

# **SUGGESTED ANSWERS**

## **EXECUTIVE PROGRAMME**

### **CAPITAL MARKET AND SECURITIES LAWS (EP-CM&SL/2013)**



**THE INSTITUTE OF  
Company Secretaries of India**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**  
Statutory body under an Act of Parliament

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# THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

EXECUTIVE PROGRAMME

## CAPITAL MARKET AND SECURITIES LAWS



### EP-CM&SL/2013

SUGGESTED ANSWERS

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EXECUTIVE PROGRAMME  
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**TEST PAPER 1/2013**

*Time allowed : 3 hours*

*Maximum Marks : 100*

**Part A (60 Marks)**

*[Answer Question No.1 which is COMPULSORY  
and ANY THREE of the rest from this part]*

**Question No. 1**

(a) *State, with reasons in brief, whether the following statements are true or false:*

- (i) *IPO grading is mandatory for a public issue.*
- (ii) *Book Closure is the date on which the records of a company are closed for the purpose of determining the stock holders to whom dividends, proxies rights etc. are to be sent.*
- (iii) *The Central Government cannot privately place the government securities with the Reserve Bank of India.*
- (iv) *A special delivery is one where the payment for securities is to be made on the same day or the next day.*
- (v) *A beneficial owner with a depository can claim loss to be indemnified by the depository. (2 marks each)*

(b) *Choose the most appropriate answer from the given options in respect of the following:*

- (i) *The mechanism for employees to report to the management at certain events like, unethical behaviour, suspected fraud or violation of the company's code of conduct is known as –*
  - (a) *Whistle blower policy*
  - (b) *Surveillance action*
  - (c) *Market abuse*
  - (d) *Snap investigation*
- (ii) *The declaration in the annual report regarding compliance with Code of Conduct by the Board Members and Senior Management on annual basis shall be signed by-*
  - (a) *CFO*

- (b) *Managing Director*
- (c) *CEO*
- (d) *MD & CEO*
- (iii) *Market capitalisation of a listed company is computed by multiplying number of shares available for trade with –*
  - (a) *Face value of a share*
  - (b) *Market price of a share*
  - (c) *Issue price of a share*
  - (d) *Book price of a share*
- (iv) *Any order that is generated using automated execution logic shall be known as –*
  - (a) *Settlement*
  - (b) *Clearing*
  - (c) *Algorithmic Trading*
  - (d) *Basket Trading*
- (v) *A position showing a purchase or a greater number of purchases than sales in anticipation of a rise in prices –*
  - (a) *Short position*
  - (b) *Long Position*
  - (c) *Futures*
  - (d) *Forward.*

(1 mark each)

**Answer to Question No. 1(a)(i)**

**True**

A company cannot make an Initial Public Offer, unless as on the date of registering prospectus or red herring prospectus with the Registrar of Companies, the issuer has obtained grading for the initial public offer from at least one credit rating agency registered with SEBI. This means IPO grading is mandatory for making an IPO.

**Answer to Question No. 1(a)(ii)**

**False**

Record date is the date on which the records of a company are closed for the purpose of determining the stock holders to whom dividends, proxies rights etc. are to be sent.

**Answer to Question No. 1(a)(iii)**

**False**

The Central Government may also privately place government securities with RBI. This is usually done when the ways and means of advance is near the sanctioned limit and market conditions are not conducive to an issue.

**Answer to Question No. 1(a)(iv)****False**

A special delivery is one where the delivery is to be made after the delivery period fixed by the stock exchange authorities.

**Answer to Question No. 1(a)(v)****False**

The Depository can not indemnify the beneficial owner for all the losses incurred by him. However, if the loss has been caused due to the negligence of either the Depository or its participant, then such a loss will be indemnified by the Depository.

**Answer to Question No. 1(b)(i)**

- (a) Whistle blower policy

**Answer to Question No. 1(b)(ii)**

- (c) CEO

**Answer to Question No. 1(b)(iii)**

- (b) Market price of a share

**Answer to Question No. 1(b)(iv)**

- (c) Algorithmic Trading

**Answer to Question No. 1(b)(v)**

- (b) Long Position

**Question No. 2**

- (a) Distinguish between any two of the following:

(i) STP and DMA

(ii) Listed cleared securities and Permitted securities

(iii) FCCB and FCEB.

(4 marks each)

- (b) Expand the following:

(i) RTGS

(ii) NDS

(iii) NSCCL

(1 mark each)

- (c) Discuss the role of Company Secretary under the Simplified Listing Agreement for Debt Securities.

(4 marks)

**Answer to Question No. 2(a)(i)****Difference between STP and DMA**

Straight Through Processing (STP) allows electronic capturing and processing of transactions in one pass from the point of order origination to final settlement. STP thus



streamlines the process of trade execution and settlement and avoids manual entry and re-entry of the details of the same trade by different market intermediaries and participants. Apart from compressing the clearing and settlement time, STP also provides a flexible, cost effective infrastructure, which enables e-business expansion through online processing and access to enterprise data.

Direct Market Access (DMA) is a facility which allows brokers to offer clients direct access to the exchange trading system through the broker's infrastructure without manual intervention by the broker. Some of the advantages offered by DMA are direct control of clients over orders, faster execution of client orders, reduced risk of errors associated with manual order entry, greater transparency, increased liquidity, lower impact costs for large orders, better audit trails and better use of hedging and arbitrage opportunities through the use of decision support tools / algorithms for trading.

**Answer to Question No. 2(a)(ii)**

**Difference between Listed cleared securities and Permitted securities**

The securities admitted for dealing on stock exchange after complying with all the listing requirements and played by the Board on the list of cleared securities are called Listed Securities. The securities listed on some of the recognized stock exchanges, when permitted to be traded by those stock exchanges where they are not listed are called permitted securities. Such permission is given if suitable provisions exist in the regulations of the concerned stock exchanges.

**Answer to Question No. 2(a)(iii)**

**Difference between FCCB and FCEB**

The Foreign Currency Convertible Bonds (FCCBs) are unsecured, carry a fixed rate of interest and an option for conversion into a fixed number of equity shares of the issuer company. Foreign Currency Exchangeable Bonds (FCEB) is a bond expressed in the foreign currency, exchangeable into equity shares of another company, being offered company which is an Indian company either wholly or partly or on the basis of any equity related warrants attached to debt instruments. There is a fundamental difference between an FCCB and an FCEB whereby in the case of an FCCB offering, the bonds converted into shares of that company that issued the bonds, while in the case of FCEB offering, the bonds are convertible into share not of the issuer company, but that of another company forming part of the group.

**Answer to Question No. 2(b)**

- (i) **RTGS** - Real Time Gross Settlement
- (ii) **NDS** - Negotiated Dealing System
- (iii) **NSCCL** - National Securities Clearing Corporation Ltd.

**Answer to Question No. 2(c)**

Under Clause 2(d) of Part-A of the simplified Listing Agreement for debt securities which specifies the conditions where the equity shares of the issuer are listed, it states that:

“A Company Secretary in Practice will give a half yearly certificate regarding

maintenance of 100% security cover in respect of listed secured debt securities within one month from the end of the respective half year”.

Again under clause 13(d) of Part-B of the simplified Listing Agreement for debt securities which specifies the conditions where the equity shares of the issuer are not listed on the Exchange, states that :

“A Company Secretary in practice will give a half yearly certificate regarding maintenance of 100% security cover in respect of listed secured debt securities within one month from the end of the respective half year.”

### **Question No. 3**

(a) Write short notes on the following:

(i) Carrot and Stick Bond

(ii) Growth Oriented Schemes

(iii) Securities Lending.

(3 marks each)

(b) What do you understand by Alternative Investment Funds? Who are excluded from the purview of Alternative Investment Fund Regulations, 2012 ? (6 marks)

### **Answer to Question No. 3(a)(i)**

#### **Carrot and Stick Bond**

Variation of the asset backed securities instrument is the carrot and stick bond. The carrot is lower than normal conversion premium i.e. the premium over the present market price of the equity shares is fixed at a reasonable level so that the price of the equity shares need not increase significantly to make conversion practical. The stick is the issuer's right to call the issue at a specified premium if the price of the equity shares is traded above a specified percentage of the conversion price.

### **Answer to Question No. 3(a)(ii)**

#### **Growth Oriented Schemes**

These funds offer growth potentialities associated with investment in capital market namely: (i) high source of income by way of dividend and (ii) rapid capital appreciation, both from holding of good quality scrips. These funds, with a view to satisfying the growth needs of investors, primarily concentrate on the low risk and high yielding spectrum of equity scrips of the corporate sector.

### **Answer to Question No. 3(a)(iii)**

#### **Securities Lending**

SEBI introduced guidelines in 1997 for Securities Lending Scheme. Under the scheme, a person with idle shares can lend them to another who does not have the shares to fulfill his obligation under a trade finalised by him. There will be no direct contacts between the borrower and lender of securities. An intermediary who can guarantee the scheme and make good the loss in the borrower who fails to honour his obligations can alone provide substance to the scheme. The borrower has to put up collateral for his borrowings and pay cash margin levied on the securities by the authorities. Income from securities lending is exempt from Capital Gains Tax.

**Answer to Question No. 3(b)**

Alternative Investment Fund (AIF) under SEBI (Alternative Investment Funds) Regulations, 2012, means any fund established in India in the form of a trust, company, limited liability partnership or a body corporate which:-

- (i) is a privately pooled investment vehicle that collects funds from investors, whether Indian or foreign, for investing it in accordance with a defined investment policy for the benefit of its investors; and
- (ii) is not covered under the SEBI (Mutual Funds) Regulations, 1996, SEBI (Collective Investment Schemes) Regulations, 1999 or any other regulations of SEBI, which aims to regulate fund management activities.

The following are specifically excluded from the purview of AIF Regulations (subject to conditions in certain cases):

- Family Trusts;
- ESOP Trusts;
- Employee Welfare Trusts;
- Holding Companies within the meaning of section 4 companies Act, 1956;
- Other Special Purpose Vehicles not established by fund managers, including securitization trusts, regulated under a specific regulatory framework;
- Funds managed by registered securitization company or reconstruction company; and
- Any such pool of funds which is directly regulated by any other Indian regulator.

**Question No. 4**

- (a) *What is International Organization of Securities Commissions (IOSCO)? Discuss the objectives of IOSCO. (5 marks)*
- (b) *What is factoring? Discuss various types of factoring. (6 marks)*
- (c) *What are the compliances under the listing agreement for Indian Depository Receipts (IDRs) relating to appointment of Company Secretary? (4 marks)*

**Answer to Question No. 4(a)**

The International Organization of Securities Commissions (IOSCO) was created in 1983 with the decision to change from an inter-American regional association (created in 1974) into a global cooperative body. IOSCO is recognized as the international standard setter for securities markets. Its membership regulates more than 95% of the world's securities markets and it is the primary international cooperative forum for securities market regulatory agencies. IOSCO provides comprehensive technical assistance to its members, in particular those which regulate emerging securities markets.

There are three Objectives of IOSCO securities regulation –

- protecting investors;

- ensuring that markets are fair, efficient and transparent;
- reducing systemic risk

**Answer to Question No. 4(b)**

Factoring is a financial transaction where an entity sells its receivables to a third party called a 'factor', at discounted prices. Factoring is a financial option for the management of receivables. In simple definition it is the conversion of credit sales into cash.

**Types of Factoring**

- i. *Non-Recourse or Full factoring* : Under this type of factoring the bank takes all the risk and bear all the loss in case of debts becoming bad debts.
- ii. *Recourse Factoring* : Under this type of factoring the bank purchases the receivables on the condition that any loss arising out or bad debts will be borne by the company which has taken factoring.
- iii. *Maturity Factoring* : Under this type of factoring bank does not give any advance to the company rather bank collects it from customers and pays to the company either on the date of collection from the customers or on a guaranteed payment date.
- iv. *Advance Factoring* : Under advance factoring arrangement the factor provides an advance against the uncollected and non-due receivables to the firm.
- v. *Undisclosed Factoring* : Under this type of factoring, the customer is not informed of the factoring arrangement. The firm may collect dues from the customer on its own or instruct to make remit once at some other address.
- vi. *Invoice Discounting* : Under this type of factoring the bank provide an advance to the company against the account receivables and in turn charges interest rate from the company for the payment which bank has given to the company.

**Question No. 4(c)**

Clause 23 of Listing Agreement for Indian Depository Receipts (IDRs) provides that the issuer is required to :

- (a) appoint the Company Secretary as Compliance Officer who will directly liaise with the authorities such as SEBI, Stock Exchanges, ROC etc., and investors with respect to implementation of various clauses, rules, regulations and other directives of such authorities and investor service & complaints related matter.

**Question No. 5**

- (a) *Briefly enumerate the conditions for issue of a share warrant.* (5 marks)
- (b) *Discuss the factors considered by credit rating agencies for the rating of manufacturing companies.* (5 marks)
- (c) *What are the restrictions on Investment in Gold Exchange Traded Funds?* (5 marks)

**Answer to Question No. 5(a)**

The following are the conditions for the issuance of a share warrant by a company:

- Share warrant can be issued by the public limited companies. It cannot be issued by private companies.
- A share warrant is only issued against share certificate of fully paid up shares.
- There must be a provision in the Articles of Association regarding the issue of share warrant. If there is a provision, the company can issue a share warrant. If there is no provision in the Articles, the company cannot issue a share warrant.
- Prior permission from the Central Government is necessary for the issue of share warrant.
- Share warrant is not issued originally at the time of initial issue.

A share warrant is issued at the request of the Shareholders/member and not by the company at its own initiative.

**Answer to Question No. 5(b)****Rating of Manufacturing Companies**

The factors generally considered for rating of manufacturing companies are as under:

*Industry Risk* : It is evaluated on the basis of factors like business cyclicity, earnings volatility, growth prospects, demand - supply projections, entry barriers and extent of competition and nature and extent of regulation.

*Company's industry and market position* : The company's sales position in its major fields and its historical background of its market position is analysed alongwith ability to sustain/increase market shares; brand strengths and position; price leadership and distribution and marketing strengths/weaknesses.

*Operating efficiencies* : Ability to control costs, productivity efficiencies relative to others, labour relationship, extent of forward and backward integration, access to raw materials/markets, and technology.

*Accounting Quality* : Financial statements are adjusted for non-standard accounting treatments. Overall evaluation of the accounting policies employed and the extent to which they understate or overstate financial performance and position. These include analysis of auditor's qualifications, revenue recognition, depreciation policy, inventory evaluation, funding for pension liabilities, undervalued assets etc.

*Financial flexibility* : Evaluation of the company's financing needs, plans and alternatives, its flexibility to accomplish its financing programmes under stress without damaging creditworthiness.

*Earnings protection* : The key measurements which indicate the basic long term earnings power of the company including return on capital, profit margins, earnings from various business segments, sources of future earnings growth, coverage ratios etc.

*Financial leverage* : Relative usage of debt and levels of debt appropriate to different types of businesses, utilisation of long and short term sources of funds, management of working capital.

*Cash flow adequacy* : It is the relationship of cash flows to leverage and the ability to internally meet all cash needs of the business. It measures the magnitude and variability of future cash flows relative to debt servicing obligations and other commitments such as group company funding, BIFR packages and contingent liabilities. This analysis goes into the inherent protective factors for expected cash flows of the company and the sensitivity of these cash flows to changes in variables like raw material costs and selling prices.

*Management evaluation* : The record of achievement in operations and financial results, strategic and financial planning, commitment, consistency and credibility, overall quality of management, line of succession, strength of middle management and organisation structure and its linkage with the operating environment and management strategies.

**Answer to Question No. 5(c)**

A gold exchange traded fund scheme is subject to the following investment restrictions:

- (a) the initial issue expenses in respect of any such scheme should not exceed six percent of the funds raised under that scheme;
- (b) the funds of any such scheme should be invested only in gold or gold related instruments in accordance with its investment objective, except to the extent necessary to meet the liquidity requirements for honouring repurchases or redemptions, as disclosed in the offer document; and
- (c) pending deployment of funds in accordance with clause (b), the mutual fund may invest such funds in short term deposits of scheduled commercial banks.

**PART B (40 marks)**

*(Answer any two questions from this part)*

**Question No. 6**

- (a) *What is delisting? Enumerate the circumstances where delisting is not permissible? (6 marks)*
- (b) *What do you mean by Qualified Institutional Buyers (QIBs). (6 marks)*
- (c) *Briefly discuss the continuous listing requirement need to be complied by a company under the Securities Contracts (Regulation) Rules, 1957. (8 marks)*

**Answer to Question No. 6(a)**

The term “delisting” of securities means permanent removal of securities of a listed company from a stock exchange. As a consequence of delisting, the securities of that company would no longer be traded at that stock exchange. Delisting can be voluntary delisting or compulsory delisting.

The following are the circumstances where Delisting is not permissible

- Buy -back of equity shares by the company; or
- Preferential allotment made by the company; or
- Unless a period of three years has elapsed since the listing of that class of equity shares; or
- Instruments which are convertible into the same class of equity shares that are sought to be delisted are outstanding;
- Delisting of convertible securities.

**Answer to Question No. 6(b)**

**Qualified Institutional Buyer (QIB) means**

- (i) A mutual fund, venture capital fund and foreign venture capital investor registered with SEBI;
- (ii) A foreign institutional investor and sub-account (other than a sub-account which is a foreign corporate or foreign individual), registered with SEBI;
- (iii) A public financial institution as defined in section 4A of the Companies Act, 1956;
- (iv) A scheduled commercial bank;
- (v) A multilateral and bilateral development financial institution;
- (vi) A state industrial development corporation;
- (vii) An insurance company registered with the Insurance Regulatory and Development Authority;
- (viii) A provident fund with minimum corpus of twenty five crore rupees;
- (ix) A pension fund with minimum corpus of twenty five crore rupees;
- (x) National Investment Fund set up by the Government of India published in the Gazette of India;
- (xi) Insurance funds set up and managed by army, navy or air force of the Union of India;
- (xii) Insurance funds set up and managed by Department of Posts, India.

**Answer to Question No. 6(c)**

Rule 19A of Securities Contracts (Regulation) Rules, 1957 provides for continuous listing requirement which stipulates that-

- (1) Every listed company other than Public Sector Company shall maintain public shareholding of at least twenty five per cent.

Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by SEBI.

*Explanation* : For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of sub-clause (ii) of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.

- (2) Where the public shareholding in a listed company falls below twenty five percent at any time, such company shall bring the public shareholding to twenty five percent within a maximum period of twelve months from the date of such fall in the manner specified by SEBI.
- (3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent.:

Provided that a listed public sector company-

- (a) which has public shareholding below ten per cent, on the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by SEBI, within a period of three years from the date of such commencement;
- (b) whose public shareholding reduces below ten per cent, after the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by SEBI, within a period of twelve months from the date of such reduction.

The provision quoted above require all listed companies in the private sector to achieve and maintain public shareholding of 25% of each class or kind of equity shares or debentures convertible into equity shares issued by such companies. Those companies with public shareholding of less than 25 % are required to achieve the same, within a period of 3 years from the date of commencement of the first amendment in the manner specified by SEBI.

#### **Question No. 7**

- (a) *What are the obligations of a capital market intermediary under the Prevention of Money Laundering Act, 2002 ?* (5 marks)
- (b) *What action lies against SEBI registered intermediaries in case of default/violation under the SEBI Act, 1992 ?* (5 marks)
- (c) *What is Institutional Placement Programme (IPP) ? Explain the conditions required to be fulfilled for making an IPP.* (5 marks)
- (d) *Write a note on internal audit of Portfolio Managers.* (5 marks)

#### **Answer to Question No. 7(a)**

##### **Obligations of Intermediaries under Prevention of Money Laundering Act, 2002**

Under section 12 of Prevention of Money Laundering Act, 2002, there are certain obligations casted on an intermediary to :

- (i) Maintain a record of all transactions, the nature and value of which may be



prescribed whether such transactions comprise of a single transaction or a series of transactions integrally connected to each other and where such series of transactions take place within a month.

- (ii) Furnish information of transaction to the Director within such time as may be prescribed.
- (iii) Verify and maintain records of the identity of all its clients in such a manner as may be prescribed.

All intermediaries are required to ensure that a proper policy framework as per the Guidelines on anti-money laundering measures is put into place. The intermediaries are also required to designate an officer as 'Principal Officer' who would be responsible for ensuring compliance of the provisions of the Prevention of Money Laundering Act, 2002.

#### **Answer to Question No. 7(b)**

Chapter VIA of SEBI Act, 1992, contains Section 15A to 15JA which deals with penalties which can be imposed under the Act for various failures, defaults, non-disclosure and other offences. Section 15B and 15C lays specific action in case of default /violation by intermediaries under the SEBI Act, 1992.

Section 15B lays down the penalty for failure by any person to enter into agreement with clients. If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less. Section 15C deals with penalty for failure to redress investors' grievances. If any listed company or any person who is registered as an intermediary, after having been called upon by SEBI in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by SEBI, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

#### **Answer to Question No. 7(c)**

"Institutional Placement Programme" (IPP) means a further public offer of eligible securities by an eligible seller, in which the offer, allocation and allotment of such securities is made only to Qualified Institutional Buyers in terms of this Chapter.

#### **Conditions for Institutional Placement Programme**

- An institutional placement programme may be made only after a special resolution approving the institutional placement programme has been passed by the shareholders of the issuer in terms of section 81(1A) of the Companies Act, 1956.
- No partly paid-up securities shall be offered.
- The issuer shall obtain an in-principle approval from the stock exchange(s).

#### **Answer to question No. 7(d)**

##### **Internal Audit of Portfolio Manager**

Every Portfolio Manager is required to appoint a Practising Company Secretary or a

Practising Chartered Accountant for conducting the internal audit. The Portfolio Manager is required to report the compliance of the aforesaid requirement to SEBI while submitting the half yearly report.

The report is to be submitted twice a year, as on 31st of March and 30th of September. The report should reach SEBI within thirty days of the period to which it relates.

No precise period has been prescribed for the PCS to submit his report to the Board of the company. However, it would be advisable for the PCS to give the audit report to the Portfolio Manager sufficiently well in advance to enable the Company to report the compliance of the same to the Securities and Exchange Board of India.

The scope of the internal audit comprise the checking of compliance of SEBI (Portfolio Managers) Rules, 1993 and SEBI (Portfolio Managers) Regulations 1993 and circulars notifications or guidelines issued by the Securities and Exchange Board of India and internal procedures followed by the Portfolio Manager.

#### **Question No. 8**

- (a) *What are the trigger point for making an open offer by an acquirer under the SEBI Takeover Regulations, 2011?* (5 marks)
- (b) *Discuss the initial disclosure required to be made by certain persons in a listed company under the SEBI (Prohibition of Insider Trading) Regulations, 1992.* (5 marks)
- (c) *Describe the composition of advisory committee constituted by SEBI under SEBI (Investor Protection and Education Fund) Regulations, 2009.* (5 marks)
- (d) *Briefly explain the provisions relating to options which are not transferable under the SEBI ESOP Guidelines, 1999.* (5 marks)

#### **Answer to Question No. 8(a)**

The following are the trigger points for making an open offer by an acquirer under the SEBI Takeover Regulations, 2011:

- (i) *25% shares or voting rights* : An acquirer, along with Persons acting in concert (PAC), if any, who intends to acquire shares which along with his existing shareholding would entitle him to exercise 25% or more voting rights, can acquire such additional shares only after making a Public Announcement (PA) to acquire minimum twenty six percent shares of the Target Company from the shareholders through an Open Offer.
- (ii) *Creeping acquisition limit* : An acquirer who holds 25% or more but less than maximum permissible non-public shareholding of the Target Company, can acquire such additional shares as would entitle him to exercise more than 5% of the voting rights in any financial year ending March 31 only after making a Public Announcement to acquire minimum twenty six percent shares of Target Company from the shareholders through an Open Offer.

#### **Answer to Question No. 8(b)**

Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company, in the prescribed form the number of shares or voting

rights held by such person, on becoming such holder, within 2 working days of the receipt of intimation of allotment of shares or the acquisition of shares or voting rights, as the case may be.

Any person who is a director or officer of a listed company, shall disclose to the company, in the prescribed Form the number of shares or voting rights held by such person, within 2 working days of becoming a director or officer of the company.

Any person who is a promoter or part of promoter group of a listed company shall disclose to the company in prescribed Form the number of shares or voting rights held by such person, within two working days of becoming such promoter or person belonging to promoter group.

**Answer to Question No. 8(c)**

SEBI (IPEF) Regulations, 2009 provides that SEBI shall constitute an advisory committee for recommending investor education and protection activities that may be undertaken directly by the Board or through any other agency, for utilisation of the Fund for the purposes referred in these regulations. The Committee shall consist of the following members, namely:-

- (a) The Executive Director of SEBI in charge of Office of Investor Assistance and Education who shall be the convener of the Committee;
- (b) Two other officials of SEBI;
- (c) Five other members who have expertise about the securities market and experience in matters of investor grievance redressal or investor education.

The term of office of members shall be two years, which may be extended for a further period of two years. Any vacancy arising out of resignation, retirement or death of a member or for any other reason shall be filled by the Board for the remaining period of the term of such member. SEBI may dissolve and reconstitute the Committee if, at any time, SEBI is of the opinion that the Committee is unable to discharge the functions and duties imposed on it by or under these regulations.

**Answer to Question No. 8(d)**

The following options are not transferable under the SEBI (ESOP) Guidelines, 1999:

- (i) Option granted to an employee is not transferable to any person
- (ii) (a) No person other than the employee to whom the option is granted is entitled to exercise the option.
  - (b) Under the cashless system of exercise, the company may itself fund or permit the empanelled stock brokers to fund the payment of exercise price which shall be adjusted against the sale proceeds of some or all the shares, subject to the provisions of the Companies Act, 1956.
- (iii) The option granted to the employee cannot pledged, hypothecated, mortgaged or otherwise alienated in any other manner.
- (iv) In the event of the death of employee while in employment, all the options

granted to him till such date are vested in the legal heirs or nominees of the deceased employee.

- (v) In case the employee suffers a permanent incapacity while in employment, all the option granted to him as on the date of permanent incapacitation, shall vest in him on that day.
  - (vi) If an employee resigns or is terminated, all options not vested as on that day expire. However, the employee subject to the terms and conditions formulated by compensation committee, is entitled to retain all the vested options.
-

## TEST PAPER 2/2013

Time allowed : 3 hours

Maximum Marks : 100

### Part A (60 Marks)

*[Answer Question No.1 which is COMPULSORY  
and ANY THREE of the rest from this part]*

#### Question No. 1

(a) *State, with reasons in brief, whether the following statements are true or false:*

- (i) *In case of insider trading, an insider shall be liable for penalty of ₹ 25 lakhs rupees or the amount of profit made out of insider trading.*
- (ii) *As per Clause 20 of the Listing Agreement a listed company can issue superior rights as to voting or dividend.*
- (iii) *Commercial paper can be issued for maturities between a minimum of 3 months and maximum up to 5 years from the date of issue.*
- (iv) *The settlement cycle for securities lending and borrowing mechanism is on T+3 basis.*
- (v) *In case of book building the bidding terminal shall contain a physical demand and bids prices updated at periodic intervals not exceeding 20 minutes.*  
(2 marks each)

(b) *Choose the most appropriate answer from the given options in respect of the following:*

- (i) *Underwriting is a technique used in issue of securities under –*
  - (a) *Public issue*
  - (b) *Rights issue*
  - (c) *Bonus Issue*
  - (d) *All the above.*
- (ii) *Before 1992, the authority which used to regulate and deal with the stock market was the-*
  - (a) *Reserve Bank of India*
  - (b) *Controller of Capital Issues*
  - (c) *Registrar of Companies*
  - (d) *SEBI*

- (iii) *In case of compulsory delisting, the company cannot access the securities market directly or indirectly or seek listing from the date of delisting for a period of –*
- (a) *3 years*
  - (b) *5 years*
  - (c) *7 years*
  - (d) *10 years*
- (iv) *The maximum age for a person to hold the office as member of Securities Appellate Tribunal is –*
- (a) *60 years*
  - (b) *62 years*
  - (c) *65 years*
  - (d) *68 years*
- (v) *FCCBs are unsecured and carry interest at-*
- (a) *variable rate*
  - (b) *Fixed rate*
  - (c) *Floating rate*
  - (d) *Not determined.*
- (1 mark each)*

**Answer to Question No. 1(a)(i)****False**

Section 15G of SEBI Act, 1992 lays down that an insider shall be liable to a penalty of twenty five crore rupees or three times the amount of profits made out of insider trading, whichever is higher.

**Answer to Question No. 1(a)(ii)****False**

As per Clause 28A of the Listing Agreement a company cannot issue shares in any manner which may confer on any person, superior rights as to voting or dividend *vis-à-vis* the rights on equity shares that are already listed.

**Answer to Question No. 1(a)(iii)****False**

Commercial can be issued for maturities between a minimum of 7 days and a maximum upto one year from the date of issue.

**Answer to Question No. 1(a)(iv)****False**

The settlement cycle for SLB transactions shall be on T + 1 basis.

**Answer to Question No. 1(a)(v)****False**

The bidding terminals shall contain an online graphical display of demand and bid prices updated at periodic intervals not exceeding 30 minutes.

**Answer to Question No. 1(b)(i)**

(a) Public Issue

**Answer to Question No. 1(b)(ii)**

(b) Controller of Capital Issues

**Answer to Question No. 1(b)(iii)**

(d) 10 years

**Answer to Question No. 1(b)(iv)**

(b) 62 years

**Answer to Question No. 1(b)(v)**

(b) Fixed rate

**Question No. 2**

- (a) *What do you understand by Infrastructure Debt Fund Scheme? Discuss the eligibility criteria required to be fulfilled by a mutual fund for launching such scheme. (5 marks)*
- (b) *Explain the disclosures requirement need to be fulfilled by a company for making rights issue of Indian Depository Receipts(IDRs) under SEBI (ICDR) Regulations, 2009? (5 marks)*
- (c) *Discuss briefly the various categories of Alternative Investment Fund (AIF). (5 marks)*

**Answer to Question No. 2(a)**

“Infrastructure debt fund scheme” means a mutual fund scheme that invests primarily (minimum 90% of scheme assets) in the debt securities or securitized debt instrument of infrastructure companies or infrastructure capital companies or infrastructure projects or special purpose vehicles which are created for the purpose of facilitating or promoting investment in infrastructure, and other permissible assets in accordance with these regulations or bank loans in respect of completed and revenue generating projects of infrastructure companies or projects or special purpose vehicles.

The following eligibility criteria is required to be fulfilled by a mutual fund for launching such scheme:

- (i) An existing mutual fund may launch an infrastructure debt fund schemes if it has an adequate number of key personnel having adequate experience in infrastructure sector.

- ii. A certificate of registration may be granted to an applicant proposing to launch only infrastructure debt fund schemes if the sponsor or the parent company of the sponsor : –
- (a) has been carrying on activities or business in infrastructure financing sector for a period of not less than five years;
  - (b) fulfils the eligibility criteria as provided in Mutual Fund Regulation.

**Answer to Question No. 2(b)**

The following disclosures requirement need to be fulfilled by a company for making rights issue of Indian Depository Receipts (IDRs) under SEBI (ICDR) Regulations, 2009:

- Disclosures as required in the home country of the issuer;
- An additional wrap (addendum to offer document) attached to the offer document.

The Regulations further provide for :

- Disclosures in Abridged Prospectus;
- Disclosures in Addendum to Offer;
- Disclosures in Abridger Letter of offer;
- Dispatch of abridged letter of offer and application form;
- Pre-Issue Advertisement for rights issue.

**Answer to Question No. 2(c)**

According to SEBI (Alternative Investment Funds) Regulations, 2012, Alternative Investment Fund (AIF) has been classified into the following three broad categories:

**Category I** : - Funds that invest in start-up or early stage ventures or social ventures or Small Medium Enterprises (SMEs) or infrastructure or other sectors which the government or regulators consider as socially or economically desirable which include VCF, SME Funds, Social Venture Funds (SVF), Infra Funds and such other AIFs as may be specified in the AIF Regulations.

**Category II** : - Funds that do not fall in Category I and III AIF and those that do not undertake leverage or borrowing other than to meet the permitted day to day operational requirement including Private Equity Funds or Debt Funds.

**Category III** : - Funds that employ diverse or complex trading strategies and may employ leverage including through investment in listed or unlisted derivatives, for e.g. Hedge Funds.

**Question No. 3**

*Distinguish between any three of the following:*

- (i) *French auction and Dutch auction*
- (ii) *Open Ended Scheme and Close Ended Scheme*
- (iii) *Primary market and Secondary Market*



(iv) *Fully Convertible and Partly Convertible Debentures.*

(5 marks each)

**Answer to Question No. 3(i)**

**Difference between 'French auction' and 'Dutch auction'**

In French Auction, which is also known as Multiple Price Based Auction, all bids equal to or above the cut-off price are accepted. However, the bidder has to obtain the treasury bills at the price quoted by him. This method is followed in the case of 364 days treasury bills and is valid only for competitive bidders.

In Dutch auction, which is also known as Uniform Price Based Auction, all the bids equal to or above the cut-off price are accepted at the cut-off level. However, unlike the Multiple Price based method, the bidder obtains the treasury bills at the cut-off price and not the price quoted by him. This method is applicable in the case of 91 day treasury bills only. The system of Dutch auction has been done away with by the RBI w.e.f. 08.12.2002 for the 91 day treasury T. Bill.

**Answer to Question No. 3(ii)**

**Difference between Open ended and Close ended scheme**

An open ended mutual fund is a fund with a non-fixed number of outstanding shares/ units, that stands ready at any time to redeem them on demand. The fund itself buys back the shares surrendered and is ready to sell new shares. Generally the transaction takes place at the net asset value which is calculated on a periodical basis. The net asset value (Net Asset Value per share value of the fund's is total net assets after liabilities divided by the total number of shares outstanding on a given day) of the mutual funds rises or falls as a result of the performance of securities in the portfolio and the stock exchanges.

Close ended mutual funds is the fund where mutual fund management sells a limited number of shares and does not stand ready to redeem them. Primary example of such mutual fund is UTI's Master share. The shares of such mutual funds are traded in the secondary markets. The requirement for listing is laid down to grant liquidity to the investors who have invested with the mutual fund. Therefore, close ended funds are more like equity shares.

**Answer to Question No. 3(iii)**

**Difference between Primary Market and Secondary Market**

The Primary market provides the channel for mobilizing resources. Secondary Market deals in securities which were already issued in primary market or which securities have already raised resources from the primary market earlier. In Primary market the issue of securities may be through an IPO, Further issue of Capital, Right issue, offer to public, bonus, issues, offer of securities under reservation firm allotment basis to foreign collaborators, partners, mutual funds, merchant bankers, employees etc. The Secondary Market deals with such securities which have already listed on Stock Exchanges of any category subject to look in conditions. The primary market creates and offers merchandise for secondary market, which secondary market ensures relative safety in trading as the instruments are traded through stock exchange mechanism.

**Answer to Question No. 3(iv)****Difference between Fully Convertible and Partly Convertible Debentures**

<i>Characteristics</i>	<i>Partly convertible debentures</i>	<i>Fully convertible debentures</i>
Suitability	Better suited for companies with established track record	Better suited for companies without established track record
Capital base	Relatively lower equity capital on conversion of debentures	Higher equity capital on conversion of debentures
Flexibility in financing	Favourable debt equity ratio	Highly favourable debt equity ratio
Classification for debt-equity ratio computation	Convertible portion classified as 'equity' and non-convertible portion as 'debt'	Classified as equity for debt-equity computation
Popularity	Not so popular with investors	Highly popular with investors
Servicing of equity	Relatively lesser burden of equity servicing	Higher burden of servicing of equity

**Question No. 4**

- (a) Discuss about the intermediaries involved in Debt Market ? (5 marks)
- (b) Distinguish between 'Pass through certificates' and 'Inflation linked Bonds'? (5 marks)
- (c) Briefly explain about the Multilateral Memorandum of Understanding (MMoU) adopted by IOSCO. (5 marks)

**Answer to Question No. 4(a)**

The intermediaries involved in Debt Market are given as hereunder:

**Primary Dealers :** Primary dealers (PDs) are important intermediaries in the government securities markets. They act as underwriters in the primary market, and as market makers in the secondary market. PDs underwrite a portion of the issue of government security that is floated for a pre-determined amount. The underwriting commitment of each PD is broadly decided on the basis of its size in terms of its net owned funds, its holding strength, the committed amount of bids and the volume of turnover in securities.

**Brokers :** Brokers play an important role in secondary debt market by bringing together counterparties and negotiating terms of the trade. It is through them that the trades are entered on the stock exchanges. The brokers are regulated by the stock exchanges and also by SEBI.

**Answer to Question No. 4(b)****Difference between Pass through Certificates and Inflation linked bonds**

**Pass Through Certificates :** When mortgages are pooled together and undivided

interest in the pool are sold, pass-through securities are created. The pass-through securities promise that the cash flow from the underlying mortgages would be passed through to the holders of the securities in the form of monthly payments of interest and principal.

*Inflation linked bonds* : A bond is considered indexed for inflation if the payments on the instrument are indexed by reference to the change in the value of a general price or wage index over the term of the instrument. The options are that either the interest payments are adjusted for inflation or the principal repayment or both.

#### **Answer to Question No. 4(c)**

In 2002, IOSCO adopted a multilateral memorandum of understanding (IOSCO MMoU) designed to facilitate cross-border enforcement and exchange of information among international securities regulators. The MMoU sets an international benchmark for cross-border co-operation critical to combating violations of securities and derivatives laws. The MMoU represents a common understanding amongst its signatories about how they will consult, cooperate, and exchange information for securities regulatory enforcement purposes. The MMoU itself sets out the specific requirements for what information can be exchanged and how it is to be exchanged: legal ability to compel information; types of information that can be compelled; legal ability to share information; and permissible uses of information. It also sets out specific requirements regarding the confidentiality of the information exchanged, and ensures that no domestic banking secrecy, blocking laws or regulations prevents securities regulators from sharing this information with their counterparts in other jurisdictions.

#### **Question No. 5**

- (a) *What do you mean by Banker to an Issue? Discuss the role and functions of Banker to an Issue.* (5 marks)
- (b) *What are the conditions for conversion of ECB into equity ?* (5 marks)
- (c) *Explain the restrictions put by SEBI on the business activities of a Collective Investment Management Company (CIMC) ?* (5 marks)

#### **Answer to Question No. 5(a)**

Banker to an Issue means a scheduled bank carrying on all or any of the following activities:

- Acceptance of application and application monies;
- Acceptance of allotment or call monies;
- Refund of application monies;
- Payment of dividend or interest warrants.

Bankers to the issue, as the name suggests, carries out all the activities of ensuring that the funds are collected and transferred to the escrow accounts. The Banks render crucial service in mobilisation of capital for companies.

While one or more banks may function as Bankers to the Issue as well as collection

banks, others may do the limited work of collecting the applications for securities along with the remittance in their numerous branches in different centres. The banks are expected to furnish prompt information and records to the company and to the lead manager for monitoring and progressing the issue work. For this purpose, the company has to enter into an agreement with different banks specifying the conditions, terms and remuneration for services to be rendered by each such bank.

**Answer to Question No. 5(b)**

Conditions for conversion of ECB in to equity:-

- (i) Conversion of ECB into equity is permitted subject to the following conditions:
  - (a) The activity of the company is covered under the Automatic Route for Foreign Direct Investment or Government approval for foreign equity participation has been obtained by the company, wherever applicable,
  - (b) The foreign equity holding after such conversion of debt into equity is within the sectoral cap, if any,
  - (c) Pricing of shares is as per the SEBI and erstwhile CCI guidelines/ regulations in the case of listed/unlisted companies as the case may be.
- (ii) Conversion of ECB into equity may be reported in the form FC-GPR to the Regional Office concerned of the Reserve Bank as well as in form ECB-2 submitted to Reserve Bank of India within seven working days from the close of month to which it relates. Once reported, filing of ECB-2 in the subsequent months is not necessary.

**Answer to Question No. 5(c)**

Collective Investment Management Company (CIMC) should not :

- (i) undertake any activity other than that of managing the scheme;
- (ii) act as a trustee of any scheme;
- (iii) launch any scheme for the purpose of investing in securities;
- (iv) invest in any schemes floated by it.

However, it has been provided that a CIMC may invest in its own scheme, if it makes a disclosure of its intention to invest in the offer document of the scheme, and does not charge any fees on its investment in that scheme.

**PART B (40 Marks)**

*(Answer any two questions from this part)*

**Question No. 6**

- (a) *What is SCORES? Discuss the salient features of SCORES. (7 marks)*
- (b) *Briefly explain the qualification required for appointment as presiding officer or member of Securities Appellate Tribunal. (5 marks)*
- (c) *What is a 'Self Regulatory Organization'? What are its obligations? (8 marks)*

**Answer to Question No. 6(a)**

SCORES is a web based centralized grievance redress system of SEBI (<http://scores.gov.in>). SCORES enables investors to lodge and follow up their complaints and track the status of redressal of such complaints online from the above website from anywhere.

The salient features of SCORES are:

- SCORES is web enabled and provides online access 24 x 7;
- Complaints and reminders thereon can be lodged online at the above website at anytime from anywhere;
- An email is generated instantaneously acknowledging the receipt of complaint and allotting a unique complaint registration number to the complainant for future reference and tracking;
- The complaint forwarded online to the entity concerned for its redressal;
- The entity concerned uploads an Action Taken Report (ATR) on the complaint;
- SEBI peruses the ATR and closes the complaint if it is satisfied that the complaint has been redressed adequately;
- The concerned investor can view the status of the complaint online from the above website by logging in the unique complaint registration number;
- The entity concerned and the concerned investor can seek and provide clarification on his complaint online to each other;
- Every complaint has an audit trail; and
- All the complaints are saved in a central database which generates relevant MIS reports to enable SEBI to take appropriate policy decisions and or remedial actions, if any.

**Answer to Question No. 6(b)**

Section 15M of SEBI Act, 1992, prescribes that a person shall not be qualified for appointment as the Presiding Officer of Securities Appellate Tribunals unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court. It has also been prescribed that the presiding officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with chief justice of India or his nominee. A person shall not be qualified for appointment as a member of Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy.

A member of SEBI or any person holding a post at senior management level at SEBI cannot be appointed as presiding officer or member of Securities Appellate Tribunal during his service or tenure as such with SEBI or within two years from the date on which he ceases to hold office as such in SEBI.

**Answer to Question No. 6(c)**

'Self Regulatory Organization' means an organization of intermediaries which is representing a particular segment of the securities market and which is duly recognised by the SEBI, but excludes a stock exchange.

**Functions and Obligations of Self Regulatory Organization**

A Self Regulatory Organization is responsible for investor protection and education of investors or its members and ensures observance of Securities Laws by its members. There is standard code of conduct for its members. The SRO conducts inspection and audit of its members, on regular basis, through independent auditors. SEBI is to be promptly informed of violations of the provisions of the Act, rules, regulations, directions, circulars or the guidelines by any of its members. SRO is required to conduct screening and certification tests for its members, agents and such other persons as it may determine. SRO is required to conduct training programmes for its members or agents. SRO must act in utmost good faith and must avoid conflict of interest in the conduct of its functions. The SRO must comply with the norms of corporate governance as applicable to listed companies.

**Question No. 7**

- (a) Describe briefly the variations of terms of ESOS. (5 marks)
- (b) State the provisions relating to event based disclosures required to be made under SEBI Takeover Regulations, 2011. (5 marks)
- (c) Briefly explain clause 53 of listing agreement regarding the requirement need to be complied by a company while entering into an agreement with a media company. (5 marks)
- (d) Briefly discuss the provisions relating to the migration of a listed company from Main Board to SME Exchange under SEBI (ICDR) Regulations, 2009. (5 marks)

**Answer to Question No. 7(a)****Variation of terms of Employee Stock Option Scheme (ESOS)**

- (i) The company should not vary the terms of the Scheme in any manner which may be detrimental to the interests of the employees.  
However, if such variation is not prejudicial to the interests of the option holders, the company is required to pass a special resolution in a general meeting to vary the terms of scheme.
- (ii) The notice for passing special resolution for variation of terms of ESOS is required to be sent.
- (iii) The notice should disclose full details of the variation, the rationale therefor and the details of the employees who are beneficiary of such variation.
- (iv) The companies should be given an option to reprice the options which are not exercised if ESOSs were rendered unattractive due to fall in the price of shares in the market. The Company must ensure that such re-pricing should not be detrimental to the interest of employees and approval of shareholders in General Meeting has been obtained for such pricing.

**Answer to Question No. 7(b)**

<i>Regulation No.</i>	<i>Triggering Point</i>	<i>To and by whom</i>	<i>Time Period</i>
29(1)	Acquisition of 5% or more shares or voting rights	To the Target Company and Stock Exchange by the Acquirer	Within 2 working days (a) Receipt of intimation of allotment of shares; or (b) The acquisition of shares or voting right
29(2)	Acquirer already holding 5% or more shares or voting rights  On acquisition / disposal of 2% or more shares or voting rights.	To the Target Company and Stock Exchange by the Acquirer / Seller	Within 2 working days of such acquisition / disposal

**Answer to Question No. 7(c)**

According to clause 53 of the equity listing agreement the issuer company agrees to notify the stock exchange and disseminate through its own website, immediately upon entering into agreements with media companies and/or their associates. The following requirements need to be complied by a company while entering in an agreement with a media company are:

- (a) Disclosures regarding the shareholding (if any) of such media companies/ associates in the issuer company.
- (b) Other disclosures related to such agreements, viz., details of nominee of the media companies on the Board of the issuer company, any management control or potential conflict of interest arising out of such agreements, etc.
- (c) Disclosures regarding any other back to back treaties/contracts/agreements/ MoUs or similar instruments entered into by the issuer company with media companies and/or their associates for the purpose of advertising, publicity, etc.

**Answer to Question No. 7(d)**

A listed company whose post-issue face value capital is less than 25 crore rupees can migrate its specified securities to SME exchange –

- if its shareholders approve such migration by passing a special resolution through postal ballot to this effect and
- if such issuer fulfils the eligibility criteria for listing laid down by the SME exchange.

However, the special resolution shall be acted upon if and only if the votes cast by

shareholders other than promoters in favour of the proposal amount to at least two times the number of votes cast by shareholders other than promoter shareholders against the proposal.

**Question No. 8**

- (a) *What is an Investment Adviser? Describe briefly the responsibilities and obligations of Investment Adviser.* (8 marks)
- (b) *What is a trading window ? Explain the provisions relating to Trading Window need to be complied by a listed company under SEBI (Prohibition of Insider Trading) Regulations, 1992.* (7 marks)
- (c) *Who is eligible to be a Qualified Depository Participant (QDP)? What are the conditions required to be fulfilled to become a QDP ?* (5 marks)

**Answer to Question No. 8(a)**

“Investment Adviser” means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called.

The following are the general obligations of an Investment Adviser:

- An investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interests as and when they arise.
- An investment adviser shall not receive any consideration by way of remuneration or compensation or in any other form from any person other than the client being advised, in respect of the underlying products or securities for which advice is provided.
- An investment adviser shall maintain an arms-length relationship between its activities as an investment adviser and other activities.
- An investment adviser which is also engaged in activities other than investment advisory services shall ensure that its investment advisory services are clearly segregated from all its other activities.
- An investment adviser shall ensure that in case of any conflict of interest of the investment advisory activities with other activities, such conflict of interest shall be disclosed to the client.
- An investment adviser shall not divulge any confidential information about its client, which has come to its knowledge, without taking prior permission of its clients, except where such disclosures are required to be made in compliance with any law for the time being in force.
- An investment advisor shall not enter into transactions on its own account which is contrary to its advice given to clients for a period of fifteen days from the day of such advice.

However, during the period of such fifteen days, if the investment adviser is of the opinion that the situation has changed, then it may enter into such a transaction on its own account after giving such revised assessment to the client at least 24 hours in advance of entering into such transaction.



- An investment advisor shall follow Know Your Client procedure as specified by SEBI from time to time.
- An investment adviser shall abide by Code of Conduct as specified in Third Schedule.
- An investment adviser shall not act on its own account, knowingly to sell securities or investment products to or purchase securities or investment product from a client.
- In case of change in control of the investment adviser, prior approval from SEBI shall be taken.
- Investment advisers shall furnish to SEBI information and reports as may be specified by SEBI from time to time.
- It shall be the responsibility of the Investment Adviser to ensure that its representatives and partners, as applicable, comply with the certification and qualification requirements under the SEBI (investment Advisers) Regulations, 2013 at all times.

**Answer to Question No. 8(b)**

The company shall specify a trading period, to be called “Trading Window”, for trading in the company’s securities. The time for commencement of closing of trading window shall be decided by the company. The trading window shall be opened 24 hours after the following information is made public.

- The trading window shall be closed during the time of:-
  - Declaration of Financial results (quarterly, half-yearly and annual)
  - Declaration of dividends (interim and final)
  - Issue of securities by way of public/ rights/bonus etc.
  - Any major expansion plans or execution of new projects
  - Amalgamation, mergers, takeovers and buy-back
  - Disposal of whole or substantially whole of the undertaking
  - Any changes in policies, plans or operations of the company.
- When the trading window is closed, the employees / directors shall not trade in the company’s securities in such period. The time for commencement of closing of trading window shall be decided by the company.
- All directors/ officers/designated employees of the company shall conduct all their dealings in the securities of the Company only in a valid trading window and shall not deal in any transaction involving the purchase or sale of the company’s securities during the periods when trading window is closed or during any other period as may be specified by the Company from time to time.
- In case of ESOPs, exercise of option may be allowed in the period when the trading window is closed. However, sale of shares allotted on exercise of ESOPs shall not be allowed when trading window is closed.

**Answer to Question No. 8(c)**

A Depository Participant (DP) that has taken approval from / registered with SEBI to offer services to Qualified Foreign Investor (QFI) is called Qualified Depository Participants (QPD).

To become a Qualified Depository Participant, a SEBI registered DP shall fulfill the following:

- (i) DP shall have net worth of ₹50 crore or more.
  - (ii) DP shall be either a clearing bank or clearing member of any of the clearing corporations;
  - (iii) DP shall demonstrate that it has systems and procedures to comply with the FATF Standards, Prevention of Money Laundering (PML) Act, Rules and SEBI circulars issued from time to time; and
  - (iv) DP shall obtain prior approval of SEBI before commencing the activities relating to QFI.
-

**TEST PAPER 3/2013**

*Time allowed : 3 hours*

*Maximum Marks : 100*

**Part A (60 Marks)**

*[Answer Question No.1 which is COMPULSORY  
and ANY THREE of the rest from this part]*

**Question No. 1**

(a) *State, with reasons in brief, whether the following statements are true or false:*

- (i) *CAMEL Model is used for rating of banking companies.*
- (ii) *Sweat Equity shares are allotted to employees of a company as gift for their performance.*
- (iii) *Depository participants are subject to audit.*
- (iv) *In basket trading system, investor buys or sells all the fifty scrips in one go.*
- (v) *Shareholders of tracking stocks have a financial interest in a company as a whole. (2 marks each)*

(b) *Choose the most appropriate answer from the given options in respect of the following:*

(i) *Intermediaries which do not belong to primary market is –*

- (a) *Lead Manager*
- (b) *Stock Broker*
- (c) *Transfer Agent*
- (d) *Underwriter*

(ii) *Due diligence of an IPO to be issue by an Indian company is done by –*

- (a) *Advisor to the issue*
- (b) *Merchant bankers*
- (c) *Stock Exchange*
- (d) *Banker to the issue*

(iii) *In case of Euro issue, the prospective investors can access to vital information about the issuer company from \_\_\_\_\_*

- (a) *Stock research report*
- (b) *Offering Circular*
- (c) *Quarterly results of the issuer company*
- (d) *Investor relation programs.*

(iv) *Hybrid Scheme of mutual funds make investment in -*

- (a) *Bonds*
- (b) *Equity*
- (c) *Convertible*
- (d) *All the above*

(v) *The number of member who are independent directors in the audit committee should be –*

(a) *One third*

(b) *Two third*

(c) *Three fourth*

(d) *None of the above.*

*(1 mark each)*

**Answer to Question No. 1(a)(i)**

**False**

CAMEL Model is used for rating non-banking financial services.

**Answer to Question No. 1(a)(ii)**

**True**

Sweat equity shares are allotted to all employees of Companies or Directors as may be decided by Board of Directors of that particular issuer Company as a reward for the best services rendered; at a nominal price or a lower discounted price or at free of cost to further encourage them to put their best efforts for providing know how in the nature of intellectual property rights.

**Answer to Question No. 1(a)(iii)**

**True**

The two depositories National Securities Depository Limited and Central Depository Securities Limited provides for audit of the Depository Participants from Practicing Company Secretary or Chartered Accountants.

**Answer to Question No. 1(a)(iv)**

**False**

In basket trading system, the investors through the member brokers of the exchange are able to buy or sell all 30 scrips of sensex in one go in the proportion of their respective weights in the sensex. The investors can also create in their own baskets by deleting certain scrips from 30 scrips in the sensex.

**Answer to Question No. 1(a)(v)**

**False**

A Tracking stock is a type of common stock that “tracks” or depends on the financial performance of a specific business unit or operating division of a company, rather than the operations of the company as a whole. Shareholders of tracking stocks thus have a financial interest only in that unit or division of the company.

**Answer to Question No 1(b)(i)**

(c) Transfer Agent

**Answer to Question No 1(b)(ii)**

(b) Merchant bankers

**Answer to Question No 1(b)(iii)**

- (c) Quarterly results of the issuer company

**Answer to Question No 1(b)(iv)**

- (d) All the above

**Answer to Question No 1(b)(v)**

- (a) One-third

**Question No. 2**

- (a) Write short notes on the following :

(i) Commodity Pool

(ii) Bill rediscounting

(iii) Two way fungibility

(iv) Mortgage backed securities

(2 marks each)

- (b) Expand the following abbreviations:

(i) SDDS

(ii) FIMMDA

(1 mark each)

- (c) The financial markets have two major components – the money market and the capital market. (5 marks)

**Answer to Question No. 2(a)(i)****Commodity Pool**

Commodity pool is investment trusts, syndicates or similar enterprises that are operated for the purpose of trading commodity futures. The investment concentration in commodity pool is in commodity futures.

**Answer to Question No. 2(a)(ii)****Bill rediscounting**

Bill rediscounting means the rediscounting of trade bills, which have already been purchased by/discounted with the bank by the customers. These trade bills arise out of supply of goods/services. Bill rediscounting is a money market instrument where the bank buys the bill (i.e. Bill of Exchange or Promissory Note) before it is due and credits the value of the bill after a discount charge to the customer's account. Now, the bank which has discounted the bill may require getting it 'rediscounted' with some other bank to get the fund.

**Answer to Question No. 2(a)(iii)****Two way fungibility**

Two way fungibility means that the shares so released pursuant to ADR/GDR issue, can be reconverted by the company into Depository Receipts (DRs) for purchase by the overseas investors. It implies that the re-issuance of DRs would be permitted to the extent of DRs that have been redeemed and underlying shares are sold in domestic

market. A limited two-way Fungibility scheme has been put in place by the Government of India for ADRs / GDRs. Under this Scheme, a stock broker in India, registered with SEBI, can purchase shares of an Indian company from the market for conversion into ADRs/GDRs based on instructions received from overseas investors. Re-issuance of ADRs / GDRs would be permitted to the extent of ADRs / GDRs which have been redeemed into underlying shares and sold in the Indian market.

**Answer to Question No. 2(a)(iv)**

**Mortgage backed securities**

Mortgage backed securities assure a fixed return which is derived from the performance of the specific assets. They are issued with a maturity period of 3 to 10 years and backed by pooled assets like mortgages, credit card receivables, etc. There is a commitment from the loan originator and/or intermediary institution to ensure a minimum yield on maturity.

**Answer to Question No. 2(b)**

- (i) **SDDS** - Special Data Dissemination Standard
- (ii) **FIMMDA** -The Fixed Income Money Market and Derivatives Association of India

**Answer to Question No. 2(c)**

The financial markets have two major components namely: Money Market and Capital Market. The money market refers to the market where borrowers and lenders exchange short-term funds to solve their liquidity needs. Money market instruments are generally financial claims that have low default risk, maturities under one year and high marketability. The Capital Market is a market for financial investments that are direct or indirect claims to capital. It is wider than the Securities Market and embraces all forms of lending and borrowing, whether or not evidenced by the creation of a negotiable financial instrument. The Capital Market comprises the complex of institutions and the mechanisms through which intermediate term funds and long term funds are pooled and made available to business, government and individuals. The Capital Market also encompasses the process by which securities already outstanding are transferred.

**Question No. 3**

- (a) *What are the responsibilities of the Independent directors of an Asset Management Company under SEBI (Mutual Fund) Regulations, 1996 ? (5 marks)*
- (b) *Explain the regulatory framework of debt market in India. (5 marks)*
- (c) *What is demutualization? Discuss the important features of demutualization. (5 marks)*

**Answer to Question No. 3(a)**

Responsibilities of Independent Directors of an Asset Management Company (AMC)

The independent directors of the trustees or the AMC shall pay specific attention to the following:

- (1) the Investment Management Agreement and the compensation paid under the agreement,

- (2) service contracts with affiliates – whether the asset management company has charged higher fees than outside contractors for the same services,
- (3) selections of the asset management company's independent directors,
- (4) securities transactions involving affiliates to the extent such transactions are permitted,
- (5) selecting and nominating individuals to fill independent directors vacancies,
- (6) code of ethics must be designed to prevent fraudulent, deceptive or manipulative practices by insiders in connection with personal securities transactions,
- (7) the reasonableness of fees paid to sponsors, asset management company and any others for services provided,
- (8) principal underwriting contracts and their renewals,
- (9) any service contract with the associates of the asset management company.

**Answer to Question No. 3(b)**

Issue and listing of non-convertible debt securities, whether issued to the public or privately placed, are required to be made in accordance with the provisions of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008.

Issue of debt securities that are convertible, either partially or fully or optionally into listed or unlisted equity shall be guided by the disclosure norms applicable to equity or other instruments offered on conversion in terms of SEBI (ICDR) Regulations, 2009.

SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 deals with public offers of securitised debt instruments or to listing of securitized debt instruments issued to public or any person(s), on a recognized stock exchange. Continuing with rationalization of disclosure norms for listing of debt issuances, SEBI has also issued Listing Agreement for debt securities.

**Answer to Question No. 3(c)**

The process of demutualization is to convert the traditional "not for-profit" stock exchanges into a "for profit" company and this process is to transform the legal structure from a mutual form to a business corporation form. SEBI had set up a committee under the Chairmanship of Justice Kania for the same which came up with report on demutualization of Stock Exchanges through uniform scheme prescribed. Accordingly, SEBI issued scheme of demutualization to BSE and other Regional Stock Exchanges.

The important features of the demutualisation exercise are as follows :

- (1) The board of a stock exchange should consist of 75% public interest/ shareholder directors and only 25% broker directors, and
- (2) 51% shareholding of the stock exchange should be divested to public/ investors other than trading member brokers and only 49% of shareholding can remain with the trading member brokers. This will transform our broker-owned stock exchanges into professionally-run corporate stock exchanges. The options

prescribed for divestment/dilution of brokers' shareholding in a stock exchange are as follows:

- (1) Offer for sale, by issue of prospectus, of shares held by trading member brokers.
- (2) Private placement of shares (either of the shares held by the member brokers or new shares by the exchange) to any person or group of persons subject to the prior approval of SEBI and the maximum limit of 5% to any single person/group of persons.
- (3) Fresh issue of shares to the public through an IPO.

**Question No. 4**

- (a) *Discuss the steps involved the process of factoring.* (8 marks)
- (b) *Explain the concept of road show in case of raising resources through Euro issues.* (7 marks)

**Answer to Question No. 4(a)**

The following steps are involved in factoring are listed below:

- The seller interacts with the funding specialist/broker and explains the funding needs.
- The broker prepares a preliminary client profile form and submits to the appropriate funder for consideration.
- Once both parties agree that factoring is possible, the broker puts the seller in direct contact with the funder to ask/answer any additional questions and to negotiate a customized factoring agreement, which will meet the needs of all concerned.
- At this point, the seller may be asked to remit a fee with formal application to cover the legal research costs, which will be incurred during "due diligence".
- During the next several days, the funder completes the "due diligence" process on the seller, further verifies invoices and acknowledges any liens, UCC filings, judgments or other recorded encumbrances on the seller's accounts receivables.
- The seller is advised of the facility and is asked to advise the buyers of the Factor by letter and submit an acknowledged copy of the same to the Factor for records.
- A detailed sanction letter is given to the seller and their acceptance on the same taken, with the required signatories. (Authorized signatories would be mentioned in the "Signing Authorities" section of the Proposal presented by seller).
- The discounting rates, charges fixed.
- In case of discounts given by the seller to the buyer, which value would be



financed by the factor (since the factored amount should never exceed the amount actually payable by buyer).

- Usually within 7 to 10 days of the initial contact with the factor, agreements are signed, customers are notified, UCC forms filed and the first advance is forwarded to the company. This advance can vary between 70 - 80% of the face value of the invoices being factored. In the construction industry, the advances may be in the range of 60 - 70%. The remaining amount is called the "reserve" which is held by the factor until the invoices are paid. The factor then deducts his fee and returns the remaining funds to the seller.
- The seller performs services or delivers products, thus creating an invoice.
- The seller sends or faxes a copy of the invoice directly to the factor.
- The funder verifies the invoice and the advance is sent to the seller as per the agreement with the factor. In certain cases, the funder wires the funds to the seller's account for an additional fee.
- The buyer pays the factor. The factor then returns any remaining reserve, minus the fee, which has been predetermined in the negotiated agreement.

**Answer to Question No. 4(b)**

Road shows represent meetings of issuers, analysts and potential investors. Details about the company are presented in the road shows and such details usually include the following information about the company making the issue:

- History
- Organizational structure
- Principal objects
- Business lines
- Position of the company in Indian and international market
- Past performance of the company
- Future plans of the company
- Competition - domestic as well as foreign
- Financial results and operating performance
- Valuation of shares
- Review of Indian stock market and economic situations.

Thus, at road shows, series of information presentations are organised in selected cities around the world with analysts and potential institutional investors. It is, in fact, a conference by the issuer with the prospective investors.

Road show is arranged by the lead manager by sending invitation to all prospective investors.

**Question No. 5**

- (a) *What is 'Initial Public Offering' (IPO) Grading? Explain the procedure for IPO grading. (5 marks)*
- (b) *What do you mean by SME Exchange? Discuss the role of Company Secretary in the model listing agreement laid down by SEBI for SMEs for the purpose of listing. (5 marks)*
- (c) *What are the requirements for making investment in Indian Depository Receipts (IDRs) ? (5 marks)*

**Question No. 5 (a)**

IPO (Initial Public Offering) grading is a service aimed at facilitating the assessment of equity issues offered to public. The grade assigned to any individual issue represents a relative assessment of the fundamental of that issue in relation to the universe of other listed equity securities. In India such grading is assigned on a five point scale with a higher score indicating stronger fundamental. Credit rating agencies registered with SEBI carry out IPO grading. The grading does not have any ongoing validity. The company first appoints grading agencies and mandates it for grading exercise. The agency will follow the process outlined below :

- seek information for grading from the company
- visit company operation for discussions
- prepare analytical assessment report
- present analysis to committee comprising top official of company & grading agency
- communicate the grade to the company with assessment report.

**Answer to Question No. 5(b)**

SME exchange means a trading platform of a recognised stock exchange having nationwide trading terminals permitted by SEBI to list the specified securities issued in accordance with SEBI (ICDR) Regulations, 2009 and includes a stock exchange granted recognition for this purpose but does not include the Main Board. Here Main Board means a recognized stock exchange having nationwide trading terminals, other than SME exchange.

All listed SMEs on SME platform are required to appoint the Company Secretary of the Issuer as Compliance Officer who will be responsible for monitoring the share transfer process and report to the Issuers board in each meeting. The Compliance Officer will directly liaise with the authorities such as SEBI, Stock Exchanges, ROC etc., and investors with respect to implementation of various clause, rules, regulations and other directives of such authorities and investor service & complaints related matter. Further Registrar & Transfer Agents of listed SMEs are required to produce a certificate from a practicing Company Secretary that all transfers have been completed within the stipulated time and certification regarding compliance of conditions of Corporate Governance.

**Answer to Question No. 5(c)****Requirements for making investment in Indian Depository Receipts (IDRs)**

An issuing company cannot raise funds in India by issuing IDRs unless it has obtained prior permission from SEBI at least 90 days prior to the opening date of the issue in the notified manner along with a non-refundable fee of US \$ 10,000.

The issuing company is required to obtain the necessary approvals or exemption from the appropriate authorities from the country of its incorporation and also has to appoint an overseas custodian bank, a domestic depository and a merchant banker for the purpose of issue of IDRs.

The issuing company has to file through a merchant banker or the domestic depository a due diligence report with the Registrar and also with SEBI.

The issuing company, seeking permission should obtain in-principle listing permission from one or more stock exchanges having nationwide trading terminals in India.

**PART B (40 marks)**

*(Answer any two questions from this part)*

**Question No. 6**

- (a) *What is Basic Services Demat Account (BSDA)? Who are eligible investors under the BSDA Facility. (5 marks)*
- (b) *Briefly enumerate the initiatives taken by MCA with respect to financial literacy and education of investors. (5 marks)*
- (c) *Briefly discuss about Qualified Foreign Investor (QFI) ? (5 marks)*
- (d) *What is the lock-in-period and rights of option holder in case of Employee Stock Option Scheme ? (5 marks)*

**Answer to Question No. 6(a)**

With a view to achieve wider financial inclusion, encourage holding of demat accounts and to reduce the cost of maintaining securities in demat accounts for retail individual investors, SEBI introduced the concept of basic services demat account (BSDA). All depository participants (DPs) shall make available a "Basic Services Demat Account" (BSDA) with limited services and reduced costs compared to conventional demat accounts. These BSDA will also offer SMS alert facility for debit transactions.

*Eligible Investor:* The "Basic Services Demat Account" (BSDA) promises to provide limited services at reduced costs to retail investors. All individual who currently have one account or plan to open an demat account, they are the sole first holder will be allowed to open the BSDA, provided that the value of securities held will not be more than ` 2 lakh at any given point of time. However, Investors can open only one BSDA across all DPs. An existing eligible individual who holds a demat account with a DP can convert demat account into BSDA on the date of the next billing cycle based on value of holding of securities as on the last day of previous billing cycle.

**Answer to Question No. 6(b)**

Financial literacy allows to fully appreciate opportunities and associated risks, take informed decisions and participate actively in the economic growth story of the country by converting saving into investments. Ministry of Corporate Affairs (MCA) has a dedicated approach for empowering investors through education and awareness building. MCA on 27th September, 2007 launched a website [www.iepf.gov.in](http://www.iepf.gov.in). It provides information about IEPF and the various activities that have been undertaken/ funded by it. This website provides information on various aspects such as role of capital market, IPO investing, Mutual Fund Investing, Stock Investing, Stock Trading, Depository Account, Debt Market, Derivatives, Indices, Indices (comic strip), Index Fund, Investor Grievances & Arbitration (Stock Exchanges), Investor Rights & Obligations, Do's and Don'ts etc.

Ministry of Corporate Affairs has taken various initiatives to educate investors, particularly, since 2001, the Investor Education and Protection Fund (IEPF) has been working for educating the investors and for creating greater awareness about investments in the corporate sector.

**Answer to Question No. 6(c)**

Qualified Foreign Investor (QFI) shall mean a person who fulfils the following criteria:

- (i) Resident in a country that is a member of Financial Action Task Force (FATF) or a member of a group which is a member of FATF; and
- (ii) Resident in a country that is a signatory to IOSCO's MMOU or a signatory of a bilateral MOU with SEBI.

Provided that the person is not resident in a country listed in the public statements issued by FATF from time to time on-(i) jurisdictions having a strategic Anti-Money Laundering/Combating the Financing of Terrorism (AML/ CFT) deficiencies to which counter measures apply, (ii) jurisdictions that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies.

Provided further such person is not resident in India. Provided further that such person is not registered with SEBI as Foreign Institutional Investor or Sub-account or Foreign Venture Capital Investor.

**Answer to Question No. 6(d)****Lock-in-period and Rights of the Option-Holder in case of ESOP**

- (i) There should exist a minimum period of one year between the grant of options and vesting of option.

However, where options are granted by a company under an ESOS in lieu of options held by the same person under an ESOS in another company which has merged or amalgamated with the first mentioned company, the period during which the options granted by the transferor company were held by him shall be adjusted against the minimum vesting period required under this clause.

- (ii) The company has the freedom to specify the lock-in-period for the shares issued pursuant to exercise of option.
- (iii) The employee does not have the right to receive any dividend or to vote or in any manner enjoys the benefits of a shareholder in respect of option granted to him, till shares are issued on exercise of option

**Question No. 7**

- (a) *What do you mean by Qualified Institutional Placement (QIP)? Discuss the conditions required to be fulfilled for making a QIP. (7 marks)*
- (b) *What is listing of securities? Explain various types of listing. (6 marks)*
- (c) *Briefly discuss the provisions with respect to the public announcement required to be made under the SEBI Takeover Regulations, 2011. (7 marks)*

**Question No. 7(a)**

A Qualified Institutions Placement means allotment of eligible securities by a listed issuer to qualified institutional buyers on private placement basis in terms of SEBI (ICDR) Regulations, 2009. This QIP is different from offer of securities to qualified institutional buyers in an IPO.

A listed issuer can make Qualified Institutions Placement subject to the following conditions:

- A special resolution approving the issue is required to be passed by its shareholders.
- Prior to the date of issuance of notice to its shareholders for convening the meeting to pass the special resolution, the equity shares of the same class, which are proposed to be allotted through QIP, are listed on a recognised stock exchange having nation wide trading terminal for a period of at least one year.
- If an issuer, being a transferee company in a scheme of merger, de-merger, amalgamation or arrangement sanctioned by a High Court under sections 391 to 394 of the Companies Act, 1956, makes QIP, the period for which the equity shares of the same class of the transferor company werelisted on a stock exchange having nation wide trading terminals are also eligible to be considered for the purpose of computation of the period of one year.
- It is in compliance with the requirement of minimum public shareholding specified in the listing agreement with the stock exchange.
- In the special resolution, it shall be, among other relevant matters, the resolution must specify the relevant date and the resolution also specify that the allotment is proposed to be made through QIP.

**Answer to Question No. 7(b)**

Any company offering its shares to the public for subscription is required to be listed on the stock exchange and has to comply with the conditions as provided in the SEBI (ICDR) Regulations, 2009. In addition, a company intending to have its share listed has

to comply with the listing requirements prescribed by the Stock Exchange. A company seeking listing of their securities on the Stock Exchange is required to enter into a formal listing agreement with the Stock Exchange. Listing of securities falls under 5 groups –

- (i) *Initial Listing* : If the shares or securities are to be listed for the first time by a company on a stock exchange is called initial listing.
- (ii) *Listing for Public Issue* : When a company whose shares are listed on a stock exchange comes out with a public issue of securities, it has to list such issue with the stock exchange.
- (iii) *Listing for Rights Issue* : When companies whose securities are listed on the stock exchange issue securities to existing shareholders on rights basis, it has to list such rights issues on the concerned stock exchange.
- (iv) *Listing of Bonus Shares* : Shares issued as a result of capitalisation of profit through bonus issue shall list such issues also on the concerned stock exchange.
- (v) *Listing for merger or amalgamation* : When new shares are issued by an amalgamated company to the shareholders of the amalgamating company, such shares are also required to be listed on the concerned stock exchange.

#### **Answer to Question No. 7(c)**

The following types of public announcement are required to be made under the SEBI Takeover Regulations, 2011:

##### **I. Short Public Announcement**

A short public announcement shall be made on the same day or as prescribed under Regulation 13(1), (2) and (3) of the Regulations as the date of transaction which triggered the Open Offer to all the stock exchanges where the shares of the Target Company are listed for the purpose of dissemination of the information to the public. Further, a copy of the public announcement shall be sent to SEBI and to the Target Company at its registered office within one working day of the date of short public announcement. [Regulation 13 read with Regulation 14(1) and 14(2)]

##### **II. Detailed Public Announcement**

After the short Public Announcement, a detailed Public Announcement shall be made by the Acquirer within 5 working days from the date of short Public Announcement. Such public announcement is required to be published in all editions of any one English national daily with wide circulation, any one Hindi national daily with wide circulation, and any one regional language daily with wide circulation at the place where the registered office of the Target Company is situated and one regional language daily at the place of the stock exchange where the maximum volume of trading in the shares of the Target Company are recorded during the sixty trading days preceding the date of the public announcement. [Regulation 13(4) read with Regulation 14(3)].

Simultaneously, a copy of the publication shall be sent to SEBI, Stock

Exchanges where the shares of the Target Company are listed and to the Target Company at its registered office.[Regulation 14(4)]

**Question No. 8**

- (a) *Discuss the powers of Securities Appellate Tribunal under SEBI Act, 1992.* (5 marks)
- (b) *What are the activities stipulated under the IEPF Rules, 2001?* (5 marks)
- (c) *Explain the provisions as laid down by SEBI relating to In-Person Verification (IPV) of clients carried out by the Intermediaries.* (5 marks)
- (d) *Discuss the duty of compliance officer under the SEBI (Prohibition of Insider Trading) Regulations, 1992.* (5 marks)

**Answer to Question No. 8(a)**

The Securities Appellate Tribunals shall have, for the purposes of discharging their functions under SEBI Act, 1992, the same 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) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it ex-parte;
- (g) setting aside any order of dismissal of any application for default or any order passed by it ex-parte;
- (h) any other matter which may be prescribed.

Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

**Answer to Question No. 8(b)**

The following activities are stipulated under the IEPF Rules, 2001 :

- Education Programme through media
- Organizing seminars and symposia
- Proposals for registration of Voluntary Associations or Institution or other organizations engaged in Investor Education and Protection activities
- Proposals for projects for Investors' Education and Protection including research activities and proposals for financing such projects

- Coordinating with institutions engaged in Investor Education, awareness and protection activities.

**Answer to Question No. 8(c)**

SEBI has made it compulsory for all the intermediaries to carry out In-Person Verification (IPV) of their clients. The intermediary shall ensure that the details like name of the person doing IPV, his designation, organization with his signatures and date are recorded on the KYC form at the time of IPV.

The IPV carried out by one SEBI registered intermediary can be relied upon by another intermediary. In case of Stock brokers, their sub-brokers or Authorised Persons (appointed by the stock brokers after getting approval from the concerned Stock Exchanges) can perform the IPV.

In case of Mutual Funds, their Asset Management Companies (AMCs) and the distributors who comply with the certification process of National Institute of Securities Market (NISM) or Association of Mutual Funds (AMFI) and have undergone the process of 'Know Your Distributor (KYD)', can perform the IPV.

However, in case of applications received by the mutual funds directly from the clients i.e. not through any distributor), they may also rely upon the IPV performed by the scheduled commercial banks.

**Answer to Question No. 8(d)**

The Compliance Officer shall maintain records of all the declarations in the appropriate form given by the directors/ officers/designated employees for a minimum period of three years.

The Compliance Officer shall disclose within two working days of receipt, to all stock exchanges on which the company is listed, the information received under Regulation 13 of SEBI (Prohibition of Insider Trading) Regulations, 1992. The Compliance Officer shall inform SEBI the violation of the SEBI (Prohibition of Insider Trading) Regulations, 1992, if any committed by any person. But before bringing it to the notice of SEBI, the compliance officer has to inform the Managing Director/ Chief Operating Officer and the Board of the Company.

The Compliance Officer shall place before the Managing Director/Chief Executive Officer or a committee specified by the company, on a monthly basis all the details of the dealing in the securities by employees/director/officer of the company and the accompanying documents that such persons had executed under the pre-dealing procedure as envisaged in this code.

In addition to the above he is also required to liaison with other authorities and the shareholders of the Company.

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