

SUGGESTED ANSWERS

PROFESSIONAL PROGRAMME

CAPITAL, COMMODITY AND MONEY MARKET (PP-CC&MM/2013) (ELECTIVE 9.2)



**THE INSTITUTE OF
Company Secretaries of India**

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

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The Suggested Answers contain the information based on the Laws/Rules applicable at the time of preparation. However, students are expected to be well versed with the amendments in the Laws/Rules made upto **six** months prior to the date of examination.

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PROFESSIONAL PROGRAMME
CAPITAL, COMMODITY AND MONEY MARKET

TEST PAPER 1/2013
(This Test Paper is based on entire Study Material)

Time allowed : 3 hours

Maximum Marks : 100

NOTE : Attempt ALL Questions.

Question No. 1

Write short note on any four of the following:

- (a) Private Equity*
- (b) Warrant*
- (c) Shelf prospectus*
- (d) Suspicious Transaction Report*
- (e) Price Sensitive Information (PSI)*

(5 marks each)

Answer to Question No. 1(a)

Private Equity

Private equity is a way to invest in some assets that isn't publicly traded, or to invest in a publicly traded asset with the intention of making it private. Private Equity consists of investors and funds that make investments directly into private companies or conduct buyouts of public companies that result in a delisting of public equity. The major part of private equity consists of institutional investors and accredited investors who can commit large sums of money for long period of time. Private equity investments often demand long holding period to allow for a turnaround of a distressed company or a liquidity event such as IPO or sale to a public company. Generally, private equity fund raise money from investors like Angel Investors, Institutions with diversified investment portfolio like-pension funds, insurance companies, banks, funds of funds etc.

Answer to Question No. 1(b)

Warrant

Warrant means an option issued by a company whereby the buyer is granted the right to purchase a number of shares (usually one) of its equity share capital at a given exercise period during a given period. The holder of a share warrant has the right but not the obligation to convert into equity shares. Thus in the true sense, a warrant signifies optional conversion. In case the investor benefits by capital gains, he will convert the

warrants, else he may simply let the warrant lapse. Thus, in such cases, there is no possibility of the investor suffering any capital losses. For example if the conversion price of the warrant is Rs. 70/- and the current market price is Rs. 110/-, then the investor will convert the warrant and enjoy the capital gain of Rs. 40/-. In case the conversion is at Rs. 70/- and the current market price is Rs. 40/- then the investor will simply let the warrant lapse without conversion.

Answer to Question No. 1(c)

Shelf Prospectus

Shelf prospectus means a prospectus issued by any financial institution or bank for one or more issues of the securities or class of securities specified in that prospectus. Section 60A of the Companies Act, 1956 enable public financial institutions, public sector banks, and scheduled banks, whose main object is to make loans to, or subscribe for securities of private industrial enterprises engaged in infrastructure financing to issue shelf prospectus. Section 60A lays down that any public financial institution, public sector bank or scheduled bank whose main object is financing shall file a shelf prospectus. A company filing a shelf prospectus with the Registrar shall not be required to file prospectus afresh at every stage of offer of securities by it within a period of validity of such shelf prospectus.

Answer to Question No. 1(d)

Suspicious Transaction Report

Every banking company, financial institution and intermediary shall furnish to Financial Intelligence Unit-India (FIU-IND) information of all suspicious transactions whether or not made in cash. Suspicious Transaction means a transaction including an attempted transaction, whether or not made in cash which, to a person acting in good faith –

- (a) gives rise to a reasonable ground of suspicion that it may involve proceeds of an offence specified in the Schedule to the Prevention of Money Laundering Act, regardless of the value involved; or
- (b) appears to be made in circumstances of unusual or unjustified complexity; or
- (c) appears to have no economic rationale or bonafide purpose; or
- (d) gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism.

Answer to Question No. 1(e)

Price Sensitive Information (PSI)

“Price sensitive information” means any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of company;

The following shall be deemed to be price sensitive information:-

- periodical financial results of the company;
- intended declaration of dividends (both interim and final);

- issue of securities or buy-back of securities;
- any major expansion plans or execution of new projects;
- amalgamation, mergers or takeovers;
- disposal of the whole or substantial part of the undertaking;
- any significant changes in policies, plans or operations of the company.

Question No. 2

What do you mean by Voluntary Open Offer? Briefly discuss the conditions required to be fulfilled by an acquirer for making Voluntary Open Offer under the SEBI Takeover Regulations, 2011. (10 marks)

Answer to Question No. 2

Voluntary Open Offer means the Open Offer given by the Acquirer voluntarily without triggering the mandatory Open Offer obligations as envisaged under the SEBI Takeover Regulations, 2011. Voluntary Offers are an important means for substantial shareholders to consolidate their stake and therefore recognized the need to introduce a specific framework for such Open Offers.

Regulation 6 of the Takeover Regulations provides the threshold and conditions for making the Voluntary Open Offer which are detailed below:

Eligibility

- (i) *Prior holding of at least 25% shares*: To be eligible for making a Voluntary Open Offer, the regulations mandate the prior holding of at least 25% stake in the Target Company by the Acquirer along with the Persons Acting in Concert (PACs).
- (ii) *Shareholding of the Acquirer and PACs post completion of Open Offer*: Post completion of the Open Offer, the shareholding of the Acquirer along with PACs shall not exceed the "maximum permissible non-public shareholding".

Acquisition of shares prior to the Voluntary Open Offer

The Acquirer shall become ineligible to make a Voluntary Open Offer if during the preceding 52 weeks, the Acquirer or PACs with him has acquired shares of the Target Company without attracting the obligation to make a Public Announcement of an Open Offer. This condition is given because the Voluntary Open Offer is permitted as an exception to the general rule on the offer size, thus the ability to voluntarily make an Open Offer should not be available if in the proximate past, any of such persons have made acquisitions within the creeping acquisition limits permitted under the Regulations.

Prohibition on the acquisition of shares during the Offer Period

SEBI Takeover Regulations, 2011 prohibits the acquirer who has made a Voluntary Open Offer from further acquiring the shares during the Offer Period otherwise than under the Open Offer.

Restriction of the acquisition of shares post completion of Voluntary Open Offer

An acquirer and PACs who have made a Voluntary Open Offer shall not be entitled

to further acquire shares for a period of 6 months after completion of the Open Offer except pursuant:

- (a) To another Voluntary Open Offer.
- (b) To Competing Open Offer to the Open Offer made by any other person for acquiring shares of the Target Company.

Offer size

The Voluntary Open Offer shall be made for the acquisition of at least ten per cent (10%) of the voting rights in the Target Company and shall not exceed such number of shares as would result in the post acquisition holding of the acquirer and PACs with him exceeding the maximum permissible non-public shareholding applicable to such Target Company.

Question No. 3

- (a) *Discuss the various types of American Depository Receipts (ADRs)? (6 marks)*
- (b) *What is Bill Discounting? Explain. (4 marks)*

Answer to Question No. 3(a)

American Depository Receipts (ADRs) can be classified into two broad categories:

- (i) *Un-sponsored ADRs* : In such ADRs, the company has got no agreement with the custodian or depository bank for the issuance of ADRs. These are traded on the over-the-counter (OTC) market and are issued according to the market demand forces. Un-sponsored ADRs can be issued by a number of depository banks. Each depository bank services only the ADRs issued by it.
- (ii) *Sponsored ADRs* : These are the ADRs which are sponsored by the company itself. In this case, the foreign company itself wants to issue ADRs and it does so by designating a depository bank that will issue ADRs in the foreign market on its behalf. It is of the following types:
 - (a) *Level 1 Sponsored ADRs* : These are the lowest level of sponsored ADRs. These are traded only on the OTC market. The company is supposed to adhere to minimal US Securities and Exchange Commission (SEC) requirements and is not required to publish reports in accordance to US GAAP standards.
 - (b) *Level 2 Sponsored ADRs* : In level 2 ADRs, the ADRs are listed on a recognized US stock exchange and can be traded thereafter. The stock exchanges in which these ADRs can be traded are New York Stock Exchange (NYSE), NASDAQ, and the American Stock Exchange (AMEX). In such ADRs, the company is supposed to adhere to higher level of SEC regulations and is also required to publish annual reports in accordance with US GAAP or IFRS (International Financial Reporting Standards).
 - (c) *Level 3 Sponsored ADRs* : These are the highest level of sponsored ADRs. As such, it requires adherence to stringent rules and regulations similar to the US companies. In this type of ADRs, the company rather than letting

its shares from the home market to be deposited in for the ADR program, actually issues fresh shares in the form ADRs to raise capital from the US market.

Answer to Question No. 3(b)

Bill Discounting is a short tenure financing instrument for companies willing to discount their purchase / sales bills to get funds for the short run and as for the investors, it is a good instrument to park their spare funds for a very short duration. Bill discounting is of two types:

1. *Purchase bill discounting* : A purchase bill discounting means that the investor discounts the purchase bill of the company and pays the company, who in turn pay their supplier. The investor gets his money back from the company at the end of the discounting period.
2. *Sales bill discounting* : A sales bill discounting means the investor discounts the sales bill of the company and pays directly to the company. The investor gets his return from the company at the end of the discounting period.

Question No. 4

The Executive Committee of a recognized Stock Exchange desires to transfer certain duties and functions of a clearing house to a recently set up Clearing Corporation, incorporated as a company under the Companies Act, 1956. Examining the provisions of the Securities Contracts (Regulation) Act, 1956:

- (i) *State the purpose for which such transfer of duties and functions can be made to Clearing Corporation?*
- (ii) *What is the procedure to be adopted for such transfer of duties and functions?*
(10 marks)

Answer to Question No. 4

Section 8A deals with the transfer of certain duties and functions of a clearing house by a stock exchange to clearing corporation under the Securities Contracts (Regulation) Act, 1956:

A recognized stock exchange may, with the prior approval of SEBI, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 for the purpose of:

- (i) the periodical settlement of contracts and differences thereunder,
- (ii) the delivery of, and payments for, securities;
- (iii) any other matter incidental to, or connected with, such transfer.

Procedure

1. Every clearing corporation shall for the purpose of transfer of the duties and functions of a clearing house to clearing corporation make bye-laws and submit the same to the SEBI for approval.

2. The SEBI may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the bye-laws submitted to it under sub-section (2) and approve transfer of the duties and functions of a clearing house to a clearing corporation.
3. The provisions of sections 4 to 12 shall, as far as may be, apply to a clearing corporation as they apply in relation to a recognized stock exchange.

Question No. 5

Distinguish between the following:

- (a) *Offer for Sale and Initial Public Offer*
- (b) *Accounting Period Settlement and Rolling Settlement.* (5 marks each)

Answer to Question No. 5(a)**Offer for Sale and Initial Public Offer**

- *Offer for sale (OFS)* mechanism facilitates the promoters of an already listed company to sell or dilute their existing shareholdings through an exchange based bidding platform. Whereas when an unlisted company makes either a fresh issue of securities or offer its existing securities for sale or both for the first time it is called an initial public offer.
- *Physical Application* : Unlike IPOs, no physical application forms are issued to apply for shares in the OFS process. OFS process is completely platform based.
- *Time Period* : While IPOs remain open for 3-4 days, OFS gets over in a single trading day as the markets gets closed for trading at 3:30 p.m.
- *Price Band* : Under IPOs, there is a price band in which the investors need to bid for the shares or simply give their consent to buy the shares at the "Cut-Off" price. With OFS, there is a "Floor Price".
- *Charges* : Investors are not required to pay any kind of charges over and above the 'Fixed Price' in an IPO. But, the OFS process involve certain transaction charges including the brokerage, Securities Transaction Tax (STT) and other charges, which the investors normally pay when they buy shares of a company in the cash market.

Answer to Question No. 5(b)**Accounting Period Settlement and Rolling Settlement**

In Accounting period settlement systems there is a predetermined period of usually 7 – 12 days, over which total trades are aggregated. Cumulative net obligations of each member are calculated on last day of cycle. It is more speculative than the rolling settlements. It may lead to payment crisis in case of wide fluctuations in the market.

In Rolling Settlement system, each day constitutes the settlement period (T+2 System). Under rolling settlements, unlike the account period settlements the trades done on a particular day are settled after a given number of business days instead of settling all trades done during an account period of a week or fortnight. In case of Rolling

Settlements, pay-in and pay-out of both funds and securities is completed on the same day. Each trading day is considered as a trading period and trades executed during the day are settled to obtain the net obligations for the day in a rolling settlement.

Question No. 6

What is Investible Weight Factors (IWFs)? How IWFs can be calculated, explain with the help of an example. (10 marks)

Answer to Question No. 6

Investible Weight Factors (IWFs) as the term suggests is a unit of floating stock expressed in terms of a number available for trading and which is not held by the entities having strategic interest in a company. Higher IWF suggest greater number of shares held by the investors as reported under public category within a shareholding pattern reported by each company.

The IWFs for each company in the index are determined based on the public shareholding of the companies as disclosed in the shareholding pattern submitted to the stock exchanges on quarterly basis. The following categories are excluded from the free float factor where identifiable separately:

- Shareholding of promoter and promoter group
- Government holding in the capacity of strategic investor
- Shares held by promoters through ADR/GD`
- Strategic stakes by corporate bodies
- Investments under FDI category
- Equity held by associate/group companies (cross-holdings)
- Employee Welfare Trusts
- Shares under lock-in category

Example

For XYZ Ltd.

	Shares	%
Total Shares	1,00,00,000	100.00
	<i>Shares</i>	<i>%</i>
Shareholding of promoter and promoter group	19,75,000	19.75
Government holding in the capacity of strategic investor	50,000	0.50
Shares held by promoters through ADR/GDRs	2,50,000	2.50
Equity held by associate/group companies (cross-holdings)	12,575	0.13
Employee Welfare Trusts	1,45,987	1.46
Shares under lock-in category	14,78,500	14.79

Investible Weight Factors (IWF) = $[1,00,00,000 - (19,75,000 + 50,000 + 2,50,000 + 12,575 + 1,45,987 + 14,78,500)] / 1,00,00,000 = 0.60870$

Question No. 7

Enumerate the provisions relating to alternate method of Book Building under SEBI (ICDR) Regulations, 2009. (10 marks)

Answer to Question No. 7

In case of further public offers the issuer may opt for an alternate method of book building, subject to the provisions of SEBI (ICDR) Regulations, 2009 which are as follows:

- (a) Issuer shall follow the procedure laid down in Part A of Schedule XI of SEBI (ICDR) Regulations, 2009.
- (b) The issuer may mention the floor price in the red herring prospectus or if the floor price is not mentioned in the red herring prospectus, the issuer shall announce the floor price at least one working day before opening of the bid in all the newspapers in which the pre-issue advertisement was released.
- (c) Qualified Institutional Buyers shall bid at any price above the floor price.
- (d) The bidder who bids at the highest price shall be allotted the number of securities that he has bided for and then the bidder who has bided at the second highest price and so on, until all the specified securities on offer are exhausted.
- (e) Allotment shall be on price priority basis for qualified institutional buyers.
- (f) Allotment to retail individual investors, non-institutional investors and employees of the issuer shall be made proportionately.
- (g) Where, however the number of specified securities bided for at a price is more than available quantity, then allotment shall be done on proportionate basis.
- (h) Retail individual investors, non-institutional investors and employees shall be allotted specified securities at the floor price.
- (i) The issuer may:-
 - (A) place a cap either in terms of number of specified securities or percentage of issued capital of the issuer that may be allotted to a single bidder;
 - (B) decide whether a bidder be allowed to revise the bid upwards or downwards in terms of price and/ or quantity;

Question No. 8

What are the obligations on banking companies, financial institutions and intermediaries under the Prevention of Money Laundering Act, 2002 ? (10 marks)

Answer to Question No. 8

Section 12 of the Prevention of Money Laundering Act, 2002 lays down following obligations on banking companies, financial institutions and intermediaries.

Every banking company, financial institution and intermediary shall –

- (a) 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;

- (b) furnish information of transactions referred to in clause (a) to the Director within such time as may be prescribed;
- (c) verify and maintain the records of the identity of all its clients, in such a manner as may be prescribed. Provided that where the principal officer of a banking company or financial institution or intermediary, as the case may be, has reason to believe that a single transaction or series of transactions integrally connected to each other have been valued below the prescribed value so as to defeat the provisions of this section, such officer shall furnish information in respect of such transactions to the Director within the prescribed time.

The records referred above are required to be maintained for a period of ten years from the date of transactions between the clients and the banking company or financial institution or intermediary, as the case may be.

The records referred to in clause (c) shall be maintained for a period of ten years from the date of cessation of transactions between the clients and the banking company or financial institution or intermediary, as the case may be.

Question No. 9

Explain different categories of Angel Investors ?

(10 marks)

Answer to Question No. 9

There are several types of angel investors, and fall into the following main categories:

- (i) *Core Angels* : These angel investors are individuals with extensive business experience who have operated and owned successful businesses of their own. Such Angel Investors possess a diversified portfolio that encompasses all industries, including public and private equity and real estate. They serve as valuable mentors and advisors to their invested firms.
- (ii) *High-tech Angels* : These angel investors may have less experience than core angels, but invest significantly in the latest trends of modern technology. Their investments primarily depend on the value of their other high-tech holdings, which can vary considerably.
- (iii) *Return On investment (ROI) Angels* : ROI angel investors are primarily concerned with the financial reward of high-risk investments. Their motivation behind investing is their perception of what other angel investor gross income may be. Return on investment angels tend to stay away from investing when market performance is poor and emerge once the market shows stability and improvement. They view each of their investments as another company added to their diversified portfolio and rarely become actively involved in the invested firms.
- (iv) *Enthusiast Angels* : These angel investors are older (age 65 and above) businessmen who are independently wealthy before their investments. They often invest small amounts of capital in many different enterprises and view investing as a mere hobby. They do not take an active role in management.
- (v) *Micromanagement Angels* : These individuals are considered to be serious angel investors. They often demand a board position and are known to impose the

same strategies they have used with their own companies towards their invested companies.

- (vi) *Professional Angels* : These angel investors are professionally employed as doctors, lawyers, accountants, etc. who invest in companies in their related field. Professional angels invest in many companies at the same time. They may also provide services to their invested firm (legal, accounting or financial) at a discounted rate. Professional angel investors are of tremendous value for initial needed capital and rarely make follow-on investments.
-

TEST PAPER 2/2013

(This Test Paper is based on entire Study Material)

Time allowed : 3 hours

Maximum Marks : 100

NOTE : Attempt ALL Questions.

Question No. 1

Write short note on any four of the following:

- (a) Qualified Foreign Investors*
- (b) Transaction cost*
- (c) NCD with Call and Put Option*
- (d) London Stock Exchange (LSE)*
- (e) Conditional Offer*

(5 marks each)

Answer to Question No. 1(a)

Qualified Foreign Investors

"Qualified Foreign Investors (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. 1(b)

Transaction cost

Transaction cost is a key parameter to measure the impact of modernization of market infrastructure, institutionalisation of the market and market regulation. Besides,

transaction cost directly impacts the profits of investors and affects the return on their investments. Investors therefore, seek continuous reduction in transaction cost. Reduction in transaction cost induces investors to trade more frequently resulting in higher volumes. Transaction cost can be classified into two categories :

- (A) *Explicit costs* : Explicit costs are observable and measurable. They can be easily measured and are directly borne by the investors.
- (B) *Implicit costs* : The implicit costs include Bid-ask spreads, Realised spreads, Opportunity cost of delayed execution (timing costs) or non-execution.

Answer to Question No. 1(c)

NCD with Call and Put Option

Non Convertible Debentures (NCD) are debt instruments with a fixed tenure issued by Companies to raise money for business purposes. NCDs can be issued with call or put option which is as discussed below :

Call Option in NCD : This means the company has an option to ask the investor to surrender the debenture, and pay back the principal to the investor. A call option gives flexibility to the company – if interest rates go down, and the company can get funds at lower rates from the market, it can exercise the call option and give the money back and can raise money from the market at lower rates.

Put Options in NCD: This means the investor has an option to surrender the debenture if he wants to, and get back the principal. A put option gives a lot of flexibility to the investor – if interest rates go up, he can get better rates from the market. He can exercise the put option and get back the money and invest it elsewhere.

Answer to Question No. 1(d)

London Stock Exchange (LSE)

The London Stock Exchange (LSE) is one of the world's most international equity markets with international companies representing more than 55 countries currently listed and traded. The LSE has several different trading markets for negotiable equity instruments. Global Depository Receipts (GDRs) can trade on three markets: the Main Market, the Professional Securities Market (known as the PSM) and, in certain circumstances, the Alternative Investment Market (known as AIM). Most GDRs have chosen to list on the Main Market, which is the most highly regulated of the three. The LSE is responsible for admitting a security to the exchange to trade. When applying to the LSE for admission, the Company specifies the market on which it would like its GDRs to trade.

Answer to Question No. 1(e)

Conditional Offer

An offer in which the acquirer has stipulated a minimum level of acceptance is known as a conditional offer. Minimum level of acceptance implies minimum number of shares which the acquirer desires under the said conditional offer. If the number of shares validly tendered in the conditional offer, are less than the minimum level of

acceptance stipulated by the acquirer, then the acquirer is not bound to accept any shares under the offer. In a conditional offer, if the minimum level of acceptance is not reached, the acquirer shall not acquire any shares in the target company under the open offer or the Share Purchase Agreement which has triggered the open offer.

Question No. 2

What do you understand by an Investment Adviser? Explain the Code of Conduct prescribed by SEBI for an Investment Adviser. (10 marks)

Answer to Question No. 2

In terms of SEBI (Investment Advisers) Regulations, 2013, 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.

Followings are the Code of Conduct prescribed by SEBI for an Investment Adviser:

1. *Honesty and fairness* : An investment adviser shall act honestly, fairly and in the best interests of its clients and in the integrity of the market.
2. *Diligence* : An investment adviser shall act with due skill, care and diligence in the best interests of its clients and shall ensure that its advice is offered after thorough analysis and taking into account available alternatives.
3. *Capabilities* : An investment adviser shall have and employ effectively appropriate resources and procedures which are needed for the efficient performance of its business activities.
4. *Information about clients* : An investment adviser shall seek from its clients, information about their financial situation, investment experience and investment objectives relevant to the services to be provided and maintain confidentiality of such information.
5. *Information to its clients* : An investment adviser shall make adequate disclosures of relevant material information while dealing with its clients.
6. *Fair and reasonable charges* : An investment adviser advising a client may charge fees, subject to any ceiling as may be specified by SEBI, if any. The investment adviser shall ensure that fees charged to the clients is fair and reasonable.
7. *Conflicts of interest* : An investment adviser shall try to avoid conflicts of interest as far as possible and when they cannot be avoided, it shall ensure that appropriate disclosures are made to the clients and that the clients are fairly treated.
8. *Compliance* : An investment adviser including its representative(s) shall comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of clients and the integrity of the market.
9. *Responsibility of senior management* : The senior management of a body corporate which is registered as investment adviser shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the body corporate.

Question No. 3

What is Letter of Credit (LC)? Enumerate the various forms of Letter of Credit.
(10 marks)

Answer to Question No. 3

A letter of credit is a written understanding given by the buyer's bank (the issuing bank) on behalf of and at the request of its customer (the applicant) routed through the agency of a bank in the seller's country (advising bank) to the seller beneficiary that it (issuing bank) guarantees to pay the seller for the goods within a specified time provided that the conditions laid down in documentary credit are fully satisfied.

Basic forms of LCs are enumerated below:-

- (a) *Revocable Letter of Credit* : A revocable letter of credit is one which may be amended or cancelled by the issuing bank at any moment without prior notice to the beneficiary. Therefore such a type of letter of credit does not give complete sense of security to the beneficiary. However when the revocable letter of credit is made available at a branch of a bank concerned, the notice of amendment or cancellation is effective only upon receipt of such notice. If such a bank has undertaken liability (i.e. Paid, negotiated or accepted) against documents, which appear on the face of it to be in conformity with the terms and conditions of the credit before notice of amendment/cancellation, then the issuing Bank is bound to reimburse such a bank. If the letter of credit is silent as to whether it is revocable or irrevocable, the credit is deemed as IRREVOCABLE.
- (b) *Irrevocable Letter of Credit* : When the issuing Bank gives a definite, absolute and irrevocable undertaking to honour its obligations provided the beneficiary complies with all the terms and conditions such a credit is known as an irrevocable letter of credit. That means that the letter of credit cannot be amended, cancelled or revoked without the consent of the parties to the letter of credit. This gives the beneficiary definite protection.
- (c) *Confirmed Letter of Credit* : A confirmed letter of credit is one when another Bank in the beneficiary's country adds its confirmation at the request of the issuing Bank. This undertaking of the confirming Bank to pay/negotiate/accept is in addition to the undertaking of the issuing bank. This is an added protection to the beneficiary. This is not to be agreed as it undermines the credibility of our Nationalized Banks.
- (d) *Revolving Letter of Credit* : In such credits, the amount is restored, after it has been utilized, to the original amount. Such credits are used when the buyer is to receive partial shipment of goods at specific intervals for a long duration. It can be cumulative or noncumulative in nature. It avoids opening letter of credit for each and every consignment.

Question No. 4

Distinguish between the following:

- (a) *Forward and Futures*
- (b) *Currency futures and Interest rate futures.* (5 marks each)

Answer to Question No. 4 (a)**Forward and Futures**

<i>Futures</i>	<i>Forward</i>
1. Trade on an Organised Exchange	1. OTC in nature
2. Standardized Contract terms	2. Customised Contract terms
3. Hence more liquid	3. Hence less liquid
4. Required Margin Payments	4. No Margin Payments
5. Follows daily settlement	5. Settlement happens at end of period

Answer to Question No. 4(b)**Currency futures and Interest rate futures**

Currency futures contract is a standardized forward contract that is traded on an exchange. It is an agreement to buy or sell a particular currency in the future at a specified rate and at a specified date. Currency Futures consist of secondary markets and can also be dealt numerous times much like a bond and opposed to a bank loan.

Interest Rate Futures means a standardized interest rate derivative contract traded on a recognized stock exchange to buy or sell a notional security or any other interest bearing instrument or an index of such instruments or interest rate at a specified future date, at a price determined at the time of the contract. Interest rate futures on 91-day treasury bill are interest rate-driven derivative products that help banks, mutual funds and primary dealers to hedge their interest rate exposure on treasury bills.

Question No. 5

What is trading window? Briefly explain the provisions relating to trading window under SEBI (Prohibition of Insider Trading) Regulations, 1992 ? (10 marks)

Answer to Question No. 5

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. A listed company has to comply with the following provisions relating to trading window under SEBI (Prohibition of Insider Trading) Regulations, 1992:

- The trading window shall be opened 24 hours after the following information is made public.
- The trading window shall be closed at the time of:-
 - (a) Declaration of Financial results (quarterly, half-yearly and annual)
 - (b) Declaration of dividends (interim and final)

- (c) Issue of securities by way of public/ rights/bonus etc.
 - (d) Any major expansion plans or execution of new projects
 - (e) Amalgamation, mergers, takeovers and buy-back
 - (f) Disposal of whole or substantially whole of the undertaking
 - (g) 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.
 - 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.

Question No. 6

Discuss the concept of storage with respect to commodities .Explain various types of storage systems used for preserving commodities. (10 marks)

Answer to Question No. 6

Storage is an important marketing function, which involves holding and preserving goods from the time they are produced until they are needed for consumption. The storage of goods, therefore, from the time of production to the time of consumption, ensures a continuous flow of goods in the market. Storage protects the quality of perishable and semi-perishable products from deterioration.

The various types of storage systems used for preserving commodities are discussed below:

- (i) *Underground storage* : Underground storage structures are dugout structures similar to a well with sides plastered with cowdung. They may also be lined with stones or sand and cement. They may be circular or rectangular in shape. The capacity varies with the size of the structure. The various advantages of this type of storage are:
 - Underground storage structures are safer from threats from various external sources of damage, such as theft, rain or wind.
 - The underground storage space can temporarily be utilized for some other purposes with minor adjustments; and
 - The underground storage structures are easier to fill up owing to the factor of gravity.

- (ii) *Surface storage structures* : Food grains in a ground surface structure can be stored in two ways - bag storage or bulk storage.
- (a) **Bag storage:** Each bag contains a definite quantity, which can be bought, sold or dispatched without difficulty. Bags are easier to load or unload. It is easier to keep separate lots with identification marks on the bags. The bags which are identified as infested on inspection can be removed and treated easily and the problem of the sweating of grains does not arise because the surface of the bag is exposed to the atmospheres.
- (b) **Bulk or loose storage:** The exposed peripheral surface area per unit weight of grain is less. Consequently, the danger of damage from external sources is reduced and pest infestation is less because of almost airtight conditions in the deeper layers. The Government of India has made efforts to promote improved storage facilities at the farm level. This type of storage has improved grain storage structures.

Question No. 7

What do you mean by Institutional Placement Programme (IPP)? Discuss the restrictions laid down under SEBI ICDR Regulations, 2009 on a company for making an IPP. (10 marks)

Answer to Question No. 7

“Institutional Placement Programme” 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 Chapter VIII A of SEBI ICDR Regulations, 2009. SEBI has laid down certain restrictions under SEBI ICDR Regulations, 2009 on a company for making an IPP which is discussed below:

- The promoter or promoter group who are offering their eligible securities should not have purchased and/ or sold the eligible securities of the company in the twelve weeks period prior to the offer and they should undertake not to purchase and / or sell eligible securities of the company in the twelve weeks period after the offer. However, such promoter or promoter group may, within the twelve weeks period offer eligible securities held by them through institutional placement programme or offer for sale through stock exchange mechanism subject to the condition that there shall be a gap of minimum two weeks between the two successive offer(s) and /or programme(s)
- Allocation/allotment under the institutional placement programme shall be made subject to the following conditions:
 - Minimum of twenty five per cent of eligible securities shall be allotted to mutual funds and insurance companies. However, if the mutual funds and insurance companies do not subscribe to said minimum percentage or any part thereof, such minimum portion or part thereof may be allotted to other qualified institutional buyers;
 - No allocation/allotment shall be made, either directly or indirectly, to any qualified institutional buyer who is a promoter or any person related to

promoters of the issuer. However, a qualified institutional buyer who does not hold any shares in the issuer and who has acquired the rights in the capacity of a lender shall not be deemed to be a person related to promoters.

- The issuer shall accept bids using ASBA facility only.
 - The bids made by the applicants in institutional placement programme shall not be revised downwards or withdrawn.
- The aggregate of all the tranches of institutional placement programme made by the eligible seller shall not result in increase in public shareholding by more than ten per cent or such lesser per cent as is required to reach minimum public shareholding.
- Where the issue has been oversubscribed, an allotment of not more than ten percent of the offer size shall be made by the eligible seller.

Question No. 8

- (a) *Examine with reference to the provisions of the Securities Contracts (Regulation) Act, 1956 whether it is possible for City Stock Exchange Limited, a company incorporated under the Companies Act, 1956 and a recognized Stock Exchange, to insist that its members should appoint only other members as their proxies to attend and vote at the meeting of the Stock Exchange. (6 marks)*
- (b) *Complaints of unethical practices have been received against members of a recognized Stock Exchange by the Government. Examine whether the government has any power to suspend the business of such a recognized Stock Exchange. (4 marks)*

Answer to Question No. 8(a)

Proxies in the case of Stock Exchange

Section 7A of Securities contracts (Regulation) Act, 1956, permits a recognised stock exchange to make rules or amend any rules made by it to provide for all or any of the matters listed in section 7A (1) including the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange. If the rules of City Stock Exchange Ltd permit its members to appoint only another member as his proxy, then members can not appoint non-members as proxies.

If the rules of City Stock Exchange Ltd do not have any such provision, then it is possible to amend the rules providing for such restriction. But the rules can be amended only with approval of Central Government/SEBI. These should be published on the Official Gazette. Such rules will be valid notwithstanding anything to the contrary contained on the Companies Act, 1956 [Section 7A(2)].

According to section 176(1) of the Companies Act, 1956, a member can appoint another person (whether a member or not) is a company as his proxy. Though City Stock Exchange Ltd. is a company; it is possible to provide for restriction relating to appointment of proxies taking advantage of Section 7A of SCRA, 1956.

Answer to Question No. 8(b)

Section 11, of the Securities Contracts (Regulation) Act, 1956 deals with the powers

of the Central Government to supersede the Governing body of a recognized Stock Exchange. The Central Government may serve on a governing body a written notice specifying the reasons and after giving an opportunity to the governing body to be heard, may, by notification in the Official Gazette, declare the governing body as superseded. The Central Government after superseding the governing body may appoint any person or persons to exercise and perform all the powers and duties of governing body. It may also appoint one of such nominees as Chairman.

Question No. 9

Briefly enumerate the provisions under Rule 19A of SCRR, 1957, relating to minimum public shareholding required to be maintained by a company for the purpose of continuous listing requirements. (10 marks)

Answer to Question No. 9

The Securities Contract Regulation Rules, 1957(SCRR) prescribes the requirements which have to be satisfied by companies for the purpose of getting their securities listed on any stock exchange in India. Rule 19A 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 the Securities and Exchange Board of India, 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.

TEST PAPER 3/2013

(This Test Paper is based on entire Study Material)

Time allowed : 3 hours

Maximum Marks : 100

NOTE : Attempt ALL Questions.

Question No. 1

Write short note on any four of the following:

(a) State Financial Corporations

(b) Speculator

(c) Mobilization of Savings

(d) Trade Guarantee Fund

(e) Term Money

(5 marks each)

Answer to Question No. 1(a)

State Financial Corporations

State Financial Corporations (SFCs) are the state-level financial institutions which play a crucial role in the development of small and medium enterprises in the concerned States. They provide financial assistance in the form of term loans, direct subscription to equity/debentures, guarantees, discounting of bills of exchange and seed/ special capital, etc. SFCs have been set up with the objective of catalysing higher investment, generating greater employment and widening the ownership base of industries. They have also started providing assistance to newer types of business activities like floriculture, tissue culture, poultry farming, commercial complexes and services related to engineering, marketing, etc.

Answer to Question No. 1(b)

Speculator

A speculator is one who enters the market to profit from the future price movements. He does not have any physical exposure. Speculators accept the risk that hedgers seek to avoid, giving the required liquidity to the market. Speculators are those who may not have an interest in the ready contracts, etc. but see an opportunity of price movement favourable to them. They are prepared to assume the risks, which the hedgers are trying to cover in the futures market. They provide depth and liquidity to the market. They provide a useful economic function and are an integral part of the futures the market. Contrary to the hedging, speculation involves risk but no offsetting of cash market position. Speculators on the other hand, wish to take risk that hedgers want to avoid

with a motive to make profits and provide the necessary liquidity through bids and offer that result into a continuous flow of transactions.

Answer to Question No. 1(c)

Mobilization of Savings

The second stage of capital formation is the mobilization of available savings. The act of mobilizing savings is done by the financial institutions such as commercial banks, finance companies, insurance companies, cooperative societies and so on. These institutions collect deposits from general public, provide security to savings, provide liquidity to savers, and also provide income in the form of interest. Due to this, people like to save through financial institutions. These institutions mobilize the savings collected toward productive investments. Saving and investment are done by different classes of people. Financial institutions act as intermediaries between savers and investors. This leads to the increase in capital formation.

Answer to Question No. 1(d)

Trade Guarantee Fund

Trade or Settlement Guarantee Fund means a fund whose objective is to provide the necessary funds and ensure timely completion of settlements in cases of failure of member brokers to fulfill their settlement obligations. Thus establishment of such funds would give greater confidence to investors in the settlement and clearing procedures of the stock exchanges. Keeping this objective in view, SEBI had advised all stock exchanges to set up a Trade or Settlement Guarantee Fund to ensure that the market equilibrium is not disturbed in case of payment default by the members. Accordingly Stock Exchanges have instituted a system to guarantee settlement of bonafide transactions of Members which form part of the settlement system.

Answer to Question No. 1(e)

Term Money

Money lent for a fixed tenor of 15 days or more is called Term Money. The following are the features of Term money-

- Interest to be calculated on Actual / 365 day basis.
- Interest payable to be rounded off to the nearest rupee.
- Periodicity for payment of interest can be Quarterly/Half Yearly/on redemption, as agreed to at the time of the deal.
- Interest on the amount borrowed/lent =

$$\frac{\text{Amount borrowed/lent} * \text{No. of days} * \text{Rate of Interest}}{365 * 100}$$
- Premature cancellation after 14 days can be done by mutual consent on mutually agreed terms.
- No loan/overdraft can be granted against Term Money.

Question No. 2

Briefly describe the Offer for Sale mechanism in a stepwise manner in accordance with SEBI Guidelines. (10 marks)

Answer to Question No. 2

In accordance with SEBI Guidelines followings are the Offer for Sale mechanism in a stepwise manner:

Step 1 – The seller (promoter) appoints a broker for the offer-for-sale.

Step 2 – The seller announces his intention to sell shares at least one trading day before the offer-for-sale opens. It will have the details of seller, designated stock exchange, date and time of offer open and close. It also has details of number of shares offered, allocation methodology, maximum offer size over and above offer-for-sale size, name of seller's broker(s). Finally, it should have details on the date and time of declaration of floor price.

Step 3 – The seller shall declare the floor price after trading hours and before close of business hours to the designated stock exchange a day before the offer-for-sale date (Trade date minus one day). This is applicable if the seller chooses to declare the floor price.

Otherwise, the floor price is given in a sealed envelope to the stock exchange and not disclosed to anybody, including the selling broker.

The stock exchange disseminates it to the market after the offer-for-sale closes.

The offer duration will coincide with trading hours in the secondary market (9 a.m. to 3.30 p.m.). Order processing and funds pay-in shall occur only during trading hours on the exchange platform.

For institutional trades, custodians are expected to conclude bid confirmation with available funds latest by half an hour post the session.

Orders can be placed in a separate window created by the exchange. Order modification is allowed only for bids with 100 per cent upfront margins. Orders cannot be modified in the last 60 minutes of the offer-for-sale.

Information on bid quantity shall be made available by the exchanges at specified time intervals. Exchanges shall disclose the indicative price only during the last 60 minutes of the offer-for-sale. Price band for the scrip in the normal segment would not be applicable to the offer-for-sale. However, standard tick sizes would apply.

Tick size is the minimum price by which share prices can move up or down. Though normal market trading for scrips under the offer-for-sale would continue, it would be halted if the scrip hits the circuit in the normal market. Only limit orders are permitted and buyers are allowed to place multiple orders. Orders below floor price (if disclosed) would not be accepted.

Step 4 – All non-institutional investors have to bring in 100 per cent upfront margin. Institutions are allowed to pay either 25 per cent or 100 per cent as upfront margin. The seller has to deposit the entire quantity of shares under the offer to the clearing corporation as pay-in before the offer-for-sale starts.

Step 5 – One fourth of shares of OFS is reserved for mutual funds and insurance companies. The stock exchange allocates shares either on price priority (in case of

multiple clearing prices) or proportionate basis (in case of single clearing price). Orders below floor price are not taken up for allocation. No single bidder other than mutual funds and insurance companies would be allocated over 25 per cent.

Step 6 – The allocation and obligations are intimated to brokers on the trade date (T). Trades are settled on the T+1 date. The clearing corporation will transfer shares into the demat accounts of successful bidders.

Step 7 – Bidders will forfeit 10 per cent of their bid value to the investor protection fund if they default on the pay-in amount. Allotment price on the T day would not change due to any default pay-in. Issuer has the option to conclude the offer or cancel it in full. The settlement guarantee fund is not available for this facility through stock exchange mechanism.

Step 8 - Brokers would issue contract notes to their clients based on the allotment price and quantity.

Question No. 3

Explain the procedure for issue of ADR/ GDR in a stepwise description.

(10 marks)

Answer to Question No. 3

Following is the stepwise procedure for issue of ADR/ GDR :

1. Convene a Board Meeting to approve the proposed Issue for not exceeding certain value in foreign currency.
2. Convene the Extra ordinary General Meeting for the approval of the shareholders for the proposed GDR Issue under Sec 81(1A) of the Companies Act, 1956.
3. Identify the Agencies.
4. Convene a Board Meeting to approve the Agencies.
5. Appoint the Agencies and sign the Engagement Letters.
6. The Indian Legal Counsel to undertake the Due Diligence.
7. Prepare the first draft of the Information Memorandum (IM) in consultation with the Indian Legal Counsel and submit the same to various Agencies for their comments thereon.
8. Prepare the 2nd/3rd draft of IM incorporating the comments.
9. The Listing Agent to submit the IM with the overseas Stock Exchange for their comments and In principle Listing Approval.
10. Simultaneously submit draft IM to the Indian Stock Exchanges where the Issuing Company's shares are listed for In principle approval for listing of the underlying share.
11. Hold Board Meeting to approve the Deposit Agreement, Subscription Agreement and the Escrow Agreement.
12. On receipt of the comments on the IM from the Overseas and Indian Stock

Exchanges incorporate the same and file the final IM with Overseas Stock Exchange and obtain Final Listing.

13. The Issuing Company can open the Issue for the ADR/GDR on receipt of the In principle Listing Approval from the Overseas and the Indian Stock Exchanges.
14. Open the Escrow Account with the Escrow Agent and execute the Escrow Agreement.
15. Finalize in consultation with the Lead Manager :
 - (a) whether the issue will be through public or a private placement,
 - (b) the number of ADR/ GDRs to be issued.
 - (c) the issue price.
 - (d) number of underlying shares to be issued against each ADR/ GDR.
16. On the day of the opening of the Issue execute the Deposit and Subscription Agreements.
17. The Issue should be kept open for a minimum period of 3 working days.
18. Immediately on closing of the Issue convene a Board/ Committee Meeting for allotment of the underlying shares against the Issue of the GDRs.
19. Then Deliver the share certificate to the Domestic Custodian Bank who will in terms of the Agreement instruct the Overseas Depository Bank to Issue the ADR/ GDR to Non Resident Investor against the shares held by the Domestic Custodian Bank.
20. On receipt of Listing Approval from Overseas Stock Exchange submit the required documents for Final In principle Listing Approval from Indian Stock Exchange.
21. After GDRs are listed the Lead Manager to instruct the Escrow Agent to transfer the Funds to the Company's Account.
22. The Company can either remit the entire funds or in part as per its discretion.
23. On obtaining the Final Approval from Indian Stock Exchanges admit the underlying shares to the depository i.e., NSDL and CDSL.
24. Obtain Trading approval.
25. Intimate the Custodian for converting the physical shares into Demat.
26. Within 30 days of the closing of the issue, details of the ADR/ GDR Issue along with the IM should be submitted to
 - (a) the Ministry of Finance
 - (b) the Registrar of Companies
 - (c) SEBI
27. Return of Allotment in e-Form No. 2 is to be filed with ROC within 30 days of Allotment.
28. Annexure 9 is to be filed with RBI, Central office within 30 days of closure of the ADR/ Issue.

Question No. 4

What are the different types of entities involved in physical settlement of commodities? Discuss. (10 marks)

Answer to Question No. 4

Physical settlement of commodities involves the following three entities - an accredited warehouse, registrar & transfer agent and an assayer.

- (i) *Accredited Warehouse* : The commodity exchange specifies accredited warehouses through which delivery of a specific commodity can be effected and which will facilitate for storage of commodities. For the services provided by them, warehouses charge a fee that constitutes storage and other charges such as insurance, assaying and handling charges or any other incidental charges. Following are the functions of an accredited warehouse:
1. Earmark separate storage area as specified by the Exchange for the purpose of storing commodities to be delivered against deals made on the Exchange.
 2. Ensure and co-ordinate the grading of the commodities received at the warehouse before they are stored.
 3. Store commodities in line with their grade specifications and validity period and facilitate maintenance of identity. On expiry of such validity period of the grade for such commodities, the warehouse has to segregate such commodities and store them in a separate area so that the same are not mixed with commodities which are within the validity period as per the grade certificate issued by the approved assayers.
- (ii) *Approved Registrar and Transfer agents (R&T agents)* : The Exchange specifies approved R&T agents through whom commodities can be dematerialized and who facilitate for dematerialization/rematerialization of commodities in the manner prescribed by the Exchange from time to time. The R&T agent performs the following functions:
1. Establishes connectivity with approved warehouses and supports them with physical infrastructure.
 2. Verifies the information regarding the commodities accepted by the accredited warehouse and assigns the identification number (ISIN) allotted by the depository in line with the grade, validity period, warehouse location and expiry.
 3. Further processes the information, and ensures the credit of commodity holding to the demat account of the constituent.
 4. Ensures that the credit of commodities goes only to the demat account of the constituents held with the Exchange empanelled DPs.
 5. On receiving a request for re-materialization (physical delivery) through the depository, arranges for issuance of authorisation to the relevant warehouse for the delivery of commodities.

R&T agents also maintain proper records of beneficiary position of constituents holding dematerialized commodities in warehouses and in the depository for a period and also as on a particular date. They are required to furnish the same to the Exchange as and when demanded by the Exchange. R&T agents also do the job of co-ordinating with DPs and warehouses for billing of charges for services rendered on periodic intervals. They also reconcile dematerialized commodities in the depository and physical commodities at the warehouses on periodic basis and co-ordinate with all parties concerned for the same.

- (iii) *Approved assayer*: The Exchange specifies approved assayers through whom grading of commodities (received at approved warehouses for delivery against deals made on the Exchange) can be availed by the constituents of clearing members. Assayers perform the following functions:
1. Make available grading facilities to the constituents in respect of the specific commodities traded on the Exchange at specified warehouse. The assayer ensures that the grading to be done (in a certificate format prescribed by the Exchange) in respect of specific commodity is as per the norms specified by the Exchange in the respective contract specifications.
 2. Grading certificate so issued by the assayer specifies the grade as well as the validity period up to which the commodities would retain the original grade, and the time up to which the commodities are fit for trading subject to environment changes at the warehouses.

Question No. 5

What are the agencies involved in investigating cases of Money Laundering? Give a brief of each investigating agency. (10 marks)

Answer to Question No. 5

As per the PMLA, the officers of the Directorate of Enforcement have been given powers to investigate cases of Money Laundering. The enforcement agency has extensive powers to discharge its duties under the Act. The officers have also been authorised to initiate proceedings for attachment of property and to launch prosecution in the designated Special Court. Financial Intelligence Unit-India (FIU-IND) is the authority to implement the provisions of the Act. The application of AML measures by market intermediaries has been emphasized by International Regulatory agencies as a key element in combating money laundering. Financial Action Task Force (FATF) is the agency who evaluates the member countries and certify whether they are compliant or not. India has been confirmed as one of the country that is compliant with AML regulations during December 2010. Apart from the FIU and FATF, Central Bureau of Investigation(CBI) is also empowered to investigate cases relating to Money Laundering. The brief of each investigating agency is discussed below :

- (a) *Directorate of Enforcement*: Section 13 of the Prevention of Money Laundering Act, 2002, confers power on the Director (appointed by the Central Government and entrusted with powers of a civil court) to ensure compliance and to call for records and make appropriate inquiries when necessary. In case of money laundering investigation can be initiated only by authorities designated by Central Government such as Directorate of Enforcement. These authorities can carry

out interim measures such as the survey, search, seizure and arrest of the accused.

- (b) *Central Bureau of Investigation* : Investigating in CBI was conducted by its Economic Offences Wing, a separate division in the CBI for investigation of economic offences. Therefore, in terms of Economic Offences, CBI can investigate: –
- (i) Cases of fraud, cheating, embezzlement and the like relating to companies in which large funds are involved and some other cases when committed by organized gangs or professionals having ramifications in several States.
 - (ii) Cases having inter-state and international ramifications and involving several official agencies where it is considered necessary that a single investigating agency like CBI should be in charge of investigation.
- (c) *Financial Intelligence Unit – India (FIU-IND)* : FIU-IND is an independent body reporting directly to the Economic Intelligence Council (EIC) headed by the Finance Minister of India. Financial Intelligence Unit – India (FIU-IND) was set by the Government of India as the central national agency responsible for receiving, processing, analyzing and disseminating information relating to suspect financial transactions. FIU-IND is also responsible for coordinating and strengthening efforts of national and international intelligence, investigation and enforcement agencies in pursuing the global efforts against money laundering and related crimes.
- (d) *Financial Action Task Force (FATF)* : FATF was established in July 1989 by a Group of Seven (G-7) Summit in Paris, initially to examine and develop measures to combat money laundering. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

Question No. 6

Define “Bill of Exchange”? Enumerate various types of Bill of Exchange. (10 marks)

Answer to Question No. 6

The Negotiable Instruments Act, 1881, defines the Bill of Exchange as “an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.”

These are the following important types of Bill of Exchange :

- (i) *Sight Bill of Exchange* : A sight or demand Bill of Exchange is one which is required to be paid by the drawee immediately on presentation of the Bill.
- (ii) *Usance Bill of Exchange* : In case of the usance or time Bill of Exchange, there is maturity period called the tenor, and the payment is to be made only on the maturity of the bill. Generally speaking, the due date of payment of the usance bill is calculated from the date of presentation or sighting of the bill by the

drawee. Such a bill is called after sight usance bill. But sometimes the date of maturity is calculated from the date of drawing of the bill. Such a bill is known as after date usance bill.

- (iii) *Clean Bill of Exchange* : A Bill of Exchange not accompanied by the relative shipping documents is known as a clean Bill of Exchange. In respect of the clean Bill of Exchange, the documents are sent to the consignee directly, and he can take delivery of the goods on their arrival at the port of destination.
- (iv) *Documentary Bill of Exchange* : A documentary Bill of Exchange is a Bill of Exchange accompanied by the relative shipping documents such as the bill of lading, marine insurance policy, commercial invoice, certificate of origin, etc. The documents accompanying the bill are delivered to the importer by the bank only upon either acceptance or payment of the bill. The former is called documents against acceptance and the latter is called documents against payment. It is the documentary Bill of Exchange that is commonly used in foreign trade transactions.

Question No. 7

Discuss briefly the ground on which SEBI can grant exemption from the open offer obligation to an acquirer under SEBI Takeover Regulations 2011. (10 marks)

Answer to Question No. 7

Regulation 11(1) of SEBI Takeover Regulations 2011 provides that on an application being made by the acquirer in writing giving the details of the proposed acquisition and grounds on which the exemption is sought along with duly sworn affidavit, SEBI may grant exemption to the acquirer from the Open Offer obligations subject to the compliance with such conditions as it deems fits. For instance, in case where the exemptions is sought from the Open Offer obligations which has been triggered pursuant to the issue of shares by way preferential allotment, SEBI may require that the approval of shareholders should be obtained by way of postal ballot. Further, along with the application, the acquirer is also required to pay a non refundable fee of Rs. 50,000 by way of banker's cheque or demand draft in payable in favour of Mumbai.

However, it is to be noted that the Acquirer is not exempted from making other compliances related to the disclosure requirements as provided under regulation 29, 30 and 31 of the SEBI Takeover Regulations, 2011.

Regulation 11(2) provides that the acquirer may also be granted the relaxation from the procedural requirements relating to Open Offer by SEBI on an application being made in writing by the Target Company giving the details of the proposed acquisition and grounds on which the relaxation is sought alongwith duly sworn affidavit. The purpose and intent of regulations is to safeguard the interest of investor and not to act as an impediment in the furtherance of their interest.

The SEBI has been given the power to relax the procedural requirements under Chapter III and IV, subject to such conditions as it deems fit on being satisfied that:

- I. The Central Government or State Government or any other regulatory authority has removed the Board of Directors of the Target Company and has appointed

new directors to hold office as directors under any law for the time being in force if:

- (a) such Board of Directors has devised a plan which provides transparent, open, and competitive process for acquisition of shares or voting rights or control over the Target Company to secure the smooth and continued operation of the target company in the interests of all stakeholders of the target company and such plan does not further the interests of any particular acquirer;
 - (b) The conditions and requirements of the competitive process are reasonable and fair;
 - (c) The process adopted by the Board provides for details including the time when the public offer would be made, completed and the manner in which the change in control would be effected;
- II. The provisions of Chapter III and Chapter IV are likely to act as impediment to implementation of the plan of the Target Company and exemption from strict compliance with one or more of such provisions are in interest of public, investors and the securities market.

Question No. 8

Explain the various obligations and responsibilities cast on a market maker under the SEBI Guidelines. (10 marks)

Answer to Question No. 8

Under the SEBI Guidelines, the Market Maker shall fulfil the following conditions to provide depth and continuity on this exchange:

- (a) The Market Maker shall be required to provide a 2-way quote for 75% of the time in a day. The same shall be monitored by the stock exchange. Further, the Market Maker shall inform the exchange in advance for each and every black out period when the quotes are not being offered by the Market Maker.
- (b) The minimum depth of the quote shall be Rs. 1,00,000. However, the investors with holdings of value less than Rs. 1,00,000 shall be allowed to offer their holding to the Market Maker in that scrip provided that he sells his entire holding in that scrip in one lot along with a declaration to the effect to the selling broker.
- (c) Execution of the order at the quoted price and quantity must be guaranteed by the Market Maker, for the quotes given by him.
- (d) There would not be more than five Market Makers for a scrip. These would be selected on the basis of objective criteria to be evolved by the Exchange which would include capital adequacy, networth, infrastructure, minimum volume of business etc.
- (e) The Market Maker may compete with other Market Makers for better quotes to the investors;
- (f) Once registered as a Market Maker, he has to start providing quotes from the day of the listing / the day when designated as the Market Maker for the respective scrip and shall be subject to the guidelines laid down for market making by the exchange.

- (g) Once registered as a Market Maker, he has to act in that capacity for a period as mutually decided between the Merchant Banker and the market maker.
- (h) Further, the Market Maker shall be allowed to deregister by giving one month notice to the exchange, subject to (g) above.

Question No. 9

State in the light of requirement of clause 49 of the listing agreement as to whether the following persons can be appointed as independent directors on the Board :

- (i) *Krishan, who is an executive of the company since its inception.*
- (ii) *Soumitro, who holds 1.5% of the equity shares of the company having voting rights.*
- (iii) *Pradeep, who is already a director of 14 companies.*
- (iv) *Shalini, who is appointed by a financial institution which has lent funds to the company.* (10 marks)

Answer to Question No. 9(i)

Krishan, who is an executive of the company since its inception.

No, Mr Krishan who is an executive of a company, cannot be appointed as independent director, as one of the conditions of Clause 49 of the listing agreement, with reference to the definition of 'Independent Director' stipulates that, 'Independent Director' means a non-executive director of the company who has not been an executive of the company in the immediately preceding three financial years.

Answer to Question No. 9(ii)

Soumitro, who holds 1.5% of the equity shares of the company having voting rights.

Yes, Soumitra, who holds 1.5 % of the equity shares of the company having voting rights, can be appointed as independent director, as one of the conditions of Clause 49 of the listing agreement, with reference to the definition of 'Independent Director' stipulates that, Independent director is not a substantial shareholder of the company i.e. owning two percent or more of the block of voting shares.

Answer to Question No. 9(iii)

Pradeep, who is already a director of 14 companies.

Yes, Mr Pradeep can be appointed as an independent director in the company since his total directorship is not more than 15 companies on the date of appointment, as prescribed under Section 75 of the companies Act, 1956.

Answer to Question No. 9(iv)

Shalini, who is appointed by a financial institution which has lent funds to the company.

Yes, Shalini who is appointed by a financial institution, which has lent funds to the company, can be appointed as independent director. Because Nominee Directors appointed by an institutions which has invested in or lent to the company shall be deemed to be independent directors under clause 49 of the listing agreement.
