

**PAPER 13 - CORPORATE LAWS AND
COMPLIANCE**

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Full Marks: 100

Time allowed: 3 hours

Section – A

1. Answer all questions mentioned below. Mark the correct answer (only indicate A or B or C or D)

Multiple Choice Question: [2×10 = 20]

- (i) **If a person appointed as an auditor of a company incurs any of the disqualification specified in Section 141(3), he shall be deemed to have vacated his office. Such vacation shall be deemed to be _____ in the office of the auditor.**
- casual vacancy**
 - permanent vacancy**
 - ad-hoc vacancy**
 - None of the above**
- (ii) **Contracts made by or on behalf of a company, may not be signed by _____ duly authorised by the Board in this behalf.**
- Key Managerial Person**
 - An Officer**
 - Employee of the company**
 - Auditor**
- (iii) **Any remuneration for services rendered by any such director in other capacity shall not be so included if _____.**
- the services rendered are of a professional nature**
 - it is with approval of the Nomination and Remuneration Committee**
 - it is with approval of the Board of Directors**
 - None of the above**
- (iv) **When only a part of the shares is transferred, the company issues a ticket for the balance of shares not transferred. Such a ticket is known as _____.**
- Issue Ticket**
 - Balance ticket**
 - Balance Certificate**
 - Issue Certificate**

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- (v) **Corporate Governance is a blend of the Internal and external Corporate Governance**
- Techniques**
 - Mechanisms**
 - Systems**
 - Methods**
- (vi) **Export under Foreign Exchange Management Act,1999 means:**
- the taking out of India to a place outside India any goods.**
 - provision of services from India to any person outside India**
 - both the above**
 - none of the above**
- (vii) **Which of the following FDI in resident entities is not eligible as investee entities?**
- FDI in an India company**
 - FDI in Partnership**
 - FDI in HUF**
 - FDI in LLP**
- (viii) **'Small Company' means a Company of which**
- Paid-up- Share capital is ₹50 Lakhs to ₹10 Crores**
 - Turnover is ₹2 Crores to ₹100 Crores**
 - Both the above**
 - None of the above**
- (ix) **Which of the following is not the condition for issue of IDR?**
- Issue size should not be more than ₹50 crores**
 - Minimum application amount should be ₹20,000**
 - At least 50% of the IDR issued should be allotted to qualified institutional buyers on proportionate basis**
 - There will be only denomination of IDR of the issuing company**
- (x) **During any financial year corporate Social Responsibility Committees of the board shall be constituted by every Company having**
- Turnover of ₹5,000 crores or more.**
 - A Net Profit of ₹5 crores or more.**
 - Net Worth of ₹100 crores or more**
 - Authorized capital of ₹500 Crores or more.**

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Answer:

1.

(i) (a).

Casual vacancy- Where a person appointed as an auditor of a company incurs any of the disqualifications mentioned in sub-section (3) after his appointment, he shall vacate his office as such auditor and such vacation shall be deemed to be a casual vacancy in the office of the auditor.

(ii) (a).

By the Section 21 provided in this Act, —

- (a) a document or proceeding requiring authentication by a company; or
- (b) contracts made by or on behalf of a company,

may be signed by any key managerial personnel or an officer or employee of the company of the company duly authorised by the Board in this behalf.

(iii) (a).

When remuneration paid for professional services rendered by a director to the company without any limit is not included in the limit, if the following two conditions are satisfied: The services rendered are of a professional nature and; In the opinion of the Nomination and Remuneration Committee the director possesses the requisite qualification for the practice of the profession. [proviso to section 197(4)]

(iv) (b).

If the transferor is retaining shares, the company sends them a balance ticket which is a temporary certificate for the shares they have not transferred.

(v) (b).

Corporate governance refers to the set of systems, principles and processes by which a company is governed. They provide the guidelines as to how the company can be directed or controlled such that it can fulfil its goals and objectives in a manner that adds to the value of the company and is also beneficial for all stakeholders in the long term.

(vi) (c).

Export - Section 2(1)

‘export’, with its grammatical variations and cognate expressions, means:

- (1) the taking out of India to a place outside India any goods.
- (2) provision of services from India to any person outside India.

(vii) (c).

The following FDI in resident entities is not eligible as investee entities

- I. FDI in an Indian Company.
- II. FDI in Partnership Firm/Proprietary Concern.

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III. FDI in Trusts which are Venture Capital Trusts regulated by the Securities and Exchange Board of India and Investment vehicles

IV. FDI in Limited Liability Partnerships (LLPs).

FDI in resident entities other than those mentioned above is not permitted.

(viii) (a).

According to Section 2 (85) of Companies Act, 2013 a “small company” means a company, other than a public company:

(1) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees.

Or

(2) turnover of which as per its profit and loss account for the immediate preceding financial year. does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees.

(ix) (a).

Conditions for issue of IDR.

An issue of IDR is subject to the following conditions:

I. issue size should not be less than ₹ 50 crore.

II. procedure to be followed by each class of applicant for applying should be mentioned in the prospectus.

III. minimum application amount should be ₹ 20,000.

IV. at least 50% of the IDR issued should be allotted to qualified institutional buyers on proportionate basis.

V. the balance 50% may be allocated among the categories of non-institutional investors and retail individual investors including employees at the discretion of the issuer and the manner of allocation has to be disclosed in the prospectus.

(x) (b).

Section 135(1) read with Rule 3 of the Companies (Corporate Social Responsibility Policy Rules, 2014, mandates every company having:

(a) Net worth of rupees 500 crores or more, or

(b) Turnover of rupees 1000 crores or more, or

(c) A net profit of rupees 5 crores or more

During any financial year to constitute a Corporate Social Responsibility (CSR) Committee of the Board.

Section - B

Answer any Five Question

[16x5 =80]

2. (a) **Rukmini Ltd. is a company registered in Japan. Although, it has no place of business established in India, yet it is doing online business through telemarketing in India. Whether it will be treated as a Foreign Company under the Companies Act, 2013? Explain.**

- (b) A producer company was incorporated on 1st September, 2009. At present the paid-up Share Capital of the company is ₹10 lakhs consisting of 1,00,000 Equity Shares of ₹10 each fully paid-up held by 200 individuals and 20 producer's institutions. You are required to answer the following with reference to the provisions of the Companies Act, 1956:
- (i) What is the time limit for holding the First Annual General Meeting and the subsequent Annual General Meetings?
 - (ii) What is the Quorum for the Annual General Meeting?
 - (iii) State the manner in which the voting rights of the members are determined.
 - (iv) Is it possible to remove a member? [8+8=16]

Answer:

2.(a) According to section 2(42) of the Companies Act, 2013, "foreign company" means a company or body corporate incorporated outside India which -

- i. has a place of business in India whether by itself or through an agent, physically through electronic mode; and
- ii. conducts any business activity in India in any other manner. According to the Companies (Registration of Foreign Companies) Rules, 2014: "electronic mode" means carrying out electronically based, whether main server installed in India or not, including, but not limited to –
- iii. business to business and business to consumer transactions, data interchange and other digital supply transactions;
- iv. offering to accept deposits or inviting deposits or accepting deposits subscriptions in securities in India or from citizens of India;
- v. financial settlements, web based marketing, advisory and transactional services data base services and products, supply chain management;
- vi. online services such as telemarketing, telecommuting, telemedicine, education and information research; and
- vii. all related data communication services whether conducted by e-mail, mobile devices, social media, cloud computing, document management, voice or data transmission or otherwise. Looking to the above description, it can be said that being involved in business activity through telemarketing, Rukmini Ltd., will be treated as foreign company.

2.(b) (i) Annual General Meeting –

The first annual general meeting of a producer company shall be held within 90 days of incorporation i.e. on or before 29th November, 2009 in this case [Sec. 581 ZA (2)]. In the case of subsequent AGMs gap between two AGMs must not be more than 15 months. Registrar of Companies may extend the time for holding any AGM other than the first AGM by a period not exceeding 3 months for any special reason [581 ZA(i)]

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(ii) Quorum –

Unless the articles of association of the producer company provide for a larger number, 1/4th of the total number of members of the producer company shall be the quorum for its annual general meeting. In this case the company has got 220 members. Hence the quorum is 55 [Sec. 581ZA (8)].

(iii) Voting rights of members -

It depends on the type of membership. Where the membership consists of individuals and producer institutions, (as in this case) voting rights should be computed on the basis of a single vote for every member [Section 581 D(c)] (iv)

Removal of member: No person, who has any business interest which is in conflict with business of the producer company, shall become a member of that company (Section 581 D (4)). A person who has become a member of the producer company acquires any business interest which is on conflict with the business of the producer company, shall cease to be a member of that company and be removed as a member in accordance with the articles [Sec. 581 D (5)].

3. (a) (i) **Discuss the applicability of Insolvency and Bankruptcy Code, 2016.**
(ii) **Draw the structure of Regulatory Mechanism and Regulatory Bodies as per Insolvency and Bankruptcy Code, 2016.**
- (b) **Can a Company pay compensation to its Directors for loss of office? Explain briefly the relevant provisions of the Companies Act, 2013 in this regard.**

[5+3+8=16]

Answer:

- 3.(a)(i) The provisions of Insolvency and Bankruptcy Code, 2016 applies to the following, in relation to their insolvency, liquidation, voluntary liquidation or bankruptcy, as the case may be (Section 2 of Insolvency and Bankruptcy Code, 2016).
- Companies incorporated under Companies Act
 - Companies governed under special Act (so far as of Insolvency and Bankruptcy Code, 2016 is consistent with those special Acts i.e. provisions of Special Act will prevail over of Insolvency and Bankruptcy Code, 2016)
 - Limited Liability Partnership (LLP)
 - Other body corporates as may be notified by Central Government
 - Partnership firms and individuals.
 - Personal guarantors to corporate debtors:
 - Partnership firms and proprietorship firms; and
 - Individuals, other than persons referred to in clause (e).
- 3.(a)(ii) The regulatory mechanism as per The Insolvency and Bankruptcy Code, 2016 would be based on the following five pillars:
1. Insolvency and Bankruptcy Board of India
 2. Adjudicating Authority
 1. Insolvency and Bankruptcy Board of India

- i Insolvency Professional Agencies
- ii Insolvency Professionals
- iii Information Utilities

- 3.(b)** Section 202 of the Companies Act, 2013 provides the provisions for compensation for loss of office of managing or whole-time director or manager as under:
- i. A company may make payment to a managing or whole-time director or manager, but not to any other director, by way of compensation for loss of office, or as consideration for retirement from office or in connection with such loss or retirement.
 - ii. No payment of compensation shall be made in the following cases:
 - (1) where the director resigns from his office as a result of the reconstruction of the company, or of its amalgamation with any other body corporate or bodies corporate, and is appointed as the managing or whole-time director, manager or other officer of the reconstructed company or of the body corporate resulting from the amalgamation.
 - (2) where the director resigns from his office otherwise than on the reconstruction of the company or its amalgamation as aforesaid.
 - (3) where the office of the director is vacated under sub-section (1) of section 167.
 - (4) where the company is being wound up, whether by an order of the Tribunal or voluntarily, provided the winding up was due to the negligence or default of the director.
 - (5) where the director has been guilty of fraud or breach of trust in relation to, or of gross negligence in or gross mismanagement of, the conduct of the affairs of the company or any subsidiary company or holding company thereof, and
 - (6) where the director has instigated, or has taken part directly or indirectly in bringing about, the termination of his office.
 - iii. The compensation payable to such managing director or whole-time director or manager shall not exceed the remuneration he would have earned if he would have been in office for the remainder of his term or three years, whichever is shorter, calculated on the basis of the average remuneration earned by him during a period of three years immediately preceding the date on which he ceased to hold such office, or where he held the office of less than three years, then for such shorter period.
 - iv. No such payment however can be made at all if winding up of the company is commenced whether before or within 12 months after, the date on which he ceased to hold office, if the assets on winding up (after deducting expenses on winding up) are not sufficient to repay the shareholders the capital, including premiums if any, contributed by them.
 - v. Nothing in this section shall be deemed to prohibit the payment to a managing or whole – time director, or manager, of any remuneration for services rendered by him to the company in any other capacity.

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4. (a) (i) Is it mandatory to obtain Regulatory approvals for scheme of compromise/ arrangements as per section 230(5) of the Companies Act, 2013? Explain.
- (ii) You, an individual shareholder found that the Directors representing the majority of shareholders perform an illegal or ultra vires act for the company. What is the action you may take to restrain such an act?
- (iii) PBX Pvt. Ltd. is a company in which there are 6 shareholders. Mr. Bala, who is a director and also the legal representative of a deceased shareholder holding less than one tenth of the share capital of the company made a petition to the tribunal for relief against oppression and mismanagement. Examine under the provisions of the Companies Act, 2013 whether the petition made by Mr. Bala is valid and maintainable.
- (b) Winding up proceedings has been commenced by the Tribunal against Paramount Limited, a government company (Central Government is a member). Even after completion of one year from the date of commencement of winding up proceedings, it has not possible to conclude the same. The liquidator is of the opinion that the statement shall be filed with tribunal and registrar only.
- (i) Decide validity to the opinion made by the liquidator and penalty that can be imposed on the liquidator for contravention of the provision as per the Companies Act, 2013.
- (ii) Discuss, if the Paramount Limited is a non-government company.
- [3+2+4+7=16]

Answer:

4. (a) (i) Notice to be sent to the regulators seeking their representations Section 230(5) states that a notice under Sub-Section (3) along with all the documents in such form as may be prescribed shall also be sent to the Central Government, the income-tax authorities, the Reserve Bank of India, the Securities and Exchange Board, the Registrar, the respective stock exchanges, the Official Liquidator, the Competition Commission of India established under Sub-Section (1) of Section 7 of the Competition Act, 2002, if necessary, and such other sectoral regulators or authorities which are likely to be affected by the compromise or arrangement and shall require that representations, if any, to be made by them shall be made within a period of thirty days from the date of receipt of such notice, failing which, it shall be presumed that they have no representations to make on the proposals.
4. (a) (ii) The majority of shareholders have no right to confirm an illegal or ultravires transactions of the company. In such case an individual shareholder has right

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to restrain the company by an order or injunction of the court from carrying out an ultravires acts.

4. (a) (iii) According to section 244 of the Companies Act, 2013, in the case of a Company having share capital, the following member(s) have the right to apply to the Tribunal under section 241:

(a) Not less than 100 members of the Company or not less than one-tenth of the total number of members, whichever is less; or

(b) Any member or members holding not less than one-tenth of the issued share capital of the Company provided the applicant(s) have paid all the calls and other sums due on the shares.

Legal heir of the deceased shareholder with minority status is entitled to file the petition. In the given case, there are six shareholders. As per the condition (a) above, 10% of 6 i.e. 1 (round off 0.6) satisfies the condition. Therefore, in the light of the provisions of the Act, a single member (even the legal representative of a deceased shareholder) can present a petition to the Tribunal, regardless of the fact that he holds less than one-tenth of the Company's share capital.

4. (b) Section 348 of the Companies Act, 2013 states that, if the winding up of a company is not concluded within one year after its commencement then the Company Liquidator shall file a statement in such form containing such particulars as may be prescribed. Such statement shall be filled within two months of the expiry of such year and it shall be filled continuously thereafter until the winding up is concluded, at intervals of not more than one year or at such shorter intervals as may be prescribed. The statement shall be duly audited, by a person qualified to act as auditor of the company and position of with respect to the proceedings in the liquidation.

The statement shall be filled with the tribunal in the case of a winding up by the Tribunal. A copy shall simultaneously be filed with the Registrar and shall be kept by him along with the other records of the company. Where a statement relates to a Government company in liquidation, the Company Liquidator shall forward a copy thereof,

- to the Central Government, if that Government is a member of the Government company;
- to any State Government, if that Government is a member of the Government company; or
- to the Central Government and any State Government, if both the Governments are members of the Government company.

(i) If Paramount Limited is a Government Company:

in the current scenario, we can understand that the Paramount Limited is a government company in which Central Government is a member and hence statement is also required to file to the Central Government along with the Tribunal and Registrar. So, the opinion by the Company Liquidator is not tenable in the eyes of the law and he is liable for penal action under the Act.

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The company liquidator shall be punishable with fine which may extend to five thousand rupees for every day during which the failure continues.

(ii) If Paramount Limited is a Non-Government Company:

in the current scenario, the Paramount Limited is a non-government company hence statement is only required to file with the Tribunal and Registrar only. So, the opinion by the Company Liquidator is tenable in the eyes of the law and he is not liable for any penal action under the Act.

5. (a) (i) **List out the main features of a qualified and independent audit committee to be set up under SEBI (listing obligations and disclosure Requirements) Regulations, 2015.**
- (ii) **State the matters to be dealt with in the Management Discussion and Analysis Report as per SEBI guidelines on Corporate Governance.**
- (b) (i) **Upon an enquiry made by the Competition Commission of India it was found that Huge 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 Huge Limited. Referring to the provisions of the Competition Act, 2002, describe the matters which may be provided in the said order.**
- (ii) **Explain the provision as to Division of enterprise enjoying dominant position under the competition Act 2002?** [5+3+5+3=16]

Answer:

- 5 (a)(i) The main features of a qualified and independent audit committee to be set up under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 are as follows:
- 1 The audit committee shall have minimum three directors as members. Two-thirds of the members of audit committee shall be independent directors;
 - 2 All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise;
- i. Explanation (I): The term "financially literate" means the ability to read and understand basic financial statements i.e. balance sheet, profit and loss account, and statement of cash flows.
 - ii. Explanation (II): A member will be considered to have accounting or related financial management expertise if he or she possesses experience in finance or accounting, or requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

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- 3 The Chairperson of the Audit Committee shall be an independent director;
- 4 The Chairperson of the Audit Committee shall be present at Annual General Meeting to answer shareholder queries;
- 5 The Audit Committee at its discretion shall invite the finance director or the head of the finance function, head of internal audit and a representative of the statutory auditor and any other such executives to be present at the meetings of the committee; provided that occasionally, the Audit Committee may meet without the presence of any executives of the listed entity.;
- 6 The Company Secretary shall act as the secretary to the committee.

5.(a)(ii) A Management Discussion and Analysis Report should form part of the annual report to the shareholders; containing discussion on the following matters.

1. Opportunities and threats.
2. Segment-wise or product-wise performance.
3. Risks and concerns.
4. Discussion on financial performance with respect to operational performance.
5. Material development in human resource / industrial relations front.

5.(b)(i) According to section 28 of the Competition Act, 2002, the Commission, may, notwithstanding anything contained in any other law for the time being in force, by order in writing, direct division of an enterprise enjoying dominant position to ensure that such enterprise does not abuse its dominant position. The order may provide for all or any of the following matters, namely: —

- i. the transfer or vesting of property, rights, liabilities or obligations;
- ii. the adjustment of contracts either by discharge or reduction of any liability obligation or otherwise;
- iii. the creation, allotment, surrender or cancellation of any shares, stocks or securities;
- iv. the formation or winding up of an enterprise or the amendment of the memorandum of association or articles of association or any other instruments regulating the business of any enterprise;
- v. the extent to which, and the circumstances in which, provisions of the order affecting an enterprise may be altered by the enterprise and the registration thereof;
- vi. any other matter which may be necessary to give effect to the division of the enterprise.
- vii. The payment of compensation to any person who suffered any loss due to dominant position of such enterprise.

5.(b)(ii) The Commission, may, notwithstanding anything contained in any other law for the time being in force, by order in writing, direct division of an enterprise enjoying dominant position to ensure that such enterprise does not abuse its

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dominant position. The order may provide for all or any of the following matters, namely:

- (1) The transfer or vesting of property, rights, liabilities or obligations.
- (2) The adjustment of contracts either by discharge or reduction of any liability or obligation or otherwise.
- (3) the creation, allotment, surrender or cancellation of any shares, stocks or securities.
- (4) Omitted.
- (5) the formation or winding up of an enterprise or the amendment of the memorandum of association or articles of association or any other instruments regulating the business of any enterprise.
- (6) the extent to which, and the circumstances in which, provisions of the order affecting an enterprise may be altered by the enterprise and the registration thereof.
- (7) any other matter which may be necessary to give effect to the division of the enterprise. Notwithstanding anything contained in any other law for the time being in force or in any contract or in any memorandum or articles of association, an officer of a company who ceases to hold office as such in consequence of the division of an enterprise shall not be entitled to claim any compensation for such cesser.

6.(a) (i) Power of Reserve Bank to inspect authorized person under Foreign Exchange Management Act, 1999

(ii) What are the procedure for receiving Foreign Direct Investment (FDI) in an Indian company.

(b) Explain the powers and functions of IRDA.

[4+4+8=16]

Answer:

6.(a)(i) Power of Reserve Bank to inspect authorized person under Foreign Exchange Management Act, 1999 (A) The Reserve Bank may, at any time, cause an inspection to be made by any officer of the Reserve Bank specially authorised in writing by the Reserve Bank in this behalf, of the business of any authorised person as may appear to it to be necessary or expedient for the purpose of:

- 1 Verifying the correctness of any statement, information or particulars furnished to the Reserve Bank.
- 2 Obtaining any information or particulars which such authorised person has failed to furnish on being called upon to do so.
- 3 Securing compliance with the provisions of this Act or of any rules, regulations, directions or orders made thereunder.

(B) It shall be the duty of every authorised person, and where such person is a company or a firm, every director, partner or other officer of such company or firm, as the case may be, to produce to any officer making an inspection under

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subsection (1), such books, accounts and other documents in his custody or power and to furnish any statement or information relating to the affairs of such person, company or firm as the said officer may require within such time and in such manner as the said officer may direct.

- 6.(a) (ii)** An Indian company may receive Foreign Direct Investment (FDI) under the two routes as given under: (A) Automatic Route FDI is allowed under the automatic route without prior approval either of the Government or the Reserve Bank of India in all activities / sectors as specified in the consolidated FDI Policy, issued by the Government of India from time to time. (B) Government Route FDI in activities not covered under the automatic route requires prior approval of the Government which is considered by the Ministry of Finance, and is to be routed through relevant administrative ministry. The Indian company having received FDI either under the Automatic route or the Government route is required to comply with provisions of the FDI policy including reporting the FDI to the Reserve Bank of India.
- 6. (b)** The Authority shall have the duty to regulate, control, promote and ensure healthy development of insurance and re-insurance business. The powers and functions of the Authority includes inter-alia:
- (i) Issue, modify, and cancel, etc., of Registration certificate to the applicant.
 - (ii) Safeguarding the interests of the policyholders like insurable interests, settlement of claim, surrender value of the policy, etc.
 - (iii) Specifying code of conduct of the Surveyors.
 - (iv) Determining qualifications and training aspect of agents and intermediary.
 - (v) Levying fees and charges for their work.
 - (vi) Conducting investigations and enquiries relating to issues concerning insurance business.
 - (vii) Regulating and controlling business not controlled by Tariff Advisory committee under section 64 of Insurance Act 1938.
 - (viii) Regulatory investment funds by the Insurance Companies.
 - (ix) Regulating maintenance of margin of solvency.
 - (x) Adjudicating and settling disputes between intermediaries and insurers.
 - (xi) Supervising the functioning of Tariff Advisory Committee.
- 7. (a) (i) Explain how the provisions of the Companies Act, 2013 relating to Audit Committee will help in achieving some of the objectives of Corporate Governance**
- (ii) Explain the advantages of the family Businesses over Non –family Businesses?**
- (b) Corporate Social Responsibility (CSR) is also called Corporate Citizenship or Corporate Responsibility? — Discuss. [5+4+7=16]**

Answer:

7.(a) (i) Companies, particularly public listed companies raise huge amounts of monies from the members of the public and public financial institutions. They owe it to all the vast number of persons and institutions who have reposed their faith in them and have invested in them, that their faith is rewarded both in terms of annual return and in terms of wealth appreciation in real terms. In order to achieve this, it is vital to have the highest quality of corporate governance in the conduct of affairs of such companies. Thus, the role of audit committees have been enhanced, their responsibilities made more objective and the accountability, has increased substantially. In this context the provisions of the Companies Act, 2013 have been framed to improve corporate governance standards and protect the interests of the public and the financial institutions who have invested in companies. These provisions may be highlighted as under:

1. The constitution of Audit Committees under section 177(2) requires the majority representation from independent directors. In other words, persons from within the management cannot form a majority in the Committee, thereby making the functioning of these committees more transparent;
2. The proviso to section 177(2) further requires the majority of members and the chairperson of the Audit Committees to be persons who can understand financial statements. This enables a meaningful exercise of the committee's functions by knowledgeable persons thereby increasing the effectiveness of such committees.
3. Now the terms of reference or the minimum, scope of work of an Audit Committee has been laid down in the act itself under section 177(4). By doing this the vagueness and doubt in the role and functions of such committees has been removed.
4. The Audit Committee shall have authority to investigate, into any matter in relation to the areas of its scope of functioning or referred to it by the Board and for this shall have power to obtain professional advice from external sources and have full, access to information contained in the records of the company. This provides the Audit Committee to function with a high degree of effectiveness by accessing external professional advice and the records of the company.
5. The recommendations of the Audit Committee are binding' on the Board to take appropriate corrective actions. In case the Board of Director refuses to accept the recommendations of the Audit Committee, it bound to disclose the same with the reasons for non-acceptance, in its report to the members of the company under section. 134 (3) which relates to the Directors Report on Financial Statements to the members of the company. It will be seen from the above provisions of the Companies Act, 2013 that efforts have been made to make such committees more impartial, effective and accountable which will enable the company to improve the quality of its corporate governance thereby improving accountability and avoiding financial impropriety

7.(a)(ii) Family businesses identify a number of positive differences over non-family businesses. These include commitment and passion towards the success of the business, being able to make quick market focused decisions, having a deep

industry knowledge, etc. Some of the advantages that family businesses share over non-family enterprises include the following:

- (7) **Commitment, Passion and Dedication:** It is believed that owners tend to take better care of their businesses as they have greater personal stakes involved. Family businesses are more appreciative of their talent.
- (8) **Agile decision-making abilities:** Not having responsibilities towards any shareholders gives the Indian family businesses greater flexibility in terms of making decisions faster, improving the speed with which they launch new initiatives, change operations, evaluate new business opportunities, etc.
- (9) **Deep industry insight:** Family businesses gain significant experience and expertise as they typically work in one industry for longer durations. This gives them the added advantage of understanding and appreciating the challenges faced in that industry much better than any non-family businesses.
- (10) **Mutual trust:** Family businesses thrive on mutual trust and believe in maintaining long-term relationships by providing a conducive, supportive and trusting work environment

7.(b) Corporate social responsibility (CSR) is a self-regulating business model that helps a company be socially accountable to itself, its stakeholders, and the public. By practicing corporate social responsibility, also called corporate citizenship, companies can be conscious of the kind of impact they are having on all aspects of society, including economic, social, and environmental.

Corporate social responsibility (CSR) refers to strategies that companies put into action as part of corporate governance that are designed to ensure the company's operations are ethical and beneficial for society.

1. Environmental responsibility:

Environmental responsibility initiatives aim to reduce pollution and greenhouse gas emissions and the sustainable use of natural resources.

2. Human rights responsibility:

Human rights responsibility initiatives involve providing fair labor practices (e.g., equal pay for equal work) and fair trade practices, and disavowing child labor.

3. Philanthropic responsibility

Philanthropic responsibility can include things such as funding educational programs, supporting health initiatives, donating to causes, and supporting community beautification projects.

4. Economic responsibility

Economic responsibility initiatives involve improving the firm's business operation while participating in sustainable practices – for example, using a new manufacturing process to minimize wastage.

Business Benefits of CSR:

In a way, corporate social responsibility can be seen as a public relations effort. However, it goes beyond that, as corporate social responsibility can also boost a firm's competitiveness. The business benefits of corporate social responsibility include the following:

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1. Stronger brand image, recognition, and reputation: CSR adds value to firms by establishing and maintaining a good corporate reputation and/or brand equity.
2. Increased customer loyalty and sales: Customers of a firm that practices CSR feel that they are helping the firm support good causes.
3. Operational cost savings: Investing in operational efficiencies results in operational cost savings as well as reduced environmental impact.
4. Retaining key and talented employees: Employees often stay longer and are more committed to their firm knowing that they are working for a business that practices CSR.
5. Easier access to funding: Many investors are more willing to support a business that practices CSR.
6. Reduced regulatory burden: Strong relationships with regulatory bodies can help to reduce a firm's regulatory burden.

- 8. Write short notes any four of the following: [4x4=16]**
- (a) Persons who are not entitled to initiate insolvency resolution process**
 - (b) Lock - in of Specified Securities held by promoters**
 - (c) Foreign Currency Convertible Bond under FEMA,1999**
 - (d) Activities not to be considered as CSR Activities**
 - (e) Responsibilities of the Board of State Owned enterprises**

Answer:

- 8. (a)** Persons who are not entitled to initiate Insolvency resolution process The Code states that a corporate debtor (which includes a corporate applicant in respect of such corporate debtor) shall not be entitled to make an application to initiate corporate insolvency resolution process [Section 11 of Insolvency and Bankruptcy Code, 2016] in the following cases:
- (i)** when undergoing a corporate insolvency resolution process; or
 - (ii)** having completed corporate insolvency resolution process twelve months preceding the date of making of the application; or
 - (iii)** or a financial creditor who has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under this Chapter; or.
 - (iv)** in respect of him a liquidation order has been made. Thus, application to initiate insolvency resolution process cannot be filed within 12 months or if there were violation of conditions or where order of liquidation has been made.
- 8. (b)** Guidance on Implementation of Principles and Core Elements Successful implementation of the Principles and Core elements require that all of them need to be integrated and embedded in the core business processes of an enterprise. This requires, specifically that the following actions are taken:
- i. Leadership:** The Chairman/CEO/Owner/Manager should play a proactive role in convincing the board/Top Management and staff within the business that adopting these principles is crucial-for success. The board and senior

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management need to ensure that the principles are fully understood across the organization and comprehensively executed.

- ii. Integration: These principles and core elements must be embedded in the Business policies and strategies emanating from the core business purpose of the organization. For this to happen, these must align with each businesses internal values and/or must provide clear business benefits.
- iii. Engagement: Building strong relationships and engaging with stakeholders on a consistent, continuous basis is crucial.
- iv. Reporting: Implementation process includes disclosure by companies of their impact on society an environment to their stakeholders.

8.(c) Foreign Currency Convertible Bond (FCCB) under FEMA,1999 “Foreign Currency Convertible Bond” (FCCB) under Foreign Exchange Management Act, 1999 means a bond issued by an Indian company expressed in foreign currency, the principal and interest of which is payable in foreign currency. FCCBs are issued in accordance with the Foreign Currency Convertible Bonds and ordinary shares (through depository receipt mechanism) Scheme, 1993 and subscribed by a non-resident entity in foreign currency and convertible into ordinary shares of the issuing company in any manner, either in whole, or in part.

8. (d) Corporate Social Responsibilities (CSR) is an integrated combination of policies programs, education, and practices which extend throughout a corporation operations and into the communities in which they operate, about how companies voluntarily manage the business processes to produce an overall, positive impact on society CSR can mean different things to different people:

- For an employee it can mean fair wages, no discrimination, acceptable working conditions etc.
- For a shareholder it can mean making responsible and transparent decisions regarding the use of capital.
- For suppliers it can mean receiving payment on time. • For customers it can mean delivery on time etc.
- For local communities and authorities it can mean taking measures to protect the environment from pollution.
- For non- governmental organization and pressure groups it can mean disclosing business practices and performance on issues ranging from energy conservation and global warming to human rights and animal rights, from protection of the rainforests and endangered species to child and forced labour etc.
- For a company, however, it can simply be seen as responding to the needs and concerns of people who can influence the success of the company and/or whom the company can impact through its business activities, processes and products.

8. (e) Responsibilities of The Boards of State- Owned Enterprises The boards of the state owned enterprises should have the necessary authority, competencies, and objectivity to carry out their function of strategic guidance and monitoring of management. They should act with integrity and be held accountable for their

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actions the boards of SOEs should be assigned a clear mandate and ultimate responsibility for the company's performance.

- The board should be fully accountable to the owners, act in the best interest of the company, and treat all shareholders equally.
- SOE boards should carry out their functions of monitoring of management and strategic guidance, subject to the objectives set by the government and the ownership entity. They should have the power to appoint and remove the CEO.
- The boards of SOEs should be so composed that they can exercise objective and independent judgment. Good practice calls for the chair to be separate from the CEO.
- SOE boards should carry out an annual evaluation to appraise their performance.