

MODULE 4 – SEBI REGULATIONS

Main Questions

Question 1

(C1 & C3) (7M) (Dec 2023 PQ)

An issuer cannot make public issue or right issue of equity shares and convertible securities under certain conditions. Explain that condition for a public issue or right issue of equity shares and convertible securities.

Answer

Eligibility of the Issuer: An issuer cannot make a public issue or rights issue of equity shares and convertible securities under the following conditions:

- a) **Issuer, promoters,** promoter group, directors, or selling shareholders must **not be debarred** by **SEBI** from accessing the capital market.
- b) **Stock Exchange Approval:** Application for **"in-principle" approval** of listing must be made to at **least one recognised stock exchange** having nationwide trading terminals.
- c) **Dematerialisation Agreement:** Agreement with a **depository for dematerialisation** of equity shares and convertible securities is required.
- d) **Fully Paid-up Shares:** All existing partly paid-up equity shares must be **fully paid-up or forfeited**.
- e) **Dematerialised Promoter Holding:** **Promoter's holding** must be in **dematerialised** form before filing the offer document.
- f) **Wilful Defaulter:** Public issue not allowed if the issuer or any of its promoters or directors is a **wilful defaulter**.
- g) **Issue Duration:** The issue shall be open for a **minimum** of **3 days** and a **maximum** of **10 days**.
- h) **Minimum Subscription:** **Minimum subscription** shall be **90% of the issue size**; otherwise, application money must be **refunded** within 15 days of issue closure.

Question 2

(C5) (4M) (Dec 2018 Old PQ)

Write a small note on differential pricing.

Answer

Differential pricing refers to the practice of **offering securities at different prices to different categories of investors** during an issuance, such as an Initial Public Offering (IPO).

An issuer may offer equity shares and convertible securities at different prices, subject to the following condition:

- a) **Retail Investors and Employees:** Equity shares can be offered at **not more than 10% discount** on the issue price to the **retail investors or employees**.
- b) **Anchor Investors:** in case of a book built issue, the price of the equity shares and convertible securities offered to an **anchor investor cannot be lower** than the price offered to other applicants.



- c) **Alternate Book Building:** The issuer may offer specifies securities to its **employees** at a price **lower than the floor price**, However, the **difference** between the floor price and the price at which equity shares and convertible securities are offered to employees **should not be more than 10%** of the floor price.
- d) **Face Value Criteria:** If the issue price is ₹ 500 or more per share, the face value may be less than ₹ 10 but not less than ₹ 1.

Question 3

(C6) (SM) (4M) (June 2023 Old PQ) (June 2019 Old PQ)

What do mean by "lock in period"?

(or)

Write short notes on - Lock-in of specified securities held by promoters.

Answer

- a) A **lock-in period** refers to a predetermined **duration during which investors** or shareholders are **restricted from selling**, transferring, or disposing of their **securities**.
- b) This restriction is often imposed to **ensure market stability**, prevent excessive volatility, and align the interests of stakeholders.
- c) **Promoter** must maintain a **minimum Contribution** of at least **20% of the post-issue capital** in an **initial public offer**.
- d) The **minimum Contribution** will be **locked-in** for **3 years** and **excess** will be **locked-in** for **1 year**.
- e) However, excess promoter's contribution in a further public offer in not subject to lock in.

Question 4

(C6) (SM)

Discuss in detail, the book building process.

Answer

Book Building Process is a process used to **determine the price of an IPO** based on the demand from institutional and retail investors. It is a **systematic way** of generating, capturing, and recording **investor demand for shares**. The price is **not fixed initially**. Instead, a **price band** or range is provided within which investors can bid. The final price is determined based on the bids received during the book building period.

Allocation in Net Offer to Public:

- a) **Not less than 35%** to **Retail individual investors**.
- b) **Not less than 15%** to **non-institutional investors**.
- c) **Not more than 50%** to **Qualified Institutional Buyers**, with **5% allocated** to **mutual funds**.

Alternate Allocation under specific conditions:

- a) **Not more than 10%** to **Retail individual investors**.
- b) **Not more than 15%** to **non-institutional investors**.
- c) **Not less than 75%** to **Qualified Institutional Buyers**, with **5% allocated** to **mutual funds**.

Anchor Investors: **Up to 60%** of the allocation for QIB may be given to anchor investors under specific conditions.

In an issue made other than through the book building process, allocation in the net offer to public category will be made as follows:



- a) Minimum 30% to retail individual investors.
- b) Remaining to other individual applicants and corporate bodies.
- c) Unsubscribed portions may be reallocated between categories

Question 5

(C7) (7M) (MQP Dec 2024 Set 1) (MQP Dec 2023)

Discuss "connected person" in context of insider trading.

Answer

A **connected person** is anyone who has been **associated with a company** in the **past 6 months**, either directly or indirectly, in roles like:

- a) **Frequent communication** with company officers,
- b) Being in a contractual, fiduciary, or **employment** relationship,
- c) Serving as a **director, officer**, or employee,
- d) Holding a business or **professional position**, temporary or permanent, giving **access** to **unpublished price-sensitive information**.

Specific categories include:

- i) **Immediate relatives** of connected persons,
- ii) **Holding, associate, or subsidiary** companies,
- iii) Intermediaries under Section 12 of the SEBI Act
- iv) Directors or **employees of stock exchanges, mutual funds**, financial institutions, or banks associated with the company

"**immediate relative**" means a **spouse** of a person, and includes **parent, sibling, and child** of such person or of the spouse, any of whom is either **dependent financially** on such person or consults such person in taking **decisions relating to trading in securities**.

Question 6

(C7) (5M) (4M) (Dec 2019 Old PQ)

Define "unpublished price sensitive information".

Answer

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:

- a) **financial results**;
- b) **dividends**;
- c) change in **capital structure**;
- d) **mergers, de-mergers, acquisitions, de-listings, disposals** and expansion of business and such other transactions;
- e) **changes in key managerial personnel**; and
- f) material events in accordance with the listing agreement.



Question 7

(C7) (7M) (June 2024 PQ)

A PSU awarded two contracts—one in favour of Gaman Infrastructure Project Ltd. (GIPL) and another in favour of Simple Infrastructure Ltd. (SIL). Ranjan was the CMD of GIPL at the time of award of the contract. GIPL and SIL had entered into two shareholders' agreements which were terminated later on by the GIPL Board. Ranjan sold shares of GIPL before it was intimated to the National Stock Exchange. SEBI charged Ranjan as guilty of insider trading. However, Ranjan took a plea that this was necessary as part of corporate restructuring to prevent GIPL parent company from going into bankruptcy, which was factually found to be correct.

Examine the following issues:

- i) Is Ranjan an insider in this case? What is his liability, if any?
- ii) What is the meaning of Unpublished Price Sensitive Information?
- iii) Are the charges of SEBI correct?

Answer

(i) Insider means any person who is:

- a) a **connected person**; or
- b) in possession of or **having access** to unpublished price sensitive information;

Since Ranjan was the **CMD** having possession of the unpublished information, **he is an insider**. Listed entities shall have a process for how and when people are brought inside on sensitive transactions. Individuals should be made aware of the duties and responsibilities attached to the receipt of Inside Information, and the liability that attaches to misuse or unwarranted use of such price sensitive information.

(ii) **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:

- a) **financial results**
- b) **dividends**
- c) change in **capital structure**
- d) **mergers**, de-mergers, **acquisitions**, de-listings, disposals and expansion of business and such other transactions
- e) **changes in key managerial personnel** and
- f) material events in accordance with the listing agreement.

In this case the cancellation of agreement is having material impact also.

(iii) **Correctness of charges of SEBI**

On the one hand **there is clear insider trading but on the other hand the motive is important**. In a case, **Supreme Court** held that although the information was price sensitive, Ranjan's sale was a case of **—distressed Sale and cannot be considered as —insider trading** (SEBI vs Abhijit Ranjan).

Although superficially it tantamount to violation but as per orders and derivation of court the motive of sale is considered and Ranjan is exonerated. Hence **SEBI's charges will not hold good**.



Question 8

(C7) (7M) (MQP June 2025) (MQP June 2024)

Discuss the various restrictions which were imposed on communication and trading by insiders.

Answer

Restrictions on Communication and Trading by Insiders

- Insiders cannot share, procure, or allow access to UPSI unless it's for **legitimate purposes**. The **board of directors** must establish a policy defining "legitimate purposes" in the company's **"Codes of Fair Disclosure and Conduct."**
- Insiders must be given a notice to maintain **the confidentiality** of UPSI as per the regulations.
- UPSI **may be shared** or accessed in connection with a transaction that:
 - requires an **open offer**, or
 - is deemed by the board to be in the **best interest of the company**, with the information made publicly available **at least 2** trading days before the transaction.
- The organization must maintain a structured **digital database** of UPSI with adequate controls, preserved for **at least 8 years**, or longer if an investigation occurs.
- Insiders cannot trade securities listed or proposed for listing while in possession of UPSI.
- Connected persons must prove they were not in possession of UPSI, while in other cases, the Board carries the burden.

Question 9

(C8) (7M) (Dec 2024 PQ) (8M) (June 2023 PQ)

Describe Insider Trading as regulated under SEBI (Prohibition of Insider Trading) Regulations, 2015. What Institutional mechanism are to be placed by a listed company to check, control and curb Insider Trading?

(or)

Describe the various steps to be taken by a listed company in prevention of insider trading.

Answer

Insider trading, also known as insider dealing, is the **malpractice of selling or buying securities** such as equity and bonds by the insiders of a company, which **includes the employees, directors, executives and promoters**.

The following steps need to be taken by the Management of a Listed Company to prevent insider trading which can also be referred as Institutional Mechanism to counter Insider trading:

- The **Chief Executive Officer** shall put in place adequate and effective system of **internal control** for compliance.
- The **Audit Committee** shall review **compliance** with the provision of these regulations at least once in a financial year and shall verify that the **systems for internal control** are adequate and are operating effectively.
- Every listed company** shall **formulate policies** and procedures for inquiry in case of leak or suspected **leak of unpublished price sensitive information** which shall be approved by the Board of directors and accordingly initiate appropriate inquiries in time and inform the Board promptly of the status.



- d) The listed Company shall formulate **whistle- blower policy** and make employees aware of such policy to enable employees to report instances of leak of unpublished price sensitive information.

If an **inquiry has been initiated** by a listed Company in case of leak of unpublished price sensitive information or suspected leak of unpublished price sensitive information, the relevant **intermediaries and fiduciaries shall co-operate with the listed company** in connection with such an inquiry

Additional Questions

Question 1

(OS) (6M) (June 2017 Old PQ)

Explain briefly the purpose of establishing SEBI.

Answer

The **purpose of the SEBI Act** is to provide for the establishment of a Board called **Securities and Exchange Board of India (SEBI)**.

The Preamble to the Act provides for the establishment of a Board to:

- Protect** the **interests of investors** in securities.
- Promote** the **development of the securities market**.
- To regulate** the securities market.

The **Securities and Exchange Board of India** was set up to achieve the following objectives:

- To **promote fair dealings** by the issuers of securities and ensure a market place where they can raise funds at a relatively low cost.
- To provide, a degree of **protection to the investors and safeguard** their rights and interests so that there is a steady flow of savings into the market.
- To regulate and develop a **code of conduct and fair practices** by intermediaries like brokers, merchant bankers, etc., with a view to making them competitive and professional.

Question 2

(OS) (4M) (June 2023 Old PQ) (June 2018 Old PQ)

Write Short notes on - Types of Listing

Answer

- Initial listing:** If the shares or securities are to be **Listed for the first time** by a company on a stock exchange is called initial listing.
- Listing for Public Issue:** When a company whose shares are listed on a stock exchange comes out **with a public issue** of securities, it has to first such issue with the stock exchange.
- Listing for Rights Issue:** When companies whose securities are listed on the stock exchange issue further **securities to existing shareholders on rights basis**, it has to list such rights issues on the concerned stock exchange.
- Listing of Bonus Shares:** Companies issuing shares as a result of **capitalization of profits through bonus issue** shall first such issues also on the concerned stock exchange.



- e) **Listing for merger or amalgamation:** When new shares are issued by an amalgamated company to the shareholders of the amalgamating company, such shares are also required to be listed on the concerned stock exchange.

Question 3

(C1 & C3) (SM)

What are three requirements of a company which wants to make public issue for the first time?

Answer

The Requirements of a company which wants to make public issue for the first time are:

General Requirements

- Issuer, promoters, promoter group, directors, or selling shareholders must not be debarred by SEBI from accessing the capital market.
- Stock Exchange Approval:** Application for "in-principle" approval of listing must be made to at least one recognised stock exchange having nationwide trading terminals.
- Dematerialisation Agreement:** Agreement with a depository for dematerialisation of equity shares and convertible securities is required.
- Fully Paid-up Shares:** All existing partly paid-up equity shares must be fully paid-up or forfeited.
- Dematerialised Promoter Holding:** Promoter's holding must be in dematerialised form before filing the offer document.
- Wilful Defaulter:** Public issue not allowed if the issuer or any of its promoters or directors is a wilful defaulter.

Monetary Requirements

- Net Tangible Assets:** At least ₹3 crores in each of the preceding 3 years, with not more than 50% in monetary assets unless committed for business use.
- Pre-tax Operating Profit:** Minimum average of ₹15 crores in the 3 most profitable years out of the preceding 5 years.
- Net Worth:** At least ₹1 crore in each of the preceding 3 full years.
- Name Change Revenue:** If the issuer changed its name in the past year, at least 50% of the preceding year's revenue should come from the new name's activity.



MODULE 5 – THE COMPETITION ACT, 2002

Main Questions

Question 1

(C2) (5M) (4M) (Dec 2017 Old PQ)

Discuss objects of the Competition Act, 2002.

Answer

The Objectives of the Competition Act, 2002

- a) Prevent **anti-competitive** practices.
- b) **Promote** and sustain **competition**.
- c) **Protect** the **interests of the consumers**.
- d) Ensure **freedom of trade**.
- e) Competition advocacy by **creating awareness** among various levels at Government, industry and consumers.

The objectives of the Act are achieved **through the Competition Commission of India (CCI)**, which was **set up by the Central Government** on **14th October 2003**

Question 2

(C4) (7M) (MQP June 2024) (5M) (June 2017 Old PQ)

Discuss Anti-Competitive Agreement and its types.

Answer

Anti-competitive agreement shall be presumed to have **appreciable adverse effect on competition** and thereby **deemed to be restrictive**.

Some type of agreements is discussed below.

- a) **Any agreement** in respect of **production, supply, distribution, storage**, acquisition or control of goods or provision of services, which causes or is likely to cause an **appreciable adverse effect** on competition within India. Any such agreement **shall be void**.
- b) **Any agreement** entered into **between enterprises** or associations of enterprises including cartels, engaged in identical or similar trade of goods or provision of services, which—
 - directly or indirectly **determines purchase or sale prices**;
 - **limits or controls production**, supply, markets, technical development, investment;
 - shares the market or source of production by way of **allocation of geographical area** of market;
 - directly or indirectly go for **bid rigging or collusive bidding**;
 - **"bid rigging"** means any agreement, eliminating or **reducing competition for bids** or adversely affecting or manipulating the process for bidding.
- c) **Tie-in arrangement** including any agreement requiring a purchaser of goods, as a **condition of such purchase, to purchase some other goods**;



- d) **Exclusive supply agreement:** includes any agreement **restricting** the purchaser from **acquiring or dealing in any goods other than those of the seller** or any other person.
- e) **Exclusive distribution agreement:** includes **any agreement to limit**, restrict or withhold the output or **supply of any goods or allocate any area** or market for the **disposal or sale** of the goods.
- f) **Refusal to deal:** includes any agreement which **restricts**, or is likely to restrict, by any method the **persons** or classes of persons to whom **goods are sold** or **from whom goods are bought**.
- g) **Resale price maintenance:** includes any agreement to sell goods on condition that the prices to be charged on the **resale** by the purchaser shall be the **prices stipulated by the seller** unless it is clearly stated that prices lower than those prices may be charged. In other words, the **"maximum retail price"** shall have to be disclosed and nobody can take more than that.

Question 3 (C5) (8M) (June 2023 PQ) (4M) (Dec 2024 PQ) (SM) (7M) (MQP Dec 2024 Set 2)

Discuss "Abuse of Dominant position" and "predatory pricing" under Competition Act, 2002.

(or)

What is Understood by 'abuse of dominant position' as per the provisions of the Competition Act, 2002?

Answer

Dominant Position: means a position of **strength**, enjoyed by an enterprise, in the relevant market, which enables it to,

- a) operate **independently** of competitive forces; or
- b) **affect its competitors** or consumers.

Abuse of a dominant position can take several forms:

- a) Imposes **unfair condition** or price in the purchase or sale of goods or services, or
- b) Engaging in practices that **resulting in denial of market access**, or
- c) Using a dominant position to **enter** into one market or protect a position in **another market**.

Predatory Price: means the **sale of goods** or provision of **services**, at a price which is **below the cost**, as may be determined by regulations with a view to reduce or eliminate competition.

Question 4 (C6) (SM) (7M) (MQP Dec 2024 Set 1)

What is "combination" under Competition Act? How are they regulated?

Answer

Combinations: The Acquisition of **one or more enterprises** by one or more persons or **Merger** or **amalgamation** of enterprises.

Conditions for Combination :

- a) **Acquisition of Control:** When a person gains control over an enterprise while already controlling another competing enterprise.
- b) **Thresholds for Combination:**
 - (i) **Individual:**
 - **Combined assets in India:** should be **more than ₹ 2,000 crores**.
 - **Combined turnover in India:** should be **more than ₹ 6,000 crores**.



- **Combined assets (global):** should be more than US \$ 1 billion (with at least ₹ 1,000 crores in India).
- **Combined turnover (global):** should be more than US\$ 3 billion (with at least ₹ 3,000 crores in India).

(ii) **Group:**

- **Combined assets in India:** should be more than ₹ 8,000 crores.
- **Combined turnover in India:** should be more than ₹ 24,000 crores.
- **Combined assets (global):** should be more than US \$ 4 billion (with at least ₹ 1,000 crores in India).
- **Combined turnover (global):** should be more than US \$ 12 billion (with at least ₹ 3,000 crores in India).

Regulation of Combinations:

No person or enterprise can enter into a combination that could adversely affect competition in the relevant market in India. If such a combination occurs, it will be considered void.

- If a person or enterprise intends to enter into a combination, they must **notify the Competition Commission of India (CCI)**.
- The notification must **include the details** of the combination and must be submitted in the specified form and accompanied by the required fee.
- This notification must be made **within 30 days** of:
 - **The board of directors approving** a merger or amalgamation proposal.
 - **The signing of any agreement** or document related to an acquisition.
- Combination **cannot take effect until 210 days** from the submission of notice or Commission approval, whichever is earlier.

Question 5 **(C6) (SM)**

You are CFO of ABC India Limited, a large steel parts manufacturing company in India with turnover of more than 1 billion and turnover of more than 2 billion. Negotiation for take-over of a foreign company is going on, whose turnover for last financial year was US\$ 3.5 billion and assets of 1.5 billion US\$. Company wants to know the steps to be taken in case the negotiation succeeds. Please advise your company.

Answer

In the given case, ABC India Ltd is to acquire a foreign company whose turnover for last financial year was US\$3.5 billion and assets of 1.5 billion US\$. The combined assets of both the companies, has exceeded the threshold limit of combination under the Competition Act, 2002, that is - asset of US\$ 1 billion and turnover of US\$ 3 billion for the combined entity, therefore requires CCI approval. Here, the procedure is as follows.

- The binding documents **are to be signed**, which will be done with the **approval of Board** or shareholders, whatever may be the case. Here binding documents means **agreement** to invest or any other undertakings.
- Within 30 days** of signing the binding documents, the company shall give a **notice to CCI** in a prescribed format.



- c) CCI may go for **primary inquiry** and form **an opinion on the notice**.
- d) CCI may **communicate acceptance** or ask for clarification thereafter.
- e) If **no communication** is received **within 210 days**, the proposal shall be deemed to have been approved and the company **may proceed forward**.

Question 6

(C8) (4M) (Dec 2023 Old PQ) (SM)

Write short notes on - Procedure for investigation of combinations.

(or)

Discuss in brief, the role of Director General of Investigation of CCI.

Answer

- a) If **a prima facie case exists**, the Commission directs the **Director General (DG) to investigate**.
- b) If **no case exists**, the **matter is closed**, and the Commission **passes appropriate orders**.
- c) The Commission **invites objections/suggestions** from relevant authorities, such as the Central or State Government, or other concerned parties.
- d) After **considering these objections** and suggestions, the Commission may **either close** the matter or **direct the DG** to conduct further investigations.
- e) If a combination is likely to cause an **appreciable adverse effect** on competition, the Commission issues a **show cause notice** to the parties involved, requiring a **response within 30 days**.
- f) The **DG submits a report** if a prima facie case is established, leading to the **publication of details** about the combination.
- g) **Public and affected stakeholders** can file **objections within 15 working days** after the details are published.
- h) Parties must furnish **additional information within 15 days**. The Commission makes a **final decision within 45 working days** after receiving all the required information.

Question 7

(C11) (7M) (MQP June 2025) (MQP Dec 2023) (SM)

Analyse the duties and powers of the competition commission of India.

Answer

The **Competition Commission of India (CCI)** is the **regulatory authority** responsible for enforcing competition laws in India. It was **established under the Competition Act, 2002**, to promote fair competition, **prevent anti-competitive practices**, and protect consumer interests. Competition Commission of India is a body corporate **headquartered at New Delhi**. The Commission shall follow the principles of **natural justice** and regulate its own procedure in accordance with the Act and Rules. It has **powers similar to a Civil Court**.

General Duties

- a) The Commission shall eliminate practices with **adverse effects on competition**
- b) It **shall Promote** and sustain competition
- c) The Commission is responsible for **Protecting consumer interests**
- d) It shall ensure **freedom of trade** for all participants in the market.

Inquiry Powers



- a) The Commission may **initiate inquiries** on its own or based on information received from any person, consumer, or association.
- b) It can also inquire based on **references from the Central or State Government** or statutory authorities.

Question 8 (C13) (4M) (June 2024 PQ), (3M) (Dec 2023 Old PQ), (5M) (June 2018 Old PQ)

Discuss about the powers of the Competition Commission of India to order division of enterprise enjoying dominant position.

(or)

Upon an inquiry made by the Competition Commission of India it was found that Heavy Limited is enjoying dominant position in the market and there is every possibility that the company may abuse its dominant position. In order to overcome such a possible situation, the Competition Commission of India wants to order for division of Heavy Limited. Referring to the provisions of the Competition Act, 2002, describe the matters which may be provided in the said order.

Answer

Powers of the Competition Commission of India to order division of enterprise enjoying dominant position. The Commission may, direct division of an enterprise to ensure that such enterprise does not abuse its dominant position because of its size. The order may provide for all or any of the following matters, namely: –

- a) the **transfer or vesting of property**, rights, liabilities or obligations.
- b) the **adjustment** of contracts.
- c) the **creation**, allotment, surrender or **cancellation** of **any shares**, stocks or securities.
- d) the formation or **winding up** of an enterprise.
- e) **amendment** of the **memorandum** of association or **articles** of association
- f) any other matter which may be necessary to give effect to the division of the enterprise.
- g) The **payment of compensation** to any person who suffered any loss due to dominant position of such enterprise.

Question 9 (C15) (7M) (Dec 2023 PQ)

Enumerate the Penalty for Offences in relation to furnishing of information under Competition Act, 2002

Answer

Without prejudice to the provisions of section 44 of the Competition Act 2002, if a person, who furnishes or is required to furnish, under this Act any particulars, documents or any information,

- a) **makes any statement** or furnishes any document which he knows or has reason to believe to be **false** in any material particular, or
- b) **omits to state any material fact** knowing it to be material, or
- c) **Wilfully alters or destroys any document** which is required to be furnished as aforesaid,



such person shall be punishable with fine which may extend to ₹ 1 crore as may be determined by the Commission. The Commission may, if it is satisfied, impose a lesser penalty that any person has made a full and true disclosure in respect of the alleged violations, a lesser penalty.

Lesser penalty shall not be imposed by the Commission if the person making the disclosure does not continue to cooperate with the Commission till the completion of the proceedings before the Commission.

The Commission may, if it is satisfied that such producer, seller, distributor, trader or service provider included in the cartel had in the course of proceedings,

- not complied with the condition on which the lesser penalty was imposed by the Commission, or
- had given false evidence, or
- the disclosure made is not vital

and thereupon such producer, seller, distributor, trader or service provider may be tried for the offence with respect to which the lesser penalty was imposed and shall also be liable to the imposition of penalty to which such person has been liable, had lesser penalty not been imposed.

Additional Questions

Question 1

(C3) (2M) (Dec 2018 Old PQ)

Whether a person purchasing goods not for personal use, but for resale can be considered as a "consumer" under the Competition Act, 2002.

Answer

It is not necessary that a person must purchase the goods for personal use in order to be considered as a "consumer" under Competition Act 2002. Even a person purchasing goods for resale or for any commercial purpose will also be considered as a "consumer" within the meaning of the under the Competition Act, 2002.

Question 2

(C4) (3M) (Dec 2019 Old PQ)

An understanding has been reached among the manufacturers of cement to control the price of cement, but the understanding is not in writing and it is also not intended to be enforced by legal proceedings. Examine whether the above understanding can be considered as an 'Agreement' with the meaning of Section 2(b) of the Competition Act, 2002.

Answer

'Agreement' includes any arrangement or understanding or action in concert:

- Whether or not, such arrangement, understanding or action is formal or in writing or
- Whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings.

In view of the above and understanding reached by the cement manufacturers to control the price of cement will be an 'agreement' within the meaning under the Competition Act, 2002 even though the understanding is not in writing and it is not intended to be enforceable by legal proceedings.



MODULE 6 – FOREIGN EXCHANGE MANAGEMENT ACT, 1999

Main Questions

Question 1 (C5) (4M) (June 2023 Old PQ)

Distinguish between the title FERA and FEMA of Legislation

Answer

Aspect	FERA (Foreign Exchange Regulation Act), 1973	FEMA (Foreign Exchange Management Act), 1999
Objective	Conservation and proper utilization of foreign exchange. Control over business activities of Indian companies abroad and foreign companies in India.	Liberalize and manage foreign exchange market. Encourages international trade and promotes free flow of foreign trade and payments.
Nature of Law	Criminal law	Civil law
Penalties	Strict penalties including imprisonment for minor offenses	Relaxed penalties, arrests in extreme cases
Regulation	Regulated all foreign exchange activities	Only specified activities are regulated
Ease of Transactions	Complicated and strict regulations	Transparent, easy to access and understand
Foreign Exchange Reserves	Restricted flow of foreign exchange	Promotes increase in foreign exchange reserves

Question 2 (C7) (5M)

Write a note on authorised dealer.

Answer

An Authorized person includes an authorized dealer, money changer, offshore banking unit, or any person authorized under Section 10(1) of Foreign Exchange Management Act (FEMA), 1999 to deal in foreign exchange or securities.

An Authorised Dealer (AD) refers to a financial institution, typically a bank, or any other entity authorized by the Reserve Bank of India (RBI) to deal in foreign exchange or carry out specific foreign exchange transactions under the Foreign Exchange Management Act (FEMA), 1999.



Question 3

(C8 & C9) (7M) (June 2024 PQ)

State the restriction on dealing in foreign exchange and holding of foreign exchange or foreign securities, as per the provisions of the Foreign exchange management Act, 1999.

Answer

Restriction in dealing in foreign exchange, etc. (Section 3) under FEMA

Section 3 prohibits the following transactions, namely:

- i) **dealing** in or **transferring any foreign exchange** or foreign securities by any person not being **Unauthorized person**.
- ii) **making any payment** to or for the credit of any person **resident outside India** in any manner.
- iii) **receiving otherwise** than through an authorized person, **any payment** by order or on behalf of any person resident outside India in any manner.
- iv) entering into **any financial transaction** in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, **any asset outside India** by any person.

Restriction in holding of foreign exchange (Section 4)

No person resident in India shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India, other than those provided under the relevant Rules. Rules provide exemption as under.

- i) **Property held outside India** by a **foreign citizen resident in India**.
- ii) **Property acquired by a person on or before 8th July, 1947** and held with the permission of Reserve Bank.
- iii) **Property acquired by way of gift or inheritance** from persons referred to in above.
- iv) **Property purchased out of funds** held in **RFC account**.

Question 4

(C10) (4M) (Dec 2018 Old PQ)

Write short notes on - Current account transaction (Section 2j)

Answer

Current account transaction means a transaction other than a capital account transaction and without prejudice to the **generality of the foregoing such transaction includes:**

- a) **Payments due** in connection with **foreign trade**, other current business, **services**, and short-term banking and **credit facilities** in the ordinary course of business.
- b) **Payments due** as **interest** on loans and as net income from investments.
- c) Remittances for **living expenses** of parents, spouse and children residing abroad and
- d) Expenses in connection with foreign **travel, education and medical** care of parents, spouse and children.

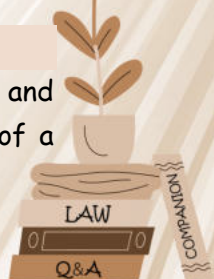
Question 5

(C10 & C11) (5M)

Differentiate between current account and capital account transaction.

Answer

Current account transactions involve **payments for goods and services, interest** payments, and remittances. These are everyday transactions that do not affect the assets or liabilities of a



country. The Foreign Exchange Management (Current Account Transactions) Rules, 2000, outline how these transactions are managed.

Capital account transactions involve changes in the **ownership of assets and liabilities**. This includes investments, loans, and transfers of ownership. Any person can sell or buy foreign exchange from an authorized person for capital account transactions, but must follow specific provisions.

Question 6

(C14) (SM)

Discuss in brief foreign direct investment.

Answer

Investment by non-residents in an Indian company's capital. Made directly into the company, not through intermediaries. This involves investment by non-residents in:

- **Unlisted** Indian companies, or
- **At least 10%** of a **listed Indian company's** equity capital on a **fully diluted basis**.
- FDI status is **maintained** even if the investment **falls below 10%** after the initial investment.

Question 7

(C7 & C17) (SM)

Differentiate between:

- Foreign security and Indian security
- Automatic route and Government route in FDI

Answer

(i) **An Indian Security** refers to any financial instrument or asset that is **issued by an entity incorporated in India**. These securities represent ownership, debt, or other rights and are **regulated by Indian laws** such as the Securities and Exchange Board of India (SEBI) Act, the Companies Act, 2013, and the Foreign Exchange Management Act (FEMA), 1999.

Indian securities are typically **denominated in Indian Rupees (INR)** and are offered within India or to investors abroad under specific regulations.

Foreign Security - Securities in foreign currency like shares, stocks, bonds, or debentures, with returns payable in Indian currency.

Foreign securities **enable investors to access international markets** and diversify their investment portfolios. In India, investments in foreign securities are **regulated under the Foreign Exchange Management Act (FEMA), 1999**.

(ii) **FDI in India can be made through two main entry routes:**

a) Automatic Route:

- Under this route, foreign investors **do not require prior approval from the government or the Reserve Bank of India (RBI)** for investment.
- Investments can be made in sectors or activities specified under this route, provided they **comply with sectoral caps** and other specified conditions.

b) Government Approval Route:

- Investments under this route require **prior approval from the government**.



- This route is applicable for sectors or activities that are **not covered under the Automatic Route** or where the investment exceeds the specified sectoral limits under the Automatic Route

Question 8 (C16) (4M) (June 2023 PQ) (7M) (MQP June 2025)

Write short notes on: Prohibited sectors / persons for Foreign Direct investment in India

Answer:

FDI has been notified to be prohibited in the following sectors:

- Lottery Business** including Govt/Private Lottery, online Lottery
- Gambling** and betting including casinos
- Chit funds** (except for investment made by **NRI**s and **OCI**s on a non-repatriation basis)
- Nidhi Companies**
- Trading** in transferable development rights
- Real Estate business** or Construction of Farm businesses
- Manufacturing** of **Cigars, Cheroots**, cigarillos and cigarettes of tobacco
- Atomic Energy and railway operations** / Activities or sectors not open for private sector investments
- Any investment** by a person who is a **citizen of Bangladesh or Pakistan** or is entity incorporate in Bangladesh or Pakistan requires **prior Central Govt. Approvals**.

Question 9 (C17) (SM) (6M) (June 2023 PQ)

Modern Technologies, an unlisted Indian company, having a capital of Rs. 23 crores are negotiating with foreign investor for 20 % stake in the company by issue of fresh shares at a price to be negotiated. The Company is in high tech area where there no limit on foreign investment. You are the CFO of the company. Please prepare a note for directors, whether the issue is possible and if so, the steps to be taken for shares issue.

Answer

Note for Directors.

Our Company, Modern Technologies, is an unlisted company and SEBI regulations do not apply. However, Company has to comply with FEMA regulations.

- As per present FDI regulation, **no Govt. approval is required**. Neither one requires prior approval of RBI.
- The investment is **within limit**. Once the remittance is received, RBI has to be given intimation.
- The shares certificates have to be issued in **dematerialised mode**. There is no restriction on repatriation of dividend, subject to tax, as per Indian laws.
- The shares shall have **same voting** and other rights.

Question 10 (C19) (7M) (Dec 2023 PQ)

Discuss permitted Investments by persons resident outside India.

Answer



Any investment made by a person resident outside India shall be subject to the entry routes, sectoral caps, or the investment limits, may make investment as stated here in after.

- i) **Subscribe/ purchase/ sale of capital instruments of an Indian company** is permitted
- ii) **Purchase/ sale of capital instruments of a listed Indian company on a recognised stock exchange in India by Foreign Portfolio Investors** is permitted
- iii) **Purchase/ sale of Capital Instruments of a listed Indian company on a recognised stock exchange in India by Non-Resident Indian (NRI) or Overseas Citizen of India (OCI) on repatriation basis** is permitted
- iv) **Purchase/ sale of Capital Instruments of an Indian company or Units or contribution to capital of a LLP or a firm or a proprietary concern by Non-Resident Indian (NRI) or Overseas Citizen of India (OCI) on a Non-Repatriation basis** is permitted
- v) **Purchase/ sale of securities other than capital instruments by a person resident outside India** is permitted
- vi) **Investment in a Limited Liability Partnership (LLP)** is permitted
- vii) **Investment by a Foreign Venture Capital Investor (FVCI)** is permitted
- viii) **Investment in an Investment Vehicle** is permitted
- ix) **Issue/ transfer of eligible instruments to a foreign depository for the purpose of issuance of Depository receipts by eligible persons** is permitted
- x) **Purchase/ sale of Indian Depository Receipts (IDRs) issued by Companies Resident outside India** is permitted

Question 11

(C24 & C26) (7M) (Dec 2024 PQ)

State the persons eligible to claim the benefits under the Liberalised Remittance Scheme. What are the purposes for which such remittances can be made?

Answer

Under the Liberalised Remittance Scheme, all resident individuals, including minors, are allowed to freely remit up to USD 2,50,000 per financial year for

- any permissible current or
- capital account transaction or
- a combination of both.

The Scheme was introduced on **February 4, 2004**, with a limit of **USD 25,000**. The Scheme is **not available to corporates, partnership firms, HUF, Trusts** etc.

Individuals can avail foreign exchange facility for the following purposes within the LRS limit of **USD 2,50,000 on financial year basis:**

- i) **Private visits to any country (except Nepal and Bhutan)**
- ii) **Gift or donation**
- iii) **Going abroad for employment.**
- iv) **Emigration**
- v) **Maintenance of close relatives abroad**



- vi) **Travel for business**, or attending a conference or specialised training or for meeting expenses for **meeting medical expenses**, or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/check-up.
- vii) **Expenses** in connection with **medical treatment** abroad
- viii) **Studies** abroad
- ix) Any other **current account transaction** which is not covered under the definition of current account in FEMA, 1999

Question 12

(C25) (SM)

What are the remittances which are prohibited?

Answer

- a) **Remittance for** any purpose specifically **prohibited under Schedule-I** (like purchase of lottery tickets/sweep stakes, proscribed magazines, etc.) or any item **restricted under Schedule II** of Foreign Exchange Management (Current Account Transactions) Rules, 2000.
- b) **Remittance from** India for **margins or margin calls** to overseas exchanges / overseas counterparty.
- c) **Remittances for purchase of FCCBs issued by Indian companies** in the overseas secondary market.
- d) **Remittance for** trading in foreign exchange **abroad**.
- e) **Capital account remittances**, directly or indirectly, to countries identified by the **Financial Action Task Force (FATF)** as "non-cooperative countries and territories", from time to time.
- f) **Remittances** directly or indirectly **to those individuals** and entities identified as posing significant risk of committing **acts of terrorism** as advised separately by the RBI.

Question 13

(C36) (SM) (4M) (June 2023 PQ)

Discuss provisions for parking of ECB till their utilisation.

Answer

a) **Parking Abroad:**

- ECB proceeds **intended for foreign currency expenditure** can be parked abroad until utilization.
- These funds can be invested in **specified liquid assets** while they are parked abroad.

b) **Parking Domestically:**

- ECB proceeds **intended for domestic expenditure** must be sent **immediately** to the borrower's Rupee accounts with **AD (Authorized Dealer) Category - I banks in India**.
- These proceeds can also be parked in term deposits with AD Category - I banks in India for a **maximum period of 12 months** cumulatively.

Question 14

(C17) (SM)

Amit, Rohit and Mahesh are three friends passed out engineers, They want to form start-up company by contributing ₹ 10 lakhs each, Mahesh gets a job in USA and has left for USA. The company will be manufacturing a spare for computer which is very much in demand. Mahesh wants



to be a shareholder and a director of the company, which others have agreed. Others also will be directors.

The proposed company will be a private company and the product in delicensed sector. The holding Mahesh in the company will be around 35%. The team of the above entrepreneurs want to clarify the following. Please advise them.

- (i) Can Mahesh hold 35% shares in the company?
- (ii) Can he attend the Board meetings in India?
- (iii) Can they be allotted convertible note or any security other than equity shares?
- (iv) Which route is to be taken and why?
- (v) Shall Mahesh get dividend on the shares if he is non resident.

Answer

- (i) Yes Mahesh can hold 355 shares in the company. Being a technological company, there is **no bar on limit of foreign investment**.
- (ii) He **can be director** and **attend Board meeting** in India, whenever held.
- (iii) **Yes, he can be allotted convertible note**. A convertible note is an instrument issued by a **start-up company** evidencing receipt of money initially as debt, which is repayable at the option of the holder, or which is convertible into such number of equity shares of such start up company, within a period **not exceeding 5 years** from the date of issue of the convertible note, on occurrence of nay event.

The following capital instruments are permitted to be issued to a NRI: 'Capital Instruments' means equity shares, debentures, preference shares and share warrants issued by the Indian company.

Equity shares: Equity shares are those issued in accordance with the provisions of the **Companies Act, 2013** and will include partly paid equity shares issued **on or after July 8, 2014**.

Share warrants: Share warrants issued **on or after July 8, 2014** will be **considered as capital instruments**.

Debentures: 'Debentures' means fully, compulsorily and **mandatorily convertible debentures**.

Preference shares: 'Preference' shares means fully, compulsorily and **mandatorily convertible preference shares**.

- (iv) **The routes under which foreign investment can be made is as under:**
 - a) **Automatic Route:** Foreign Investment is allowed under the automatic route **without prior approval of the Government** or the Reserve Bank of India, in all activities/ sectors as specified in the under FEMA, 1999 Regulations.
 - b) **Government Route:** Foreign investment in activities **not covered under the automatic route** requires prior approval of the Government. Procedure for **applying for Government approval** is given.

Here, since the investment is **permitted** under Regulation, **no Govt. approval would be required**.

- (v) **Mahesh will get dividend which will be repayable.**



Additional Questions

Question 1

(C19) (1M) (Dec 2019 Old PQ)

How can a foreign company access Indian Securities market for raising funds?

Answer

Under FEMA, 1999, a foreign company can access the Indian securities market for raising funds through:

Issuance of Indian Depository Receipts (IDRs): Allows foreign companies to raise capital by issuing IDRs, which represent underlying equity shares.

Question 2

(C28) (5M)

Discuss few important stipulations of liberalised Remittance Scheme.

Answer

Under the Liberalised Remittance Scheme, all resident individuals, including minors, are allowed to freely remit up to USD 2,50,000 per financial year for

- any permissible current or
- capital account transaction or
- a combination of both.

The Scheme was introduced on February 4, 2004, with a limit of USD 25,000. The Scheme is not available to corporates, partnership firms, HUF, Trusts etc.

- a) **Frequency:** There are no limits on how often you can make remittances under LRS.
- b) **Annual Limit:** The total amount remitted from all sources in India during a financial year cannot exceed USD 250,000.
- c) **Further Remittances:** Once the USD 250,000 limit is reached in a financial year, no additional remittances can be made under LRS, even if the invested funds are brought back to India.
- d) **Earnings Remittance:** Residents not permanently living in India who have remitted all their earnings and wish to send additional 'other income' can apply to the RBI through their Authorised Dealer (AD) bank.

Question 3

(C25 & C31) (7M) (MQP Dec 2024 Set 1)

Analyse the aspects, which remittances are prohibited under Liberalized Remittance Scheme (LRS)? Discuss what facilities are available to entities other than individuals?

Answer

Prohibited items under the Liberalized Remittance Scheme (LRS):

- a) **Remittance for** any purpose specifically prohibited under Schedule-I (like purchase of lottery tickets/sweep stakes, proscribed magazines, etc.) or any item restricted under Schedule II of Foreign Exchange Management (Current Account Transactions) Rules, 2000.
- b) **Remittance from** India for margins or margin calls to overseas exchanges / overseas counterparty.



- c) Remittances for purchase of FCCBs issued by Indian companies in the overseas secondary market.
- d) Remittance for trading in foreign exchange abroad.
- e) Capital account remittances, directly or indirectly, to countries identified by the Financial Action Task Force (FATF) as "non-cooperative countries and territories", from time to time.
- f) Remittances directly or indirectly to those individuals and entities identified as posing significant risk of committing acts of terrorism as advised separately by the RBI.

The following facilities are available to persons other than individuals:

- a) Donations:
 - Amount: Up to 1% of foreign exchange earnings over the past three years or USD 5,000,000, whichever is less.
 - Purpose: For creating educational chairs, contributing to funds by educational institutes, or supporting technical institutions or associations.
- b) Commission Payments:
 - Amount: Up to USD 25,000 or 5% of the inward remittance per transaction, whichever is less.
 - Purpose: For agents abroad involved in selling residential or commercial property in India.
- c) Consultancy Services:
 - Infrastructure Projects: Up to USD 10,000,000 per project.
 - Other Consultancy Services: Up to USD 1,000,000 per project.
- d) Reimbursement of Pre-Incorporation Expenses:
 - Up to 5% of the investment brought into India or USD 100,000, whichever is less.

Anything in excess of above limits requires prior approval of the Reserve Bank of India.

Question 4

(C47) (SM)

What is the vote of authorised dealers in case of trade credits?

Answer

AD (Authorized Dealer) banks can provide bank guarantees on behalf of the importer to overseas lenders. The guarantee period cannot exceed the maximum permissible period for TC.

Monthly Reporting: AD Category I banks must report details of TC drawl, utilization, and repayment in a consolidated statement each month using Form TC.

Quarterly Reporting: AD Category I banks must report data on bank guarantees for TC in a consolidated statement quarterly on the XBRL platform.

Role of ADs

- a) Ensure compliance with TC policy and FEMA provisions.
- b) Verify TC arrangements and avoid double financing for SEZ/FTWZ transactions.
- c) Ensure the TC period for non-capital goods is the lower of the operating cycle or one year.



MODULE 7 – LAWS AND REGULATIONS RELATED TO BANKING SECTOR

Main Questions

Question 1

(C4) (SM)

Mr. Krishnamurthy, a CA is now the CFO of large bank which is also a listed company. Mr. Aditya Kapoor, who was in the bank as MD since inception is retiring and the bank has to look for a M. The chairman of the bank is a retired IAS officer. The nomination and remuneration committee has considered few persons and feel that Mr. Krishnamurthy is the right candidate to take over as MD. Discuss the steps to be taken to appoint him, under the provisions of Companies Act and Banking Regulation Act.

Answer

Appointment managerial person has to be done on the basis of recommendation of the **Nomination and Remuneration Committee or the Board of directors**. Based on the recommendation, The Board should appoint the Managing Director, subject to **approval in next General meeting** of the shareholders.

However, in case of banking company, apart from Companies Act, **the provisions of Banking Regulation Act would also apply**. **Section 10B of the Act** requires that the MD of Bank shall be appointed with **prior approval of RBI**. **Therefore, RBI approval has to be taken**.

Question 2

(C7) (SM)

Discuss provisions relating to cash reserve ratio for banks.

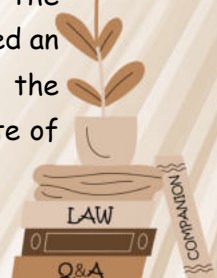
Answer

Maintenance of Cash Reserve by Non-Scheduled Banks (Section 18): Non-scheduled banks are required to **maintain a cash reserve in India**, either with themselves or in current accounts with the RBI, State Bank of India, or other notified banks. The reserve should be equivalent to at least **3% (4% as per 2016 amendment & 4.5% as per 2022 amendment)** of the **total time and demand liabilities**, and must be maintained on a daily basis. Non-scheduled banks must **report compliance** by the **20th of each month**.

Question 3

(C7) (4M) (Dec 2018 Old PQ)

The Board of Directors of M/s. S.K. Limited, a banking company incorporated in India, for the accounting year ended 31st March, 2018 has transferred 10% of its net profit during the year to the Reserve Fund Account. A few shareholders of the company have objected the above act of the Board on the ground that it is violative of the provisions of the Banking Regulation Act, 1949. The Board of Directors of the Company in their defense have stated that the company has received an order dated 30th April, 2018 from the Central Government exempting the company from the provisions of sub section (1) of section 17 of the Act. It is further informed that on the date of



the Central Government order i.e. 30.04.2018 the paid up capital of the company was Rs. 200 crores and the amount standing in the Reserve Fund Account and Share Premium Account was Rs. 100 crores and Rs. 75 crores respectively. Decide whether the order of the Central Government exempting the company is justified as per the provisions of the Banking Regulation Act, 1949.

Answer

According to Section 17 of the Banking Regulation Act, 1949, every Banking Company incorporated in India must create a Reserve Fund and transfer a sum equal to not less than 20% of its net profits. However, the Central Government is empowered to exempt from this requirement on the recommendation of the RBI. Such exemption will be allowed only :-

- a) When the amounts in the reserve fund and the share premium account are not less than the paid-up capital of the banking company.
- b) When the Central Govt. feel that its paid-up capital and reserves are adequate to safe guard the interest of the depositors.

Any appropriation from the Reserve fund must be reported to RBI within 21 days with reasons.

In the instant case, the total amount in the reserve fund and the share premium account is Rs. 175 crores which is less than the paid-up capital of the banking company i.e. Rs. 200 crore.

In view of the above the transfer of 10% of its net profits to reserve fund is violative of the provisions of the Banking Regulation Act, 1949. Moreover, the Order of the Central Government exempting the company is not justified as per the provisions of the Banking Regulation Act, 1949.

Question 4

(C8) (5M) (June 2024 PQ) (6M) (June 2017 Old PQ)

What are the restrictions on loans and advances by banks, as envisaged by the Banking Regulations Act, 1949?

Answer

Section 20 of the Banking Regulation Act, 1949 lays down the restrictions on banking companies on granting any loan to any of its director or to any firm in which a director is interested or to any individual or whom a director stands as a guarantor. Further the banking companies are prohibited from granting loans or advances on the security of its own shares. RBI is also empowered to control advances by any bank, on public interest.

Under Section 21 of the Banking Regulation Act, 1949, the RBI has been empowered to determine the policy to be followed by the banks in relation to advances. Thus, RBI gives directions to banking companies on the following matters:

- i) The purposes for which an advance may or may not be granted.
- ii) The margins to be maintained in case of secured advances.
- iii) The rate of interest charged on advances, other financial accommodation and commission on guarantees.
- iv) The maximum amount of advance that a bank may make to or guarantee that it may issue for, a single party, having regard to the paid-up capital, reserves and deposits of the concerned bank.



Question 5

(C9) (SM)

Discuss role of RBI in licencing of banks.

Answer

According to Section 22 of the Banking Regulation Act, 1949, No banking company can begin or continue banking operations in India without a license from the RBI.

Pre-licensing Conditions: Before granting a license, the RBI may **conduct an inspection** to ensure:

- The company can meet its **current and future depositors' claims** in full.
- The company's operations **will not negatively impact** the interests of its depositors.
- Conducting banking business **will be in the public interest** and that the company's home country does not discriminate against Indian banking companies. The company must also **comply with relevant provisions of the Banking Regulation Act**.

License Cancellation: The **RBI can cancel** a banking company's license if:

- The company **ceases banking operations** in India.
- The company **fails to comply** with any imposed conditions.

A banking company aggrieved by the RBI's decision can **appeal to the Central Government** within **30 days**, and the Central Government's decision will be final.

Question 6

(C3 & C11) (SM)

Discuss the procedure of appointment and removal of Directors of Banks

Answer

- Every banking company must ensure** that **at least 51% of the total number of Board of Directors** consists of individuals with **specialized knowledge** or practical **experience** in fields such as accountancy, finance, law, etc, or any other area deemed useful by the RBI.
- Of these directors, at least 2** must have special knowledge or experience in agriculture and **rural economy and small-scale industry**, and they may be associated with small industrial concerns.
- The directors of a banking company, excluding the Chairman and Whole-Time Directors (WTD),** shall serve for a **term of 8 years**.
- Directors must not have any conflict of interest with connected parties.
- The RBI has the authority** to order the **reconstitution of the Board** of any bank if necessary.
- The removal of any director can be **appealed to the Central Government**, and there must be no common director across different banks.
- Prior Approval for Appointments (Section 35B):** Banks must **obtain prior approval from the RBI** for **appointing, re-appointing, or removing** the **Managing Director, chairman, or directors**, as well as for any amendments to the bank's Memorandum, Articles, or resolutions.
- Removal of Managers (Sections 36AA and 36AB):** The **RBI can remove managerial personnel** and other officials from their positions and has the power to appoint additional directors as necessary.
- Suspension of Board of Directors:** If the RBI or the Central Government believes a bank is operating in a **manner harmful to depositors** or the public interest, they can **suspend the bank's Board of Directors**.



Question 7

(C12) (7M) (MQP June 2025)

Explain the procedure of winding up of banking companies.

Answer

The Reserve Bank of India (RBI) can apply for the winding up of a banking company under the following conditions:

- If the bank does not comply with the minimum paid-up capital and reserve requirements specified in Section 11.
- If the bank is not authorized to conduct business due to lack of a license under Section 22.
- If the bank has been prohibited from accepting fresh deposits by either the Central Government or the RBI.
- If the bank fails to comply with any requirements of the Banking Regulation Act and continues to do so after being directed by the RBI.
- If the RBI believes that a court-sanctioned compromise or arrangement cannot be successfully implemented.
- If the RBI determines, based on the bank's returns, that it cannot pay its debts or that its ongoing operations are harmful to the interests of depositors.

Voluntary Winding Up: A banking company cannot voluntarily wind up unless it receives a certification from the RBI confirming that it is capable of paying all its debts in full.

Question 8

(C14) (5M)

List out 5 major functions of RBI.

Answer

- Inspection of Banks:** The RBI conducts inspections of banks under the Banking Regulation Act, 1949, to ensure compliance with banking policies and protect the interests of depositors.
- Regulatory Role:** The Department of Banking Operations and Development regulates commercial banks and Local Area Banks (LABs) in accordance with the Banking Regulation Act and the Reserve Bank of India Act. Its responsibilities include:
 - Licensing and branch expansion
 - Maintenance of statutory liquidity reserves
 - Management, amalgamation, reconstruction, and liquidation of banks
- Anti-Money Laundering:** The RBI oversees anti-money laundering efforts through the establishment of an Anti-Money Laundering Cell (AML Cell) to combat financing of terrorism.
- Board-Level Appointments:** The RBI approves and monitors appointments at the board level in commercial banks, ensuring compliance with regulations and making recommendations to the government regarding appointments and salary fixation for public sector banks.
- Branch Licensing:** The RBI authorizes Indian commercial banks and LABs to open branches, considers representations from the public regarding branch operations, and periodically reviews branch licensing policies.



Question 9

(C15) (SM)

What is purpose of SARFESI Act?

Answer

The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) was enacted to regulate the securitisation and reconstruction of financial assets and the enforcement of security interest. The Act came into force on June 21, 2002. Its primary objectives include enabling banks and financial institutions to:

- Realize long-term assets
- Manage liquidity issues
- Address asset-liability mismatches
- Improve recovery of loans by taking possession of securities and selling them to reduce non-performing assets (NPAs)

Question 10

(C16) (3+3+2)M (June 2023 PQ)

Describe in brief under SARFESI Act, 2002:

- Non-performing Asset
- Qualified buyer
- Securitisation

Answer

- Non-performing Asset:** "Non-performing asset" means an asset or account of a borrower which has been classified by a bank or financial institution as sub-standard, doubtful or loss asset. A loan becomes an NPA when the borrower fails to repay the principal or interest for a certain period, typically overdue for 90 days or more.
- Qualified buyer:** "Qualified institutional buyer" means a financial institution, insurance company, state financial corporation, state industrial development corporation, trustee or asset reconstruction company which has been granted a certificate of registration under the act authorized to purchase securities from the market or any asset management company making investment on behalf of mutual fund or a foreign institutional investor registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992).
- Securitisation:** "Securitisation" means acquisition of financial assets by any asset reconstruction company from any originator, whether by raising of funds by such asset reconstruction company from qualified buyers by issue of security receipts representing undivided interest in such financial assets or otherwise.

Question 11 (C18) (3M) (June 2023 Old PQ) (8M) (Dec 2017 Old PQ) (5M) (June 2019 Old PQ)

Referring to the provisions of the securitisation and reconstruction of financial asset and Enforcement of Security Interest Act, 2002, state the circumstances under which the Reserve Bank of India may cancel the certificate of registration granted to a Securitisation Company.

Answer

The RBI has the authority to cancel the registration certificate of an ARC under the following conditions:



- a) The ARC ceases to receive or hold investments from qualified institutional buyers.
 - b) The ARC stops carrying on its asset reconstruction business.
 - c) The ARC fails to comply with the conditions of its registration.
 - d) The ARC does not fulfil specific conditions outlined in Section 3.
 - e) The ARC fails to adhere to directions issued by the RBI.
 - f) The ARC fails to maintain proper accounts.
 - g) The ARC does not submit documents during RBI inspections.
 - h) The ARC does not obtain RBI approval for any substantial changes in its management.
- Before cancellation, the RBI must provide the ARC an opportunity to comply with the provisions or conditions specified, allowing the company to rectify any issues

Question 12 (C20) (5M) (7M) (Dec 2023 PQ) (MQP Dec 2024 Set 2)

Discuss in brief, the functions of Asset Reconstruction company (ARC) or Measures taken by and Asset Reconstruction Company.

Answer

As per Section 9 of SARFAESI Act, 2002, An Asset Reconstruction Company (ARC) has the authority to acquire financial assets from any bank or financial institution, regardless of existing agreements or other laws. An asset reconstruction company may for the purposes of asset reconstruction, provide for any one or more of the following measures, namely:

- a) Change or take over the management of the borrower's business.
- b) Sell or lease part or all of the borrower's business.
- c) Reschedule the repayment of the borrower's debts.
- d) Enforce security interests as per the Act.
- e) Settle the borrower's dues.
- f) Take possession of secured assets in accordance with the Act.
- g) Convert any portion of the borrower's debt into shares of the borrower company. This conversion is valid at all times.

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

Question 13 (C23) (Dec 2023 Old PQ) (5M)

Enumerate the manner and effect of takeover of management under SARFESI Act.

Answer

Section 15 of the SARFAESI Act provides for the manner and effect of takeover of management.

- a) When the management of business of a borrower is taken over by an asset reconstruction company it can appoint as many persons as it thinks fit to be the directors, where the borrower is a company, or the administrators of the business of the borrower, in any other case.
- b) The secured creditor is required to publish a notice in a newspaper.
- c) On the publication of the notice all persons who were directors of the company or administrators of the business, as the case may be, are deemed to have vacated their office.



It also has the **effect of termination of all contracts** entered into by the borrower with such **directors** or administrators.

Where the management of the business of a borrower is taken over by the secured creditor, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such borrower

- It shall **not be lawful for the shareholders** of such company or any other person **to nominate or appoint any person to be director** of the company
- No resolution passed at any meeting** of the shareholders of such company shall be given effect to **unless approved by the secured creditor**
- No **proceeding for the winding up** of such company or for the appointment of a receiver in respect thereof shall lie in any court, except with the **consent of the secured creditor**

Where the management of the business of a borrower had been taken over by the secured creditor, the secured creditor shall, **on realization of his debt in full, restore the management** of the business of the **borrower to him**.

Additional Questions

Question 1

(C14) (7M) (MQP Dec 2023)

Describe the role of Reserve Bank of India in management of foreign exchange.

Answer

The Reserve Bank of India (RBI) plays a crucial role in shaping monetary, banking, and financial policies. Over time, it has evolved from a regulator to a facilitator in the banking sector, leading to various organizational changes and enhancements in its functions.

- Anti-Money Laundering:** The RBI oversees anti-money laundering efforts through the establishment of an Anti-Money Laundering Cell (AML Cell) to **combat financing of terrorism**.
- Monitoring Overseas Operations:** The RBI formulates policies for the **overseas operations** of Indian banks and approves proposals for setting up international branches and joint ventures.
- Precious Metals Authorization:** The RBI regulates **gold and precious metal transactions**, issuing authorizations for imports and managing related schemes.
- Offshore Banking Units:** The RBI approves and **sets guidelines** for Offshore Banking Units (OBUs) in Special Economic Zones (SEZs).
- Industrial and Export Credit Policy:** The RBI **monitors** industrial and export credit, which has been liberalized over time.
- Foreign Exchange Management:** The RBI **regulates foreign exchange dealings**, ensuring compliance with laws related to **capital and current account transactions**, and grants authorizations to designated entities.
- Banker's Bank:** The RBI **extends loans** and advances to commercial banks.
- Banker to Governments:** The RBI acts as a banker to both the Central and State Governments, extending loans and managing government accounts.



- i) **Payment and Settlement Oversight:** The RBI oversees the payment and settlement systems of commercial banks.

Question 2

(3M) (Dec 2024 PQ)

State the provisions of the Banking Regulation Act, 1949 relating to disposal of non-banking assets

Answer

Section 9 of the Banking Regulation Act, 1949 deals with the disposal of non-banking assets.

- Notwithstanding anything contained in section 6, no banking company shall hold any immovable property howsoever acquired, except such as is required for its own use, for any period exceeding 7 years from the acquisition thereof or from the commencement of this Act, whichever is later or any extension of such period as in this section provided, and such property shall be disposed of within such period or extended period, as the case may be.
- However, the banking company may, within the period of 7 years as aforesaid, deal or trade in any such property for the purpose of facilitating the disposal thereof.
- The Reserve Bank may in any particular case, extend the aforesaid period of 7 years by such period not exceeding 5 years where it is satisfied that such extension would be in the interest of the depositors of the banking company.

Question 3

(C17) (7M) (MQP Dec 2024 Set 1) (MQP June 2024)

Discuss the procedure for registration of an Asset Reconstruction Company.

Answer

To commence or carry on the business of securitisation or asset reconstruction, a company must obtain a certificate of registration from the Reserve Bank of India (RBI) and maintain owned funds of at least ₹2 crore (or a higher amount as specified by the RBI).

Requirements for Registration:

- The ARC must not have incurred losses in any of the last 3 financial years.
- It must have adequate arrangements for the realisation of financial assets acquired for securitisation or reconstruction and be able to pay returns to investors on due dates.
- Directors of the ARC should have adequate professional experience in finance, securitisation, and reconstruction.
- None of its directors should have been convicted of any offence involving moral turpitude.
- The sponsor of the ARC must meet the criteria specified by the RBI for fitness and propriety.
- The ARC should comply with prudential norms laid out by the RBI.
- The ARC must comply with other conditions specified in the RBI's guidelines.

The RBI may impose additional restrictions or conditions on the registration. Approval from the RBI is required for:

- Substantial Changes in Management:** Includes changes in the Board of Directors, Managing Director, or CEO.
- Change of Registered Office Location.
- Change of Company Name.

The RBI's decision on whether a management change is substantial is final.



Question 4

(C22) (4M) (June 2018 Old PQ)

Popular Limited defaulted in the repayment of term loan taken from a Bank against security created as a first charge on some of its assets. The Bank issued notice pursuant to Section 13 of the SARFAESI Act, 2002 to the Company to discharge its liabilities within a period of 60 days from the date of the notice. The company failed to discharge its liabilities within the time limit specified. Identify and explain the measures to be taken by the Bank to enforce its security interest under the said Act.

Answer

As per section 13 of SARFAESI Act, 2002, if the borrower fails to discharge his liability in full within the 60 days, the secured creditor may take recourse to one or more of the following measures to recover his secured debt:

- take possession of the secured assets of the borrower
- take over the management of the business of the borrower
- appoint any person (as the manager) to manage the secured assets the possession of which has been taken over by the secured creditor
- Require any person who has acquired secured assets from the borrower and owes or may owe money to them, to pay the secured creditor to the extent of the secured debt.

In the instant case, the Bank may take the above mentioned procedure to enforce its security interest in case Popular Limited has failed to discharge its liabilities within the time limit specified.

Question 5

(C23) (4M) (Dec 2019 Old PQ)

The Management of Gangotri Ltd. was taken by LBV Bank Ltd. (secured creditor) complying the provisions of SARFAESI Act, 2002 who appointed two Directors. The Board of Directors of Gangotri Ltd., duly authorized by its Articles, appointed two Alternate Directors and the majority of the Directors made a declaration required for voluntary liquidation proceedings. A special resolution requiring the Company to be liquidated voluntarily by appointing an insolvency professional to act as the Liquidator was passed at the general meeting of the Company. The Board of Directors and the Shareholders passed the resolutions without the approval/consent of Directors appointed by LBV Bank Ltd. Discuss the validity of the above resolutions under SARFAESI Act, 2002. Does an unsecured Creditor have recourse to this Act?

Answer

Management of borrower taken by the secured creditor (Section 15 of the SARFAESI Act, 2002): Where the management of the business of a borrower, being a company is taken over by the secured creditor then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such borrower -

- it shall not be lawful for the shareholders of such company or any other person to nominate or appoint any person to be a director of the company;
- no resolution passed at any meeting of the shareholders of such company shall be given effect to unless approved by the secured creditor;

Accordingly, in the given situation in the question, appointment of alternate directors by the BOD of Gangotri Ltd. though authorised by its Articles, is not valid, and the special resolution so passed



by majority for voluntary liquidation passed at general meeting shall not be given effect due to lack of consent of LBV Bank Ltd. An unsecured creditor doesn't have recourse to this Act.

Question 6**(C23) (4M) (Dec 2018 Old PQ)**

M/s. Toy Metal Limited had availed credit facilities from Bapi Bank Ltd. The company made repayment of loan to some extent and not entirely and accordingly, the bank took recourse under the provisions of section 13(2) of the SARFAESI Act, 2002. Consequently, possession of the mortgaged property was taken up and was duly advertised by the Bank. The company also filed an application under section 17(1) of SARFAESI Act, 2002 before the debts recovery tribunal which was dismissed by the impugned order. Being aggrieved the company approached the Court. Examine in the light of the SARFAESI Act, 2002 whether the company will succeed in the petition filed before the Court.

Answer

According to section 18(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, any person aggrieved, by any order made by the Debts Recovery Tribunal under, may prefer an appeal along with prescribed fees to the Appellate Tribunal within 30 days from the date of receipt of the order of Debts Recovery Tribunal.

Further, no appeal shall be entertained unless the Borrower has deposited with the Appellate Tribunal 50% of the amount of debt due from him, as claimed by the Secured Creditors, or determined by the Debts Recovery Tribunal, whichever is less. However, the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount of not less than 25% of debt.

Thus, in the given situation, Toy Metal Limited can appeal to the Appellate Tribunal (Now to NCLT) by following the above provisions.



MODULE 8 – LAWS AND REGULATIONS RELATED TO INSURANCE SECTOR

Main Questions

Question 1

(C3) (SM)

Discuss few principles of insurance.

Answer

Principles of Insurance

- a) **Principle of Good Faith** - A contract of insurance is a contract '*uberrime fidei*' i.e., a contract of "**utmost good faith**". This is a **fundamental principle of insurance law**. There is no difference between a contract of insurance and any other contract except that in a contract of insurance there is a requirement of utmost good faith.
- b) **Warranties and Conditions** - **Warranties in an insurance policy**, whether express or implied, are **binding commitments**. A **breach of warranty will void** the policy, even if the breach does not relate to a material aspect of the insured risk. Implied warranties are primarily found in marine insurance. Conditions outline the **obligations and limitations of an insurance policy**.
- c) **Misrepresentation** - **Representations are statements made by one party to another** before or during the formation of an insurance contract, relating to matters or circumstances concerning the contract, but **not an integral** part of it. These statements are considered fulfilled once the policy is accepted. A **mere statement** of representations **does not make them warranties**, but if they become part of the contract, they are considered warranties.
- d) **Indemnity** - **Most insurance policies**, except for life and personal accident insurance, are **contracts of indemnity**. In such contracts, the insurer agrees **to compensate** the insured for **actual losses** incurred due to the insured event. The occurrence of the event is beyond the control of both the insurance company and the insured. Even within policy limits, the insured **cannot recover more** than their actual loss.
- e) **Proximate Cause** - The **doctrine of proximate cause** is summarized by the maxim "**Causa Proxima non remota spectator**," meaning that the **immediate cause**, rather than a distant cause, is deemed responsible for the loss. Under this doctrine, the insurer is obligated to compensate the insured for losses that **directly** or indirectly arise from the **insured event** specified in the policy. The insured bears the burden of proving that the loss was due to the proximate cause.
- f) **Insurable interest** - **Insurable interest refers** to a **legal or financial stake** in the subject matter of the insurance, meaning the insured would suffer a loss or incur a liability if the insured event occurs. For an insurance **contract to be valid**, the insured must have a **genuine interest** in the life or property being insured. **Without this, the contract is considered a wager and is void**



Question 2

(C3) (5M) (June 2024 PQ)

Briefly discuss about the principles of Indemnity and Subrogation in the context of principles of insurance.

Answer

Principle of Indemnity

Most insurance policies, except for life and personal accident insurance, are contracts of indemnity. In such contracts, the insurer agrees to compensate the insured for actual losses incurred due to the insured event. The occurrence of the event is beyond the control of both the insurance company and the insured. Even within policy limits, the insured cannot recover more than their actual loss. Although the insured is to be placed in the same position as if the loss has not occurred, the amount of indemnity may be limited by certain conditions:

- Injury or loss sustained by the insured has to be proved.
- The indemnity is limited to the amount specified in the policy.
- The insured is indemnified only for the proximate causes.

The market value of the property determines the amount of indemnity.

Principle of Subrogation

The Principle of Subrogation means that after an insurance company pays a claim for a loss, it gets the right to step into the shoes of the insured and recover the amount from a third party responsible for the loss.

In simple terms, if someone else caused the damage or loss, the insurance company can take legal action against that person to recover the money it paid to the insured. This principle prevents the insured from getting double compensation — once from the insurer and again from the third party responsible for the damage.

Question 3

(C3) (3M) (Dec 2023 Old PQ)

Elucidate the Principle of Causa Proxima

Answer

The doctrine of proximate cause is summarized by the maxim "Causa Proxima non remota spectator," meaning that the immediate cause, rather than a distant cause, is deemed responsible for the loss. Under this doctrine, the insurer is obligated to compensate the insured for losses that directly or indirectly arise from the insured event specified in the policy. The insured bears the burden of proving that the loss was due to the proximate cause.

Question 4

(C3) (5M) (6M) (June 2017 Old PQ)

State the "Insurable Interest"— based on the Insurance Act, 1938.

Answer

As per the Insurance Act, 1938,

- Insurable interest refers to a legal or financial stake in the subject matter of the insurance, meaning the insured would suffer a loss or incur a liability if the insured event occurs.
- The validity of an insurance contract in India is dependent on the existence of an insurable interest in the subject matter.



- c) The person seeking an insurance policy **must establish some kind of interest** in the life or property to be insured, in the absence of which, the insurance policy would amount to a **wager and consequently void in nature**.
- d) **The test for determining** if there is an insurable interest is whether the **insured will in case of damage** to the life or property being insured, suffer **pecuniary loss**.
- e) **In case, of life and personal accident insurance** it is sufficient if the insurable interest is present **at the time of taking the policy**.
- f) **However, in the case of fire and motor accident insurance** the insurable interest has to be present **both at the time of taking the policy and at the time of the accident**.
- g) The case is completely different **with marine insurance** wherein there **need not be** any insurable interest **at the time of taking** the policy.

Question 5

(C5) (4M) (Dec 2017 Old PQ)

With reference to the provisions of Insurance Act, 1938 as amended by Insurance Regulatory and Development Authority Act, 1999, state the norms in respect of paid up equity capital for carrying out the business of an insurer. Also state the items that are excluded in determining the amount of paid up equity capital of an insurer under the said Acts.

Answer

Requirement of Paid Up equity capital for insurance business: No insurer carrying on the business of life insurance, general insurance, health insurance or re-insurance in India on or after the commencement of the Insurance Regulatory and Development Authority of India Act, 1999, shall be registered unless he has —

- (i) **a paid-up equity capital of ₹ 100 crores**, in case of a person carrying on the business of **life insurance or general insurance**; or
- (ii) **a paid-up equity capital of ₹ 100 crores** , in case of a person carrying on exclusively the business **of health insurance**; or
- (iii) **a paid-up equity capital of ₹ 200 crores**, in case of a person carrying on exclusively the business as a **re-insurer**.

Items to be excluded: In determining the paid-up equity capital specified above, **any preliminary expenses incurred in the formation and registration** of any insurer as may be specified by the regulations made under this Act, shall be excluded.

Question 6

(C6) (4M) (June 2023 Old PQ)

Can an intermediary be a director in the Insurance Company as per Insurance Act, 1938?

Answer

- a) **No insurance agent or intermediary or insurance intermediary** shall **be eligible** to be or remain **a director in insurance company**.
- b) Intermediary may be director with **permission of authority**
- c) The Authority may permit an agent or intermediary or insurance intermediary to be on the Board of an insurance company subject to **such conditions or restrictions** as it may impose to protect the interest of policyholders or to conflict of interest.



Question 7

(C6) (4M) (Dec 2019 Old PQ)

Write short notes on - Sufficiency of assets under Section 64V of the Insurance Act, 1938.

Answer

According to Section 64V of the Insurance Act, 1938,

- Every insurer and re-insurer shall at all times maintain an excess of value of assets over the amount of liabilities of, not less than 50% of the amount of minimum capital in the manner specified by the regulations.
- An insurer or re-insurer who does not comply with shall be deemed to be insolvent and may be wound-up by the court on an application made by the Authority.
- The Authority shall specify a level of solvency margin known as control level of solvency on the breach of which the Authority shall take any other remedial measures as deemed fit.

Question 8

(C6) (3M) (June 2018 Old PQ)

Mr. Arnab, one of the Directors of Aim Insurance Company Limited had taken some life insurance policies from the company. He, now, wants to avail a temporary loan from the company. The company refused to grant such loan on the ground that there is a prohibition in this regard. Mr. Arnab, approached you, now, about the matter. Advise him with reference to the Insurance Laws Amendment Act, 2015 as well as Section 185 of the Companies Act, 2013, whether such loan can be obtained by him.

Answer

According to Section 29 of the Insurance Act, 1938 as amended by the Insurance Laws (Amendment) Act, 2015, No Insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life insurance policies Issued by him within their surrender value, to any director, manager, actuary, auditor or officer of the insurer of a company or to any other company or firm in which any such director, manager, actuary or officer holds the position of a director, manager, actuary, officer or partner. The provisions of section 185 of the Companies Act, 2013 shall not apply to a loan granted to a director of an insurer being a company, if the loan is granted on the security of a policy on which the insurer bears the risk and the policy was Issued to the director on his own life, and the loan is within the surrender value of the policy.

Accordingly such loan can be obtained by the Mr. Arnab, director of Aim Insurance Company Limited.

Question 9

(C6) (4M) (June 2017 Old PQ)

Write short notes on - Actuarial Valuation/ Report (Section 13)

Answer

According to Section 13 of the Insurance Act, 1938, At least once a year, every insurer carrying on life insurance business shall cause an investigation of the life insurance business carried on by him including a valuation of his liabilities in respect thereto and shall cause an abstract of the report of such actuary to made in accordance with the regulations. The Authority may, extend such



date. Where it appears that valuation made do not properly indicate the affairs of the company, may require further investigation and valuation.

Question 10

(C7 & C9) (SM)

List out the objects and functions of IRDA.

(or)

Write a short note on IRDA.

Answer

The Insurance Regulatory and Development Authority (IRDA) was established in 1999 by the Indian Government with these objectives:

- Protecting the interests of insurance policyholders.
- Regulating, promoting, and ensuring orderly growth of the insurance industry.
- Handling matters connected to insurance regulation.

Functions are to make policies, regulations, address grievances in relationship to the following:

- Nomination by Policyholders.
- Settlement of insurance claim.
- Practical training for Insurance agents and other intermediaries.
- Insurable Interest.
- Surrender value of Policyholders.
- Code of conduct of Insurance intermediaries' surveyors.
- Issue of certificate of insurance company registration.
- regulation of investment by insurance companies.
- Supervising and monitoring insurance companies

Additional Questions

Question 1

(C5) (3M) (June 2019 Old PQ)

M/s Samrat is a company engaged in providing services of supplying goods all over the world through aircrafts. The aircrafts of the said company is registered and insured in India with the reputed insurance company. Company found that the insurance policy of one of aircraft which is in Europe had expired. Company said to his officer to get new insurance policy of that aircraft in Europe. State the validity of such an act of registration of aircraft in Europe.

Answer

As per section 2CB of the Insurance Act, 1938, Indian properties are not to be insured with foreign insurers. According to the section, no person shall take out or renew any policy of insurance in respect of any property in India or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India, without the permission of the IRDAI. In the given case, act of registration of aircraft of M/s Samrat which is an Indian property, with an insurer in Europe, is an invalid act.



Question 2

(C6) (4M) (Dec 2018 Old PQ)

Write short notes on - Record of Policies and Claims (Section 14)

Answer

According to Section 14 of the Insurance Act, 1938, Every insurer, in respect of all business transacted by him, shall maintain :

- a record of policies, in respect of every policy issued by the insurer, the name and address of the policyholder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice.
- a record of claims , every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or, in the case of a claim which is rejected, the date of rejection and the grounds thereof.
- a record may be maintained in any such form, including electronic made, as may be specified by the regulations made under this Act.
- Every insurer shall, issue policies above a specified sum assured and premium in electronic form as per regulatory guidelines.

Question 3

(C6) (SM)

Ajit Kumar works as an accountant in a private company. He wants make argument with 3 or 4 insurance companies, both life and non-life to get business for them at fixed monthly retaining fees. He has a room in his house where he can have an office. He wants to know where this possible and if so, where and how to get such agency contracts. Advise Ajit Kumar.

Answer

According to the Insurance Act, 1938,

- No person shall, pay or contract to pay any remuneration whether by way of commission or otherwise for soliciting or procuring insurance business in India to any person except an insurance agent or an intermediary or insurance intermediary in such manner as may be specified by the regulations.
- No insurance agent or intermediary or insurance intermediary shall receive commission or remuneration in any form in respect of policies issued in India, by an insurer except in accordance with the regulations specified in this regard.

Therefore, Ajit Kumar has to first become an insurance agent, if he is employed full time, he cannot be an agent. No person shall act as an insurance agent for more than one life insurer, one general insurer, one health insurer to ensure that no conflict of interest is allowed to arise for any agent in representing two or more insurers for whom he may be an agent. Ajit Kumar has to choose from these options. Ajit Kumar has to comply with various other restrictions of an agent as per regulation of IRDA and the Act.



MODULE 9 – SPECIFIC LEGAL PROVISIONS RELATED TO MSME SECTOR

Main Questions

Question 1 (C2) (SM)

Explain the classification of micro, small and medium industry. What the basis of classification and how the figures are adjusted.

Answer

In the context of the MSME Act, 2006 an "enterprise" is defined as any entity engaged in the manufacturing or production of goods, or providing or rendering services, that meets specified criteria related to investment in Plant & Machinery or equipment and annual turnover.

Micro Enterprises:

Investment in Plant and Machinery or Equipment: Not more than ₹1 crore and

Annual Turnover: Not more than ₹5 crores.

Small Enterprises:

Investment in Plant and Machinery or Equipment: Not more than ₹10 crores and

Annual Turnover: Not more than ₹50 crores.

Medium Enterprises:

Investment in Plant and Machinery or Equipment: Not more than ₹50 crores and

Annual Turnover: Not more than ₹250 crores.

Calculation of investment in P&M or equipment - Only tangible assets (excluding land and furniture/fittings) are included. For turnover calculation, exports are excluded. If an MSME moves to a higher category or out of MSME scope, it continues to receive non-tax benefits for 3 years from the date of transition.

Question 2 (C3) (SM)

Discuss the contribution of MSME sector in Indian economy.

Answer

- The MSME sector, with 3.6 crore units and 8 crore employees, is the second-largest employer in India after agriculture.
- It contributes 45% to industrial production.
- It accounts for 40% of India's exports.
- It constitutes 37% of the GDP.
- It contributes 31% to the service sector.

Question 3 (C7) (SM)

Discuss functions of the National Board for Micro, Small and medium Enterprises.

Answer



The MSME Board is an advisory body established under the MSMED Act, 2006. The Central Government has established, a Board known as the National Board for MSME with Head Office at Delhi.

Functions of the National Board for Micro, Small and medium Enterprises

- a) **Assess factors** affecting **MSME promotion** and development.
- b) **Examine and review** the **impact** of Central Government **policies and programs** on MSMEs.
- c) Provide **recommendations** on MSME-related matters.
- d) Address issues referred by the Central Government to **facilitate MSME promotion** and development.
- e) **Offer advice** to the Central Government on the **use of the MSME Fund**.

Question 4 (C11) (4M) (June 2024 PQ) (7M) (Dec 2024 PQ)

State the time limit for payments to be made by buyers to MSMEs and the consequences of delayed payment to them.

(or)

All dues of MSME vendor have to be paid in time. In case of delay in making the payment, there will be some disallowances or interest payments to be made by the buyer under the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED, Act, 2006). You are required to throw light on the same. What are to be disclosed in Financial Statements by the buyer entities?

Answer

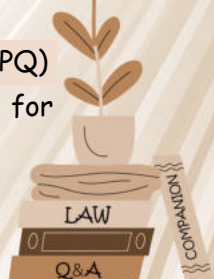
The buyer is to make payment on or before the date agreed on between him and the supplier in writing or, in case of no agreement, before the appointed day. The agreement between seller and buyer shall **not exceed more than 45 days**. If the payment is not made within 45 days, the following consequences will arise:

Consequences of making delayed payments by the buyers to MSMEs Due date as per law-

- a) **Interest payment on outstanding dues-** The Company is liable to pay interest on delayed payment to MSME registered supplier. Rate of Interest (**Compound interest with monthly rests** to the supplier on the amount from the appointed day or, on the date agreed on) shall be **three times of the bank rate** notified by the Reserve Bank.
- b) **Income tax disallowance** stipulates that **any payments owed** to MSMEs, not resolved within 45 days, will not **qualify for allowable expenses** till it is paid.
- c) **Reporting in Financial Statement-** In the notes to Accounts the company has have to give lot of new **disclosures of default** as mentioned above in their financial statement. Buyers who are required to have **their annual accounts** audited must include the following information in their annual financial statements:
 - The **principal amount** and **interest due** to the supplier
 - The **interest paid** by the buyer to the supplier.

Question 5 (C13) (8M) (June 2023 PQ)

Describe in brief the Digital MSME scheme and Emergency Credit Line Guarantee Scheme for MSME sector.



Answer

Digital MSME Scheme - The digital MSME is a government scheme for the MSME that was launched for promoting information and communication technology (ICT) in the MSME Sector by adopting ICT tools and applications in the production and business process of MSMEs.

The services that will be available for MSMEs through various service providers include:

- a) ERP
- b) Accounting
- c) Manufacturing Design
- d) Regulatory Compliance including GST

The digital MSME Scheme is aimed at creating awareness supporting developments and e-platforms, thereby creating literacy, training and promoting digital marketing in MSME sectors.

Emergency Credit Line Guarantee Scheme (ECLGS) - The ECLGS was launched by the government of India as a special scheme, considering the Covid-19 crisis. The scheme aims to provide 100% guarantee coverage to banks and NBFCs to enable them to extend emergency credit facilities to MSMEs to meet their additional term loan or additional working Capital requirements. Recently, the Govt extended the ECLGS to 31st March 2023 with purpose to provide relief to MSMEs. 100% Guarantee coverage for the additional funds sanctioned under the emergency credit line scheme. The scheme is attractive enough with a moratorium of period of 12 months.

Additional Questions

Question 1

(C13) (SM)

Discuss few majors taken to promote MSME sector units.

Answer

The schemes/programmes undertaken by the Ministry and its organizations seek to facilitate -

- a) flow of credit from financial institutions/banks
- b) technology upgradation and modernization
- c) infrastructural facilities
- d) modern testing facilities and quality certification
- e) entrepreneurship development and skill upgradation
- f) support for product development, design intervention and packaging
- g) welfare of artisans and workers
- h) assistance for better access to domestic and export markets etc.

The Government of India introduces several schemes for the benefit of these MSMEs. Following are the Schemes/ Programmes -

Single Window Registration Process

Facilitated by the Champions Control Room under the Ministry of MSME, along with Development Institutes (DIs) and District Industries Centres (DICs), enables MSMEs to complete all necessary registrations and access government support through a single point of contact.



National Small Industries Corporation Limited (NSIC)

Established in 1955, NSIC's main function is to **promote, aid, and foster the growth of MSMEs** in the country, typically on a commercial basis. It provides various support services to MSMEs including raw material procurement, product marketing, credit rating, technology acquisition, and adoption of modern management practices.

Digital MSME Scheme

Aimed at promoting **Information and Communication Technology (ICT)** adoption in the MSME sector. Provides services such as ERP, accounting, manufacturing design, and **regulatory compliance** including GST.

Emergency Credit Line Guarantee Scheme (ECLGS)

Launched to provide **100% guarantee** coverage to banks and NBFCs for extending **emergency credit** facilities to MSMEs **during the COVID-19 crisis**. It is extended till 31st March 2022 to provide relief to MSMEs. Offers capped interest rates and a maximum tenure of 4 years with a 12-month moratorium period on the principal amount.

Secured Business Loan for MSMEs (SIDBI)

SIDBI, a primary financial institution for MSMEs, **offers the Secured Business Loan (SBL) scheme**. Designed to provide faster credit dispensation to MSMEs, especially in manufacturing and service sectors. Offers loans upto Rs. 10 crores with a maximum repayment tenure of 10 years, including a moratorium period.

Prime Minister Employment Generation Programme (PMEGP)

Credit-linked **subsidy scheme** introduced by the Government of India to **promote employment** generation through micro-enterprises. Aims to establish **micro-enterprises in rural and urban areas**, providing credit-linked subsidies to entrepreneurs.



MODULE 10 – LAWS AND REGULATIONS RELATED TO CYBER
SECURITY AND DATA PRIVACY

Main Questions

Question 1

(C6) (SM) (7M) (Dec 2024 PQ)

What is Data Protection under the Information Technology Act, 2008? Throw light on the data protection law as prevalent in India today.

Answer

Data Protection Laws refers to the **set of privacy laws**, policies and procedures that **aim to minimise intrusion into one's privacy** caused by the collection, storage, etc. of personal data. **Personal data** generally refers to the information or data **which relate to a person** who can be identified from that information or data whether collected by any Government or any private organization or an agency.

- India currently is **not having a separate data protection law**.
- Section 43A** was **inserted in the IT Act** and the Central Government, notified the **Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011**.
- The **right to privacy in India** was declared a **fundamental right** by the **Hon'ble Supreme Court of India** on **August 24, 2017**.
- Section 43A of the IT Act** explicitly provides that whenever a corporate body possesses or deals with any sensitive personal data or information, and is **negligent in maintaining a reasonable security** to protect such data or information, which thereby causes wrongful loss or wrongful gain to any person, then such body corporate shall be **liable to pay damages** to the person so affected.
- Section 72A** provides for the **punishment for disclosure of information in breach of lawful contract** and any person may be punished with **imprisonment** for a term **not exceeding 3 years** or **with a fine not exceeding ₹ 5 lakhs** or **with both** in case disclosure of information is made in breach of lawful contract.

Question 2

(C7) (SM)

What are the obligations of the corporate body collecting data from individuals?

Answer

Corporate Bodies collecting data from individuals must follow few rules laid down in Information Technology Act, 2000. The two major obligations are:

(i) **Privacy Policy**

- Body corporates that **collect sensitive personal data** must have a privacy policy.
- Policy must be **easily accessible** to everyone by publishing on its website.



- c) The policy must contain details regarding, **what kind** of personal information is being collected & **why**, and **what security practices** are taken to keep it safe and confidential.

(ii) **Data Collection Guidelines**

- a) Obtain **consent** from data providers.
- b) Collect data only for **lawful and necessary purposes**.
- c) Use data only for stated **purposes** and retain it only as long as necessary.
- d) **Inform data providers** about the collection, purpose, and recipients.
- e) Allow data providers to **review and correct** their data.
- f) Ensure **data security**.
- g) Designate a **Grievance Officer** with contact details on the website.

Question 3 (C9, C10 & C11) (7M) (SM) (MQP Dec 2024 Set 2) (MQP Dec 2023)

Classify the major categories of cyber-crimes and summarize them with examples.

Answer

Cybercrime involves **criminal activities where computers or networks** are used as tools, targets, or **places of criminal activity**. Its unique nature, **without geographical boundaries** and often with anonymous perpetrators, **poses significant threats** to governments, businesses, and individuals.

Cyber-crimes can be basically divided into three major categories:

(i) **Cyber-crimes against persons are:**

- a) **Cyber Stalking** - Using technology like the internet, email, or phones to **threaten and create fear**.
- b) **Obscenity** - Sharing **indecent or prohibited material**, especially child pornography.
- c) **Defamation** - **Lowering someone's dignity** by hacking their account and sending vulgar emails.
- d) **Hacking** - Unauthorized access to a computer system, often **destroying data** and programs.
- e) **Cracking** - Breaking into a computer system without permission and **tampering with data**.
- f) **Spoofing** - Sending emails that **misrepresent their origin**, often used for spam and identity theft.
- g) **Carding** - Using fake debit and credit cards to **steal money** from bank accounts.
- h) **Fraud** - Stealing passwords and data with the intent **to cheat or deceive**.
- i) **Threat** - Using technology to **threaten someone's life** or safety.

(ii) **Cyber Crimes Against Property**

- a) **IPR Violation** - Infringing on intellectual property rights like **software piracy and copyright violations**.
- b) **Squatting** - Competing for the **same domain name**, often by registering it first or using a similar one.
- c) **Vandalism** - **Deliberately** damaging or **destroying data** and network services.
- d) **Hacking** - Unauthorized access to computer systems, leading to **data loss**.
- e) **Virus** - **Programs** that spread and **damage data** on computers and networks.
- f) **Trespass** - Accessing someone's computer **without permission**, but **not altering or damaging data**.



(iii) **Cyber Crimes Against Government**

- Terrorism** - Using the internet to **conduct attacks** that threaten national security.
- Warfare - Politically motivated** hacking to damage or spy, similar to traditional warfare.
- Piracy** - Distributing pirated software to **destroy government data** and records.
- unauthorized Information** - It is very easy to access any information by the terrorists with the aid of internet and to **possess that information for political**, religious, social, ideological objectives.

Question 4

(C12) (June 2023 PQ) (3M)

List 5 Cyber Crimes under IPC and Special laws.

Answer

The following are the Cyber Crimes under IPC and Special laws:

- Sending **threatening messages** by email
- Defamatory messages** by email
- Forgery** of electronic records
- Bogus websites**, cyber frauds
- Email spoofing**
- Web-Jacking**
- Email Abuse**

Question 5

(C12)

List down the Cyber Crimes under IT Act, 2000

Answer

The following are the Cyber Crimes under the Information Technology Act, 2000:

- Tampering** with Computer source documents
- Hacking** with Computer systems, Data alteration
- Publishing obscene** information
- Unauthorized access** to protected system
- Breach of Confidentiality** and Privacy
- Publishing false digital signature certificates**

Question 6

(C14) (7M) (Dec 2023 PQ) (MQP June 2024)

The Business Intelligence has some process of works. Elucidate that process of works.

Answer

Business Intelligence (BI) is a **technology-driven process** that helps organizations analyse data and provide actionable **insights for decision-making**. It involves **collecting data** from internal and external sources, **preparing it for analysis**, and **creating visualizations**, dashboards, and reports.

The process of Business Intelligence works by the following steps:

- Data Collection and Storage**: BI data is stored in **data warehouses** or smaller data marts. This data can include **both historical** information and **real-time data** from various source systems.



- b) **Data Preparation:** Raw data from different sources is **integrated, consolidated, and cleansed** using data integration and quality management tools. This ensures accurate and consistent information for analysis.
- c) **Data Analysis:** The prepared data is analysed using **analytical querying**, where BI tools run queries to extract **meaningful insights**.
- d) **Distribution:** **Key performance indicators (KPIs)** and other analytical findings are **distributed** to business users through **reports, dashboards, and visualizations**.
- e) **Decision-Making:** The insights and information gathered from the analysis are used to influence and drive **strategic and tactical business decisions**.

Question 7

(C16) (7M) (June 2024 PQ) (MQP June 2024)

What do you mean by "Business Intelligence" in the context of Cyber Security? What are its benefits?

Answer

Business Intelligence (BI) is a **technology-driven process** that helps organizations analyse data and provide actionable **insights for decision-making**. It involves **collecting data** from internal and external sources, **preparing it for analysis**, and **creating visualizations**, dashboards, and reports.

Benefits of Business Intelligence

- a) Speed up and **improve decision-making**
- b) Optimize internal business processes
- c) Increase **operational efficiency** and productivity
- d) **Spot business problems** that need to be addressed
- e) Identify emerging business and **market trends**
- f) **Develop** stronger business **strategies**
- g) Drive **higher sales** and new revenues
- h) Gain a **competitive edge** over rival companies.

Question 8

(C16 & 17) (7M) (MQP Dec 2024 Set 1) (MQP June 2025)

Explain the types of business intelligence tools and applications and benefits of business intelligence.

Answer

The list of BI technologies that are available to organizations includes the following:

- a) **Ad Hoc Analysis** - the process of writing and running queries to analyze **specific business** issues on **temporary basis**.
- b) **Online Analytical Processing (OLAP)** - Analysing data in **multiple dimensions** to handle complex questions and calculations.
- c) **Mobile BI** - Using BI apps on **smartphones and tablets**, showing simple charts and key metrics.
- d) **Real-time BI** - data is analyzed **as it's created**, collected and processed to give users an up-to-date view of business operations, customer behaviour, financial markets and other areas of interest



- e) **Operational Intelligence (OI)** - Also called **operational BI**, this is a form of real-time analytics that **delivers information to managers and frontline workers** in business operations.
- f) **Open Source BI (OSBI)** Business intelligence software that is **open** source typically includes two versions: a community edition that can be used **free of charge** and a **subscription-based** commercial release with technical support by the vendor.
- g) **Embedded BI** - These tools put BI and data visualization functionality **directly into business applications**. That enables business users to analyze data within the applications they use to do their job.
- h) **Collaborative BI** - This is more of a **process** than a specific technology which involves the **combination of BI applications** and collaboration tools to enable different users to work together on data analysis and share information with one another.
- i) **Location Intelligence (LI)** - This is a specialized form of BI that enables users to analyze **location and Geographic data**, with **map-based data visualization** incorporated.

Benefits of Business Intelligence

- a) Speed up and **improve decision-making**
- b) Optimize internal business processes
- c) Increase **operational efficiency** and productivity
- d) **Spot business problems** that need to be addressed
- e) Identify emerging business and **market trends**
- f) **Develop** stronger business **strategies**
- g) Drive **higher sales** and new revenues
- h) Gain a **competitive edge** over rival companies.



MODULE 11 – LAWS & REGULATIONS RELATED TO ANTI-MONEY LAUNDERING

Main Questions

Question 1 (C2) (5M) (June 2023 PQ) (3M) (June 2024 PQ) (7M) (MQP Dec 2024 Set 2)

Briefly enumerate the process of Money Laundering as per the Prevention of Money Laundering Act, 2002.

Answer

Money Laundering is the process of conversion of such proceeds of crime, the 'dirty money', to make it appear as 'legitimate money'. The Process of Money Laundering is as follows:

Step 1 - Placement:

The money launderer **introduces illegal funds into the financial system** by breaking up large amounts of cash into smaller, less noticeable sums. These are then **deposited into a bank account** or used to purchase financial instruments like cheques and bank drafts, which are subsequently deposited into one or more accounts at different locations.

Step 2 - Layering:

In this stage, the money launderer moves the **funds through a series of continuous conversions** or transfers across **multiple accounts**. This is done to **hide the funds origin** and distance them from their criminal source. The launderer may use various accounts, often in different countries, especially in jurisdictions that do not cooperate with anti-money laundering investigations.

Step 3 - Integration:

In the final stage, the laundered funds **enter the legitimate economy**, mixed with legally earned money. The launderer **invests these funds into real estate, business ventures**, and luxury assets allowing them to enjoy the money without fear of detection.

Question 2 (C3) (7M) (Dec 2024 PQ)

State the offences of Money Laundering listed in different schedules under the PMLA Act, 2002.

Answer

Whosoever directly or indirectly attempts to indulge or is actually involved in any process connected with the proceeds of crime including its concealment, possession, acquisition or use or claiming as untainted property shall be guilty of offence of money-laundering.

Types of Offences: The offences listed in the Schedule the Act, are scheduled offences and are divided into three parts - Part A, B and C.

- a) **Part 'A' offences** to the Schedule have been **listed in 28 paragraphs** and it comprises of offences under **Indian Penal Code**, offences under **Narcotic Drugs and Psychotropic Substances**, offences under **Explosive Substances Act, 1908**, offences under **Unlawful Activities (Prevention) Act, 1967**, etc.



- b) Part 'B' of the Schedule are offences with **total value involved** is ₹ 1 crore or more.
- c) Part 'C' deals with **trans-border crimes** and is a vital step in tackling Money Laundering across International boundaries.

The **Scheduled Offence** is called **Predicate Offence** and the **occurrence** of the same is a **pre requisite** for initiating investigation into the offence of money laundering.

Question 3

(C5) (SM) (5M) (June 2019 Old PQ)

Explain the responsibilities of banking companies under the Prevention of Money Laundering Act, 2002.

(or)

What are the obligations of the reporting entity?

Answer

'Reporting Entity' means a **banking company, financial institution, intermediary** or a person carrying on a designated business or profession.

Obligations of Reporting entity are as follows -

- a) Every reporting entity have to **maintain a record of all transactions** covered as per the nature and value.
- b) They shall furnish to the **Director (FIU)** within such time as may be prescribed information relating to such transactions.
- c) They shall verify the **identity of its clients and shall identify the beneficial owner**, if any, of such of its clients.
- d) They shall maintain record of **documents evidencing** identity of its clients and beneficial owners as well as account files for a **period of 5 years** in case of record and information relating to transactions.
- e) They shall maintain the **same for a period of 5 years after the business relationship** between a client and the reporting entity has ended or the account has been closed, whichever is later.

Question 4

(C6) (7M) (MQP June 2023)

Discuss the procedure of Investigation under the Prevention of Money Laundering Act.

Answer

Enforcement Directorate: The Directorate of Enforcement is responsible for enforcement of the **Foreign Exchange Management Act, 1999 (FEMA)** and certain provisions under **the Prevention of Money Laundering Act**. The PMLA empowers ED officers to **investigate money laundering** cases and attach related properties.

Adjudicating Authority: Where the Adjudicating Authority decides that any property is involved in money-laundering, Adjudicating Authority shall, by an order in writing **confirm the attachment of the property made or retention of property** or record seized.

The Act provides for **reciprocal arrangements and bilateral agreements** between countries for the purpose of either enforcing the provisions of this Act or for the exchange of information.

Appellate Tribunal: Under **Section 25**, the **Central Government has established** an Appellate Tribunal. The Tribunal consists of a chairperson and 2 other members. Appellate Tribunal has been



constituted to hear appeals against the orders of the Adjudicating Authority.

Special Court: For trials under Section 4 of PMLA, 2002, the Central Government designates Special Courts, in consultation with the Chief Justices of High Courts, for specific areas or cases. These Special Courts can also handle related offenses as per the Code of Criminal Procedure. Any money laundering offense and connected scheduled offenses are tried by the Special Court in the area where the crime was committed.

Question 5 (C7) (SM) (3M) (June 2023 Old PQ) (4M) (June 2017 Old PQ)

Discuss about Suspicious Transaction Reports (STR).

(or)

Every Banking Company to furnish details of suspicious transaction as per the provision of the Prevention of Money Laundering Act, 2002 and the rules made thereunder. State in this context what is meant by Suspicious Transaction.

Answer

Every banking company require to furnish details of suspicious transactions under PMLA Act, 2002 and rules. It means a transaction whether or not made in cash which, to a person acting in good faith:

- Gives rise to a reasonable suspicion that it may involve the proceeds of crime, or
- Appears to be made in circumstances of unusual or unjustified complexity, or
- Appears to have no economic rationale or bona fide purpose.

Additional Questions

Question 1 (C2) (2M) (Dec 2018 Old PQ)

"Money Laundering does not mean just siphoning of fund." Comment.

Answer

Money laundering is a moving of illegally acquired cash through financial systems so that it appears to be legally acquired whereas siphoning of funds simply means misusing or diverting money from its intended purpose. Thus, Money laundering is not just the siphoning of fund but it is the conversion of money which is illegally obtained.

Question 2 (C2 & C3) (SM) (7M) (MQP Dec 2023)

"Money Laundering is the process of conversion of such proceeds of crime, the 'dirty money', to make it appear as 'legitimate' money"- examine the validity of statement by the rules and regulations of the act "The Prevention of Money Laundering Act, 2002"

Answer

Money Laundering is the process of conversion of such proceeds of crime, the 'dirty money', to make it appear as 'legitimate money'.

The Prevention of Money Laundering Act, 2002 consists of 10 chapters containing 75 sections and one Schedule divided into 5 parts.



The objects sought to be achieved under the Act are:

- a) To **prevent** and control **money laundering**.
- b) To confiscate and **seize the property** obtained from the laundered money. And
- c) To deal with **any other issue** connected with **money laundering in India**.

Authorities under The Prevention of Money Laundering Act, 2002

- a) The **Directorate of Enforcement** in the Department of Revenue, Ministry of Finance is responsible for **investigating the cases** of offence of money laundering.
- b) **Financial Intelligence Unit - India (FIU-IND)** under the Department of Revenue, Ministry of Finance is the central national agency responsible for **receiving, processing, analysing** and disseminating information relating to **suspect financial transactions**.
- c) Central Government shall **appoint adjudicating authority** to exercise **jurisdiction and powers** conferred under the Act.

The process of Money Laundering:

Step 1 - Placement:

The money launderer **introduces illegal funds into the financial system** by breaking up large amounts of cash into smaller, less noticeable sums. These are then **deposited into a bank account** or used to purchase financial instruments like cheques and bank drafts, which are subsequently deposited into one or more accounts at different locations.

Step 2 - Layering:

In this stage, the money launderer moves the **funds through a series of continuous conversions** or transfers across **multiple accounts**. This is done to **hide the funds origin** and distance them from their criminal source. The launderer may use various accounts, often in different countries, especially in jurisdictions that do not cooperate with anti-money laundering investigations.

Step 3 - Integration:

In the final stage, the laundered funds **enter the legitimate economy**, mixed with legally earned money. The launderer **invests these funds into real estate, business ventures**, and luxury assets allowing them to enjoy the money without fear of detection.

Offence of Money Laundering - Whosoever directly or indirectly **attempts to indulge** or is actually involved in any process connected with the proceeds of crime including its **concealment, possession, acquisition or use** or claiming as untainted property shall be guilty of offence of money-laundering.

Types of Offences: The offences listed in the Schedule the Act, are scheduled offences and are divided into three parts - Part A, B and C.

- a) **Part 'A' offences** to the Schedule have been **listed in 28 paragraphs** and it comprises of offences under **Indian Penal Code**, offences under **Narcotic Drugs and Psychotropic Substances**, offences under Explosive Substances Act, 1908, offences under Unlawful Activities (Prevention) Act, 1967, etc.
- b) **Part 'B'** of the Schedule are offences with **total value involved** is ₹ 1 crore or more.
- c) **Part 'C'** deals with **trans-border crimes** and is a vital step in tackling Money Laundering across International boundaries.

Punishment for the Offences

- a) **Whoever commits the offence of money-laundering** shall be punishable with rigorous



- imprisonment** for a term which shall **not be less than 3 years** but which may **extend to 7 years** and shall also be **liable to fine**.
- b) But where the **proceeds of crime involved in money-laundering** relate to any offence specified under paragraph 2 of **Part A of the Schedule**, the **maximum punishment** may **extend to 10 years** instead of 7 years.
- c) **Property made out of proceeds of crime**, directly or indirectly attached and/or **confiscated by the authority**.

Question 3

(C3) (3M) (June 2018 Old PQ)

Sohan Lal, a farmer, was found involved in embezzlement of opium cultivated by him. State the punishment that can be awarded to him under the Prevention of Money Laundering Act, 2002.

Answer

Section 4 of the Prevention of Money Laundering Act, 2002 provides for the punishment for Money-Laundering. Whosoever directly or indirectly attempts to indulge or is actually involved in any process connected with the proceeds of crime including its concealment, possession, acquisition or use or claiming as untainted property shall be guilty of offence of money-laundering.

Part 'A' offences to the Schedule have been **listed in 28 paragraphs** and it comprises of offences under **Indian Penal Code**, offences under **Narcotic Drugs and Psychotropic Substances**, offences under Explosive Substances Act, 1908, offences under Unlawful Activities (Prevention) Act, 1967, etc.

Punishment for the Offences

- a) **Whoever commits the offence** of money-laundering shall be punishable with rigorous **imprisonment** for a term which shall **not be less than 3 years** but which may **extend to 7 years** and shall also be **liable to fine**.
- b) But where the **proceeds of crime** involved in money-laundering relate to any offence specified under paragraph 2 of **Part A of the Schedule**, the **maximum punishment** may **extend to 10 years** instead of 7 years.

In the present case, Sohan Lal, a farmer, who was involved in embezzlement of opium cultivated by him shall be liable for the rigorous imprisonment for a term which may extend to 10 years and shall also be liable to fine.

Question 4

(C6) (1M) (June 2019 Old PQ)

Who is empowered to designate court of session as special courts for trial of offence of money laundering?

Answer

Central Government in consultation with the **Chief Justice of High Court** is empowered to designate court of session as **special courts for trial of offence of money laundering**.

