

REPORT ON THE FULL DAY SEMINAR ON INSIDER TRADING , TAKE OVER CODE , NEW CLAUSE 49 OF LISTING AGREEMENT 9th MAY 2015



The Bangalore Chapter jointly with SIRC organized a Full Day Seminar on “Insider Trading, Takeover Code, New Clause 49” on 9th May 2015 at Bangalore Chapter Premises. CS H M Dattatri, Chairman, Bangalore Chapter, delivered the welcome address.

CS Nagendra D Rao, Chairman, SIRC, speaking on the occasion welcomed the participants and Speakers to the event and assured that all their queries shall be addressed in detail by vibrant speakers . He then introduced Mr. Adithya Anand, Vice President, M & A Advisory and Corporate Financials Group, JM Financial Institutions Pvt Ltd speaker for the 1st technical Session

1st Technical Session:-

Mr. Adithya Anand, in his presentation on “SEBI Takeover Code”, explained the gathering that, the Securities and Exchange Board of India (“SEBI”) has constituted the Takeover Regulations Advisory Committee (“TRAC”) to review the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (“Takeover Regulations”) and to suggest suitable recommendations for amendments to the Takeover Regulations, as it considers necessary, apart from explaining the gathering on the definition of “Acquirer” regulations of SEBI Takeover code quoting various case studies before concluding his session.

2nd technical Session:-

The Second technical session during the program was taken by CS Savithri Parekh, Chief Legal & Secretarial, Pidilite Industries Ltd on “Insider Trading”. CS Savithri Parekh speaking on the occasion said that, Insider trading is a topic which has been discussed for a long time, but the insider trading regulations 2015 pose a daunting task in front of Company Secretaries as it requires two additional documents to be drafted and implemented in letter and spirit which is not an easy task especially when the dimensions of the regulation have completely changed with the one that was there in the past.

She quoted an example stating that E- Sops were clearly outside the purview of Insider Trading regulations 1992, it was covered under para 3.3.2 in the second schedule, but there is no such exemption to E-Sops under the new insider trading regulations. She informed that if there is an exercise period the main difference would be that the exercise period cannot be during the window closure. She further stated that every one of us know that in case of a listed company window closure happens once in a quarter and goes more than one and half months because it has 45 days for our accounts to be considered by board. She said that’s the period which we are going to have the trading window closure assuming we are aware of all 40 days after the last date of accounts in quarter.

Giving the example of a situation where the promoters of the company are given preferential issue of warrants and this resolution is validly passed through postal ballot, e-voting etc. The promoters thereafter exercise the rights and apply for warranties, which are convertible by promoters and on that date for whatever reason if the market price moves up, will it automatically come under Insider trading or will promoters run the risk of transaction under Section 245 of CA 2013, are the questions that evolve in every one? Answering to the above the speaker said that according to her it will not amount to insider trading just because it has got preferential allotment and you are the promoter you cannot be kept under a separate category of person.

The Speaker also explained the provisions of CA 2013- Sec 149(12) of CA 2013. She said that the proposed clause 36 of listing agreement is also going to be an honor one because it has very detailed list of instances which will be per say considered to be price sensitive. Example – events like fire in an unit will be considered as a price sensitive information and requires to be intimated to stock exchange. The Speaker urged everyone to look into the

proposed clause 36 as proposed clause 36 is going to be the law of tomorrow. She informed Schedule B of insider trading regulations increases the responsibility of compliance officer in organizations, she explained that the schedule also states that the person should be in Senior Management, and be reporting directly to the board, which means that the compliance officer is having access to price sensitive information.

The Speaker while explaining operations through disclosures informed that KMP is not defined in Insider trading regulations and asked everyone to refer Section 2(51) of CA 2013 instead of Section 203 of CA 2013 for the right definition. She also informed that all employees are covered under insider trading regulations and informed that any person who buys shares in a company is referred as connected person in insider trading regulations instead of designated person as it states that any person who does business with a company is termed as connected person.

3rd Technical Session

The 3rd technical session during the full day seminar was taken by Mr. Pradeep Ramakrishnan, Assistant General Manager, SEBI, on topic "New Clause 49 of listing agreement. The speaker started his session by explaining the participants on evolution of Indian primary market, different types of issues, offer documents, SEBI's role in primary market, Public issue process, eligibility norms, etc. While explaining ASBA (Applications Supported by blocked accounts) he informed at present, a lot of time is spent in compiling applications and crediting money for retail applications from distant areas. To hasten this process, SEBI has allowed banks to offer applications supported by blocked accounts (ASBA) facilities. Under this, the bank debits money from the account of the applicant only after allotment of shares. The Speaker also explained on SEBI frame work of rejection of draft offer documents and the broad criteria SEBI follows for scrutinization, along with the consequences of rejection.

While explaining Corporate Governance the speaker explained corporate governance (CG) relates to how corporations, firms, organizations etc. are owned, managed, directed and controlled. He informed Corporate governance is acceptance by management w.r.t the rights of shareholders as the true owners of the corporation and of their own role as trustees on behalf of the shareholders. The Speaker also explained the broad principles of Corporate Governance, SEBI Initiatives, and major provisions in clause 49, Challenges in Corporate Governance etc before concluding his session.

Report on Open House Session – Revisiting Companies Act 2013 on 14th May 2015



The Bangalore Chapter organized Open House Sessions – Revisiting Companies Act 2013 “ Three Evenings a week and Four Weeks in a series” starting from 14th May 2015 to 6th June 2015.

1st Open house Session held on 14th May 2015.

The first open house session was presided by CS Vivek Hegde, Member, Bangalore Chapter and CS Pradeep B Kulkarni, Member Bangalore Chapter who welcomed the gathering and invited the speaker CS V Karthick on the dias.

CS V Karthick, Practicing Company Secretary, took session on topic “Incorporation” wherein he explained the gathering on Chapter 1 and Chapter 2 of CA 2013 covering the sections along with related rules and forms. He then explained in detail on Articles , Act to over ride memorandum, Incorporation of company, Formation of companies with charitable objects, Effects of registration, effects of memorandum and articles, Commencement of business, registered office of company, alteration of memorandum, alteration of articles, alteration of memorandum or articles, rectification of name of company, copies of memorandum, articles, etc., to be given to members. Lastly he also touched upon conversion of companies already registered, a registered subsidiary company not to hold shares in its holding company, service of documents, authentication of documents, proceedings and contracts, execution of bills of exchange, etc.

Report on Open House Session – Revisiting Companies Act 2013 on 15th May 2015



2nd Open house Session – 15th May 2015.

The Second open house session was presided by CS Vivek Hegde, Member, Bangalore Chapter and CS Pradeep B Kulkarni, Member Bangalore Chapter who welcomed the gathering and invited the speaker CS Nagendra D Rao, Chairman, SIRC on the dias.

CS Nagendra D Rao, Chairman, SIRC, presented on “Prospectus, Allotment, Share Capital and Debentures” and highlighted the Information to be stated in the prospectus and enlisted the contents of the Prospectus to be issued. He further explained on the reports to be set out in prospectus, other matters/reports to be stated in prospectus, dematerialization of securities, refund of application money etc.

While explaining return of allotment the speaker informed whenever a company having a share capital makes any allotment of its securities, the company shall, within thirty days thereafter, file with the Registrar a return of allotment in Form PAS-3, along with the fee as specified in the Companies (Registration Offices and Fees) Rules, 2014.

Report on Open House Session – Revisiting Companies Act 2013 on 16th May 2015



3rd Open house Session held on 16th May 2015.

The Third open house session was presided by CS Vivek Hegde, Member, Bangalore Chapter and CS Pradeep B Kulkarni, Member Bangalore Chapter who welcomed the

gathering and invited the speaker CS K.Chandra Sekhar, Company Secretary, ACE Designers on the dias.

CS K.Chandra Sekhar, presented on “ Deposits” wherein he explained the gathering on **Prohibition on acceptance of deposits from public, and explained Sec 73 (1)** that no company shall invite, accept or renew deposits under this Act from the public except in a manner provided under this Chapter:

Provided that nothing in this sub-section shall apply to a banking company and non-banking financial company as defined in the Reserve Bank of India Act, 1934 (2 of 1934) and to such other company as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.

(2) A company may, subject to the passing of a resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, including the provision of security, if any, or for the repayment of such deposits with interest, as may be agreed upon between the company and its members, subject to the fulfilment of the following conditions, namely:—

- (a) issuance of a circular to its members including therein a statement showing the financial position of the company, the credit rating obtained, the total number of depositors and the amount due towards deposits in respect of any previous deposits accepted by the company and such other particulars in such form and in such manner as may be prescribed;
- (b) filing a copy of the circular along with such statement with the Registrar within thirty days before the date of issue of the circular;
- (c) depositing such sum which shall not be less than fifteen per cent of the amount of its deposits maturing during a financial year and the financial year next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account;
- (d) providing such deposit insurance in such manner and to such extent as may be prescribed;
- (e) certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits; and
- (f) providing security, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on the property or assets of the company:

Provided that in case where a company does not secure the deposits or secures such deposits partially, then, the deposits shall be termed as "unsecured deposits" and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.

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

(4) Where a company fails to repay the deposit or part thereof or any interest thereon under sub-section (3), the depositor concerned may apply to the Tribunal for an order directing the

company to pay the sum due or for any loss or damage incurred by him as a result of such non-payment and for such other orders as the Tribunal may deem fit.

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

Repayment of deposits, etc., accepted before commencement of this Act. The Speaker informed that under Section 74 (1) Where in respect of any deposit accepted by a company before the commencement of this Act, the amount of such deposit or part thereof or any interest due thereon remains unpaid on such commencement or becomes due at any time thereafter, the company shall—

- (a) file, within a period of three months from such commencement or from the date on which such payments, are due, with the Registrar a statement of all the deposits accepted by the company and sums remaining unpaid on such amount with the interest payable thereon along with the arrangements made for such repayment, notwithstanding anything contained in any other law for the time being in force or under the terms and conditions subject to which the deposit was accepted or any scheme framed under any law; and
- (b) repay within one year from such commencement or from the date on which such payments are due, whichever is earlier.

(2) The Tribunal may on an application made by the company, after considering the financial condition of the company, the amount of deposit or part thereof and the interest payable thereon and such other matters, allow further time as considered reasonable to the company to repay the deposit.

(3) If a company fails to repay the deposit or part thereof or any interest thereon within the time specified in sub-section (1) or such further time as may be allowed by the Tribunal under sub-section (2), the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees and every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both.

The Speaker also explained the gathering on **Damages for fraud under section 75. (1), Acceptance of deposits from public by certain companies under section 76. (1)** before concluding his session.

The Second Session during the day was taken by CS T R Jairam, Practicing company Secretary on topic “Charges” wherein the speaker explained in details on the Duty to register charges, Application for registration of charge. He then explained on Date of notice of charge, Register of charges to be kept by Registrar, Company to report satisfaction of charge, Power of Registrar to make entries of satisfaction and release in absence of intimation from company, Intimation of appointment of receiver or manager, Company's register of charges, Punishment for contravention. etc.

The Session concluded with presentation of Mementos to the speakers.

Report on Open House Session – Revisiting Companies Act 2013 on 21st May 2015 & 22nd May 2015



4th & 5th Open house Sessions – 21st May 2015 & 22nd May 2015

The Fourth & fifth open house sessions was presided by speakers CS Vijay Kumar Sajjan, Member, Bangalore Chapter and CS Vasanth Kumar, Secretary Bangalore Chapter who welcomed the gathering and started the session on topic “ Management and Administration”.

The Speakers informed - Every company shall maintain the registers under clauses (a), (b) and (c) of sub-section (1) of section 88 in the following manner namely:- (1) The entries in the registers maintained under section 88 shall be made within seven days after the Board of Directors or its duly constituted committee approves the allotment or transfer of shares, debentures or any other securities, as the case may be. (2) The registers shall be maintained at the registered office of the company unless a special resolution is passed in a general meeting authorizing the keeping of the register at any other place within the city, town or village in which the registered office is situated or any other place in India in which more than one-tenth of the total members entered in the register of members reside.

While explaining voting through electronic means, the speakers informed that every listed company or a company having not less than one thousand shareholders, shall provide to its members facility to exercise their right to vote at general meetings by electronic means.

(2) A member may exercise his right to vote at any general meeting by electronic means and company may pass any resolution by electronic voting system in accordance with the provisions of this rule.

The Speakers informed that “voting by electronic means” or “electronic voting system” means a ‘secured system’ based process of display of electronic ballots, recording of votes of the members and the number of votes polled in favour or against, such that the entire voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralized server with adequate ‘cyber security’; They informed that “secured system” means computer hardware, software, and procedure that are reasonably secure

from unauthorized access and misuse, provide a reasonable level of reliability and correct operation, are reasonably suited to performing the intended functions and adhere to generally accepted security procedures.

The Speakers informed that a company which opts to provide the facility to its members to exercise their votes at any general meeting by electronic voting system shall follow the following procedure, namely; (i) the notices of the meeting shall be sent to all the members, auditors of the company, or directors either - (a) by registered post or speed post ; or (b) through electronic means like registered e-mail id; (c) through courier service; (ii) the notice shall also be placed on the website of the company, if any and of the agency forthwith after it is sent to the members; etc the speakers also explained the notice of the meeting shall clearly mention that the business may be transacted through electronic voting system and the company is providing facility for voting by electronic means; the notice shall clearly indicate the process and manner for voting by electronic means and the time schedule including the time period during which the votes may be cast and shall also provide the login ID and create a facility for generating password and for keeping security and casting of vote in a secure manner. The company shall cause an advertisement to be published, not less than five days before the date of beginning of the voting period, at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and having a wide circulation in that district, and at least once in English language in an English newspaper having a wide circulation in that district, about having sent the notice of the meeting and specifying therein, inter alia, the following matters, namely:- (a) statement that the business may be transacted by electronic voting; (b) the date of completion of sending of notices; (c) the date and time of commencement of voting through electronic means; (d) the date and time of end of voting through electronic means; (e) the statement that voting shall not be allowed beyond the said date and time; (f) website address of the company and agency, if any, where notice of the meeting is displayed; and (g) contact details of the person responsible to address the grievances connected with the electronic voting; (vi) the e-voting shall remain open for not less than one day and not more than three days: Provided that in all such cases, such voting period shall be completed three days prior to the date of the general meeting; (vii) during the e-voting period, shareholders of the company, holding shares either in physical form or in dematerialized form, as on the record date, may cast their vote electronically:

The Sessions ended with vote of thanks to the speaker.

Report on Open House Session – Revisiting Companies Act 2013 on 23rd May 2015



6th Open house Sessions – 23rd May 2015

The sixth open house session was presided by CS V Sreedharan, Past central Council Member. CS Vasanth Kumar, Secretary, Bangalore Chapter welcomed the gathering and invited the speaker CS V Sreedharan to the dais.

CS V Sreedharan, Past Central Council Member, started the session on topic “Appointment and Qualification of Directors”. The Speaker explained that a company, though a legal entity in the eyes of law, is an artificial person, existing only in contemplation of law. It has no physical existence. It has neither soul nor body of its own. As such, it cannot act in its own person. It can do so only through some human agency. The persons who are in charge of the management of the affairs of the company are termed as directors. They are collectively known as Board of Directors or the Board. The directors are the brain of a company. They occupy a pivotal position in the structure of the company. Directors take the decision regarding the management of a company collectively in their meetings known as Board Meetings or at the meetings of their committees constituted for certain specific purposes. Section 2 (10) of the Companies Act, 2013 defines that “Board of Directors” or “Board”, in relation to a company, means the collective body of the directors of the company. While Explaining Independent Directors the speaker informed under Section 2(47) of the Act prescribed that “Independent director” means an independent director referred to in sub section (5) of section 149 of the Act. In fact reference should have been made to sub section(6) of 149 as it specifies the qualifications of independent director with clarity. For Appointment and Qualifications of Directors every listed public company shall have at least one-third of the total number of directors as independent directors (fraction is to be rounded off to one). Central Government has prescribed under Rule 4, public companies with specified limits as on the last date of latest audited financial statements mentioned below shall also have at least 2 directors as independent directors:- paid up share capital of Rs. 10 crore or more; or turnover of Rs. 100 crore or more; or in aggregate, outstanding loans/borrowings/ debentures/ deposits/ exceeding Rs. 50 crore or more. Further if there is any intermittent vacancy of an independent director then it shall be filled up by the board of

directors within 3 months from the date of such vacancy or not later than immediate next board meeting, whichever is later. Once the company covered under above sub-rule (i) to (iii) of Rule 4, ceases to fulfil any of three conditions for three consecutive years then it shall not be required to comply these provisions until such time as it meets any of such conditions. The Speaker while explaining Remuneration of an Independent Director- Section 149(9) As per section 149 (9) of the Act an independent director shall not be entitled to any stock option. He may receive remuneration by way of sitting fee, reimbursement of expenses incurred for participation in the Board and other committee meetings and profit related commission as may be approved by the members as provided under section 197 (5) of the Act. The Speaker while explaining Appointment of an Independent Director- Section 149(10) Subject to the provisions of Section 152, an independent director can be appointed for a term of up to five consecutive years on the Board. However, in case of his reappointment for further five year then special resolution passed in general meeting and disclosure of such appointment in the Board's report shall be required. {Section 149 (10)}. The Speaker also explained the gathering on APPOINTMENT OF DIRECTORS – Section 152, Punishment - Section 159, Appointment of Additional Director- Section 161 (1), Appointment of Alternate Director- Section 161 (2), DIRECTOR IDENTIFICATION NUMBER (DIN), Cancellation/Surrender/Deactivation of DIN – Rule 11, General Provisions regarding DIN, Disqualifications for appointment of director -Section 164, Duties of directors- Section 166, Resignation of director- Section 168 & Rule 15, 16, Removal of directors- Section 169, Register of Key Managerial Personnel– Section 170 (1) & Rule 17, Return of Key Managerial Personnel- Section 170(2)& Rule 18 etc before concluding his session.

The Session ended with vote of Thanks to the speaker.

Report on Valedictory Session of 2nd Batch of Capacity Building Program in FEMA – 23rd May 2015.



The Bangalore Chapter organized the valedictory session of 2nd Batch of Capacity Building Program in FEMA on 23rd May 2015, the program was presided by CS H M Dattatri, Chairman, Bangalore Chapter, CS vasanth Kumar, Secretary, Bangalore Chapter, CS Rekha Kamath, Treasurer, Bangalore Chapter, CS S.kailasam, Finance Controller, Unisys India Ltd, CS Sudha G Bhushan, Associate Director, Taxpert Professionals, Mumbai.

The Program has technical sessions by CS G V Srinivasa Murthy, Past Chairman, Bangalore Chapter and CS Sudha G Bhushan, Associate Director, Taxpert Professionals, Mumbai.

CS H M Dattatri, Chairman, Bangalore Chapter welcomed the gathering and invited the dignitaries on the dias, Chairman, Bangalore Chapter interacted with the participants and sought their suggestions for improvement for conducting more programs of such kind for members in future.

CS S.kailasam, Finance Controller, Unisys India Ltd, congratulated the participants on successful completion of the program and informed that Bangalore Chapter is conducting more capacity building programs in various core areas for the benefit of members.

The program then followed with distribution of certificates to all the participants of CBP by Chairman, Secretary, and the dignitaries.

Report on Open House Session – Revisiting Companies Act 2013 on 28th & 29th May 2015.



7th & 8th Open house Sessions – 28th & 29th May 2015.

The Seventh & eighth Open House Sessions on revisiting Companies Act 2013 was presided by CS Rekha Kamath, Treasurer, CS Vasanth Kumar, Secretary, Bangalore Chapter. CS Rekha Kamath, Welcomed the gathering and invited CS K Padmavathi, Director, Prozone Advisory Services Ltd on to the dias.

CS K. Padmavathy, took session on topic “ Meetings of Board and Board powers” and speaking on the occasion informed : Section 173 of the Act deals with Meetings of the Board and Section 174 deals with quorum. The Act provides that the first Board meeting should be held within thirty days of the date of incorporation. In addition to the first meeting to be held within thirty days of the date of incorporation, there shall be minimum of four Board meetings every year and not more one hundred and twenty days shall intervene between two consecutive Board meetings. In case of One Person Company (OPC), small company and dormant company, at least one Board meeting should be conducted in each half of the calendar year and the gap between two meetings should not be less than Ninety days. The Speaker explaining Notice of Board Meetings informed the Act requires that not less than seven days’ notice in writing shall be given to every director at the registered address as available with the company. The notice can be given by hand delivery or by post or by electronic means. In case the Board meeting is called at shorter notice, at least one independent director shall be present at the meeting. If he is not present, then decision of the meeting shall be circulated to all directors and it shall be final only after ratification of decision by at least one Independent Director. The Speaker while explaining Compliance with Secretarial Standards relating to Board Meetings informed for the first time in the history of Company Law in India, the Companies Act, 2013 has given statutory recognition to the Secretarial Standards issued by the Institute of Company Secretaries of India. Section 118(10) of the Act reads as under: every company shall observe secretarial standards with

respect to general and Board meetings specified by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980, and approved as such by the Central Government. In the context of this provision, observance of Secretarial Standards issued by the Institute of Company Secretaries of India (ICSI) assumes special relevance and companies will have to ensure that there is compliance with these standards on their part. The ICSI is in process to bring out the Secretarial Standards in line with Companies Act, 2013 and has already issued the exposure draft of Secretarial Standard related to Board and General Meeting.

Referring the Secretarial Standards the speaker explained the audiences point by point of the details mentioned in Secretarial Standards 1 before concluding her session.

The Session ended with presentation of Memento to the Speaker.