

# QUESTION BOOK

# ESG

## CHAPTER 2:

# LEGISLATIVE FRAMEWORK OF CORPORATE GOVERNANCE IN INDIA

### QUESTION 1:

What are the principles governing disclosure and obligations onto listed companies?

#### (ADDITIONAL QUESTIONS)

**Ans.**

The Indian corporates are governed by various legislations and guidelines, which includes the following:

- i. Companies act, 2013
- ii. SEBI (LODR), 2015
- iii. RBI circulars
- iv. IRDAI laws
- v. DPE guideline

Any listed entity should make its disclosures in accordance with following principles:

- (a) Information shall be prepared and disclosed as per the relevant accounting standards.
- (b) The entity should implement the standards in letter and spirit.
- (c) The entity should refrain from misrepresentation & ensure information is not misleading.
- (d) The entity should ensure adequate and timely information to the stock exchange and the investors.
- (e) It should ensure that the channel for disseminating information provides equal, timely and accurate information.
- (f) That the entity complies with all applicable laws.
- (g) The listed entity shall comply with corporate governance provision, to achieve the objectives of the following principles.

**QUESTION 2:**

**“Indian legislative framework supports transparency & disclosure by corporates.” Explain. (JUNE 2014) (4 MARKS)**

**Ans.**

- (a) Indian legislative framework supports transparency and disclosure by corporates.
- (b) Corporate governance in India is about transparency, disclosure, accountability, and integrity. Several laws and regulators ensure companies follow
  - (i) SEBI regulations (2015) and companies act (2013)
  - (ii) Other supporting laws such as competition act, labour law, consumer protection, environmental laws, anti-money laundering laws.
- (c) These laws make sure companies are transparent and accountable. Good governance also depends on the ethical behavior of company leaders, not just laws.
- (d) Apart from the SEBI and MCA many other bodies support good governance such as the reserve bank of India (RBI), competition commission of India, insurance regulatory and development authority of India (IRDAI), telecom regulatory authority of India (TRAI), Foreign exchange management act (FEMA)
- (e) These organizations ensure companies grow ethically, earn profits while following laws, and respect stakeholders interests.

**QUESTION 3:**

**The ‘fit and proper’ criteria for nomination of directors applies only to private sector banks. Do you agree with the statement? Describe the phrase ‘fit and proper’. (AUG, 2021) (8 MARKS)**

**Ans.**

- (a) The statement "The ‘fit and proper’ criteria for nomination of directors applies only to private sector banks" is not correct. The 'fit and proper' criteria apply to both private and public sector banks, and also extend to certain financial institutions regulated by the Reserve Bank of India (RBI), depending on the context.
  - (i) The candidates age should be between 35 to 67 as on cut-off date for submission of nomination for election.
  - (ii) The candidate should be at least a graduate.
  - (iii) He should have special knowledge or experience in one or more matter prescribed under SBI act.

- (iv) The tenure of an elected director is 3 years and is eligible for re-election, however, no such director shall hold office for a period exceeding 6 years whether continuously or intermittently.
  - (v) The candidate should not be into any adverse notice of any regulatory or supervisory authority.
- (b) Disqualifications for the fit and proper criteria are as follows:
- (i) Candidate should not be a member of any bank/ financial institution/ insurance company/ non-operative financial holding company holding any bank.
  - (ii) He should not be into the business of money lending, investments, leasing or any other banking activity, however, he maybe investor of such entity, provided he does not enjoy any managerial control.
  - (iii) No person shall be eligible to be appointed if he has been a director in past of the above mentioned for 6 years either continuously or intermittently.
  - (iv) He should not be engaged in the business of stockbroking.
  - (v) He should not be a partner of CA firm which is engaged as a statutory auditor of any nationalized bank or SBI or acting as a branch auditor of bank in which nomination is filed.
  - (vi) He should not be holding the position of a MP/ state legislature/ municipality.
  - (vii) He should not have any business connection with the bank and neither is engaged in nay activity which may result in conflict of interest.

#### QUESTION 4:

**What are the committees required to be constituted by Non-Banking Financial Companies?**

**(JUNE, 2023) (3 MARKS)**

**Ans:**

- (a) All eligible NBFC's shall constitute an audit committee, consisting of not less than three members of its board of directors.
- (b) All eligible NBFC's shall form a nomination and remuneration committee to ensure "fit and proper" status of proposed/ existing directors. The nomination committee constituted shall have the same powers as under companies act, 2013.
- (c) All eligible NBFC's shall form a risk management committee to oversee integrated risk management, in addition to the asset liability management committee (ALCO).

**QUESTION 5:**

**RBI has taken a vital step by introducing the post of chief risk officer (CRO) in NBFC's. Explain the essentials which NBFC's shall strictly adhere at the time of appointment of CRO.**

**(DEC,2022) (5 MARKS)**

**Ans:**

The above NBFC's shall follow the following instructions:

- (a) The CRO shall be a senior official of NBFC.
- (b) His appointment shall be approved by board and he can be transferred or removed before completion of his tenure with approval of board, provided same should be reported to the department of non-banking supervision. In case NBFC is listed the same shall be reported to stock exchange as well.
- (c) The board shall put policies to safeguard the independence of CRO who shall have direct reporting lines to the managing director and CEO or the risk management committee (RMC) and in case of reporting to MD/CEO the RMC shall meet the CRO on a quarterly basis without the presence of MD/CEO.
- (d) The task of CRO should be to identify and mitigate the risk as well as reviewing all the credit products of the NBFC.
- (e) For NBFC's which follow committee approach for credit sanction of high value proposals, if the CRO is a member then he shall also have voting power.

**QUESTION 6:**

**Which authority issued code on stewardship for insurer in India? What are the principles of such guidelines? (AUG,2021) (5 MARKS)**

**Ans:**

The authority that has issued stewardship code in India for insurance companies is insurance regulatory and development authority of India.

Revised guidelines on stewardship code for insurance companies in India:

- (a) Insurers should formulate a policy on the discharge of their stewardship responsibilities and publicly disclose it.
- (b) Insurers should have a clear policy on how they manage conflict of interest in fulfilling their stewardship responsibilities.
- (c) Insurers should monitor their investee companies.
- (d) Insurers should have a clear policy on intervention in their investee companies.

- (e) Insurers should have a clear policy for collaboration with other institutional investors where required, to preserve interest of policyholders (ultimate investors) which should be disclosed.
- (f) Insurers should have clear policy on voting and disclosure of voting activity:

Size of AUM of insurers (Cr)	Compulsory voting required if insurer's holding of PUC of investee in (%) is
Up to 250000	3% and above
Above 250000	5% and above

- (g) Insurers should report periodically on their stewardship activities.
- (h) Every insurer shall submit an annual certificate of compliance on or before 30<sup>th</sup> June every year duly certified by CEO and compliance officer.

**QUESTION 7:**

**Mr. A is appointed as an Actuary in PQR Ltd. under IRDA (Appointed Actuary) Regulations, 2000. Mr. A, the appointed actuary shall provide professional advice or certification to the Board of Directors of PQR Ltd. on certain items. Discuss role of Appointed Actuaries and indicate such items on which Actuary may provide professional advice or certification to the Board of Directors. (JUNE 2023) (5 MARKS)**

**Ans:**

The regulations stipulate that prior approval of IRDAI is required for appointment of the appointed actuary.

The following conditions shall be complied with:

- (a) Actuary shall qualify and satisfy and fit and proper criteria.
- (b) Regulations have provided his rights and obligations which he must comply along with any other duties as may be assigned by the board.
- (c) If the actuary feels that entity does not comply with the applicable rules and regulations of sound business operations then he should inform board of the insurer first and if no acceptable action is taken then he should report it to authority.
- (d) Board shall interact with actuary and actuary should provide them with professional advice with regards to:
  - (i) Identification and estimation of risks as well as viable actions.
  - (ii) Financial condition testing
  - (iii) Solvency margin
  - (iv) Appropriateness of premium as well as surrender value.

- (v) Allocation of bonus in case of with profit insurance contracts
  - (vi) Product design.
- (e) The above are the areas with regards to life insurance companies and actuary can provide advices in all other required spheres.

**QUESTION 8:**

**What are the methods by which IRDA exercises control over significant ownership?  
(JUNE,2023) (3 MARKS)**

**Ans:**

IRDAI has prescribed 3 methods to control significant ownership In insurance companies:

- (a) IRDAI prescribes a minimum lock-in of 5 years from the date of certificate of commencement of business for the promoter of the insurance company. No transfer of shares of the promoters is permitted within this period without the approval of authority.
- (b) In accordance with the insurance act,1938, foreign investment in Indian insurance companies is allowed upto 49%. This is allowed only if the company remains Indian-owned and controlled.
- (c) The act requires prior approval of IRDAI for registration/transfer of shares exceeding 1%, and where holding crosses 5%of the paid-up capital after such transfer. The board of directors must ensure the registration is in compliance with the act, regulations, and IRDAI circulars.

