

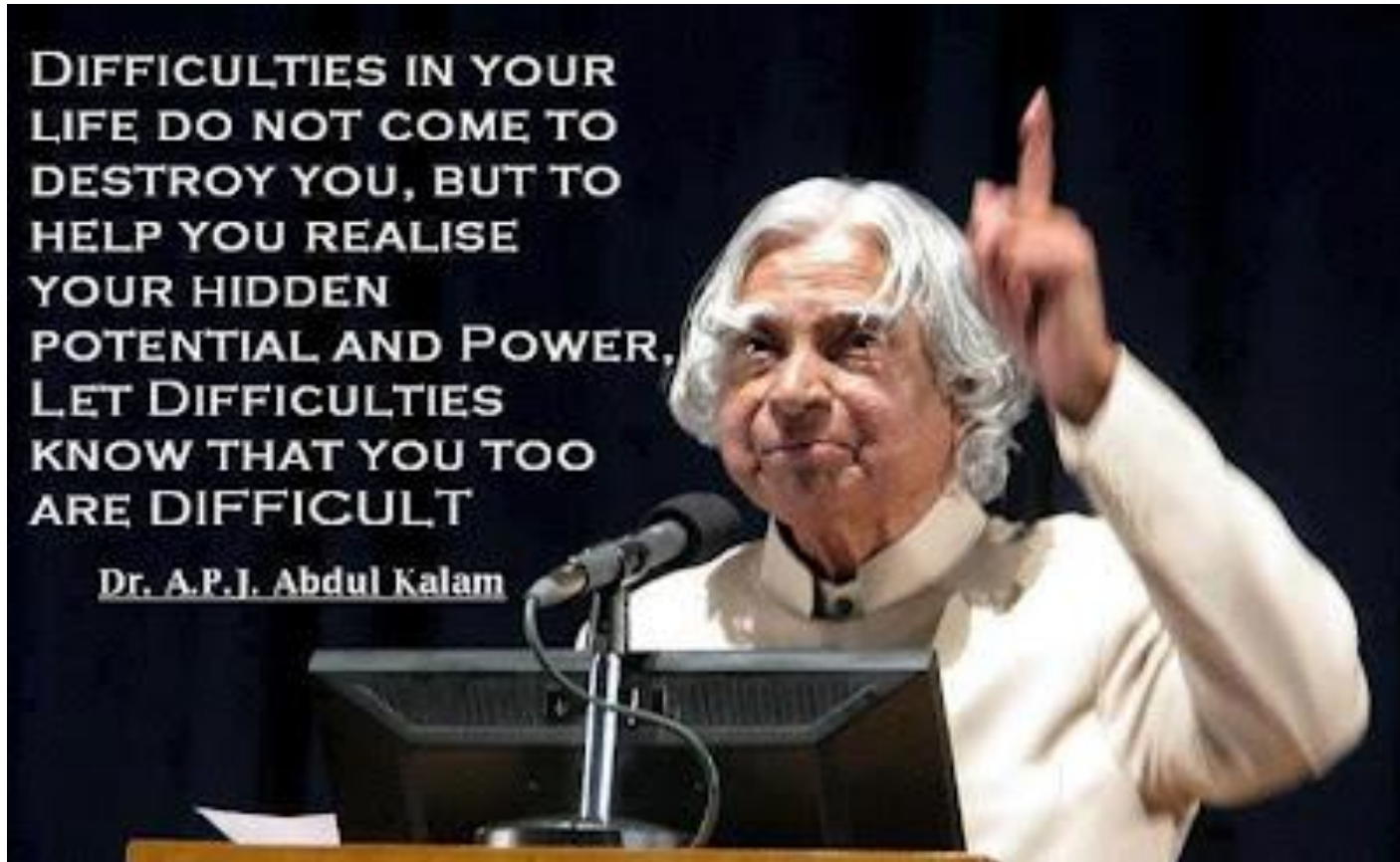


***EMERGING AREAS FOR
PRACTISING COMPANY
SECRETARIES FOUR SQUARE AUDIT***

***CS. AHALADA RAO.V.
ICSI COUNCIL MEMBER***

DIFFICULTIES IN YOUR
LIFE DO NOT COME TO
DESTROY YOU, BUT TO
HELP YOU REALISE
YOUR HIDDEN
POTENTIAL AND POWER.
LET DIFFICULTIES
KNOW THAT YOU TOO
ARE DIFFICULT

Dr. A.P.J. Abdul Kalam



PRACTISING COMPANY SECRETARIES
ACHIEVEMENTS
AND
WAY FORWARD





COVERAGE

- Prerequisites for a PCS
- Existing practices
- Emerging areas for practice
- ICSI regulations

First statutory recognition for PCS

The provisions relating to certification of Annual Return by PCS was inserted by the Companies (Amendment) Act, 1988, sec. 23(a)(ii) w.e.f 15-6-1988 vide GSR No. 559(E), dated 10-6-1988. The clause reads as under:

“Provided that where the annual return is filed by a company whose shares are listed on a recognized stock exchange, the copy of such annual return shall also be signed by a secretary in while-time practice.”





EXISTING PRACTICES





EXISTING PRACTICES

COMPLIANCE ASPECTS

- COMPANIES ACT
- FEMA
- INCOME TAX
- INDIRECT TAX
- IPRs
- ARBITRATION&CONCILIATION
- ECONOMIC & COMPETITION LAWS

MANAGEMENT ASPECTS

- BUSINESS PROMOTION
- PROJECT DEVELOPMENT
- STRATEGIC DEVELOPMENT



EXISTING PRACTICES

**Professional,
consultancy,
certification
services**

- Company law services
- Services under Securities Contracts (Regulation) Act, 1956 and SEBI ACT, 1992
- Services in respect of Arbitration/ conciliation
- Services in respect of Intellectual Property Rights
- Services under the Export & Import Policy and Procedures
- Services under the Customs Act, 1962
- Services under the Central Excise Act
- Valuation of stocks, shares, debentures, etc. Services under the Income Tax Act, 1961
- Services under the Competition Act, 2002 and Consumer Protection Act, 1986
- Services under Foreign Exchange Management Act, 1999
- Services under the Charter Policy, 1986 of the Department of Agriculture and Cooperation
- Personnel Services



EXISTING PRACTICES

CORPORATE SERVICES

- **Corporate Governance Services**
- **Corporate laws advisory and representation services**

MANAGEMENT CONSULTANCY SERVICES

- **Financial market services**
- **Information Technology & cyber laws**



PCS-CORPORATE LAWS

COMPANIES ACT

- Pre-certification of forms
- Conducting Board and General Meetings
- NCLT matters
 - Oppression and MisManagement
 - Compounding petitions
 - Charges

○ FEMA

- Certifications
- Compliances



PCS-CORPORATE LAWS CONTD..

- DIRECT TAX
 - Filing Returns
- INDIRECT TAXATION (GST)
 - Service Tax
 - VAT
 - Customs Act
 - Excise Act
- POLLUTION LAWS
 - Feasibility reports
 - licenses and registrations



PCS-CORPORATE LAWS CONTD..

- OTHER ECONOMIC LAWS
 - Compliances
 - Registrations
- LABOUR LAWS
 - Compliances
 - Registrations
- CONSUMER PROTECTION ACT
 - Appearances before the tribunals
- IPR LAWS
 - Registrations
 - Appearances



1 PROFESSIONAL, CONSULTANCY, CERTIFICATION SERVICES

- 1. **Company law services**
 - a. formation and conversion of companies
 - b. issue of share capital
 - c. maintenance of records and issue reports
 - d. appointments of directors, key managerial personnel and others
 - e. conduction of Board Meetings, committee meetings, general meeting and other meetings
 - f. follow up and liaising with ROC, ensuring compliance of various clauses of the listing agreement, Filling and filing of various forms and returns with ROC.
 - g. Corporate Governance services



1 PROFESSIONAL, CONSULTANCY, CERTIFICATION SERVICES

- **1. Services under Securities Contracts (Regulation) Act, 1956 and SEBI ACT, 1992**
- a. Issuing certificate with respect to promoters' contribution;
- b. Countersigning certificate to be furnished by the listed company to SEBI to the effect that the terms and conditions for the issue of bonus shares as laid down in SEBI Guidelines have been complied with;
- c. Drafting of prospectus/letter of offer/other issue related documents and obtaining various approvals in association with the lead merchant banker;
- d. Listing of securities on recognised stock exchange;
- e. Issue advisor/consultant;
- f. Financial Consultant;
- g. Preparation of project reports for banks and financial institutions;
- h. Negotiations for financial assistance with banks and financial institutions including



1 PROFESSIONAL, CONSULTANCY, CERTIFICATION SERVICES

1. **Services in respect of Arbitration/ conciliation**

- a. Advising or Drafting of the Arbitration and/or Conciliation Agreement/Clause;
- b. Acting as Arbitrator/Conciliator in Domestic and International Commercial Disputes.

Services in respect of Intellectual Property Rights

- a. Advising on Intellectual Property Licensing;
- b. Acting as registered Trade Mark Agent;
- c. Advising on passing off/infringement matters



1 PROFESSIONAL, CONSULTANCY, CERTIFICATION SERVICES

- **. Services under the Export & Import Policy and Procedures**

- a. Advising on Import/Export regulations;

- b. Issue of various certificates under the Export Import Policy & Procedures;

- c. Certification of year-wise value of the applicant's sales turnover of ammunition

- (Indigenous or imported) during the last the last three years for obtaining license for import of ammunition;

- d. Certification of past consumption of the items sought to be imported during the preceding two licensing years with respect to import of other restricted items;

- Certification of exports of products manufactured by the applicant in the preceding three licensing years with respect to grant of Export Promotion Capital Goods (EPCG) License;



1 PROFESSIONAL, CONSULTANCY, CERTIFICATION SERVICES

- **. Services under the Customs Act, 1962**
 - a. Acting as authorised representative before Customs Authorities and the Appellate Tribunal;
 - b. assisting in clearance of import/ export Classification of goods;
 - c. Valuation of goods and assessment of customs Duty and obtaining refunds, if any;
 - d. Documentation and compliance of their Formalities;
 - e. Availing duty exemptions and drawback Benefits.



1 PROFESSIONAL, CONSULTANCY, CERTIFICATION SERVICES

- **Services under the Central Excise Act**
 - a. Acting as an authorised representative before the Central Excise Authorities and Appellate Tribunal;
 - b. Valuation and Classification of goods and correct assessment of duty/obtaining refunds;
 - c. Complying with procedural formalities for the removal of excisable goods for home consumption and exports;
 - d. Drafting replies to show cause notices/memos/queries issued by the Department;



1 PROFESSIONAL, CONSULTANCY, CERTIFICATION SERVICES

- **Valuation of stocks, shares, debentures, etc. Services under the Income Tax Act, 1961**
 - a. Acting as an authorised representative before the Income-tax authorities During the assessment Proceedings, furnishing of records/documents/explanations called for, filing of appeals, claiming refunds, getting the transactions registered;
 - b. Computation of tax payable, filing of returns of Income of the company and its directors, obtaining permanent account number, computation and payment of advanced tax;
 - c. Advising computation of deduction of tax at source, filing of forms and issues of TDC Certificates;
 - d. Tax planning and tax management for the company - advising about the tax concessions/incentives/relief, planning, setting up of business, amalgamation, diversification, expansion to avail tax benefits;



1 PROFESSIONAL, CONSULTANCY, CERTIFICATION SERVICES

- **Services under the Competition Act, 2002 and Consumer Protection Act, 1986**
- **a.** Acting as an authorised representative before the Competition Commission/Consumer Forums;
- **b.** Advising company on dealership agreements, trade practices, sales promotion scheme, marketing and sales campaigns;
- **c.** Drafting replies to show cause notices;
- **d.** Arranging and advising on industrial licensing, foreign collaborations, joint ventures and setting up of subsidiaries in India and abroad, memorandum of undertaking, promoters' agreement, shareholder agreement, commercial agreements.



1 PROFESSIONAL, CONSULTANCY, CERTIFICATION SERVICES

- **Services under Foreign Exchange Management Act, 1999**
 - a. Advising on legal and procedural matters falling under FEMA;
 - b. Issue of various certificates for exchange control purposes;
 - c. Certification of particulars of capital and resident, non-resident interests required to be submitted by Indian companies pursuant to approval given by the RBI under FEMA
- **d.** Certification of copies of the Profit & Loss Accounts and Balance Sheets of the selling company for the four years preceding the year of sale to be attached to Form IPI 4;
- **e.** Certification for payment of technical know-how fee and royalty in Forms TCK/TCR respectively, under foreign technical collaboration;
- **f.** In case of **transfer of shares** of a company registered in India by a non-resident to a person resident in India, by private arrangement, certification showing the fair value of shares calculated as per the valuation guidelines of the erstwhile CCI;



1 PROFESSIONAL, CONSULTANCY, CERTIFICATION SERVICES

- **Services under the Charter Policy, 1986 of the Department of Agriculture and Cooperation**
 - a. Certifying particulars of the company chartering foreign fishing vessels

Personnel Services

- a. Advisor on labour and industrial law Requirements;
- b. Manpower planning and development



CORPORATE SERVICES

- **Services under Foreign Exchange Management Act, 1999**

Corporate Governance Services

- a. Advising on good governance practices and compliance of Corporate Governance norms as prescribed under the Companies Act, Listing Regulations and various other laws, rules and regulations.
- B. Maintenance of secretarial records, statutory books and registers
- C. Arranging Board/general meetings and preparing minutes thereof all work relating to shares and their transfer and transmission.



CORPORATE SERVICES

- **Corporate laws advisory and representation services**
- a. SEBI Act, 1992, SCRA, 1956 and Rules and Regulations made there under
- b. Depositories Act, 1996
- c. Foreign Exchange Management Act, 1999
- d. Environmental and Pollution Control Laws
- e. Labour and Industrial Laws
- f. Co-operative Societies Act
- g. Mergers, Amalgamations and Strategic Alliances
- h. Foreign Collaborations and Joint Ventures
- i. Setting up Joint Ventures / wholly owned subsidiaries abroad
- j. Competition Policy and Anti Competitive Practices
- k. Intellectual Property Rights - Protection, Management,
- l. Valuation and Audit
- m. Drafting of Legal Documents



CORPORATE SERVICES

○ **Representation Services**

Representing on behalf of a company / other persons before:

- a. Company Law Board
- b. National Company Law Tribunal
- c. Competition Commission of India
- d. Securities Appellate Tribunal
- e. Registrar of Companies
- f. Consumer Forums
- g. Telecom Disputes Settlement and Appellate Tribunal
- i. Tax Authorities, and
- j. Other Quasi-judicial bodies and Tribunals



CORPORATE SERVICES

- **Arbitration and Conciliation Services**

- a. Advising on arbitration, negotiation and conciliation in commercial disputes between parties

- b. Acting as Arbitrator/Conciliator in domestic and international commercial disputes

- c. Drafting Arbitration/Conciliation Agreement/Clause



MANAGEMENT CONSULTANCY SERVICES

- **Financial market services**
- 1. Banking and raising funds services:
 - a. Loan documentation, registration of charges, status and search reports
 - b. Raising of funds from international markets ADR/GDR/FCCBs/FCEBs/ECB
 - c. Due diligence
 - d. Diligence Report and Certification in respect of Consortium/Multiple banking arrangement made by Scheduled Commercial Banks/Urban Co-operative Banks.
 - e. Loan Syndication
 - f. Loan Documentation



MANAGEMENT CONSULTANCY SERVICES

- **International trade and world trade services:**
 - A. Advising on matters related to IPRs under TRIPs Agreement of WTO
 - B. Advising on matters relating to antidumping, subsidies and countervailing duties
 - International Commercial Arbitration
 - C. Advising on and issuing certificates in respect of Foreign Trade Policy and Procedures
 - D. Advising on Intellectual Property licensing and drafting of Agreements
 - E. Acting as registered Trade Marks Agent



MANAGEMENT CONSULTANCY SERVICES

- **Information Technology**
- Compliance with cyber laws
- Conducting Board Meetings through video-conferencing and teleconferencing
- Advising on IT related IPR
- Developing management reports and controls
- Maintaining statutory records in electronic form
- E-Filing of forms/documents in electronic mode with Registrar of Companies and other statutory authorities



ROLE OF CS UNDER COMPETITION LAW

- Competition law in India is an important aspect of the legal studies that the Professionals like **Company Secretaries** need to master.
- **Company Secretaries** need to be fully aware of the legal implications and need to be equipped to advice companies .
- As the national boundaries disappear when it comes to trade and commerce, there is an increase in competition and more pressure on organizations to become leaner with stress on higher efficiency and achieving technological excellence.
- In such corporate scenarios **Company Secretaries** need to balance the requirements of business by complying with the legalities.
- Professionals like **Company Secretaries** are called upon to look into the finance and accounting, audit reports, budgeting, materials management, commercial and overall administration, besides the standard legal and secretarial functions.



ROLE OF CS UNDER COMPETITION LAW CONT...

- With the opening up of the economy and increasing competition, there are many activities such as joint collaboration, foreign collaboration, takeovers, acquisitions, mergers, information technology and associated cyber laws which are newer areas where legal and statutory provisions need to be looked into and *companies are turning for advice and guidance from Company Secretaries* in such aspects. Sustaining market confidence, *settling of commercial disputes are new focus areas where company secretaries need to show their competence and build their expertise in.*
- In this regard the ICSI institute has considerable foresight in offering its expert services to the government bodies. They also guide practicing and working CS professionals in staying updated with the latest changes in the legal and statutory scene in the country; continuing education programmes are also formed to keep Company Secretaries updated in latest developments in laws, statutes, corporate governance and other focus areas.



AS A SEBI FINANCIAL EDUCATION RESOURCE PERSON

Role of SEBI-Financial Resource Person

- Investment Planning for Retirement
- Investment Planning for Executives
- Investment Planning for Home Makers
- Financial Planning for Young Investors
- Financial Education for Middle Income Group
- Financial Education for School Children
- Financial Literacy for Self Help Groups



ROLE OF CS IN THE FILM INDUSTRY

- Vetting & Drafting of Agreements.
- Incorporation of Body Corporates, Joint Ventures, Partnership Firms, etc.
- Fund Raising procedures.
- Loan Documentations.
- Human Resources Management & Administration through Film Chamber Of Commerce, Movie Artists Association, etc
- Laisoning Agent
- Matters related to Taxation – Income Tax, Service Tax, etc.
- Intellectual Property Rights & Registration.
- Labour Law Compliances
- Issues relating to Factories Act, Industrial Disputes Act, Contract Labour Act, etc.



CERTIFICATION UNDER VARIOUS LAWS

- Annual Certification of a Listed Company under Company Law.
- Pre Certification of a company under Company Law.
- Compliance Certificate of a company under Company Law.
- Certificates for Banks
- FC-GPR under FEMA provisions.
- Rbi due diligence certificate
- Sebi iodr certification.
- Reconciliation of Share Capital Audit under SEBI.
- Certificate of extinguishment of Shares(Buy Back).



PRECAUTIONS FOR CERTIFICATIONS

- Back up Documents
- Compliance of Law
- Independent Search
- Rewards



EMERGING AREAS

- Human Resources
- Carbon Credits
- IFRS
- IPRs-
Investigation, maintenance, agreements
and audits
- Intangible Assets Valuation
- Labor Law Compliance
Certificate/Audits
- Due Diligence



EMERGING AREAS

- GST (Goods and Service Tax)
 - CGST
 - SGST
 - IGST, Integrated Goods and Service Tax
 - UGST

- INSOLVENCY
 - Resolution process
 - Liquidation
 - Bankruptcy

- VALUATION
 - Tangible assets
 - Intangible assets (Goodwill& IPR)



AUTHORITIES

EXISTING

- ROC
- RBI
- BSE/ NSE
- SEBI
- ITAT & CESTAT
- CONSUMER PROTECTION COUNCIL
- NCLT
- Board (SEZ)

EMERGING

- ENERGY CONSERVATION APPELATE TRIBUNAL
- IRDA
- TRAI
- Forward Market Commission
- GST
- PFRDA



ICSI REGULATIONS

- Issue of Certificate of Practice(Reg .10)
- Renewal of Certificate of Practice(Reg.10)
- Cancellation of Certificate of Practice(Reg.11)
- Particulars of offices or firms(Reg165)
- CSP not to engage in any other business or occupation(Reg.168)
- Trade or firm name require council's approval(Reg.169)
- Approval for Constitution of the Firms(reg.170)
- PCS Register



ICSI REGULATIONS...CONTD

GENERAL PERMISSIONS BY THE COUNCIL

- As a Director in a company.
- Partner in an LLP.
- As a professor.
- Life Insurance Agent.
- Editorship of professional journals.

WHAT ELSE??????

GUESS?????

Hold offices of M.P. ,M.L.A. ,etc



TRADE MARK RECOGNITION



**THE INSTITUTE OF
Company Secretaries of India**
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

March 07, 2017

Dear Professional Colleagues,

*Sub. : Recognition to Company Secretaries under the Trade Marks Rules,
2017*

We are pleased to share with you that to give a boost to the Intellectual Property Regime in India, Government of India, Ministry of Commerce & Industry, and Department of Industrial Policy & Promotion notified the Trade Marks Rules, 2017. Trade Marks Rules, 2017, replaced the erstwhile Trade Marks Rules 2002.

As per Rule 144 of the Trade Marks Rules, 2017, a member of the Institute of Company Secretaries of India has been qualified to be registered as a *Trademarks Agent*.

A copy of the Trade Marks Rules, 2017 may be downloaded at the link:

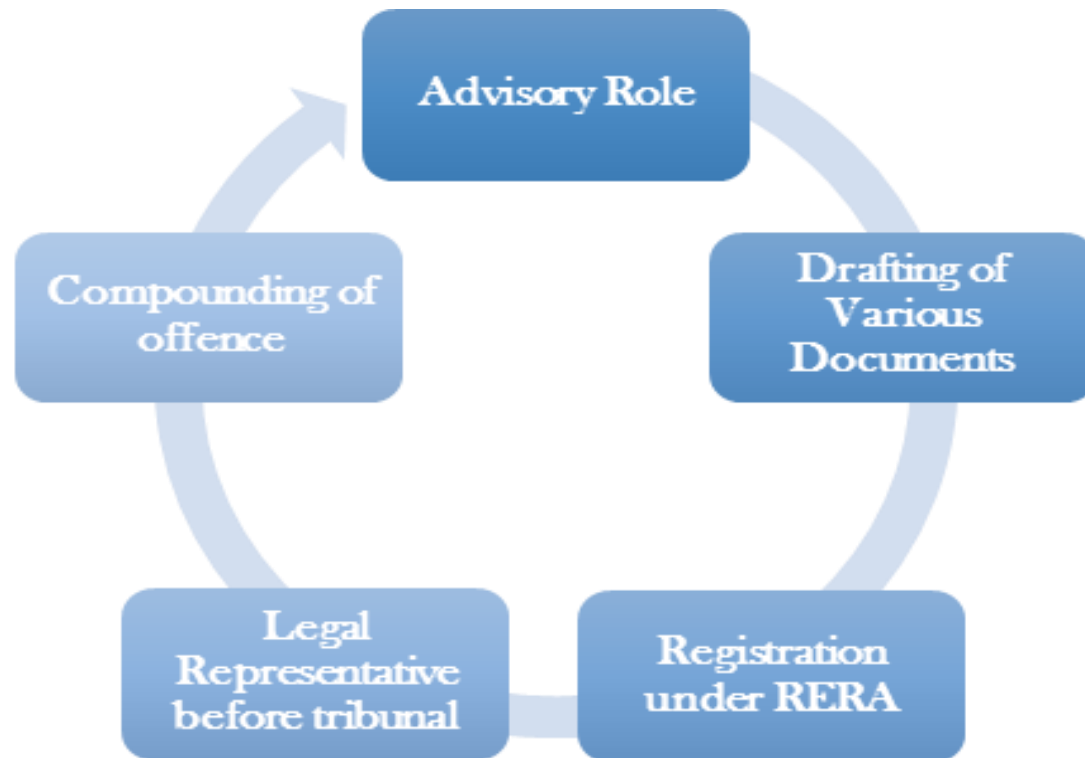
http://dipp.nic.in/English/acts_rules/Rules/trademark_amendment_rule_2017.pdf

Thanking you,

Yours sincerely,

CS (Dr.) Shyam Agrawal
President
ICSI

Role of PCS under The Real Estate (Regulation and Development) Act, 2016





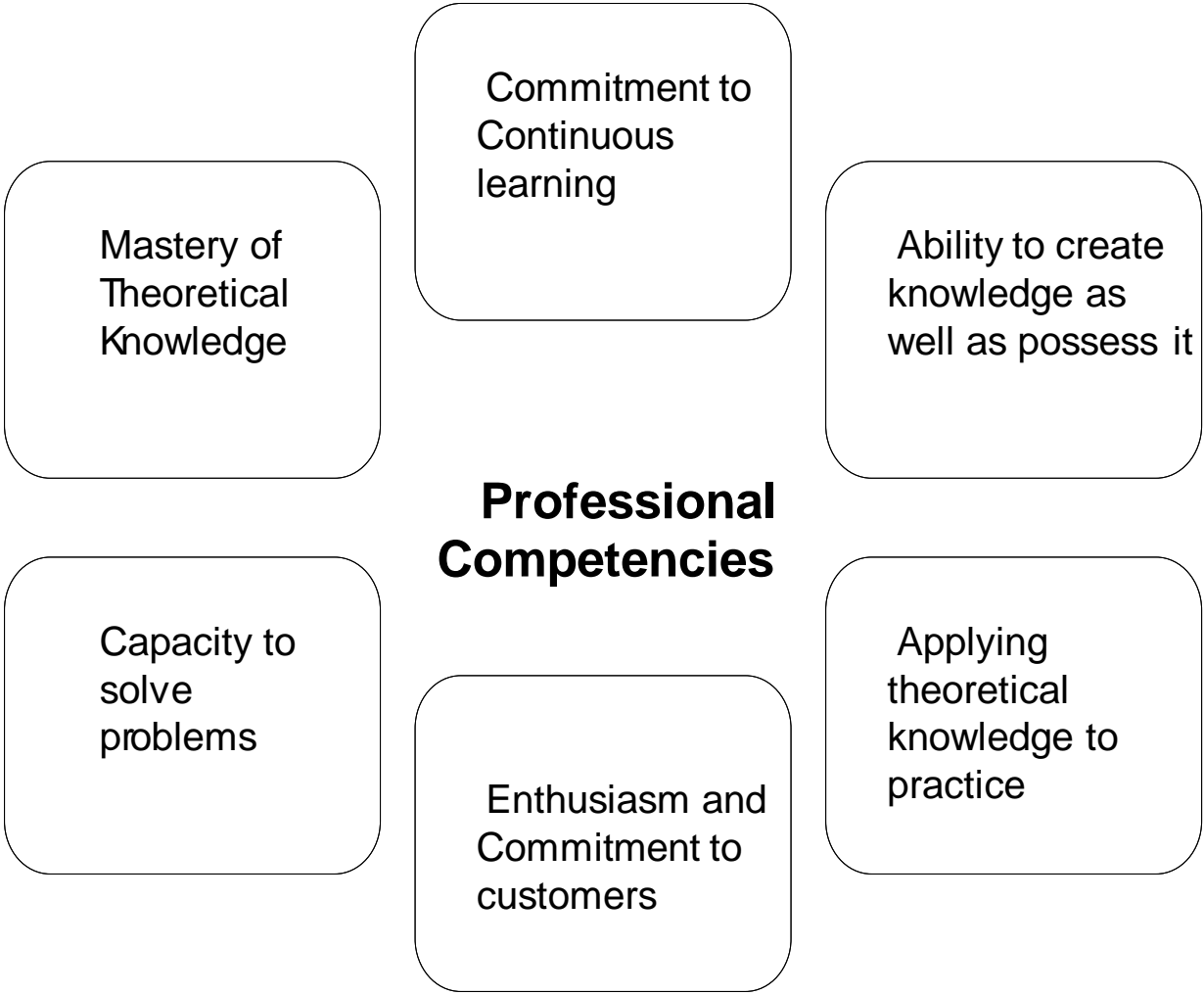
- Non-Executive director/promoter/subscriber to the MOA & AOA of a company engaged in the field of Secretarial services with/without substantial interest.
- Non-Executive director/promoter/subscriber to the MOA & AOA of a company engaged in the field other than Secretarial services without substantial interest.



ICSI REGULATIONS...CONTD

SPECIFIC PERMISSIONS BY THE COUNCIL

- Editorship of non professional journals
- Interests in family business provided he does not hold substantial interest
- Agriculture and allied activities





CSP ACTIVITIES MODEL

External Focus

- Clients
- Practice Development

Internal Focus

- Partners & Staff
- Practice Management



CODE OF CONDUCT

- Friendly environment
- Professional and ethical behavior
- Confidentiality
- Due respect to the fellow members
- Spirit of Law

Be more concerned with your character than your reputation, because your character is what you really are, while your reputation is merely what others think you are.

HOW DO YOU ACHIEVE SUCCESS?



TIPS FOR SUCCESS

- Relationship
- Timely delivery
- Alertness
- Updates
- Understanding
- Extending helping hand
- Balance
- Know your client

*You must do the things you
think you cannot do.*

-Roosevelt



IN A NUT SHELL

PCS ROLES:

- ✓ As an Advisor
- ✓ As an Auditor
- ✓ As a Consultant
- ✓ As an Academician
- ✓ As a Researcher
- ✓ As a Director
- ✓ As an Entrepreneur
- ✓ As a People's Representative





**BE MORE DEDICATED TO MAKING
SOLID ACHIEVEMENTS THAN IN
RUNNING AFTER SWIFT BUT
SYNTHETIC HAPPINESS.**



ALL THE BEST

&

THANK YOU

Happy PCS Day