these committees. (4 marks)

Answer-

- The NRC shall be responsible for nominating new directors and fixing remuneration of managers/directors/ chairman etc.
- Every listed company shall compulsorily constitute nomination and remuneration committee. The composition of NRC shall be:

- 1) The committee shall comprise of three directors; all of the directors shall be non executive.
- 50% of such directors shall be independent directors in case if the company has issued SR equity shares, 2/3 of the such directors shall be independent director. NRC shall meet at least once a year.
- **Risk management committee**
- The risk management committee shall be responsible for monitoring
- The provisions to constitute a risk management committee shall be applicable to top 1000 listed entities as per market capitalization.
- The majority of members shall be directors. In case the company has issued SR equity shares at least two thirds of the directors shall be independent directors. The chairman of the committee shall be member of board. Meeting of risk management committee shall be held twice a year.

Q) What are the recognitions given to the Company Secretary in Practice for providing various certification/ reports as required under SEBI (LODR) Regulations? Explain briefly. (4 marks)

Answer –

The SEBI (LODR) Regulations, 2015 has given the following recognition to Company Secretary in practice:

- Certificate regarding Transfer of Securities
- Certification to the effect that all transfers have been completed within the stipulated time.
- Secretarial Audit Report

Every listed entity and its material unlisted subsidiaries incorporated in India shall undertake Secretarial Audit and shall annex with its Annual Report, a Secretarial Audit Report given by a Company Secretary in Practice, in such form as may be specified with effect from the year ended March 31, 2019.

Certificate Regarding Compliance of Condition of Corporate Governance under SEBI (LODR) Regulations. The regulations authorized Company Secretary in Practice to issue certificate regarding compliance of condition of Corporate Governance.

Certification regarding Director's disqualification

A certificate from of Company Secretary in Practice that none of the directors on the board of the company have been debarred on disqualification from being appointed or continuing as Directors of Companies by the Board / Ministry of Corporate Affairs or any such Statutory Authority.

Q) Home Technology Ltd. Has recently listed on the leading stock exchanges, advice the company on the compliance of corporate governance regulation for holding of maximum number of Directorship by a director of the company. If the company is

having paid up capital and reserve and surplus of Rs.8 crore & Rs.12 crores respectively.

Are there any exceptions in the compliance with the corporate governance under the SEBI Regulation? (4 marks)

Answer-

According to the compliance of corporate governance regulation, the maximum number of Directorship a director can hold in any listed entity is 7. Moreover, a person acting as WTD/ MD can act as an ID maximum of 3 listed entities

The listed entity having-

- a. Paid up equity share capital not exceeding rupees ten crore and net worth not exceeding rupees twenty- five crore as on the last day of PFY. Provided applicable at a later date such listed entity shall comply with those requirements within six months from the date on which the provisions became applicable to the listed entity.

b. The listed entity which has specified securities on the SME Exchange.

Therefore in the light of the above provision, the company having paid up capital and reserve and surplus Rs. 8 crores & 12 crores respectively is not required to comply the provision of corporate governance under SEBI Regulations.

However, if it becomes applicable at a later date, then it shall comply with those requirements within six months from the date on which the provision become applicable to the listed entity.

Q) X is managing director of ABC Ltd and awarded title of best CEO of the country. Four leading listed companies invited him to join their Board as an Independent Director for sharing his knowledge. Can X join as an Independent Director on the offer made by four listed entities? Give your answer with reason. After

superannuation X is planning to join as an independent director of ten listed companies. Do you agree with the planning of X? (5 marks)

Answer-

- A person acting as WTD/ MD can act as an ID maximum of 3 listed entities. Therefore, X a Managing Director of ABC Ltd. Can act as an Independent Director in maximum of 3 listed entities according to SEBI(LODR) Regulation, 2015.
- Since X is a MD of ABC Ltd, he cannot join more than 3 companies as an ID.
- After his retirement, he can act as an ID of not more than 7 companies when he isn't acting as a MD of ABC Ltd.

Q) Pritam Ltd. is in the list of top 100 listed companies; of which financial year closes on 31st March, 2022. The company had its Annual General Meeting on September 10, 2022 and provided e-voting facility to its shareholders.

(i) Whether the action of the Pritam Ltd. is tenable?

(ii) What is the requirement of proceedings of Annual General Meeting?

(iii) Can Pritam Ltd. provide the remote e-voting facility to its shareholders as per the Act?

(iv) What is the time period for submitting the required details to stock exchange?

(5 marks)

Answer-

- In terms of SEBI (LODR) Regulations, 2015 top 100 listed entities by market capitalization shall conduct its annual general meeting within 5 months from the end of the financial year, such entities shall also provide one-way live webcast of the proceeding of such general meeting.
- Such entities shall provide the facility of remote e-voting to its shareholders, results of such e-voting is to be submitted to stock exchange within 2 days from the conclusion of its general meeting.

- i) The actions of Pritam Ltd are not tenable, Pritam Ltd shall hold Its AGM on or before 31st August 2022.
- ii) The proceedings of such AGM has to be submitted to the stock exchange within 2 days from the conclusion of such AGM
- iii) It is mandatory for Pritam Ltd to provide a remote e-voting facility considering the fact that Pritam Ltd. Is in the list of top 100 listed companies as per Market capitalization.
- iv) Such proceedings of the AGM has to be submitted to stock exchange within 2 days from the conclusion of such AGM

Q) Dr. Grace, aged 78 years, was appointed as non-executive director of PQR Ltd (listed company) by passing an ordinary resolution. Examine the validity of appointment of Dr. Grace as a director of PQR Ltd. (5 marks)

Answer-

- In terms of SEBI (LODR) Regulations, 2015, no company shall appoint a person as a director to its board of directors whose age is over 75, any such person over the age of 75 is not eligible to become non-executive director unless a special resolution is passed.
- The action of PQR Ltd. is not tenable as the age of Dr. Grace is over 75 and only an ordinary resolution is passed, such an appointment will be effective if approval from shareholders is obtained in general meeting by way of a special resolution.

Q) Nikunj, an IT professional from reputed engineering college, was appointed as an independent director of a listed company. Due to some health issues, he resigned from the company eight months back. Now, the company desires to appoint him as an executive director on the Board. Examine the validity of the proposed appointment. (4 marks)

Answer-

- In terms of SEBI (LODR) regulation, 2015, an independent director of a listed entity who resigns from the post of independent director shall not be eligible to be appointed as Whole-time director/Executive director for a period of 1 year in such listed company or any such subsidiary or associate company of such listed company.
- By applying the above provisions to the given case, Nikunj shall not be eligible to be appointed as executive director unless period of 1 year has elapsed.

Q) A listed company has appointed Mihir as a director on the Board. The general meeting of the company has already been held prior to his appointment. What approval is required to regularize the appointment? What will be your answer, if the earlier appointment of Mihir as director on the Board was rejected by the shareholders? (4 marks)

Answer-

SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that the listed entity shall ensure that approval of shareholders for appointment of a person on the Board of Directors or as a manager is taken at the next general meeting or within a time period of three months from the date of appointment, whichever is earlier.

In the above case, since the general meeting of listed company has already been held prior to appointment of Mr. Mihir, the company is required to hold the general meeting within three months to regularize the appointment of Mr. Mihir. It further provides that if the appointment or a re-appointment of a person, including as a managing director or a whole-time director or a manager, who was earlier rejected by the shareholders at a general meeting, shall be done only with the prior approval of the shareholders.

For considering the appointment or re-appointment of such a person earlier rejected by the shareholders shall contain a detailed explanation and justification by the Nomination

and Remuneration Committee and the Board of directors for recommending such a person for appointment or re-appointment.

In case the earlier appointment of Mr. Mihir as a director on the Board was rejected by the shareholders, the appointment of Mr. Mihir requires prior approval of shareholders complying with the above-mentioned Regulation.

Q) Recently the SEBI has mandated the formation of Audit Committee for Asset Management Company (AMCs) of mutual funds. Briefly explain the Role and Composition of Audit Committee. (4 marks)

Answer-

- The audit committee of an AMC is responsible for reviewing financial reporting process, audit process and whether the AMC is complying to laws and regulations applicable to Such mutual fund.

- Following is the composition of Audit committee of an AMC:
 - i) The audit committee shall have at least 3 directors
 - ii) At least 2/3 of directors shall be independent directors.
 - iii) All the members of such audit committee shall be financial literate and shall have the ability to interpret and understand financial statements.
 - iv) The chairman of such audit committee shall be an independent director.

Q) Joshi Ltd. is a listed entity entered into a transaction with related party, namely Hosh Ltd., for an amount of `59 crore and simultaneously made a payment of `10 crore for brand use. The turnover of Joshi Ltd. is `480 crore on standalone basis and after considering consolidation of subsidiary & associate is `610 crore. You, being a company secretary of the company, advise on the following:

- (i) Whether the transaction is a related party transaction or not?**
- (ii) Whether the payment made for brand uses is a related party transaction or not?**

(iii) When transactions with related party are material in above both the cases?

(iv) What is omnibus approval of audit committee for all related party transactions?

(8 marks)

Answer-

- In terms of SEBI (LODR) regulation 2015 a transaction shall be considered as material, if the transaction exceeds 1000 crores or 10% of the annual consolidated turnover whichever is lower of the listed entity and in respect of transactions relating to brand usage or royalty, a transaction will be termed as material transaction if it exceeds 5% of the annual consolidated turnover.
 - i) In the given case the transaction amounts to Rs. 59 crores which is less than 10% of the annual consolidated turnover and shall not be considered as a material related party transaction.
 - ii) The payment in regard to brand usage shall not be considered as a material related party transaction as the transaction is below 5% of the annual consolidated turnover.

- iii) The transactions will be considered as material RPT in case the payment was above 61 crores (above 10% of the annual consolidated turnover) or exceeds 1000 crores and for the purpose of brand usage above 30.5 crores.
- iv) Omnibus approval is a blanket approval for transactions which are repetitive in nature, it is the responsibility of audit committee to give approval after due diligence, following are some conditions with respect to omnibus approval.
- a) It is granted for a period of 1 year.
 - b) The audit committee may grant approval for such transaction provided the value of such transaction does not exceed 1 crore.
 - c) The audit committee shall review such RPT entered on a quarterly basis.
1. All the material RPT entered by company shall require an approval of shareholders. The approval of shareholders and audit committee shall not be required in the following circumstances.

- i) The transaction is between two government companies.
- ii) The transaction is between holding and wholly owned subsidiary.

CHAPTER 12 - ACQUISITION OF SHARES AND TAKEOVERS – CONCEPTS

Q) What should be the minimum price for creeping acquisition? (5 marks)

Answer-

Creeping acquisition means slow and gradual acquisition of share form the open market. When a person holds more than 25% shares in the target company, he is only allowed to acquire shares up to 5%, any such acquisition which is more than 5% shall trigger the obligation of open offer, the person can acquire only up to 5% shares such slow acquisition is known as creeping acquisition.

In case of frequently and infrequently traded shares:

Frequently traded shares

52W volume weighted average price	60 days volume weighted price	Highest price paid by the acquirer in past 26W	Negotiated price.
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Infrequently traded shares

52W volume weighted average price	Pricing based upon various financial parameters like EPS, Book Value etc.	Highest price paid by the acquirer in past 26W	Negotiated price.
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Q) The disclosure requirement of the acquisition of shares of a listed target Company beyond certain units are only of the acquirer & not of the target company. Comment. (4 marks)

Answer-

SEBI (SAST) Regulations, 2011 provides that whenever an acquirer acquires shares or voting rights in a company, he has to disclose the details of such acquisition to the target Company & SEs where its shares

- If an acquires 5% or more shares or voting rights in a target company he shall disclose the same to such target company & SEs within 2 working days of such acquisition or allotment.
- Any change in shareholding of the acquirer by $\pm 2\%$ shall be disclosed to the target company & the SEs within 2 days of such change.
- Any person who holds 25% or more shares or voting rights in a target company shall disclose his holding to such target company & SEs within 7 days from the end of F.Y.

) – Any person belonging to promoter or promoter group shall disclose his holding to target company & SEs within 7 days from the end of F.Y.

Q) Short note on frequently traded shares under Takeover Code. (4 marks)

Answer-

"Frequently Traded Shares" means shares of a target company, in which the traded turnover on any stock exchange during the twelve calendar months preceding the * calendar month in which the public announcement is made, is at least ten per cent of the total number of shares of such class of the target company:

Provided that where the share capital of a particular class of shares of the target company is not identical throughout such period, the weighted average number of total shares of such class of the target company shall represent the total number of shares.

Q) SEBI (SAST) Regulations, 2011 are applicable even if the acquirer is a person resident outside India. (4 marks)

Answer-

SEBI (SAST) Regulations, 2011 are applicable to every Acquirer, who wishes to acquire shares or voting rights in a listed target company. Even he is based outside India, it shall be applicable in the same way as it would apply to an Indian Acquirer.

Q) Explain the Modes of Payment to the shareholders of the Target Company on acquisition of shares by the acquirer under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011. (5 marks)

Answer-

The offer price may be paid –

- i. In cash;
- ii. By issue of listed shares in the equity share capital of the acquirer or of any PAC.

- iii. By issue of listed secured debt instruments issued by the acquirer or any PAC with a rating not inferior to investment grade as rated by a CRA.
- iv. By issue of convertible debt securities entitling the holder thereof to acquire listed shares in the equity share capital of the acquirer or PAC.
- v. A combination of the mode of payment of consideration as stated above.

Q) An acquirer, holding 25% or more but less than maximum permissible non-public shareholding of the Target Company can acquire such additional shares as would entitle him to exercise more than 5% of the voting rights in any financial year. Explain the statement indicating the creeping acquisition limit for making an open offer by an acquirer. (5 marks)

Answer-

- i. These provisions apply to those existing shareholders who hold more than 25% of the shares or the voting rights. Such acquirers can increase their stake to the extent of 5% in any

FY up to the maximum permissible nonpublic shareholding (75%). This is known as Creeping Acquisitions.

- ii. Acquisitions of shares or voting rights in excess of the said limit (5%) would trigger an open offer. Hence the acquirer is required to make a public announcement to acquire minimum 26% shares of Target Company.

Q) M is contemplating acquisition of PQR Limited, a listed entity. He presently holds 23% and his sister, who is having common objective, holds 3%. Their combined holding is 26%. M, in view of creeping acquisition limits, desires to acquire further 3% on the assumption that 5% is the ceiling for such acquisition in every financial year. Will M be required to make open offer? (4 marks)

Answer-

1. This case pertains to the provisions of creeping acquisitions. Creeping acquisition means slow and steady acquisition of shares by the acquirer in Target Company. Max 5% of voting rights can be acquired in each financial year
2. As per this provisions an acquirer (together with PACs) who holds 25% or more voting rights but less than the maximum permissible nonpublic shareholding is allowed to acquire up to 5% of voting rights in a financial year without making an open offer
3. In light of the provisions mentioned above, though they together hold 26% and can acquire more 5% as per the ceiling limit, M as an individual is crossing the threshold of 25% of voting rights as he currently holds 23% and is desiring to acquire more 3% , he is required to make an open offer
4. But in case if his sister only acquires 3% and increase their holding to 29% then there is no need to make an open offer as per the ceiling

Q) An unlisted public company (“Acquirer”) doing business of exporting steel and it is a part of the Promoter Group of Maurya Hotels (India) Ltd. (MHIL), a company listed on stock exchange. In view of improving its efficiency, MHIL is planning to restructure its group. The Acquirer has agreed to enter into a scheme of arrangement where the shares held by the promoter group companies (eight companies) will be transferred to it. Post-merger, the shareholding of the Acquirer in the Company will increase from 2% to 24%. However, the overall promoter shareholding will remain unchanged. You, being practicing company secretary, appointed as consultant by the Acquirer, answer the following:

- i. Will the transfer of shares trigger an obligation to make an open offer under the SEBI (SAST) Regulations on the Acquirer?**
- ii. What are the disclosure requirements under the SAST Regulations, if any, that the parties to the scheme will have to comply with? (7 marks)**

Answer-

- i. As per SEBI Takeover Regulations, 2011, an acquirer is required to give an open offer to the shareholders of the target company on acquisitions of shares or voting rights as would enable him along with PACs to exercise 25% or more voting rights in the Target company.
- ii. In the above case, shareholding post-merger will be 24%. Hence the acquirer is not required to give an open offer.
- iii. Disclosure requirement is as follows:
Any acquisition of shares more than 5%, the acquirer is required to intimate the details of purchase of shares to the stock exchange and the Target Company within 2 working days of acquisition or allotment of shares.

Q) Write notes on the following:

Mandatory Open Offer (4 marks)

Answer-

Mandatory Open Offer

In terms of SEBI(SAST) Regulation,2011 when a person acquires more than 25% of shares in a listed company, such person is required to mandatorily give open offer of 26% to the general public.

In case a person along with PAC already holds more than 25% of share and such person along with PAC acquires more than 5% of shares in a financial year, such person is required to give a mandatory open offer of 26%.

Q) Write notes on the following:

i. Public Announcement

ii. Creeping Acquisition Limit. (4 marks each)

Answer-

Public Announcement

In terms of SEBI Takeover Regulations, 2011 prescribe the manner of public announcements in connection with mandatory and voluntary open offer:

- **Short Public Announcement:** Short public announcement shall be made on the same day or as prescribed as on the date of transaction which triggered the Open Offer to all the stock exchanges where the shares of the Target Company are listed for the purpose of dissemination of the information to the public. Further, a copy of the public announcement shall be sent to SEBI and to the Target Company at its registered office within 1 working day of the date of short public announcement.
- **Detailed Public Announcement:** After the short Public Announcement, a detailed Public Announcement shall be made by the Acquirer within 5 working days from the date of short Public Announcement. Such public announcement is required to be published in all editions of any one English national daily with wide circulation, any one Hindi national daily with wide circulation, and any one regional language daily with wide circulation at the place

where the registered office of the Target Company is situated and one regional language daily at the place of the stock exchange where the maximum volume of trading in the shares of the Target Company are recorded during the sixty trading days preceding the date of the public announcement.

Creeping Acquisition Limit:

- These provisions apply to those existing shareholders who hold more than 25% of the shares or voting rights. For such acquirers to increase their stake, they are allowed to acquire shares or voting rights to the extent of 5% in any financial year up to the maximum permissible non – public shareholding limit (i. e. 75%). This setting is termed as Creeping Acquisition. Acquisition of shares or voting rights in excess of the said limit (i. e. 5%) would trigger an open offer.
- In other words, if an acquirer who holds 25% or more but less than maximum permissible non – public shareholding (i. e. 75%) of the Target Company, can acquire such

additional shares as would entitle him to exercise more than 5% of the voting rights in any financial year ending March 31 only after making a Public Announcement to acquire minimum 26% shares of Target Company from the shareholders through an Open Offer.

Q) Romeo International Limited an Indian public limited company, is listed on BSE. On Friday i.e. 14th December, 2018 one of the shareholders of the company, Ganesh who was already holding 30% stake in the company made a public announcement for an open offer for the acquisition of 13 crore equity share (Face Value 10each) constituting 26% of the equity share capital of the Romeo International Limited. The offer price per share according to Takeover Regulations is arrived at 500 share. Explain the following with reference to SEBI (Substantial Acquisition of Shares and Takeovers) Regulation 2011:

- (a) What is the time limit for depositing amount in escrow account and explain with the relevant provision, what amount should be deposited in escrow account in this case?**
- (b) Explain the forms of maintaining the escrow account. (5 marks)**

Answer-

a. The acquirer shall create an escrow account towards security for performance of his obligation under SEBI (SAST) Regulation, 2011 not later than 2 working days prior to the date of the detailed public statement of the open offer for acquiring shares. in terms of SEBI(SAST) Regulation, 2011 if the consideration is less than 500 crores, 25 % of such consideration is to be deposited in escrow in case such consideration is more than 500 crores then at least 10% of such consideration is to be deposited in escrow account.

In the given case the consideration is less than 500 crores so only 25% of such consideration is to be deposited in escrow i.e. 3.25 crores.

b. The escrow account may be in the form of:

- (2) Cash deposited with any scheduled commercial bank;
- (3) Bank guarantee issued in favor of the manager to the open offer by any scheduled commercial bank; or
- (4) Deposit of frequently traded and freely transferable equity share or other freely transferable securities with appropriate margin.

Q) Nova Industries Ltd (Nova) is an Indian company engaged in the business of manufacturing of Automotive Equipment's. The equity shares of 'Nova' are listed on NSE. Star Investment Ventures Ltd. ('Star') owns 16% stake in the Nova. Moon Investment Company Pvt. Ltd. ('Moon') own 14% stake in Nova. Star and Moon have also been classified as promoters of the Nova in its shareholding pattern for over 5 years. As decided by the management of Star and Moon, it is proposed that Moon will be absorbed by Star through a scheme of arrangement, pursuant to

which Star's shareholding in the Nova will increase from 16% to 30% as the shares held by the Moon will be transferred to Star and Vested in Star and their shareholders will become shareholder of Star. The entire consideration for the amalgamation would be shareholders of Star. The entire consideration for the amalgamation would be discharged by Star by the issue of its shares. The scheme is likely to be completed and approved by the National Company Law Tribunal sometimes during the financial year 2019-2020.

(i) Explain the provision and conditions given under regulation 10(1)(d)(iii) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulation 2011 for availing the exemption.

(ii) Would the transfer and vesting of shares of the Nova in Star be exempt from open offer obligation? (5 marks)

Answer-

- (i) The acquisition of share of the Target company pursuant to a scheme of arrangement sanctioned by National Company Law Tribunal provides an exemption to an acquirer from making an open offer subject to the following condition:
- a. The consideration paid in terms of cash and cash equivalents is less than 25% of the consideration paid under the scheme and
 - b. Post implementation of the scheme the person holding at least 33% of voting rights in the combined entity are same as the person who held entire voting rights before the implementation of the scheme.
- (ii) Star is the eligible to avail this exemption under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulation 2011 since:
- a. The acquisition of share of Target company is being made pursuant to a scheme of arrangement sanctioned by NCLT.
- (iii) The entire consideration is being discharged by Star by issue of its shares, there is no portion of the consideration being paid in terms of cash and cash equivalents.

Q) 'An open offer for acquiring shares once made shall not be withdrawn'. Comment on the statement. (4 marks)

Answer-

As per SEBI (Substantial Acquisition of Shares and Takeovers) Regulation 2011, an open offer for acquiring shares once made can be withdrawn under any of the following circumstance:

- e) Statutory approvals required for the open offer of for effecting the acquisitions attracting the obligation to make an open offer under these regulations having been finally refused, subject to such requirement for approval having been specifically disclosed in the detailed public statement and the latter of offer;
- f) The acquirer, being a natural person has died;
- g) Any condition stipulated in the agreement for acquisition attracting the obligation to make the offer is not met for reasons outside the reasonable control of the acquirer, then it should be disclosed in the detailed public statement and the letter of offer;

However, an acquirer shall not withdraw an open offer pursuant to a public announcement even if the proposed acquisition through the preferential issue is not successful.

- h) Such circumstance as in the opinion of the SEBI merits withdrawal. SEBI shall pass a reasoned order permitting withdrawal and such order shall be listed by SEBI on its official website.

Therefore, the given statement is not correct.

Q) What is competing offer? What is the timeliness in case of competing offer? (4 marks)

Answer-

The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 provides that upon a public announcement of an open offer for acquiring shares of a target company being made, any person, other than the acquirer who has made such public announcement,

shall be entitled to make a public announcement of an open offer within fifteen working days of the date of the detailed public statement made by the acquirer who has made the first public announcement.

However, the open offer made shall be for such number of shares which, when taken together with shares held by such acquirer along with persons acting in concert with him, shall be at least equal to the holding of the acquirer who has made the first public announcement, including the number of share proposed to be acquired by him under the offer and any underlying agreement for the sale of shares of the target company pursuant to which the open offer is made.

Every open offer made under sub-regulation (1) and the open offer first made shall be regarded as competing offers for purposes of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

The schedule of activities and the tendering period for all competing offers shall be carried out with identical timelines and the last date for tendering shares in acceptance of every competing offer shall stand revised to the last date for tendering shares in acceptance of the competing offer last made.

CHAPTER 13 - PROHIBITION OF INSIDER TRADING

Q) A Company shall specify a trading period for trading in its securities. (4 marks)

Answer-

- Pursuant to SEBI (Prohibition to Insider Trading) Regulations, 1992, a person who is declared to be an insider shall not deal in the securities of the company during its trading windows closure period.
- Trading window closure means that time period during which the company is to discuss some price – sensitive information.
- Such beginning of the closure period shall be decided by the company itself. However, the closure period ends after 24 hours from the date on which the information is made public.
- During such window closure period, no insider of the company is allowed to deal in the securities of the company. Subject to this period, an insider may trade in the securities of the company after obtaining pre-clearance from its compliance officer.

Q) Insider trading normally means trading in shares of a Company by the persons who are in the management of the company or close to them on the basis of price sensitive information, which they possess but others not. In the light of this, state whether the following information is price sensitive:

- (i) The CEO of a company met with an accident & had been hospitalized.**
- (ii) Intended declaration of rights issue in near future.**
- (iii) RBI has increased repo rate by 25 basis points.**
- (iv) The company is going to have another plant at Rudrapur, Uttarakhand.**
- (v) The Chairman of the Company has submitted his resignation to the Board under protest for selling a particular brand to another company. (5 marks)**

Answer-

UPSI is any information that relates to the company which relates to the company and is not generally available in public which if made public will cause material change in the price of the shares of the company, UPSI includes but is not limited to:

- a) Dividend
- b) Financial result
- c) Change in capital structure
- d) Change in KMP
- e) Merger, demerger, amalgamation.

(i) The CEO of a company met with an accident & had been hospitalized – This information is not price sensitive as the CEO is just hospitalized and thus will not have any effect on the price of the shares.

(ii) Intended declaration of rights issue in near future – Rights issue leads to increase in the share capital of the company and thus such information is price sensitive information.

(iii) RBI has increased repo rate by 25 basis points - Change in RBI policy is declared openly by RBI & it is for all the businesses & not any specific company. Hence it is not price sensitive.

(iv) The Company is going to have another plant at Rudrapur, Uttarakhand – Any expansion plans about the company is price sensitive information.

(v) The Chairman of the company has submitted his resignation to the Board under protest for selling a particular brand to another company - There's a change in KMP and thus such information will be considered as price sensitive information.

Q) David, General Manager [finance] of Suren Enterprises Ltd., was found to be indulging in insider trading activities. As a result, the company terminated his services. The SEBI also took cognizance of the matter and initiated proceedings against him under Insider Trading Regulations. David pleaded that since his service had already been terminated, SEBI could not initiate any proceedings against him. Suggest, what type of action can be taken by SEBI against him?(5 marks)

Answer-

- As per the provisions of SEBI (Prohibition of Insider Trading) Regulations, 2015 no insider shall deal in securities of the company without fulfilling the requirements as provided under the said regulations.
- Even if any action is taken against such officers or employees it doesn't take away the rights of SEBI to initiate any legal proceedings.
- In light of the above provisions, the company terminated the services of David on grounds of insider trading. Also SEBI initiated proceedings against David, SEBI can impose fine which shall not be less than 10 lakh rs and which may extend up to rs 25 cr or 3 times the amount of profit made out of the insider trading, whichever is higher.

Q) In light of SEBI Insider Trading Regulations, explain with reasons whether the following information is deemed as price sensitive:

(i) Managing Director of ABC Ltd. met with an accident and was hospitalized.

(ii) EF Ltd. is under negotiation to enter into a foreign collaboration with a Korean company for technical knowhow.

(iii) RBI has increased its repo rate by 25 basis points.

(iv) XY Ltd. is proposing for issue of bonus shares for its shareholders.

(v) The Chairman of RN Ltd. has submitted his resignation to the Board after reading a news article proposing to sell a particular brand to another company by the promoters of the company. (5 marks)

Answer-

- This case pertains to the provisions of unpublished price sensitive information. It means any information relating to the company or its securities, directly or indirectly, that is not generally available which upon becoming generally available is likely to materially affect the price of the securities.
 - In light of the above provisions it is not a price sensitive information as there is no change in the KMP

- In this case it is not a price sensitive information as EF Ltd is under negotiation and it is not yet confirmed
- In this case it is not a price sensitive information as REPO rate is not company specific and does not affect the company
- It is a price sensitive information as XY Ltd. Is proposing to issue bonus shares and it affects the price of the securities
- It is a price sensitive information as the resignation of the chairman is a change in KMP of the company

Q) Raghav, General Manager (Accounts) of X Ltd. was found to be indulging in insider trading & as a consequence, the company terminated his services. The SEBI also took cognizance of the matter & initiated proceedings against him under the SEBI (Prohibition of Insider Trading) Regulations, 1992. Raghav pleaded that since X Ltd. had already penalized him by terminating his services, SEBI could not initiate any

proceedings against him. As per the SEBI Regulations & decided case laws, suggest whether the SEBI has a right to take any action against Raghav in this case of insider trading. (8 marks)

Answer-

- In terms of SEBI (Prohibition of Insider Trading) Regulations, 2015, no insider shall deal in the securities of the company without fulfilling the requirements as provided under the said regulations.
- Even in cases where an action against such officers or employees has been initiated by the company, it certainly does not take away the rights of SEBI to initiate any legal prosecution.
- In the given case, the Company terminated the services of Raghav on grounds of insider trading. However, as a market regulator & in order to curb the practices of such act, SEBI has suo moto powers to initiate action against the wrong doer. In such a case, SEBI may initiate prosecution against Raghav & the fine may go up to Rs.25 crores or 3 times of the

profits, whichever is higher, or imprisonment or with both. Thus the contention of Raghav is incorrect.

Q) Sunil, a Company Secretary & Executive Director of a company had bought shares of that company on behalf of his family members on the basis of unpublished price sensitive information, which was not known to general public but to him as an employee of the company. Family members later on tendered the said shares in an open offer announced by some acquiring company at a higher price, thereby making huge gains. The SEBI found Sunil guilty of misconduct of insider trading & imposed penalty. Sunil admitted that he had made a mistake but contested the penalty. He, however, was willingly to pay back the profit earned by sale of shares.

Considering the facts of the case, you are required to suggest whether as per the relevant legal provisions relating to insider trading, the SEBI should waive the

penalty considering the fact that Sunil admits indulgence in insider trading & is willing to pay back the whole profit earned. (8 marks)

Answer-

The provisions of SEBI (Prohibition of Insider Trading) 2015, states that no insider shall indulge into an act of insider trading without obtaining pre-clearance of the compliance officer of the company. SEBI has explicit powers to look into the matters of insider trading along with the powers to impose fine which may go up to 25 crores or 3 times of the profit, whichever is higher or imprisonment or both.

By referring to the said provisions, Sunil admitted the fact that he was involved in an act of insider trading & accordingly he decided to surrender the amount of profits. However, the powers of SEBI to impose fine or initiate legal proceedings against him are not taken off. SEBI in such cases have discretionary powers to decide the punishment to be given to such insiders.

Q) The price of equity share of a listed company viz. NextDial Ltd. (NDL) increased from ₹ 10 to high of ₹ 50 i.e. a rise of 500% during the period 1st April, 2018 to 30th Sept., 2018. NDL had entered into a Share Purchase Agreement (SPA) with the proposed acquirer(s) to acquire 40% of the subscribed equity share capital as of 31st Aug., 2018 which would result in change of management. This initial discussion on the deal was made on 1st April, 2018 but SPA was signed on 25th April, 2018. During 1st April, 2018 to 30th Sept., 2018, the promoter and his wife dealt in the script of Next Dial Ltd. Referring to the provisions of SEBI (PIT) Regulations, answer the following:

- i. Define Unpublished Price Sensitive Information.**
- ii. Whether there was any Unpublished Price Sensitive Information (UPSI)?**
- iii. What will be the date of UPSI?**
- iv. What are the factors to be taken into account by the adjudicating officer while imposing penalty for the act? (7 marks)**

Answer-

- i. Unpublished price sensitive information means any information relating to a company or its securities, directly or indirectly, that is not generally available, which upon being generally available is likely to affect the price of the securities and includes:
- Financial results
 - Dividends
 - Change in capital structure
 - Mergers, demergers, acquisitions, disposals of business & such other transactions.
 - Changes in KMP
 - Material events in accordance with the listing agreement.
- ii. change in management is an unpublished price sensitive information.
- iii. date of UPSI shall be 25th April, 2018 when the share purchase agreement was signed.
- iv. The following factors shall be considered by an adjudicating officer:
- The amount of disproportionate gain or unfair advantage, wherever quantifiable made as a result of default.

- The amount of loss caused to an investor or a group of investor as a result of default
- The repetitive nature of the default.

Q) Give exemptions under Regulation 4 of SEBI (Prohibition of Insider Trading) Regulations 2015 which prescribes that an insider shall not trade in securities which are listed or proposed to be listed on stock exchange when in possession of unpublished price sensitive information. (4 marks)

Answer-

The general rule says that a person shall not trade when he is in possession of UPSI, although regulation 4 sets out its exception i.e. any person can deal in securities of the company even if he is in possession of any UPSI if he such trading is done pursuant to such exception.

The exemptions are:

- Off market transfers between promoters who are aware of price sensitive info and both parties had made a conscious and informed trade decision.

- The trades were pursuant to trading plans.
- In case of company where the person responsible for taking investment, decision is different from person who is in possession of UPSI.
- When the transaction was carried pursuant to exercise of stock options.
- The transaction was carried through the block deal window mechanism.
- Such transaction is carried pursuant to any fulfill any statutory obligation.

Q) What is Trading Plan under SEBI (Prohibition of Insider Trading) Regulations, 2015? State the requirements to be complied with in this regard. (4 marks)

Answer-

An insider may submit a trading plan to the compliance officer of the company, the trading plan allows such insider to trade in the shares of the company.

Following are some requirements of trading plan:

- a) It shall be for a minimum period of 1 year.

- b) It shall not overlap any existing trading plan.
- c) It shall come into effect after 6 months from the date it was submitted
- d) The compliance officer must be responsible for approving such trading plan.
- e) Either value of trades or number of securities to mentioned in such trading plan.

Q) You are working as the Company Secretary of a listed company viz. Mindspare Ltd. The company is in advance stage of negotiation with a buyer, who will drastically improve the profitability and financial position of the company. You have got some information that one of the employees of the company, who is involved in the negotiation may indulge in trading of shares of the company. Being a compliance officer, you are required to formulate a code of conduct to regulate, monitor and report trading by employees and other connected persons towards achieving compliance with the SEBI (Prohibition of Insider Trading) Regulations, 2015. (5 marks)

Answer-

Code of conduct

2. Prompt public disclosure of unpublished price sensitive information that would impact price discovery no sooner than credible and concrete information comes into being in order to make such information generally available.
3. Uniform and universal dissemination of unpublished price sensitive information to avoid selective disclosure.
4. Designation of a senior officer as a chief investor relations officer to deal with dissemination of information and disclosure of unpublished price sensitive information.
5. Prompt dissemination of unpublished price sensitive information that gets disclosed selectively, inadvertently or otherwise to make such information generally available.
6. Appropriate and fair response to queries on news reports and requests for verification of market rumors by regulatory authorities.

7. Ensuring that information shared with analysts and research personnel is not unpublished price sensitive information.
8. Developing best practices to make transcripts or records of proceedings of meetings with analysts and other investor relations conferences on the official website to ensure official confirmation and documentation of disclosures made. Handling of all unpublished price sensitive information on a need-to-know basis.

Q) Schedule A of Insider Trading Regulations lays down the principles and procedures of fair disclosure. (5 marks)

Answer-

Schedule A of these regulations lays down the following principles of fair disclosure for purposes of Code of Practices and Procedures for Fair Disclosure of Unpublished Price Sensitive Information:

1. Prompt public disclosure of unpublished price sensitive information that would impact price discovery no sooner than credible and concrete information comes into being in order to make such information generally available.
2. Uniform and universal dissemination of unpublished price sensitive unpublished price sensitive information to avoid selective disclosure.
3. Designation of a senior officer as a chief investor relations officer to deal with dissemination of information and disclosure of unpublished price sensitive information.
4. Prompt dissemination of unpublished price sensitive information that gets disclosed selectively, inadvertently or otherwise to make such information generally available.
5. Appropriate and fair response to queries on news reports and requests for verification of market rumors by regulatory authorities.
6. Ensuring that information shared with analysts and research personnel is not unpublished price sensitive information.

7. Developing best practices to make transcripts or records of proceedings of meetings with analysts and other investor relations conferences on the official website to ensure official confirmation and documentation of disclosures made.
8. Handling of all unpublished price sensitive information on a need-to-know basis.

Q) As a company secretary in employment of Deluxe Ltd. A listed company what will be your role in monitoring trading window under SEBI (Prohibition of Insider Trading) Regulation, 2015. (4 marks)

Answer-Role of Company Secretary in monitoring trading window under SEBI (Prohibition of Insider Trading) Regulation 2015 is as under:

- To ensure that the trading window shall be closed when designated person or class of designated person can reasonably be expected to have possession of unpublished price sensitive information. Such closure shall be imposed in relation to such securities to which such unpublished price sensitive information relates.

● To ensure that the trading window is closed at the time of-

1. Declaration of financial results

2. Declaration of dividend;

3. Change in capital structure.

4. Merger, demerger, acquisition, delisting, disposals and expansion of business and such other transaction;

5. Changes in key managerial personnel

- To ensure that designated persons and their immediate relatives shall not trade in securities when the trading window is closed.
- To ensure that no trading shall between 20th day prior to closer of financial period and 2nd trading day after disclosure of financial results.
- To approve that trading plan and after the approval of trading plan as compliance officer shall notify the plan to the stock exchange on which securities are listed.
- To keep records of period specified as 'close period' and the 'trading window'.

Q) 'Trading plan is an exception to the general rule that an insider should not trade when in possession of unpublished price sensitive information. In the light of this statement, explain the concept of trading plan and its essential elements. (4 marks)

Answer-

- 1) An insider shall be entitled to formulate a trading plan and present it to the compliance officer for approval and public disclosure pursuant to which traders may be carried out on his behalf in accordance with such plan.
- 2) The trading plan shall:
 - ii) Not entail commencement of trading on behalf of the insider earlier than six months from the public disclosure of the plan;
 - iii) Not entail trading for the period between the twentieth trading day prior to the last day of any financial period for which result are required to be announced by the issuer of the securities and the second trading period after the disclosure of such financial results;

- iv) Entail trading for a period of not less than twelve months;
- v) Not entail overlap of any period for which another trading plan is already in existence;
- vi) Set out either the value of trades to be affected or the number of securities to be traded along with the nature of trade and the intervals at or dates on which such trade shall be effected; and
- vii) Not entail trading in securities for market abuse.

Q) Referring to the SEBI Insider Trading Regulation answer the following

(a) What is unpublished price sensitive information?

(b) State with reasons whether the following information is price sensitive:

(i) RBI has increased its statutory Liquidity Ratio (SLR) by 15 basis points.

(ii) The company is increasing its authorized share capital. (4 marks)

Answer-

(a) Unpublished price sensitive information means any information relating to a company or its securities directly or indirectly that is not generally available which upon becoming generally available is likely to materially affect the price of the securities and shall ordinarily including but not restricted to information relating to the following:

- Financial results;
- Dividends;
- Changes in capital structures
- Mergers, de mergers, acquisitions, delisting, disposal and expansion of business and such other transaction;
- Changes in key managerial personnel.

b. (i) RBI has increased its Statutory Liquidity Ratio (SLR) by 15 basis points. It is not an unpublished price sensitive information as it does not relate to any of the events defined under 'Unpublished price sensitive information.'

2. The company is increasing its authorized capital: It is unpublished price sensitive information as it is related to change in capital structure which is define under 'Unpublished price sensitive information.'

Q) Ankur traded in shares of Sitez Ltd., a listed company. The trading plan was approved by compliance officer on May 19, 2022. Ankur comes to know on July 20, 2022 that this transaction involve unpublished price sensitive information.

(i) What will be the impact on the transactions of Ankur?

(ii) What conditions are attached to the trading plan? (5 marks)

Answer-

(i) As per Regulation 5 of the SEBI (Prohibition of Insider Trading) Regulations, 2015, an insider shall be entitled to formulate a trading plan in advance and present it to the compliance officer for approval and public disclosure pursuant to which trades may be carried out on his behalf in accordance with such plan. Such trading plan shall not entail

commencement of trading on behalf of the insider earlier than six months from the public disclosure of the plan.

In the present case, Ankur traded in shares of Sitez Ltd. as per trading plan approved on May 19, 2022 by compliance officer and Ankur comes to know on July 20, 2022 that this transaction involves unpublished price sensitive information, therefore, such transaction (within six months from public disclosure of the plan) is an insider trading transaction.

(ii) Conditions attached to trading plan are as follows:

- Trading Plan shall entail trading for a period of not less than 12 months.
- Overlapping of trading plans not permitted.
- Trading plan to specify the value of trades/number of securities to be traded and dates etc.
- Trading plan shall not entail trading of securities for market abuse.

- Trading plan not to entail trading for a reasonable period around to declaration of financial results.
- Compliance officer to review, approve and notify the trading plan to stock exchanges.
- Trading plan once approved shall not be revoked.
- Commencement of trading not earlier than 6 months from the public disclosure of the plan.
- Unpublished Price Sensitive Information (UPSI) not in possession from formulation of plan to implementation.

CHAPTER 15 - DELISTING OF EQUITY SHARES

Q) Difference between Voluntary Delisting and compulsory delisting. (4 marks)

Answer-

Voluntary Delisting:

When a company intends to delist its shares from all the stock exchange having nationwide terminals, such process is called voluntary delisting. Such voluntary delisting shall require approval from board and shareholders. The company may also choose to delist itself from one stock exchange and continue to be listed on another stock in such process no exit opportunity is to be given. A company which has opted for voluntary delisting can make an application for listing only when period of 3 years has elapsed since such delisting.

Compulsory Delisting:

Compulsory delisting is the permanent removal of securities of the company from a stock exchange. Such action is taken against a company as a penalizing measure for violating any provision of listing agreement. The stock exchange shall constitute a panel regarding such order of compulsory delisting. Any such company which has been compulsorily delisted cannot make an application for listing for another period of 10 years, the promoters and directors are also debarred from accessing the capital market for a period of 10 years.

Q) The equity shares of ABC Limited have been delisted from the stock exchange.

When can an application be made for listing of equity shares of ABC Limited?

(4 marks)

Answer-

- As per the provisions of SEBI (Delisting of Equity Shares) Regulations, 2021 delisting of equity shares means removal of the securities of a listed companies from stock exchange. It means removal of the name of the company from the stock exchange and no trade can take place in the securities of the company delisted.
- A company which has opted for voluntary delisting cannot make an application for listing unless a period of 3 years has been elapsed.
- A company which has been compulsorily delisted cannot make an application for listing for a period of 10 years, the company along with its promoters, directors and officers in default are prohibited from accessing the capital market.

Q) 'A stock exchange on its own can delist any security thereon'. Explain how Recognized Stock Exchange delists any securities listed thereon under Securities Contracts (Regulations) Rules, 1957. (4 marks)

Answer-

Compulsory delisting refers to permanent removal of securities of a listed company from a stock exchange as a penalizing measure by the stock exchange for not complying with various requirements in the listing agreement within the time frames specified.

Procedure for compulsory delisting:

- Constitution of panel by recognized stock exchange to take decision regarding the compulsory delisting by the exchange.
- Public notice of compulsory delisting by recognized stock exchange in English and regional language newspaper of the region where the concerned recognized stock exchange is located.
- Within 15 days, representation by any person who may be aggrieved by the proposed delisting.
- Stock exchange confirms the order of delisting.

- Public notice is required to be given by the company after delisting order has been passed in English and regional language newspaper where the stock exchanges is located & information to all the stock exchanges where the shares of the company were listed.
- Appoint an independent valuer who will determine the fair value of shares.
- Acquisition of shares by the promoters at determined fair value.
- Company's promoters / PAC/Directors can neither access securities market nor seek listing for a period of 10 years.

Q) The Board of directors of a listed company desires to delist its equity shares from all the recognized stock exchanges. The voting details through postal ballot are as under:

- Total nos. of voters: 7,000 (Public: 5,000 & Promoters: 2,000)
- Voting at shareholders meeting:
 - a. Public shareholders:

In favor: 3,300 votes

In against: 1,700 votes

b. All promoter's shareholders have voted in favor of resolution.

By referring SEBI delisting regulation, decide upon the resolution passed by the shareholders. (5 marks)

Answer-

a. As per SEBI (Delisting of Equity Shares) Regulations 2021, if the company wishes for voluntary delisting of its equity shares from all stock exchanges, it shall be approved by shareholders in GM by passing a SR.

b. The special resolution will only be valid if the vote casted in favor is at least two times of votes casted against of such delisting proposal, in such resolution only public shareholders are to be considered.

c. In the given case, votes in favor by public shareholders are less than 2 times the no. of votes cast by public shareholders against it { $3300/1700 = 1.94$ times}. Hence, the SR cannot be said to be passed by the company.

Q) “Compulsory delisting is different from voluntary delisting”. (4 marks)

Answer- Conditions for delisting:

Voluntary delisting

When a company intends to delist its shares from all the stock exchange having nationwide terminals such process is called voluntary delisting. Such voluntary delisting shall require approval from board and shareholders. The company may also choose to delist itself from one stock exchange and continue to be listed on another stock in such process no exit opportunity is to be given. A company which has opted for voluntary delisting can make an application for listing only when period of 3 years has elapsed since such delisting.

Compulsory delisting

Compulsory delisting is the permanent removal of securities of the company from a stock exchange. Such action is taken against a company as a penalizing measure for violating any provision of listing agreement. The stock exchange shall constitute a panel regarding such order of compulsory delisting. Any such company which has been compulsorily delisted cannot make an application for listing for another period of 10 years, the promoters and directors are also debarred from accessing the capital market for a period of 10 years

Q) Bombay Stock Exchange Ltd. had suspended trading in shares of XYZ Ltd. for violating conditions of listing agreement. The company has now complied with the listing regulations requirements. By referring to SEBI circular/regulations, discuss the criteria for suspension of the trading in the shares of the listed entities. (4 marks)

Answer- Criteria for suspension of the trading in the shares of the listed entities:

- (a) failure to comply with board composition including appointment of woman director for two consecutive quarters;
- (b) failure to comply with constitution of audit committee for two consecutive quarters;
- (c) failure to comply with submission of corporate governance compliance report for two consecutive quarters;
- (d) failure to comply with submission of shareholding pattern for two consecutive quarters;
- (e) failure to comply with submission of financial results for two consecutive quarters;
- (f) failure to comply with regulation 34 with respect to submission of Annual Report for two consecutive financial years;
- (g) failure to submit information on the reconciliation of shares and capital audit report, for two consecutive quarters;
- (h) receipt of the notice of suspension of trading of that entity by any other recognized stock exchange on any or all of the above grounds.

Q) The equity share of Ashina Buildcon Ltd., was listed on National Stock Exchange Ltd. (NSE). NSE delisted its shares by complying SEBI guidelines on delisting. The order of delisting was passed on March 05, 2017. Kunj, one of the shareholder has not participated in the bidding process due to ill health, He wanted to tender shares on January 01, 2018. Analyze the problem in the light of the SEBI (Delisting of Equity Shares) Regulations, 2021. (4 marks)

Answer-

- a. In terms of SEBI (Delisting of securities), 2021 a person who did not tender his shares in the book building process reserves a right to tender his shares till 1 year from the date of delisting. The acquirer is under obligation to accept such shares and provide the same price which was determined by book building process.
- b. By applying the above provisions, it is clear that Kunj can tender his shares within one year from date of delisting & acquirer has to accept it at the price at which delisting was

done. Kunj has in fact within one year from date of delisting has tendered the shares and hence, he can take the benefit of above provision.

Q) Delisting is not permissible under certain circumstances. (4 marks)

Answer-

- In case of buy back of equity shares by the company; or
- In case of preferential allotment made by the company; or
- Unless a period of three years has elapsed since the listing of that class of equity shares on any recognized stock exchange; or
- Instruments which are convertible into the same class of equity shares that are sought to be delisted are outstanding.
- No promoter or promoter group shall propose delisting of equity shares of company, if any entity belonging to the promoter or promoter group has sold equity shares of the

company during a period of six months prior to the date of the Board meeting in which the delisting proposal was approved.

- Delisting of convertible securities.
- No promoter shall directly or indirectly employ the funds of the company to finance an exit opportunity or an acquisition of shares made pursuant to be provided under these regulations.
- No acquirer or promoter or promoter group or their related entities shall.
- Employ any device, scheme or artifice to defraud any shareholder or other person; or
- Engage in any transaction or practice that operates as a fraud or deceit upon any shareholder or other person; or
- Engage in any act or practice that is fraudulent, deceptive or manipulative in connection with such delisting.

Q) SAARC Ltd a company listed on nationwide two stock exchanges. It decided to delist its securities from both the stock exchanges. By complying all delisting regulation, the promoters have made an open offer to buy back share from public shareholders. Referring to the SEBI Delisting Regulations, advice the company with respect to the following manners:

(a) How the payment of consideration will be made to the successful shareholders who have tendered their shares in an open offer?

(b) What are the rights obtaining shareholder who have not tendered their shares during open offer? (4 marks)

Answer-

(1) Payment of consideration:

(i) The promoter of SAARC Ltd. Shall immediately upon success of the offer open a special account with a SEBI registered banker to an issue and transfer there to the entire amount

due and payable as consideration in respect of equity share tendered in the offer from the escrow account.

(ii) All the shareholders whose equity shares are verified to be genuine shall be paid the final price stated in the public announcement within ten working days from the closure of the offer.

(2) Right of remaining shareholders to tender equity shares

(i) Remaining public shareholder holding such equity shares may tender their shares to the promoter up to a period of minimum one year from the date of delisting and in such a case the promoter shall accept the shares tendered at the same final price at which the earlier acceptance of shares was made.

(ii) The payment of consideration for share accepted shall be made out of the balance amount lying in the escrow account

(iii) The amount in the escrow account or the bank guarantee shall not be released to the promoter unless all payments are made in respect of share tendered.

Q) Pinki Ltd. Being a listed company has not complied the requirement of listing agreements with stock exchange. The stock exchange decided for compulsory delisting of the securities from its trading platform. Answer the following:

- a) Whether once listed stock exchange can go for compulsory delisting of securities of Pinki Ltd.**
- b) What are the provision for constitution of penal?**
- c) What time period will be given for representation to Pinki Ltd? (4 marks)**

Answer-

- a) Once listed the stock exchange can go for compulsory delisting if a listed company has not complied the requirements of listing agreements with the stock exchange.
- b) Constitution of panel: the decision regarding compulsory delisting shall be taken penal to be constituted by the recognized stock exchange consisting of-
 - Two director of the recognized stock exchange (one of whom shall be a public representative);

- One representative of the investors;
- One representative of Ministry of Corporate Affairs or Registrar of companies;
- The executive Director or Secretary of the recognized stock exchange;
 - c) The time period given for making representation shall not less than fifteen working days from the notice.

Q) With reference to the SEBI (Delisting of Equity Shares) Regulations, 2021, state the requirement for appointment of Peer Reviewer Company Secretary to carry out due diligence. (4 marks)

Answer-

The SEBI (Delisting of Equity Shares) Regulations, 2021 provides that the Board of Directors of the company, before considering the proposal of delisting, shall appoint a Peer Review Company Secretary and provide the following information to such Company Secretary for carrying out due-diligence:

- (a) the details of buying, selling and dealing in the equity shares of the company by the acquirer or its related entities during the period of two years prior to the date of board meeting held to consider the proposal for delisting, including the details of the top 25 shareholders, for the said period;
- (b) the details of off-market transactions of all the shareholders mentioned in clause(a) for a period of two years;
- (c) any additional information if the Company Secretary is of the opinion.

After obtaining the information from the Board of Directors of the company, the Company Secretary shall carry out the due-diligence and submit a report to the Board of Directors of the company certifying that the buying, selling and dealing in the equity shares of the company carried out by the acquirer or its related entities and the top 25 shareholders is in compliance with the applicable provisions of securities laws.

CHAPTER 16 – BUY BACK OF SECURITIES

Q) Can a Company buy-back its own shares or any specified securities through negotiated deals or through any private arrangements? Comment with methods allowed for buy-back. (4 marks)

Answer-

The conditions for buy back are as follows:

1. A company may buy back its shares or other specified securities through any of the following methods:
 - a. From existing shareholders or security holders on a proportionate basis;
 - b. From the open market;
 - c. By purchasing the securities issued to employees of the company pursuant to the scheme of stock option or sweat equity.
2. A company shall not buy back its shares or specified securities from any person through negotiated deals

- Whether on or of the stock exchange or;
- Through spot transactions or;
- Through private arrangement.

3. Any person or an insider shall not deal in securities of the company on the basis of unpublished price sensitive information relating to buyback of shares or specified securities of the company.

Q) The financial data of a listed company as on 31st March, 2018 are as follows:

Authorized equity share-capital	` 10 crore
(1 crore shares of ` 10 each)	
Paid-up equity share-capital	` 5 crore
General reserve	` 3 crore
Debenture redemption reserve	` 2 crore

The Board of directors of your company passed resolution by circulation for buy-back of shares to the extent of 9% of the company's paid-up share capital and free reserves. You are required to examine the validity of the proposal with reference to the provisions of the SEBI Regulations. (5 marks)

Answer-

- a. As per SEBI buyback regulations, the board of directors can buy back up to 10% of total paid up equity share capital & free reserves of the company by passing a board Resolution. Such resolution should be passed at the meeting of the board.
- b. If the buyback exceeds the above said limit, then approval of shareholders by way of SR will be required.
- c. In the given case, BOD wants to buy back 9%, hence only BR is required. However, board's approval has to be taken in a board meeting & cannot be taken by circulation. Hence, resolution passed by circulation is not valid in this case.

Q) The financial data of a listed company Sun Rise Ltd. as on 31st March, 2021 is as follows:

Particulars	Amount Rs.
Equity Share Capital [fully paid-up of face value of Rs. 10 each]	5,00,000
10% Preference Share Capital [fully paid-up of Rs. 100 each]	1,00,000
12% Debentures [Rs. 100 each]	2,00,000
Revaluation Reserve	50,000
General Reserve	2,00,000
Profit & Loss Account	2,00,000

The company wanted to place proposal before the Board for buy-back of its equity shares and also simultaneously redeem the entire preference share capital. You, as a Company Secretary, advise the Board on the following issues:

- i) Maximum limit [in amount] up to which shareholders can approve buy-back of shares.**
- ii) Maximum number of shares that can be bought back and the maximum price that can be paid per equity share bought back.**
- iii) Generally, what should be the ratio of the aggregate of secured and unsecured debts owed to the company after buy-back?**

Answer-

1. maximum limit through which company can buy back its shares is 10% of equity share capital along with free reserves and securities premium .
2. 10 % (equity share cap +SP+FR)
10% (500000+200000)

$$10\%(700000)=70000$$

3. maximum no of shares that can be bought back is 25% of paid up share cap

$$\text{i.e } 25\%(500000+100000)$$

$$=25\%(600000)=150000 \text{ shares}$$

$$\text{maximum price} = 70000/10 = 7000$$

4. the aggregate of secured and unsecured debts owed to the company after buy-back should be 2:1.

Q) POR Limited a listed company, is intending to make buy- back of its equity shares.

Referring to SEBI Buy Back Regulations, explain the following:

- (i) The manner of deposit of amount is escrow account.**
- (ii) How can an unregistered shareholder tender his shares for buy back?**
- (iii) What is time limit for completing buy back process? (4 marks)**

Answer-

(i) The company shall as and by way of security for performance of its obligation under SEBI (Buy Back of Securities) Regulations, on or before the opening of the offer, deposit in an escrow account such sum as specified under the Regulation. The amount in the escrow shall be deposited in the following manner:

AMOUNT OF CONSIDERATION	PERCENTAGE OF AMOUNT TO BE DEPOSITED
Consideration not more than 100 crore	25 percent of consideration payable
Consideration exceed Rs.100 crores	25 percent up to Rs.100 crore and 10% thereafter

(ii) The unregistered shareholder may also tender his shares for buy back by submitting the duly executed Transfer Deed for transfer of shares in his name along with the offer form and other relevant documents as required for transfer, if any

(iii) Every buy back shall be completed within a period of one year from the date of passing of the special resolution passed at the general meeting or the resolution passed by the Board of directors of the company as the case may be.

Q) Answer the following with reasons with reference to the SEBI Buy Back Regulations whether these buy back are as per the provision of regulations?

- 1) The company can directly or indirectly purchase its own shares through any subsidiary including its own subsidiaries.**
- 2) The company has made buy back of shares out of proceeds an earlier issue of the same kind of shares.**
- 3) The company secretary of the company advised not to allowed buyback of shares unless the consequent reduction of share capital is affected.**
- 4) The company has prohibited from buyback whose default is remedied and a period of two years has elapsed after such default ceased to subsist.**

5) The Board of Directors has denied the offer of buyback of shares for 16% of paid up capital and free reserve to be made from the open market. (5 marks)

Answer –

- A) The company cannot directly or indirectly purchase its own shares or other specified securities;
 - Through any subsidiary company including its own subsidiary companies;
 - Through any investment company or;
 - If a default is made by the company in the repayment of deposits accepted either before or after the commencement of the Companies Act, interest there on.
- b) A company may buy back shares or other securities out of:
 - Its free reserve
 - The securities premium account or
 - The proceeds of the issue of any shares or other specified securities.

c) No company limited by shares or by guarantee and having a share capital shall have power to buy its own shares unless consequent reduction of share capital is affected under the provision of this act

d) The buyback is not prohibited, if the default is remedied and a period of three years has lapsed after such default ceased to subsist.

e) The board can authorize the buyback of securities not exceeding 10% of total paid up equity capital and free reserves of the company. If the company wishes to buyback exceeding the limit of 10% special resolution is required to be passed. Therefore, for the offer of buy back of share for 16% shareholders' approval by passing special resolution is required.

CHAPTER 17 - MUTUAL FUNDS

Q) What are the advantages and disadvantages of fund of funds? (5 marks)

Answer-

Advantages of fund of funds

Diversification

As a fund of funds invests in the schemes of other funds, it provides a greater degree of diversification.

Simple process:

Instead of investing in different stocks/units of mutual funds and keeping a track record of all of them, it will be much easier to invest in and track only one fund, which in turn invests in other mutual funds.

Cost effective:

While entering into the capital markets it is difficult to diversify because of limited funds. Fund of funds provide an opportunity to go for diversification with comparatively limited amounts.

Risk :

Investors can trim down the risk by choosing this route. Because of diversification, even if one stock/scheme is not performing well risk level comes down.

Expertise of Various Managers :

As in the case of schemes of mutual funds, fund of funds scheme also work under the due diligence of a fund manager. This gives the scheme additional expertise as compared to other mutual funds schemes.

Disadvantages of fund of funds

Additional Fees: The more diversified the fund is, the greater the likelihood that the investor will incur an incentive fee on one or more of the constituent managers, regardless of overall FOF performance.

Associated Risks :

Risks associated with all the underlying funds get added at this level, which includes amongst others Management Risks, Operational Risks, Qualitative Risks

Regulations in India :

The fund of funds scheme was introduced in the Indian market by making suitable amendments in SEBI (Mutual Funds) (Amendment) Regulations, 2003.

Q) An investor wishes to invest a certain sum of money in the securities market. However, he is not aware of the opportunities available to him. He approaches you to seek advice on the benefits of investing in mutual funds & the risks associated therewith. Kindly advice. (8 marks)

Answer-

The advantages of investing in a mutual fund are:

1. Professional Management: Mutual funds are managed by a team of skilled professionals, who are expert in their areas. They also have a research team, which constantly analyses the performance and prospects of companies and selects suitable investments to achieve the objectives of the scheme.
2. Diversification: There is a very famous proverb in English, it says: *“Do not lay all your eggs in one basket”*. Mutual funds work on an exact similar concept. Mutual funds invest in a number of companies across sectors. Even if one particular sector collapses, the losses are covered by some other investment, which is doing well. Investors achieve this diversification through a Mutual Fund with far less money than one can do on his own.
3. Convenient Administration: Investing in a mutual fund reduces paper work and helps investors to avoid many problems such as bad deliveries, deliveries, delayed payments, and unnecessary follow up with brokers and companies. Mutual funds save investors time and make investing easy and convenient.

4. Return Potential: Over a medium to long term, mutual funds have the potential to provide a higher return as they invest in a diversified basket of selected securities.
 5. Low Costs: Mutual funds invest huge sums of money and hence the cost of brokerage is less as compared to a direct investment made by any investor. So the overall brokerage, custodial and other fees translate into lower costs for investors.
 6. Liquidity: Liquidity means readiness to convert investments into cash. In open-ended schemes, investors can get their money back promptly at net asset value related prices from the mutual fund itself. With close-ended schemes, investors can sell their units on a stock exchange at the prevailing market price or avail of the facility of direct repurchase at net asset value (NAV) related prices.
 7. Transparency: As per SEBI Regulations, all the mutual funds are compulsorily required to disclose the details of the investments made by them from time to time to all its investors.
- Mutual funds may face the following risks:
- 1) Excessive diversification of portfolio, losing focus on the securities of the key segments

- 2) Too much concentration on blue chip securities which are high priced and which do not offer more than average return
- 3) Necessity to effect high turnover through liquidation of portfolio resulting in large payments of brokerage and commission
- 4) Poor planning of investment with minimum returns
- 5) Un-researched forecast on income, profits and Government policies
- 6) Fund managers being unaccountable for poor results
- 7) Failure to identify clearly the risk of the scheme as distinct from risk of the market

Q) Differentiate between open ended & close ended schemes. (4 marks)

Answer-

Sr. No.	Close ended schemes	Open ended schemes
1.	Fixed corpus: no new units can be offered beyond the limit	Variable corpus due to ongoing purchase and redemption
2.	Listed on stock exchange for buying and selling	No listing on exchange, transactions done directly with the fund
3.	Two values available namely NAV and the Market Trading Price	Only one price namely NAV
4.	Mostly liquid	Highly liquid

Q) Differentiate between top down & bottom up investment strategies. (2 marks)

Answer-

Top Down Investing: This is an investment strategy which first takes a view on the economy and then looks at the industry scenario to assess the potential performance of a company.

Bottom Up Investing: This is an investment strategy which considers the fundamental factors driving individual stock performance before considering the economic prospects which affect the industry and within which the company operates.

Q) Explain any 5 schemes offered by a mutual fund. (5 marks)

Answer-

Income oriented mutual funds: The fund primarily offers fixed income to investors. Naturally, the main securities in which investments are made by such funds are the fixed yielding ones like bonds.

Growth oriented mutual funds: These funds offer growth potentialities associated with investment in capital market namely:

- High source of income by way of dividend and
- Rapid capital appreciation, both from holding of good quality scrips.
- These funds, with a view to satisfying the growth needs of investors, primarily concentrate on the low risk and high yielding spectrum of equity scrips of the corporate sector.

High Growth Schemes: An investment in high risk and high return with a high degree of capital appreciation generating securities in which aggressive investors are willing.

Tax Saving Schemes: These schemes offer tax rebates to the investors under tax laws as prescribed from time to time. The Government offers tax incentives for investment in specified avenues e.g. Equity Linked Saving Schemes (ELSS) and Pensions Schemes. It may be noted that Equity Linked Saving Schemes (ELSS) have the lock-in period of three years.

Hybrid mutual funds: These funds cater to both the investment needs of the prospective investors – namely fixed income as well as growth orientation. Therefore, investment targets of these mutual funds are judicious mix of both the fixed income securities like

bonds and debentures and also sound equity scrips. In fact, these funds utilize the concept of balanced investment management. These funds are, thus also known as “balanced funds.”

Q) Mutual Fund investments in India are fraudulent with multiple risks in India.

Comment. (4 marks)

Answer-

It is very rightly stated that mutual fund investments are subjected to various market risks like:

- i) Excessive diversification by the fund manager.
- ii) Too much concentration on blue chip securities.
- iii) Fund manager not accountable for the fund losses.
- iv) Poor planning in terms of the equity & debt exposure.

Q) Define NAV & offer price. (3 marks)**Answer-**

NAV means Net Asset Value. NAV is nothing but a value at which an investor enters or exists a fund. It can be calculated by the following formula:

$$\text{NAV} = \frac{\text{Total Assets} - \text{Total Liab} - \text{Total Exp.}}{\text{No. of outstanding units.}}$$

Offer price means a price at which the units are offered to the investors at the launch of a scheme.

Q) Hedge Funds are similar to Mutual Funds. Comment. (5 marks)**Answer-**

Both Mutual Funds & Hedge Funds raise money from the investor, the only difference being that MF raises it from large number of investors in small amount while hedge funds raise it

from limited number of investors in large amount. Also, a MF derives profit from investing activities while a hedge fund derives it from complex trading activities.

Q) The Mutual Funds have emerged as one of the important class of financial intermediaries which cater to the needs of retail investors. Discuss. (5 marks)

Answer-

- A MF works on a very simple concept of pooling money from a large set of Investors, investing in different securities & providing best possible returns to their investors.
- As an investor a person is served with various investment options which are available in the market & hence it becomes difficult for him to analyze which are the best securities & which are not.
- MFs are led by a team of financial experts who have a strong knowhow of the market based upon which they invest in the market.

➤ Therefore, for these investors who do not have direct access or knowledge of the market can invest through a MF.

Q) Life-Changing Assets Management Ltd., a mutual funds company desires to engage a Bollywood celebrity to popularize its schemes. Explain the SEBI provisions with regard to celebrity endorsements of Mutual Funds at industry level. (4 marks)

Answer-

Celebrity endorsement of mutual funds is allowed subject to the following conditions:

- Celebrity endorsements are allowed only at industry level, for the purpose of increasing awareness of mutual funds as financial product category. Such endorsement shall not promote a scheme of a particular mutual fund or be used as a branding exercise of a mutual fund or AMC.
- Prior approval of SEBI would be required for issuance of such advertisements.

Q) “Expense Ratio for a mutual fund should be as low as possible.” Explain how increase or decrease in Total Expense Ratio (TER) shall be disclosed by Asset Management Company under SEBI (Mutual Funds) Regulations, 1996? (4 marks)

Answer-

- i. Under SEBI (Mutual Funds) Regulations, 1996, Mutual Funds are permitted to charge certain operating expenses for managing a mutual fund scheme such as advertising expenses, administrative expenses, transaction costs, investment management fees, registrar fees, custodian fees, audit fees as a percentage of the funds daily net assets. This is commonly referred to as Expense Ratio.
- ii. Expense ratio is the cost of running and managing a mutual fund which is charged to the scheme.
- iii. For actively managed equity schemes, the total expense ratio (TER) allowed under the regulations is:
 - 2.5 % for the first ₹100 crores of average weekly net assets;

- 2.25 % for the next ₹300 crores,
- 2 % for the subsequent ₹300 crores and
- 1.75 % for the balance AUM.

iv. For debt schemes, the expense ratio permitted is 0.25 % lower than that allowed for equity funds.

v. However, while expense ratio is important, it should be borne in mind that it is not the only criterion while selecting mutual fund scheme. A scheme with a consistently decent track record, but a higher expense ratio may be better than the one which lower expense ratio, but gives poor returns.

Q) Explain the following:

Hedge Funds (4 marks)

Answer-

Hedge funds:

- Hedge funds are organized as private investment partnership or offshore investment corporations' funds that uses complex strategies to generate returns.
- The investors of hedge funds include high net worth individuals, insurance companies, banks etc.
- They need not to be registered with SEBI nor do they need to disclose their NAV periodically like mutual funds.

Q) Define the fund of funds scheme and state the benefits of the scheme. (2+3=5 marks)

Answer-

It is a mutual fund scheme which invests in the schemes of same or other mutual funds present in the market instead of investing in securities.

These funds can be broadly classified into:

- Sector Specific Funds: These funds invest in the various sectors of the economy and protect themselves by not investing the whole amount in only one sector.
- Asset Allocation Funds: They diversify the investments by holding several different kinds of assets at the same time. They are also known as life cycle funds.

Benefits of FOFs are:

1. Diversified investments: As a fund of funds invests in the schemes of other funds, it provides a greater degree of diversification.
2. Easy process: instead of investing in different stocks and keeping track record of all of them, it will be much easier to invest in and track only one fund, which in turn invests in other mutual funds.
3. Cost effective: while entering into the capital markets it is difficult to diversify because of limited funds. Fund of funds provide an opportunity to go for diversification with comparatively limited amounts.
4. Risk to the extent possible is eliminated.

5. Expertise of various managers proves to be beneficial.

Q) Are mutual funds permitted to make overseas investment? Describe. (5 marks)

Answer-

Mutual Funds are permitted to make investment in:

- . ADRs/GDRs issued by Indian or foreign companies.
- a. Equity shares of companies listed on overseas stock exchanges.
- b. Initial (IPO) and follow on public offerings (FPO) for listing at overseas stock exchanges.
- c. Foreign debt securities in the countries with fully convertible currencies.
- d. Money market instruments rated not below investment grade.
- e. Government securities where the countries are rated not below investment grade
- f. Derivatives traded on recognized stock exchanges overseas only for hedging and portfolio balancing with underlying as securities.

g. Short term deposits with banks overseas where the issuer is rated not below investment grade.

h. Units/ securities issued by overseas mutual fund or UTI Registered with overseas regulator & investing in aforesaid securities or REITs listed in recognized stock exchange overseas or unlisted overseas securities [not exceeding 10% of their net assets.]

Q) While evaluating the performance of a mutual fund one must not be led by the mutual fund return in isolation.' In this context, elucidate how performance of mutual fund is evaluated? (4 marks)

Answer-

1. While looking at a mutual fund scheme's performance, one must not be led by the scheme's return in isolation. A scheme may have generated 10% annualized return in the last couple of years. But then, even the market indices would have gone up in similar way during the same period.

2. Under performance in a falling market i.e. when the NAV of the scheme falls more than its bench mark (or the market), is the time when one must review his/ her investment.
3. One must compare the schemes return as against its benchmark return. It is better to get rid of the scheme that consistently under performs as compared to its benchmark.
4. The details and past track records of funds manager and the promoters should also be considered.
5. The expense ratio is also an important factor while investing in any mutual fund.

Q) Fortune Mutual Fund launched a special scheme, the details of which are given below:

NAV ` 14 per unit

Redemption price `13.50 per unit

Offer Price `14.75 per unit

You are required to compute:

(i) Back End Load

(ii) Front End Load.

(5 marks)

Answer-

(i) Computation of Back End Load (BEL)

Let the Back end load be x

$$\text{NAV} = \text{Redemption price} * [1 + \text{BEL}]$$

$$14 = 13.50 * (1 + x)$$

$$14 = 13.50 + 13.50x$$

$$13.50x = 0.50$$

$$x = 0.50 / 13.5 = 3.70\%$$

(ii) Computation of Front End Load (FEL)

Let the Front end load be x

$$\text{NAV} = \text{Public offer price} * (1 - \text{FEL})$$

$$14 = 14.75 * (1 - x)$$

$$14 = 14.75 - 14.75x$$

$$14.75x = 0.75$$

$$x = 0.75/14.75 = 5.08\%$$

CHAPTER 18 - COLLECTIVE INVESTMENT SCHEMES

Q) Collective Investment Scheme is constituted as a Trust. Comment. (4 marks)

Answer-

- CIS is an extension of mutual fund wherein investors pool in money for the objective of such fund. It is created in the form of a trust.
- The unitholders get return in the form of produce/ income/property. The unitholders do not have day to day control over the management of such CIS.
- The 'trust' is the financial instrument that is created in order to manage the investment.
- The trust enables financial experts to invest the money on behalf of CIS investors.
- A scheme should be constituted in the form of a trust and the instrument of trust should be formed in the form of a deed duly registered under the provisions of Indian Registration Act, 1908 executed by CIMC in favor of the trustee named in such an instrument.

Q) What is a Collective Investment Scheme? What are the restrictions on their business activities. (5 marks)

Answer-

CIS is an extension of mutual fund wherein investors pool in money for the objective of such fund. It is created in the form of a trust. The unitholders get return in the form of produce/income/property. The unitholders do not have day to day control over the management of such CIS.

Collective Investment Schemes provides a relatively secure means of investing on the SE.

Collective Investment Management Company cannot undertake:

- Any activity other than managing the scheme
- Act or a trustee of any scheme
- Launch any scheme for the purpose of investing in securities
- Invest in any scheme floated by it.

Q) Discuss the schemes and arrangements which are not coming under the ambit of collective investment scheme. (4 marks)

Answer- CIS is an extension of mutual fund wherein investors pool in money for the objective of such fund. It is created in the form of a trust. The unitholders get return in the form of produce/ income/property. The unitholders do not have day to day control over the management of such CIS.

Business restrictions for CIMC:

1. The CIMC shall not undertake any activity other than of managing the scheme.
2. The CIMC shall not act as a trustee for the purpose of investing in securities.
3. The CIMC shall not launch any scheme for the purpose of investing in securities.
4. The CIMC shall not invest in any schemes floated by it.

Q) Co-ordination of trustee and Collective Investment Management Company is absolutely necessary for success of Collective Investment Scheme. Explain in this context the rights available to the trustee. (4 marks)

Answer-

The trustees have a right to obtain from Collective Investment Management Company (CIMC) such information as is considered necessary by the trustee and to inspect the books of accounts and other record relating to the scheme. The trustee should ensure that the CIMC has:

1. The necessary office infrastructure.
2. Appointed all key personnel including managers for the scheme and submitted their bio data which shall contain the educational qualifications and past experiences in the arrears relevant for fulfilling the objectives of schemes;
3. Appointed auditors from the list of auditors approved by SEBI to audit the accounts of the schemes;

4. Appointed a compliance officer to comply with the provisions of the act and these regulations and to redress investor grievances;
5. Appointed registrars to an issue and share transfer agent;

Q) What do you understand by the word 'Ponzi Scheme'? Who regulate the Collective Investment Scheme? List any four key aspects for launching a Collective Investment Scheme. (4 marks)

Answer-

- 1) A Ponzi scheme is an investment from where clients are promised a large profit in short term at little or no risk at all.
- 2) Collective Investment Scheme falls under the purview of SEBI. SEBI regulates it through the SEBI Act 1992 and CIS Regulations, 1999. There are four main participants in the scheme Collective Investment Management Company Trustee, Shareholder and Fund Manager.

3) Collective Investment Scheme – refers to any scheme under which-

- The contributions are pooled and utilized for the purposes of the scheme or arrangements;
- The contributions are made to such scheme by the investors with a view to receive profits, income, produce or property whether movable or immovable;
- The property contribution or investment forming part of scheme is managed on behalf of the investors;
- The investors do not have day to day control over the management of the scheme.

Q) ABC Ltd. is a SEBI registered Collective Investment Management company. It has launched a Collective Investment scheme viz. “Har Ghar Sapna” and collected money for acquiring land and construction of houses. Due to sudden downfall of real estate market, only 15 investors with a total subscription of `15 crore applied in the scheme.

Whether the company can run the scheme? Give answer with reference to the amended SEBI Regulations (4 marks)

Answer-

- In terms of SEBI (CIS) Regulations, 1999 every CIS shall after closure of list of subscription shall comply with the following:
 - i. Minimum subscription of 20 crore rupees
 - ii. Minimum 20 applicants
 - iii. No such applicant shall hold more than 25% of assets under such scheme
- In case if the above conditions are not satisfied the CIS shall refund all its money.
- In this particular situation, the CIS in the name of Har Ghar Sapna was only able to get 15 investors and was only able to collect 15 crores which is below the required condition, the CIS shall in this case refund all the money of its applicants.

Hello Students Family,

Hope it was a worthwhile read for you. A usual problem, which most of the students face while writing CMSL paper is on how to write answers. This book is a compilation of all questions asked by ICSI in past exams in a simple language. Now since you have arrived at this page, I believe, you already are proficient in key to writing answers. So, stay confident as you are about to clear your exams in forthcoming attempt.

Remember, the only thing, which holds back a student in clearing his exams is his mindset. So firmly believe and accept that you are clearing this exam and it shall happen.

My love, prayers and best wishes follow. Infinite positive vibes around you.

VIKAS VOHRA

Universe of **ALL INDIA RANKERS**



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CS Vikas Vohra
Founder – YES Academy

Vikas is a Commerce and Law Graduate and a Company Secretary by profession. He has to his credit, few other Certifications and specialisations in Corporate and Securities Laws. On the teaching side, he has taught more than 20,000 students.

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He has significant hands on experience in Mergers and Acquisitions, Public Offerings and consequent listing of the Shares and GDR's on the Bourses, fund raising and Deal Structuring. Before that he also worked with Kirloskar Brothers Investments Limited & Bajaj Auto Limited wherein, he was deeply involved in various M&A activities.

Vikas is presently the Founder of YES Academy for CS, Pune He is also a Co-Founder of PapaZapata (Mexican food chain) & GujuKhakhra (Indian Breads). He enjoys writing poetry and doing meditation in his free time.



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