

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 7

NOTE : Answer SIX questions including Question No.1 which is compulsory.

1. Examine and comment on the following. Attempt **any five** :

- (i) Due diligence is essentially required to make an informed decision about a potential investment.
- (ii) Compliance audit is not a fault finding exercise; rather a device to scale-up compliance mechanism of a company, commensurate to its size and operations.
- (iii) Books of account of a company can be inspected by the Registrar of Companies and other authorised officers of the Central Government or SEBI.
- (iv) Cultural differences are to be addressed at the time of merger/amalgamation.
- (v) Clause 49 of the listing agreement contains provisions relating to requirement of constitution of Remuneration Committee.
- (vi) According to Regulation 7 of Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004, Indian party seeking to make investment in an entity engaged in the financial sector should fulfill certain additional conditions.

(4 marks each)

2. (a) Write the most appropriate answer from the given options in respect of the following :

- (i) Which of the following route is best suited for companies who would like to raise capital without diluting stake of its existing shareholders unless they do not intend to subscribe to their entitlement —
 - (a) Initial public offer
 - (b) Further public offer
 - (c) Rights issue
 - (d) Qualified institutional placement (QIP).

- (ii) In case of amalgamation under sections 391-394 of the Companies Act, 1956 the amalgamating as well as amalgamated companies have to apply to the following for making an order of amalgamation —
- (a) Registrar of Companies
 - (b) Company Law Board
 - (c) Central Government
 - (d) High Court.
- (iii) Debentures with *pari passu* clause mean that they will be paid —
- (a) Rateably
 - (b) Preferentially
 - (c) According to the date of issue
 - (d) According to the serial number of debentures.
- (iv) Special resolution cannot be passed in —
- (a) Class meeting
 - (b) Board meeting
 - (c) Annual general meeting
 - (d) Extra-ordinary general meeting.
- (v) As per the listing agreement, a listed company is required to file on the CFDS, such information, statements and reports as may be specified by the participating stock exchanges. Here, CFDS means —
- (a) Corporate Funding and Distribution System
 - (b) Corporate Filing and Distribution System
 - (c) Corporate Filing and Dissemination System
 - (d) Corporate Finance and Dissemination System.
- (vi) Compliance certificate issued by a Practising Company Secretary is addressed to —
- (a) The Board of directors
 - (b) The Chief Financial Officer
 - (c) The Chief Executive Officer
 - (d) The shareholders.

(1 mark each)

(b) Distinguish between the following :

- (i) Determination of open offer price for acquisition of shares of target company if the shares are 'frequently traded' and 'infrequently traded'.
- (ii) Audit of borrowing powers of 'private company' and 'public company'.

(5 marks each)

3. (a) Neeraj, a Company Secretary of Divya Refinery Ltd. was suffering from a serious disease and died. He died while he was on job. He was holding 500 partly-paid shares of the company. Normally, the company has a first paramount lien on the shares. The Board of directors, however, relaxed the said provision with regard to the 500 shares held by Neeraj as a goodwill gesture on the part of the company. Is the action of the company valid ? State with reasons. Also state, whether the company's lien can be extended to dividend payable on such shares.
- (b) Amit, the Chairman of a company borrowed ₹10 lakh from HDFC Bank Ltd., under a promissory note. A suit was filed for the recovery of debts on the basis of the promissory note executed by the Chairman. The company refused to accept the liability on the plea that the Chairman had borrowed funds without authorisation from the company. Advise the company.
- (c) Nagma buys 1,200 shares in a company from Garima on the faith of a share certificate issued by the company. Nagma tenders to the company a transfer deed, duly executed, along with Garima's share certificate for transferring the shares in her name. The company discovers that the certificate in the name of Garima has been fraudulently obtained and refuses to register the transfer. Is Nagma entitled to get the shares transferred in her name ? Advise.
- (d) Mention the pre-requisites to secretarial audit.

(4 marks each)

4. (a) Dexter Ltd., a listed company proposes to make an issue of shares/options to employees under employee stock purchase scheme (ESPS). You are required to answer the following with reference to the Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999 :
- (i) What are the eligibility criteria to participate in the scheme ?
 - (ii) What are the requirements of pricing and lock-in period ?
- (3 marks each)*
- (b) The Board of directors of Future Vision Ltd. filled-up a casual vacancy caused by the death of Rishi by appointing Sukant as a director on 27th October, 2014. Unfortunately, Sukant expired on 6th December, 2014 after working for about 40 days as a director. The Board now wishes to fill-up the casual vacancy by appointing Mrs. Shivani, wife of Sukant, in the forthcoming meeting of the Board. As a Company Secretary, give your advice on the matter.
- (4 marks)*
- (c) During the course of secretarial audit, you as a Practising Company Secretary come across the following matters. State, how would you deal with them :
- (i) The minutes book is maintained in a loose leaf form and the Chairman is signing only on the last page of the minutes of each meeting.
 - (ii) At a meeting where a proposal to buy another business for cash was approved and carried out, it was later on found that the quorum was not present at the meeting.
- (3 marks each)*
5. (a) Deepika is the director of a company. She borrowed ₹75 lakh on reasonable terms from Mukesh for company's business. However, Deepika has no power to borrow. What will be the legal position ? Advise.

(4 marks)

- (b) Fresh Capital Service Ltd. (FCSL) purchased 190 lakh equity shares of ₹10 each of Sun Spinners Ltd. (SSL) from a scheduled bank. Duly executed transfer deeds along with the share certificates were sent to SSL by registered post for transfer of shares in favour of FCSL. However, SSL refused to receive the same. FCSL again sent the registered post, but this time also, it was refused by SSL.

FCSL then filed petition under section 58 of the Companies Act, 2013 to the Company Law Board (CLB) to declare petitioner FCSL as member of SSL. CLB gave direction to SSL to take action for registration/transfer of the shares in favour of the petitioner within a period of one month.

SSL, however, still did not comply with the direction of CLB on the contention that SSL had taken a loan from a scheduled bank and the 190 lakh shares were issued to the bank as security till the repayment of the loan. Part-payment of the loan had already been made by SSL to the bank. In the company's register of members, the bank was shown the absolute owner of 190 lakh shares under question. SSL also filed a counter to the present company petition. However, in the matter, no order restraining the transfer of shares was issued by CLB.

In the light of above facts, decide whether FCSL can get the shares transferred in its name.

(6 marks)

- (c) What is meant by foreign direct investment (FDI) ? Mention the possible entry routes for foreign investment in India and circumstances under which such investment can be made.

(6 marks)

6. (a) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- (i) In relation to debt securities _____ risk refers to the failure or inability of the opposite party to the contract to deliver either the promised security or sale-value at the time of settlement.

- (ii) The legal framework for a depository system has been laid down by the Depositories Act, 1996 and is regulated by _____.
- (iii) _____ initiates the issue of Global/American Depository Receipts through overseas depository bank.
- (iv) Whenever a company wants to issue shares without issuing a prospectus, it is mandatory to deliver to the Registrar of Companies a statement in *lieu* of prospectus at least _____ day(s) before allotment of shares.
- (v) _____ offers the facility to view documents which is handy for banks and financial institutions while granting loans.
- (vi) As per the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 it must be ensured that the securities are allotted and the excess amounts are refunded within _____ (period) from the closure of the offer.

(1 mark each)

- (b) Company Secretary of a listed company, in addition to Board meetings and other documentation and filing formalities, is expected to do certain activities relating to securities laws and compliances. State those activities.

(6 marks)

- (c) Prepare a checklist for the issue of compliance certificate with regard to 'holding office or place of profit' by the director of a company.

(4 marks)

- 7. (a) Explain the compliances required with regard to the following. Attempt **any two** :

- (i) Issue of sweat equity shares
- (ii) Redemption of debentures
- (iii) Removal of director.

(4 marks each)

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(b) Write notes on the following. Attempt *any two* :

- (i) Data room in due diligence
- (ii) Regulators of securities market
- (iii) Overseas investment by proprietorship concern/unregistered partnership.

(4 marks each)

8. Critically examine and comment on the following. Attempt *any four* :

- (i) As per listing agreement, a company has to close its transfer books at least once in a year.
- (ii) A critical component of an effective compliance programme is the ability to monitor and audit compliance in a 'real time manner'.
- (iii) A definitive process should be adopted for undertaking legal due diligence.
- (iv) The main distinction between a friendly takeover and hostile takeover is whether there is a mutual understanding between the acquirer and the taken-over company.
- (v) The scope of a search report depends upon the requirements of the lender who advances funds to the company.

(4 marks each)

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