Paper 13 – CORPORATE LAWS AND COMPLIANCE

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Full Marks: 100 **Time Allowed: 3 Hours**

Answer Question No. 1 which is compulsory carries 20 marks and answer any 5 Question from Q. No 2 to Q. No. 8

(1) Answer all questions mentioned below [10x2=20]
Mark the correct answer and state with justification:

(A) Filing a copy of winding up petition made with the registrar is to be made mandatorily within
- **(i) 15 day's**
- **(ii) 30 day's**
- **(iii) 45 day's**
- **(iv) 60 day's**

(B) Every Nidhi shall maintain Net Owned Funds amounting to at least
- **(i) ₹ 5 lakh**
- **(ii) ₹ 10 lakh**
- **(iii) ₹ 15 lakh**
- **(iv) ₹ 20 lakh**

(C) The Companies Act, 2013 specified 'Small Shareholder' as a shareholder holding shares of nominal value of not more than:
- **(i) ₹ 15,000**
- **(ii) ₹ 20,000**
- **(iii) ₹ 25,000**
- **(iv) ₹ 30,000**

(D) As per The Securities Exchange Board of India Act, 1992 Revised Clause 49 (VI) is applicable to:
- **(i) Top 100 companies by market capitalisation**
- **(ii) Top 200 companies by market capitalisation**
- **(iii) Only (i) above**
- **(iv) Only (ii) above**

(E) The Central Govt. may remove from office of the President, Chairperson or any other Member of the National Company Law Tribunal (NCLT) who:
- **(i) Has been adjudged an insolvent**
- **(ii) Has been convicted as an offence and which involves moral turpitude**
- **(iii) Has become physically or mentally incapable to act on the same position**
- **(iv) All the above**

(F) Every listed Public Company shall have 'Independent Directors' of at least
- **(i) 1/3 rd of the total number of Directors**
- **(ii) 2/3 rd of the total number of Directors**
- **(iii) ¼ th of the total number of Directors**
- **(iv) 2/4 th of the total number of Directors**

(G) As per SEBI (ICDR) Regulations, 2009 in case of Initial Public Offer/IPO, the minimum Promoters' contribution should not be:
- **(i) < 15% of the post issue capital**
- **(ii) < 20% of the post issue capital**
- **(iii) < 25% of the post issue capital**
- **(iv) < 30% of the post issue capital**

(H) Rule 3 of the Companies (Appointment and Qualification of Directors) Rules, 2014 provides that companies shall appoint at least one woman director:
- **(i) Where paid-up share capital is at least ₹ 100 crore**
- **(ii) Turnover of the company is at least ₹ 300 crore**
- **(iii) Both the above**
- **(iv) None of the above**

(I) Every company shall hold the first meeting of the Board of Directors within how many day's of the date of incorporation:
(i) 15 day's
(ii) 30 day's
(iii) 45 day's
(iv) 60 day's

(J) Export under Foreign Exchange Management Act, 1999 means:
(i) the taking out of India to a place outside India any goods.
(ii) provision of services from India to any person outside India.
(iii) both the above
(iv) none of the above

Answer:

(1) (A) (iv) **Justification-** A copy of the petition of winding up made under the Companies Act, 2013, shall be filed with the Registrar without any prejudice to any other provisions to be submitted to the Tribunal within 60 day's of receipt of such petition.

(B) (ii) **Justification-** Every Nidhi shall maintain Net Owned Funds (excluding the proceeds of any preference share capital) of not less than ten lakh rupees or as specified by the Central Government , from time to time.

(C) (ii) **Justification-** According to Section 151 of the Companies Act,2013, 'small shareholder' means a shareholder holding shares of nominal value of not more than 20,000 or such other sum as may be prescribed.

(D) (i) **Justification-** As per Clause 49(VI) of the Revised Clause 49 of the Listing Agreement and Guidelines Issued Under Clause 49; risk management is applicable only to the top 100 companies by market capitalisation as at the closing of immediate previous financial year.

(E) (iv) **Justification-** Section 417 of the Companies Act, 2013, is dealing in National Company Law Tribunal where it has been stated that the Central Govt. may, after consultation with the Chief Justice of India may remove from the office the President, Chairperson or any Member on all the mentioned grounds.

(F) (i) **Justification-** Under Section 149(4) of the Companies Act, 2013 it has been stated that every listed public company shall have at least 1/3 rd of the total number of directors as independent directors.

(G) (ii) **Justification-** Under Regulation 32 of the SEBI Issue of Capital and Disclosure Requirements Regulations 2009, it has been stipulated that in case of an Initial Public Offer, the minimum contribution of the promoters' should not be less than 20% of the post issue capital.

(H) (iii) **Justification-** Rule 3 of the Companies (Appointment and qualification of Directors) Rules, 2014 provides that the following class of companies shall appoint at least one woman director:

(1) every listed company.
(2) every other public company having.
(a) paid–up share capital of one hundred crore rupees or more; or
(b) turnover of three hundred crore rupees or more.

At least one woman director shall be on the Board of such class or classes of companies as may be prescribed. [Second proviso to section 149(1).

(I) (ii) **Justification-** Section 173 of The Companies Act, 2013 states that every company shall hold the first meeting of the Board of Directors within 30 days of the date of its incorporation.

(J) (iii) **Justification-** Under Section 2(I) of FEMA, 1999 'export', with its grammatical variations and cognate expressions, means both (i) the taking out of India to a place outside India any goods. (ii) provision of services from India to any person outside India.

(2) (a) Under what circumstances is a director deemed to have vacated the office of Directorship? 10

(b) State the Powers of the Registrar or Inspector under the Companies Act, 2013 6

Answer:

2. (a) (1) The office of a director shall become vacant in case [Section 167(1)]:

(i) he incurs any of the disqualifications specified in section 164.
(ii) he absents himself from all the meetings of the Board of Directors held during a period of 12months with or without seeking leave of absence of the Board.
(iii) he acts in contravention of the provisions of section 184 relating to entering into contracts or arrangements in which he is directly or indirectly interested.
(iv) he fails to disclose his interest in any contract or arrangement in which he is directly or indirectly interested, in contravention of the provisions of section 184.
(v) he becomes disqualified by an order of a court or the Tribunal.
(vi) he is convicted by a court of any offence, whether involving moral turpitude or otherwise and sentenced in respect thereof to imprisonment for not less than 6 months. It is further provided that the office shall be vacated by the director even if he has filed an appeal against the order of such court.
(vii) he is removed in pursuance of the provisions of this Act.
(viii) he, having been appointed a director by virtue of his holding any office or other employment in the holding, subsidiary or associate company, ceases to hold such office or other employment in that company.

(2) If a person, functions as a director even when he knows that the office of director held by him has become vacant on account of any of the disqualifications specified in sub-section (1), he shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than ₹1,00,000 but which may extend to ₹ 5,00,000, or with both. [Section 167 (2)].

(3) Where all the directors of a company vacate their offices under any of the disqualifications specified in sub-section (1), the promoter or, in his absence, the Central Government shall appoint the required number of directors who shall hold office till the directors are appointed by the company in the general meeting. [Section 167 (3)].

(4) A private company may, by its articles, provide any other ground for the vacation of the office of a director in addition to those specified in sub-section (1). [Section 167 (4)].

(b) Powers of the Registrar or Inspector [Section 207 (2) & (3)]

(1) The Registrar or Inspector making an inspection or inquiry under section 206 may, during the course of such inspection or inquiry, as the case may be:

(a) make or cause to be made copies of books of account and other books and papers, or

(b) place or cause to be placed any marks of identification in such books in token of the inspection having been made.

(2) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, the Registrar or Inspector making an inspection or inquiry shall have all the powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:

(a) the discovery and production of books of account and other documents, at such place and time as may be specified by such Registrar or Inspector making the inspection or inquiry,

(b) summoning and enforcing the attendance of persons and examining them on oath, and

(c) inspection of any books, registers and other documents of the company at any place.

(3) (a) JKL Company Ltd has gone into winding up. The winding up proceedings have already commenced but the winding up could not be completed within a period of two years. Referring to the provisions of companies act' 1956 answer the following

(i) As the official liquidator what duties are required to perform in relation to the filing of petition?

(ii) What shall be your answer if JKL Company ltd is a Government Company? 3+3 =6

(b) State the prohibitions on Acceptance of Deposits from Public as specified u/s 73 of the Companies Act 10

Answer:

3. (a) Winding up: Duties of Official Liquidator: Consequences of failure (Section 551 of the Companies Act, 1956)

(i) According to Section 551(1) of the Companies Act, 1956, when the winding-up of a company is not concluded within one year after its commencement the liquidator shall, unless exempted from so doing either wholly or in part by the Central Government, within two months of the expiry of such year and thereafter, until the winding-up is concluded, at intervals of not more than one year or at such shorter intervals, if any, as may be prescribed, file a statement in the prescribed form.

The statement shall contain necessary particulars and be audited by a person qualified to act as auditor of the company. These particulars must be with respect to the proceeding in and position of the liquidation.

In the case of a winding-up being carried on by or under the supervision of the Court, the aforesaid statement is to be filed in the Court but in the case of a voluntary winding-up, it is to be filed with the Registrar. However, an audit is not necessary in case of winding-up by the Court, where provisions of Section 462 of the Companies Act, 1956, apply.

Simultaneously with the filing of a copy of the statements of account in the Court, a copy shall be filed with a Registrar. [Section 551 (2)]

(ii) According to section 551(2A) of the Companies Act, 1956, in the case of a government company, the copy of the statement as mentioned in section 551(1) shall be filed with;

(a) The Central Government if that Government is a member of the Government company, or
(b) The State Government if that Government is a member of the Government company, or
(c) The Central Government and any State Government, if both the Governments are members of the Government Company.

(iii) If a liquidator fails to comply with any of the above requirements, he shall be punishable with fine which may extend to five thousand rupees for every day during which the failure continues.

However, if the liquidator makes wilful default in causing the statement referred to in section 551(1) to be audited by a person qualified to act as auditor of the company, the liquidator shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.

(b) Under Section 73, provisions as to acceptance of deposits by companies have been considerably modified and made more stringent in the Companies Act, 2013.

(a) On and after the commencement of this Act, no company shall invite, accept or renew deposits under this Act from the public except in a manner provided under this Chapter.
Provided that nothing in this Sub-Section shall apply to a banking company and non-banking financial company as defined in the Reserve Bank of India Act, 1934 and to such other company as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.

(b) A company may, subject to the passing of a resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, including the provision of security, if any, or for the repayment of such deposits with interest, as may be agreed upon between the company and its members, subject to the fulfilment of the following conditions, namely:
(i) issuance of a circular to its members including therein a statement showing the financial position of the company, the credit rating obtained, the total number of depositors and the amount due towards deposits in respect of any previous deposits accepted by the company and such other particulars in such form and in such manner as may be prescribed.
(ii) filing a copy of the circular along with such statement with the Registrar within thirty days before the date of issue of the circular.
(iii) depositing such sum which shall not be less than fifteen per cent of the amount of its deposits maturing during a financial year and the financial year next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account.
(iv) providing such deposit insurance in such manner and to such extent as may be prescribed.
(v) certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits, and
(vi) providing security, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on the property or assets of the company.

Provided that in case where a company does not secure the deposits or secures such deposits partially, then, the deposits shall be termed as 'unsecured deposits'

and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.

(c) Every deposit accepted by a company under Sub-Section (2) shall be repaid with interest in accordance with the terms and conditions of the agreement referred to in that Sub-Section.

(d) Where a company fails to repay the deposit or part thereof or any interest thereon under Sub-section (3) the depositor concerned may apply to the Tribunal for an order directing the company to pay the sum due or for any loss or damage incurred by him as a result of such non-payment and for such other orders as the Tribunal may deem fit.

(e) The deposit repayment reserve account referred to in clause (c) of Sub-Section (2) shall not be used by the company for any purpose other than repayment of deposits.

(4) (a) On recommendation of the Board of Directors of DJA Company Ltd, Mr R is appointed at the company's annual general meeting held on 01-Oct-2014 as the company's auditor for a period of 10 years. A resolution to this effect was passed unanimously with no vote against the resolution. Explaining the provisions of the companies act' 2013 relating to the appointment and re-appointment of auditors:

(i) Examine the validity of the above resolution

(ii) What shall be your answer in case an audit firm R & Associate is appointed as the company's auditor. 4+4=8

(b) State the justification and advantages of the Rule in Foss v. Harbottle 8

Answer:

4. (a) Appointment of Auditor [Section 139 of the Companies Act, 2013 and the Companies (Audit and Auditors) Rules, 2014]:

Section 139(2) of the Companies Act, 2013, provides that listed companies and other prescribed class or classes of companies (except one person companies and small companies) shall not appoint or re-appoint:

(i) An individual as auditor for more than one term of five consecutive years; and

(ii) An audit firm as auditor for more than two terms of five consecutive years.

The Companies (Audit and Auditors) Rules, 2014 has prescribed the following classes of companies for the purposes of section 139(2):

(1) All unlisted public companies having paid up share capital of rupees 10 crore or more;

(2) All private limited companies having paid up share capital of rupees 20 crore or more;

(3) All companies having paid up share capital of below threshold limit mentioned in (1) and (2) above, but having public borrowings from financial institutions, banks or public deposits of rupees 50 crores or more.

(i) In the above question, on recommendation of the Board of Directors of DJA Company Limited, Mr. R is appointed at the company's Annual General Meeting held on 1st October, 2014 as the company's auditor for a period of 10 years. As per the above provisions of the Companies Act, 2013, the appointment of Mr. R as auditor of the company for 10 years is not valid because an individual shall not be appointed as auditor for more than one term of five consecutive years. The said resolution is not valid.

[**Note:** As the question does not specify the status of the company whether listed or unlisted; amount of paid up share capital, public borrowings from financial institutions, banks or public deposits are not known; it is assumed that DJA Company Limited is a listed company or within the prescribed classes of companies specified under the above said Rules].

(ii) An audit firm can be appointed as an auditor for two terms of five consecutive years. This means that a firm can be appointed for five years and thereafter may be appointed/reappointed for further five years. The total period for which a firm can be appointed is 10 years. A firm cannot be appointed as auditor for ten years by single resolution.

Thus, the appointment of R & Associate as the company's auditor for ten years a single resolution is not valid.

(b) The justification for the rule laid down in **Foss v. Harbottle** is that the will of the majority prevails. On becoming a member of a company, a shareholder agrees to submit to the will of the majority. The rule really preserves the right of the majority to decide how the company's affairs shall be conducted. If any wrong is done to the company, it is only the company itself, acting, as it must always act, through its majority, that can seek to redress and not an individual shareholder. Moreover, a company is a person at law and the action is vested in it and cannot be brought by a single shareholder. Where there is a corporate body capable of filing a suit for itself to recover property either from its directors or officers or from any other person then that corporate body is the proper plaintiff and the only proper plaintiff [Gray v. Lewis, (1873) 8 Ch. Appl. 1035].

The main advantages that flow from the Rule in Foss v. Harbottle are of a purely practical nature and are as follows:

1. **Recognition of the separate legal personality of company:** If a company has suffered some injury, and not the individual members, it is the company itself that should seek to redress.
2. **Need to preserve right of majority to decide:** The principle in Foss v. Harbottle preserves the right of majority to decide how the affairs of the company shall be conducted. It is fair that the wishes of the majority should prevail.
3. **Multiplicity of futile suits avoided:** Clearly, if every individual member were permitted to sue anyone who had injured the company through a breach of duty, there could be as many suits as there are shareholders. Legal proceedings would never cease, and there would be enormous wastage of time and money.
4. **Litigation at suit of a minority futile if majority does not wish it:** If the irregularity complained of is one which can be subsequently ratified by the majority it is futile to have litigation about it except with the consent of the majority in a general meeting.

(5) (a) Discuss the Acts taking place outside India but having an effect on competition in India 8

(b) What are the conditions to be fulfilled for issue of IDR? 8

Answer:

5. (a) Acts taking place outside India but having an effect on competition in India has been discussed u/s 32 of the Competition Act, 2002. The commission shall, notwithstanding that:

(i) An agreement referred to in Section3 has been entered into outside India, or

(ii) Any party to such agreement is outside India, or
(iii) Any enterprise abusing the dominant position is outside India, or
(iv) A combination has taken place outside India, or
(v) Any party to combination is outside India, or
(vi) Any other matter or practice or action out of such agreement or dominant position or combination is outside India,

Have power to inquire in accordance with the provisions contained in Sections 19, 20, 26, 29 and 30 of the Act into such agreement or abuse of dominant position or combination if such agreement or dominant position or combination has, or is likely to have, an appreciable adverse effect on competition in the relevant market in India and pass such orders as it may deem fit in accordance with the provisions of this Act.

(b) 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 maintained in the prospectus
(iii) Minimum application amount should be Rs 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. Allotment to investors within a category will be on proportionate basis.
Further, at least 30% of the IDR issued will be allocated to retail individual investors and in case of under-subscription in retail individual investor category, spill over to other categories to the extent of under-subscription may be permitted.
(vi) At any given time, there will be only one denomination of IDR of the issuing company.

(6) (a) What do you mean by Non-performing asset? 2
(b) State the winding up procedure of Banking Companies 6
(c) State the Benefits of the Foreign Exchange Management Act 1999? 8

Answer:

6. (a) "Non-performing asset" is discussed under Section 2(0) of The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 as an asset or account of a borrower, which has been classified by a bank or financial institution as sub-standard, doubtful or loss asset,
(i) in case such bank or financial institution is administered or regulated by any authority or body established, constituted or appointed by any law for the time being in force, in accordance with the directions or guidelines relating to assets classifications issued by such authority or body.
(ii) in any other case, in accordance with the directions or guidelines relating to assets classifications issued by the Reserve Bank.

(b) Sections 38 to 44 of the Act lay down the provisions for winding up of a banking company. The RBI may apply for the winding up of a banking company if.
(i) It fails to comply with the requirements as to minimum Paid-up capital and reserves as laid down in Section 11, or

(ii) Is disentitled to carry on the banking business for want of license under Section 22, or
(iii) It has been prohibited from receiving fresh deposits by the Central Government or the Reserve Bank, or
(iv) It has failed to comply with any requirement of the Act, and continues to do so even after the Reserve Bank calls upon it to do so, or
(v) The Reserve Bank thinks that a compromise or arrangement sanctioned by the court cannot be worked satisfactorily, or
(vi) The Reserve Bank thinks that according to the returns furnished by the company it is unable to pay its debts or its continuance is prejudicial to the interests of the depositors.

The banking company cannot be voluntarily wound up unless the Reserve Bank certifies that it is able to pay its debts in full.

(c) In the FERA regime accent was to regulate everything that was specified, relating to foreign exchange whereas FEMA lay down that 'everything other than what is expressly covered is not controlled'. The overriding objective of FERA was to regulate and minimize dealings in foreign exchange and foreign securities while FEMA on the other hand aims to aid in creation of a liberal foreign exchange market in India. It is also to be understood that the foreign exchange reserves started increasing after the liberalization regime and foreign exchange was started to be allowed more freely in contrast to the earlier FERA regime.

This difference in terminology reflects seriousness of government towards deregulation of foreign exchange and promotion of free flow of international trade. To facilitate external trade, section 5 of the Act removes restrictions on withdrawal of foreign exchange for the purpose of current account transactions. As external trade i.e., imports/export of goods & services involve transactions on current account, there is no need for seeking RBI permissions in connection with remittances involving external trade. All transactions which fall within the category current account transactions are deemed permitted unless expressly specified and in respect of capital account transactions, they need to be expressly permitted to be transacted.

(7) (a) Explain Government to Business (G2B) initiatives of e-Governance in India 8
(b) State the 'Role of the Board of Directors' & 'Role of the CEO' Corporate Governance in family business 8

Answer:

7. (a) Government to Business (G2B) initiatives

G2B initiatives encompass all activities of government which impinge upon business organizations. These include registrations under different statutes, licenses under different laws and exchange of information between government and business. The objective of bringing these activities under e-Governance is to provide a congenial legal environment to business, expedite various processes and provide relevant information to business. Some of the important initiatives are furnished below:

(i) **e-Procurement Project in Andhra Pradesh -** It is an initiative for procurement of material through e-tender process by avoiding human interface i.e., supplier and buyer interaction during the pre-bidding and post-bidding stages.
(ii) **e-Procurement in Gujarat -** It is an initiative to establish transparency in procurement process, shortening of procurement cycle, availing of competitive price, enhancing confidence of suppliers and establishing flexible and economical bidding process for suppliers.

(iii) **MCA 21 -** This project aims at providing easy and secure online access to all registry related services provided by the Union Ministry of Corporate Affairs (MCA) to corporates and other stakeholders at any time and in a manner that best suits them. MCA made it mandatory for some companies having fulfilled the stipulated criteria to file their Balance Sheet and Profit and Loss account statements in XBRL (Extensible Business Reporting Language). With the development of taxonomies for Banks, Insurance, Non-Banking Finance Companies and Power sector, the companies operating in these sectors would also be filing their financial reports in XBRL.

(b) Role of the Board of Directors-Constitution of the Board place an important role in managing the Family Owned Businesses. The Board is expected to takes independent/unbiased decisions and the board members are the 'trustees' of the shareholders, especially the minority group. They should be in a position to provide transparent data and take decisions in the best interest of the shareholders. When it comes to board membership, most family Controlled businesses reserve this right to members of the family and in a few cases to some well trusted non-family managers. This practice is generally used to keep family control over the direction of its business. Indeed, most decisions are usually taken by the family member directors. Family directors who are also managers in the business would naturally encourage reinvesting profits in the company so as to increase its growth potential. On the contrary, family directors who do not work in the business would rather make the decision of distributing the profits as dividends to family shareholders. These gainsay views can lead to major conflicts in the board and negatively impact its way of Functioning.

Role of the CEO-In selecting the CEO of a company, one should want the organization to be run by the 'most competent' person with professional knowledge and experience. Being employee of firm the CEO has accountability and responsibility to the organization and its shareholders. He or she should be able to be questioned by an 'independent' authority called the Board or Chairperson of the company. In a worst case situation if found unsuitable, he/she is asked to relinquish the position. Practically, it is when the CEO is a family member; this becomes quite difficult and awkward which can create further unsuitable problems for management and as a whole business. This family CEO believes that being owner of majority share owner he has full right for different experiments as well to do according to their force.

(8) Write short notes on: (4 Questions are to be answered) [4x4=16]

(i) Director Identification Number
(ii) Indian Depository Receipts
(iii) Cognizable offence and Non-Cognizable Offence
(iv) Resolution by circulation passed by board
(v) Actuarial Valuation/Report

Answer:

8. (1) Director Identification Number' (DIN) -Director Identification Number' (DIN) means an identification number allotted by the Central Government to any individual, intending to be appointed as director or to any existing director of a company, for the purpose of his identification as a director of a company. Section 153 to 157 of the Companies Act, 2013 provide for making application to Central Government for allotment of DIN and other matters connected there with. Section 153 of the Act deals with the filing of application to the Central Government for allotment of DIN. According to it, every individual intending to be appointed as director of a company shall make an application for allotment of DIN to the Central Government in such form and manner and along with such fees as may be prescribed.

Rule 9 of the Companies (Appointment and Qualification of Directors) Rules, 2014 provides a detailed procedure for making application for allotment of DIN.

(2) Indian Depository Receipts - A foreign company can access Indian securities market for raising funds through issue of Indian Depository Receipts (IDRs). An IDR is an instrument denominated in Indian Rupees in the form of a depository receipt created by a Domestic Depository (custodian of securities registered with the Securities and Exchange Board of India) against the underlying equity of issuing company to enable foreign companies to raise funds from the Indian securities markets.

An issuing company making an issue of IDR is required to satisfy the following:

(a) it should be listed in its home country.
(b) it should not be prohibited to issue securities by any regulatory body.
(c) it should have a track record of compliance with securities market regulations in its home country.

(3) Cognizable offence and Non-Cognizable Offence - According to the Companies Act, 2013, 'Cognizable offence' is an offence and 'Cognizable case' is a case for which a police officer may arrest without warrant, while 'Non-cognizable offence' is an offence and 'Non-cognizable case' is a case for which a police officer has no authority to arrest without warrant. Schedule I specifies which offences are cognizable and which are non-cognizable under the Indian Penal Code and under other statutes. Non-cognizable cases are considered less grave than cognizable cases. Likewise, non-cognizable offences are considered less serious than cognizable offences.

A police officer can investigate a cognizable case without an order of a magistrate, but he cannot investigate without such order if the case is non-cognizable one. If a case involves one or more cognizable offence it would be a cognizable case even if other offence or offences may be non-cognizable.

(4) Resolution by Circulation passed by Board- The Act requires certain business to be approved only at meetings of the Board. However, other business that require urgent decisions can be approved by means of Resolution passed by circulation. Resolution passed by circulation shall be deemed to be passed at a duly convened Meeting of the Board and have equal authority. Section 175 of the Act provides for Passing of resolution by circulation. According to this section:

(a) The Act allows the Board of directors to pass resolution by circulation also. No resolution shall be deemed to have been duly passed by the Board or by a Committee thereof by circulation unless:
    (1) The resolution has been circulated in draft, together with the necessary papers, if any, to all the directors, or members of the Committee, as the case may be,
    (2) at their addresses registered with the company in India,
    (3) by hand delivery or by post or by courier, or through such electronic means as may be prescribed, and has been approved by a majority of the directors or members, who are entitled to vote on the resolution. If at least 1/3rd of the total number of directors of the company for the time being require that any resolution under circulation must be decided at a meeting, the chairperson shall put the resolution to be decided at a meeting of the Board.
(b) A resolution that has been passed by circulation shall have to be necessarily be noted in the next meeting of board or the committee, as the case may be, and made part of the minutes of such meeting.

(c) According to Secretarial Standards, not more than seven days from the date of circulation of draft resolution shall be given to the Directors to respond.

(4) Actuarial Valuation/Report - Under Section 13 of The Insurance Act, 1938 it has been stated that 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, having regard to the circumstances of any particular insurer, allow him to have the investigation made as at a date not later than two years from the date as at which the previous investigation was made. If the investigation is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every three years.