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International Conference

Theme :

*Convergence of Company Law and Corporate
Governance – Recent Trends*

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Principal Supporter

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Knowledge Partner





Panel Discussion (Sitting on Dias from left): CS Atul Mehta, Council Member-ICSI, CS Sanjay Grover, Council Member – ICSI; CS R. Sridharan, President - ICSI; Mr Heng Chiang Poo, Honorary Secretary of MAICSA; CS Manoj Sonawala, GM - Corporate & CS, Tata Services Ltd.; CS Manish Ghiya, CS & Head –Compliance & Legal, HDFC Standard Life Insurance Company Ltd.



Group Photograph of Delegates participated at 9th International Conference on 6th July 2014 at Kuala Lumpur, Malaysia



Message from President



Dear Member,

I am happy to inform that, myself along with a delegation of our members attended 9th International Conference, which was held in collaboration with Malaysian Institute of Chartered Secretaries and Administrators [MAICSA] on the theme “*Convergence of Company Law and Corporate Governance – Recent Trends*” on 6th July 2014 at KL, Malaysia. National Foundation for Corporate Governance [NFCG] played a supportive role for the conference. During the Conference, Mr Heng Chiang Pooh, Honorary Secretary, The Malaysian Institute of Chartered Secretaries of India [MAICSA], made a presentation on Malaysian Companies Bill, 2013, which was quite interesting. Deliberations at the Conference were highly enriching. I hope that this conference will further consolidate networking between the members of both the institutes.

Not restricting to the organizational success of the programme, it has also opened up new vistas for the international level cooperation between ICSI and MAICSA. During the interaction with representatives of MAICSA, I came to understand that in Malaysia, there are about 10 lakhs registered companies, of which 5 lakhs are active. Apart from members of MAICASA, other professionals/non-professionals can also play the role of Company Secretary in Malaysia and as of now, MAICASA has less than 10,000 members on its roll. We are exploring the possibility how well both ICSI and MAICSA can cooperate in the areas of mutual interest.

The articles and write ups with reference to Companies Act, 2013 published in the Souvenir as well as other technical papers circulated at the Conference were well received by the international participants as well as our members. Through this column, I express my thanks to Dr S K Dixit, Joint Secretary of the Institute and his team for bringing out an excellent souvenir. Since the articles are thematic in nature and instead of restricting its circulation only to the participants of the International Conference, we want to share the same with all the members, hence, a special issue of **CS-Nitor** is being published, which, I hope you will find it interesting and I look forward to your feedback.

Regards,

R Sridharan

President

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Convergence of Company Law and Corporate Governance – Recent Trends

Introduction

Over the past two decades, corporate governance reforms have emerged as a central focus of corporate laws in countries across the development spectrum. Corporate governance mainly involves the establishment of structures and processes, with appropriate checks and balances that enable the Board, as collegian, to discharge their legal responsibilities in a manner which is beneficial to all stakeholders. Corporate governance is broadly defined as "a set of relationships between a company's board, its shareholders, and other stakeholders"

Corporate governance is an important fundamental factor in corporate performance and it lies in its contribution both to business prosperity and to accountability towards stakeholders. The true safeguard for good corporate governance lies in the application of informed and independent judgement by experienced and qualified individuals, professionals, executive and non-executive directors, shareholders and auditors.

Ethics & Governance

Ethics is a set of principles or standards of human conduct that govern the behavior of individuals or organizations. Using these ethical standards, a person or a group of persons or an organization regulate their behavior to distinguish between what is right and what is wrong as perceived by others. It is not a natural science but a creation of the human mind. For this reason, it is not absolute and is open to the influence of time, place and situation.

Ethics & Corporate Governance are not just moral or compliance issues. In the long term they are essential behavioral traits for the organization that strengthen the Organisation's "Brand Equity" and help ensure Stable Sustainable Growth. Ethics is at the core of corporate governance, and management must reflect accountability for their actions on global community scale.

Good corporate governance is not just a matter of prescribing particular corporate structures and complying with a number of hard and fast rules. Good corporate governance ultimately depends upon ethical corporate culture which governs the behavior of an organization.

Good business begins with a commitment to the highest ethical standards and adherence to the guiding principles of integrity, respect, honesty, quality, responsibility, and fairness. These guiding principles are the foundation of good corporate governance. By operating with integrity and transparency, an organization can build credibility and trust with its various stakeholders i.e. employees, customers, vendors, partners, investors and the society. The corporate should value the message that "any success that is not achieved ethically is no success at all".

Role of Ethics in Governance

Today, the corporate world as a whole is in the process of acquiring a moral conscience. The new and emerging concepts in management like corporate governance, business ethics and corporate sustainability are some of the expressions through which this emerging ethical instinct in the corporate world is trying to express or embody itself in the corporate life.

Self-regulation begins with good governance. Adherence to the law provides a minimum standard for an organization's behavior. Each organization should have a code of ethics that outlines the practices and behaviors



that its employees, board, and volunteers agree to follow. The adoption of such a code, though required by law in some jurisdictions, helps demonstrate the organization's commitment to carry out its responsibilities ethically and effectively.

The code should be built on the values that the organization embraces, and should highlight expectations, as to how those who work with the organization will conduct themselves in a number of areas, such as the confidentiality and respect that should be accorded to clients, consumers and other stakeholders. Executives being the primary decision-makers, they must hold themselves accountable for the way a business operates and affects stakeholders, shareholders, employees, and the society at large.

Successive incidences, particularly 2008 financial collapse is a wonderful yet terrifying example of exactly what can go wrong and why corporate governance and ethics is of such importance to both the businesses as well as the societies in which they operate.

Hence, good governance must be founded on principles of ethics and moral values. The art of good governance simply lies in making things right and putting them in their right perspective.

The role of ethics and moral values in corporate governance refers to the manner in which they are applied in functioning or administering the operations of business. Business ethics in corporate governance can also be seen in the manner in which the management of a company relates with individuals and external businesses, such as distributors, consumers and business partners. It may also be applied to the manner in which a company relates with host communities and the society at large. One of the ethical considerations that the management of an organization must necessarily address is the issue of responsible corporate behavior, including corporate social responsibility.

CORPORATE GOVERNANCE DEVELOPMENTS – RECENT TRENDS

I. Indian Companies Act, 2013

The Companies Act, 1956 had been enacted with the object to consolidate and amend the law relating to the companies and certain other associations. The said Act had remained been in force for about fifty-Six years and amended several times. In view of changes in the national and international economic environment and expansion and growth of Indian economy, the Central Government after due deliberations decided to repeal the Companies Act, 1956 and to enact a new legislation to provide for new provisions to meet the changed national and international standards of Corporate Governance, economic environment and further accelerate the expansion and growth of economy.

The Companies Act, 2013 (The Act) was passed by the Indian Parliament on August 8, 2013 and assented to by the President of India on August 29, 2013 to replace the erstwhile Companies Act, 1956. The Act aims to overhaul the country's corporate law to strengthen governance and increase transparency in disclosures. Through its 470 provisions, the new law proposes to make it mandatory for firms to maintain their documents in electronic format, introduces the concept of e-governance, requires big companies to set aside funds for corporate social activities and suggests rotation of auditors.

The objective behind the Act is lesser Government control and enhanced self-regulations coupled with emphasis on corporate democracy. The Act delinks the procedural aspects from the substantive law and provides greater flexibility in rule making to enable adaptation to the changing economic and business environment.



The Ministry of Corporate Affairs (MCA), Government of India has issued rules on the various chapters of the Companies Act, 2013 to ensure smooth transition and effective implementation of the Act w.e.f. 1st April, 2014 except certain provisions which are yet to be notified.

HIGHLIGHTS OF THE COMPANIES ACT, 2013

- The Act has 470 sections as against 658 Sections in the existing Companies Act, 1956.
- The entire Act has been divided into 29 chapters.
- Many new chapters have been introduced, viz., Registered Valuers (ch.17); Government companies (ch. 23); Companies to furnish information or statistics (ch. 25); Nidhis (ch. 26); National Company Law Tribunal & Appellate Tribunal (ch. 27); Special Courts (ch. 28).
- The Act is forward looking in its approach which empowers the Central Government to make rules, etc. through delegated legislation (section 469 and others).

The salient and unique features of the Companies Act, 2013 are as under:

1. Definitions

- New definitions are introduced in the Act, some of which are accounting standards, auditing standards, associate company, CEO, CFO, control, deposit, employee stock option, financial statement, global depository receipt, Indian depository receipt, independent director, interested director, key managerial personnel, promoter, one person company, small company, turnover, voting right etc.
- Definition of private company changed – the limit on maximum number of members increased from 50 to 200.
- Private company which is a subsidiary of a public company shall be deemed to be a public company. Confusion whether such a company can retain the provisions in the articles of private company though now a public company removed.
- Associate Company - A company is considered to be an associate company of the other, if the other company has significant influence over such company (not being a subsidiary) or is a joint venture company. Significant influence means control of at least 20 per cent. of total share capital of a company or of business decisions under an agreement.
- Dormant Company - Where a company is formed and registered under this Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction, such a company or an inactive company may make an application to the Registrar for obtaining the status of a dormant company.
- “expert” includes an engineer, a valuer, a chartered accountant, a company secretary, a cost accountant and any other person who has the power or authority to issue a certificate in pursuance of any law for the time being in force.
- “foreign company” means any company or body corporate incorporated outside India which,—
 - (a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and
 - (b) conducts any business activity in India in any other manner.



- “Key Managerial Personnel (KMP), in relation to a company, means—
 - (i) the Chief Executive Officer or the Managing Director or the Manager,
 - (ii) the Company Secretary;
 - (iii) the whole-time director;
 - (iv) the Chief Financial Officer; and
 - (v) such other officer as may be prescribed
 - “officer who is in default”, means any of the following officers of a company, namely:—
 - (i) whole-time director;
 - (ii) key managerial personnel;
 - (iii) where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified;
 - (iv) any person who, under the immediate authority of the Board or any key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default;
 - (v) any person in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act, other than a person who gives advice to the Board in a professional capacity;
 - (vi) every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance;
 - (vii) in respect of the issue or transfer of any shares of a company, the share transfer agents, registrars and merchant bankers to the issue or transfer.
 - Act defines the term ‘promoter’ to mean a person -
 - (a) who has been named as such in a prospectus or is identified by the company in the annual return, or
 - (b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or
 - (c) in accordance with whose advice, directions or instructions the Board of Directors is accustomed to act.
- Provided that nothing in sub-section (c) shall apply to a person who is acting merely in a professional capacity.
- Definition of subsidiary company in relation to any other company (that is holding company), changed to mean a company in which the holding company –
 - Controls the composition of the Board of Directors; or



- Exercises or controls more than one half of the total share capital (instead of equity share capital as prescribed under the 1956 Act) either at its own or together with one or more of its subsidiary companies.

Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.

- Small company has been defined as a company other than a public company having a paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed not exceeding Rs.5 crore or turnover of which does not exceed two crore rupees or such higher amount as may be prescribed not exceeding twenty crore rupees. [section 2(85)].
- The number of persons in any association or partnership not to exceed such number of persons as may be prescribed (not exceeding one hundred). The restriction not to apply to an association or partnership, constituted by professionals who are governed by special Acts. (section 464)

2. Classification & Registration

- Concept of One Person Company (OPC limited) introduced [Section 2(62)].
- Concept of Small companies have been introduced which shall be subjected to a lesser stringent regulatory framework [Section 2(85)].
- Provision for Conversion of Companies already registered has been introduced [Section 18].
- Registration process has been made faster and compatible with e-governance.
- For the first time, articles may contain provisions for entrenchment [section 5(3)].
- A declaration, in the prescribed form, required to be filed with the Registrar at the time of registration of a company that all the requirements of the Act in respect of registration and matters precedent or incidental thereto have been complied with, will be required to signed by both - a person named in the articles as a director, manager or secretary of the company as well as by an advocate, a chartered accountant, cost accountant or company secretary in practice, who is engaged in the formation of the company. (section 7)
- *Registered office*
 - A company shall, on and from the 15th day of its incorporation and at all times thereafter have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.
 - Company is required to furnish to the Registrar verification of its registered office within 30 days of its incorporation in the prescribed manner.
 - Where a company has changed its name(s) during the last two years, it shall paint or affix or print, along with its name, the former name or names so changed during the last two years.
 - Notice of change, verified in the manner prescribed, shall be given to the Registrar, within 15 days of the change, who shall record the same.
- *Commencement of business*
 - A company having a share capital shall not commence business or exercise any borrowing powers unless a declaration is filed with Registrar by a director verified in the manner as may be prescribed that:



- every subscriber to the memorandum has paid the value of shares agreed to be taken by him;
- Paid-up capital is not less than Rs. five lakh/ one lakh
- the company has filed with the Registrar the verification of its registered office.

3. Prospectus and Allotment of Securities

- This chapter is divided into two parts. Part I relates to 'Public offer' and Part II relates to 'Private Placement'
- "Public offer" includes initial public offer or further public offer of securities to the public by a company, or an offer for sale of securities to the public by an existing shareholder, through issue of a prospectus.'
- The term 'private placement' has been defined to bring clarity. "Private placement" means any offer of securities or invitation to subscribe securities to a select group of persons by a company (other than by way of public offer) through issue of a private placement offer letter and which satisfies the conditions specified in this section.
- Detailed disclosures are provided in the Act itself. It includes disclosures about sources of promoter's contribution.
- In case of variation in the terms of contract referred to in the prospectus or objects for which the prospectus was issued, the dissenting shareholders shall be given exit opportunity by promoters or controlling shareholders.

Punishment for fraudulently inducing persons to invest money (section 36)

- Any person who, either knowingly or recklessly makes any statement, promise or forecast which is false, deceptive or misleading, or deliberately conceals any material facts, to induce another person to enter into, or to offer to enter into any agreement for, or with a view to, obtaining credit facilities from any bank or financial institution shall be liable for punishment for fraud. This provision is proposed to help in curbing a major source of corporate delinquency.

4. Share Capital and Debentures

- If a company with intent to defraud, issues a duplicate certificate of shares, the company shall be punishable with fine which shall not be less than 5 times the face value of the shares involved in the issue of the duplicate certificate but which may extend to 10 times the face value of such shares or rupees 10 crores, whichever is higher. Stringent penalties have also been imposed for defaulting officers of the company. [section 46(5)]
- Where any depository has transferred shares with an intention to defraud a person, it shall be liable under section 447 i.e. provisions for punishment for fraud.[section56(7)]
- Security Premium Account may also be applied for the purchase of its own shares or other securities. [Section 52(2)(e)]
- A company cannot issue share at a discount. [Section(53)]
- A company limited by shares cannot issue any preference shares which are irredeemable. However, a company limited by shares may, if so authorised by its articles, can issue preference shares which are liable to be redeemed within a period not exceeding twenty years from the date of their issue.



- company may issue preference shares for a period exceeding twenty years for infrastructural projects subject to redemption of such percentage of shares as may be prescribed on an annual basis at the option of such preference shareholders. [Section 55].
- Every company shall deliver debenture certificate within six months of allotment. [Section 56(4)(d)].
- Reduction of share capital to be made subject to confirmation by the Tribunal. The Tribunal on receiving an application for reduction of share capital, shall give notice to the Central Government, Registrar and to the SEBI and consider the representations received in this behalf. (Section 66)

5. E-Governance

E-Governance proposed for various company processes like maintenance and inspection of documents in electronic form, option of keeping of books of accounts in electronic form, financial statements to be placed on company's website, holding of board meetings through video conferencing/other electronic mode; voting through electronic means.

6. Board and Governance

— *Number of directors:*

- Minimum : Public company -3 Private -2 , OPC-1.
- Maximum : limit increased to 15 from 12 .

More directors can be added by passing of special resolution without getting the approval of Central Government as earlier required.

— *Woman director*

At least one woman director shall be on the Board of such class or classes of companies as may be prescribed.

— *Resident Director*

Every company shall have at least one director who has stayed in India for a total period of not less than one hundred and eighty-two days in the previous calendar year. [Section 149(2)].

— *Appointment of Key Managerial Personnel [Section 203(1)]*

Every company belonging to such class or classes of companies as may be prescribed shall have the whole-time key managerial personnel.

Unless the articles of a company provide otherwise, an individual shall not be the chairperson of the company as well as the managing director or Chief Executive Officer of the company at the same time [Proviso to Section 203(1)]

- Every Company Secretary being a KMP shall be appointed by a resolution of the Board which shall contain the terms and conditions of appointment including the remuneration. If any vacancy in the office of KMP is created, the same shall be filled up by the Board at a meeting of the Board within a period of six months from the date of such vacancy [Section 203 (2) & (4)].
- If a company does not appoint a Key Managerial Personnel, the penalty proposed is :
 - On company – one lakh rupees which may extend to five lakh rupees.



- On every director and KMP who is in default – 50,000 rupees and 1,000 rupees per day if contravention continues.
- Independent Directors - Concept of independent directors has been introduced for the first time in Company Law [section 149(5)]
 - All listed companies shall have at least one-third of the Board as independent directors.
 - Such other class or classes of public companies as may be prescribed by the Central Government shall also be required to appoint independent directors.
 - The independent director has been clearly defined in the Act.
 - Nominee director nominated by any financial institution, or in pursuance of any agreement, or appointed by any government to represent its shareholding shall not be deemed to be an independent director.
 - An independent director shall not be entitled to any remuneration other than sitting fee, reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members.
 - An Independent director shall not be entitled to any stock option.
 - Only an independent director can be appointed as alternate director to an independent director. [Section 161(2)].

Person other than retiring director

- If a person other than retiring director stands for directorship but fails to get appointed, he or the member intending to propose him as a director, as the case may be, shall be refunded the sum deposited by him, if he gets more than twenty five per cent of total valid votes [section 160(1)].

Resignation of director

- A director may resign from his office by giving notice in writing. The Board shall, on receipt of such notice, intimate the Registrar and also place such resignation in the subsequent general meeting of the company. [section 168(1)]. The director shall also forward a copy of resignation alongwith detailed reasons for the resignation to the Registrar.

The notice shall become effective from the date on which the notice is received by the company or the date, if any, specified by the director in the notice, whichever is later. [Section 168(2)].

- If all the directors of a company resign from their office or vacate their office, the promoter or in his absence the Central Government shall appoint the required number of directors to hold office till the directors are appointed by the company in General Meeting [Section 168(3)].

Participation of directors through video-conferencing

- Participation of directors at Board Meetings has been permitted through video-conferencing or other electronic means, provided such participation is capable of recording and recognizing. Also, the recording and storing of the proceedings of such meetings should be carried out [section 173(2)].



The Central Government may however, by notification, specify such matters which shall not be dealt with in the meeting through video-conferencing and such other electronic means as may be prescribed. [Section 173(2)]

Notice of Board Meeting

- At least seven days' notice is required to be given for a Board meeting. The notice may be sent by electronic means to every director at his address registered with the company. [section 173(3)].

A Board Meeting may be called at shorter notice subject to the condition that at least one independent director, if any, shall be present at the meeting. However, in the absence of any independent director from such a meeting, the decisions taken at such meeting shall be final only on ratification thereof by at least one independent director. [section 173(3)].

Duties of directors (section 166)

For the first time, duties of directors have been defined in the Act. A director of a company shall:

- act in accordance with the articles of the company.
- act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.
- exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.
- not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.
- not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.
- not assign his office and any assignment so made shall be void.

Penalty:

If a director of the company contravenes the provisions of this section such director shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Board Committees

- Besides the Audit Committee, the constitution of Nomination and Remuneration Committee has also been made mandatory in the case of listed companies and such other class or classes of companies as may be prescribed. [section 178(1)].
- The Audit committee shall consist of a minimum of three directors with independent directors forming a majority and majority of members including its Chairperson shall be persons with ability to read and understand the financial statement. [section 177(2)].
- The Nomination and Remuneration Committee shall formulate the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration for the directors, key managerial personnel and other employees [Section 178(3)].



- The Nomination and Remuneration Committee shall consist of three or more non-executive director(s) out of which not less than one half shall be independent directors. [section 178(1)].
- Where the combined membership of the shareholders, debenture holders, deposit holders and any other security holders is more than one thousand at any time during the financial year, the company shall constitute a Stakeholders Relationship Committee. [section 178(5)].

Managerial Remuneration [section 197]

- Provisions relating to limits on remuneration provided in the existing Act being included in the Act. Maximum limit of 11% (of net profits) being retained.
- For companies with no profits or inadequate profits remuneration shall be payable in accordance with new Schedule of Remuneration (Schedule V) and in case a company is not able to comply with Schedule V, approval of Central Government would be necessary.

Certain Insurance Premium not to be treated as part of the remuneration

- The premium paid on any insurance taken by a company on behalf of its managing director, whole-time director, manager, Chief Executive Officer, Chief Financial Officer or Company Secretary for indemnifying any of them against any liability in respect of any negligence, default, misfeasance, breach of duty or breach of trust for which they may be guilty in relation to the company, shall not be treated as part of the remuneration payable to any such personnel. [Section 197 (13)]

7. Disclosures

Annual return [section 92]

- Every company shall prepare a return (hereinafter referred to as the annual return) in the prescribed form containing the particulars as they stood on the close of the financial year regarding;
 - (i) its registered office, principal business activities, particulars of its holding, subsidiary and associate companies;
 - (ii) its shares, debentures and other securities and shareholding pattern;
 - (iii) its indebtedness;
 - (iv) its members and debenture-holders along with changes therein since the close of the previous financial year;;
 - (v) its promoters, directors, key managerial personnel along with changes therein since the close of the last financial year;
 - (vi) meetings of members or a class thereof, Board and its various committees along with attendance details;
 - (vii) remuneration of directors and key managerial personnel;
 - (viii) penalties imposed on the company, its directors or officers and details of compounding of offences;
 - (ix) matters related to certification of compliances, disclosures as may be prescribed;
 - (x) details in respect of shares held by foreign institutional investors; and
 - (xi) such other matters as may be prescribed.



The prescribed disclosures under the Annual Return shows significant transformation in non financial annual disclosures and reporting by companies as compared to the existing format.

Similar to the existing compliance certificate as stipulated under section 383A of Companies Act, 1956 certification of compliances has been prescribed under section 92(1)(ix).

— Annual Return is required to be signed by :

(i) A director and the Company Secretary, or where there is no Company Secretary, by a Company Secretary in whole-time practice.

It means that now in respect of all the companies (except one person companies and small companies), whether private or public, listed or unlisted, the annual return has to be signed by either a company secretary in employment or by a company secretary in practice i.e. where no Company Secretary is appointed by the company, the Annual Return is compulsorily required to be signed by the Company Secretary in practice.

(ii) in addition to the above, the annual return, filed by a listed company or by a company having such paid-up capital and turnover as may be prescribed, shall be certified by a company secretary in practice that the annual return discloses the facts correctly and adequately and that the Company has complied with all the provisions of the Act.

It means, in case of a listed company and other prescribed companies, even if the Annual Return is signed by the Company Secretary in employment, it is further required to be certified by the Company Secretary in Whole time practice.

(iii) In relation to a One Person Company and Small Company, the annual return is required to be signed by the Company Secretary, or where there is no Company Secretary, by one director of the company.

Penalty

In case a Company Secretary in practice certifies the annual return otherwise than in conformity with the requirements of this section or the rules made there under, such Company Secretary shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

Changes in shareholding of promoters and top ten shareholders

— A return to be filed with the Registrar with respect to change in the number of shares held by promoters and top ten shareholders (to ensure audit trail of ownership) by a listed company.

Board's report (Section 134)

— Board's Report has been made more informative and includes extensive disclosures like-

- (i) extract of annual return in the prescribed form;
- (ii) company's policy on director's appointment and remuneration including the criteria for determining qualifications, positive attributes, independence of a director etc. ;
- (iii) a statement of declaration by independent directors;



- (iv) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report and by the company secretary in practice in his secretarial audit report;
 - (v) particulars of loans, guarantees, or investments made;
 - (vi) particulars of contracts or arrangements entered into;
 - (vii) the conservation of energy, technology absorption, foreign exchange earnings and outgo in the prescribed manner;
 - (viii) statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company;
 - (ix) the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year
 - (x) in case of listed companies and other prescribed class of companies, a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of committees and individual directors.
- The Directors' Responsibility Statement shall also include the statement that the directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.
 - The Boards' Report is to be signed by the Chairperson of the company if he is authorized by the Board and where he is not so authorized, it shall be signed by at least two directors, one of whom shall be a managing director, or by the director where there is one director. (Section 134).

Related Party Transactions

- Every contract or arrangement entered into with a related party shall be referred to in the Board's Report along with the justification for entering into such contract or arrangement [Section 188(2)].
- Any arrangement between a company and its directors in respect of acquisition of assets for consideration other than cash shall require prior approval by a resolution in general meeting and if the director or connected person is a director of its holding company, approval is required to be obtained by passing a resolution in general meeting of the holding company [Section 192].
- Where a one person company limited by shares or by guarantee enters into a contract with the sole member of the company who is also its director, the company shall, unless the contract is in writing, ensure that the terms of the contract or offer are contained in the memorandum or are recorded in the minutes of the first Board meeting held after entering into the contract. The company shall inform the Registrar about every contract entered into by the company and recorded in the minutes (Section 193).

8. Corporate Social Responsibility (Section 135)

- Every company having net worth of rupees 500 crore or more, or turnover of rupees 1000 crore or more or a net profit of rupees 5 crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.



- The CSR Committee shall formulate and recommend Corporate Social Responsibility Policy which shall indicate the activity or activities to be undertaken by the company as specified in schedule VII and shall also recommend the amount of expenditure to be incurred on the CSR activities.
- The Board of every company shall ensure that the company spends in every financial year atleast 2% of the average net profits of the company made during the three immediately preceding financial years in pursuance of its CSR policy.
- Where the company fails to spend such amount, the Board shall in its report specify the reasons for not spending the amount. The approach is to 'comply or explain'.
- The company shall give preference to local areas where it operates, for spending amount earmarked for Corporate Social Responsibility (CSR) activities.

9. Deposits (Section 173)

- A company may, subject to the passing of a resolution in general meeting and subject to the prescribed rules, accept deposits from its members subject to fulfillment of the following specified conditions:
 - i. passing of resolution in a general meeting.
 - ii. issue of circular to members including therein a statement showing the financial position of the company, the credit ratings 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.
 - iii. filing a copy of the circular along with such statement with the registrar within 30 days before the date of issue of the circular.
 - iv. Providing deposit insurance.
 - v. Certification by the company that it has not defaulted in the repayment of deposits.
 - vi. Provision of security in respect of deposit and interest and creation of charge on company's properties and assets. An amount of not less than 15% of the deposits maturing during a financial year shall be deposited in deposit repayment reserve account.
- A public company having prescribed net worth or turnover may accept deposits from persons other than its members subject to compliance of rules as may be prescribed by Central Government in consultation by Reserve Bank of India. (Section 76).
- The penalty for failure to repay deposit has been made extremely stringent. Where a company fails to repay the deposit and it is proved that the deposits had been accepted with intent to defraud the depositors or for any fraudulent purpose, every officer of the company who was responsible for the acceptance of such deposit shall, without prejudice to liability under section 447 i.e. punishment for fraud), be personally responsible, without any limitation of liability, for all or any of the losses or damages that may have been incurred by the depositors (Section 75).

Stringent punishment is proposed for failure to distribute dividend within thirty days of its declaration. (Section 127)

10. Investment Companies (Section 186)

- A company can make investment through not more than two layers of investment companies, unless otherwise prescribed.



- This shall not affect
 - a company from acquiring any other company incorporated in a country outside India if such other company has investment subsidiaries beyond two layers as per the laws of such country;
 - a subsidiary company from having any investment subsidiary for the purposes of meeting the requirements under any law or under any rule or regulation framed under any law for the time being in force.
- The restriction on the number of step-down subsidiary companies has been introduced to prevent the abuse of diversion of funds through many step-down subsidiaries.

11. Company Secretary

Functions of Company Secretary (section 205)

- The functions of the company secretary shall include-
 - to report to the Board about compliance with the provisions of this Act, the rules made there under and other laws applicable to the company;
 - to ensure that the company complies with the applicable secretarial standards;
 - to discharge such other duties as may be prescribed.

Secretarial Audit (Section 204)

- Every listed company and a company belonging to other class of companies as may be prescribed shall annex with its Board's report a Secretarial Audit Report, given by a Company Secretary in Practice, in such form as may be prescribed.
- It shall be the duty of the company to give all assistance and facilities to the Company Secretary in Practice, for auditing the secretarial and related records of the company.
- The Board of Directors, in their report shall explain in full any qualification or observation or other remarks made by the Company Secretary in Practice in his report.
- If a company or any officer of the company or the Company Secretary in Practice, contravenes the provisions of this section, the company, every officer of the company or the Company Secretary in Practice, who is in default, shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Secretarial Standards Introduced [Section 118(10) & 205]

- For the first time, the Secretarial Standards has been introduced and provided statutory recognition
- Section 118(10) reads as:

“Every company shall observe Secretarial Standards with respect 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 by the Central Government.”
- Section 205 casts duty on the Company Secretary to ensure that the company complies with the applicable Secretarial Standards.



- It is the beginning of a new era where non financial standards have been given importance and statutory recognition besides Financial Standards.

12. General Meetings

- To encourage wider participation of shareholders at General Meetings, the Central Government may prescribe the class or classes of companies in which a member may exercise their vote at meetings by electronic means [section 108].
- One person companies have been given the option to dispense with the requirement of holding an AGM. [section 96(1)].

Report on annual general meeting [section 121]

- Every listed company shall prepare a Report on each Annual General Meeting including confirmation to the effect that the meeting was convened, held and conducted as per the provisions of the Act and the Rules made there under. The report shall be prepared in the manner to be prescribed. A copy of the report shall be filed with the Registrar within 30 days of the conclusion of the AGM. Non-filing of the report has been made a punishable offence.

13. Auditors

- A company shall appoint an individual or a firm as an auditor at annual general meeting who shall hold office till the conclusion of sixth annual general meeting.
- However, the company shall place the matter relating to such appointment for ratification by members at every annual general meeting.
- No listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint or re-appoint—
 - (a) an individual as auditor for more than one term of five consecutive years; and
 - (b) an audit firm as auditor for more than two terms of five consecutive years:

Provided that—

- (i) an individual auditor who has completed his term under section (a) shall not be eligible for re-appointment as auditor in the same company for five years from the completion of his term;
 - (ii) an audit firm which has completed its term under section (b), shall not be eligible for re-appointment as auditor in the same company for five years from the completion of such term:
- Members of a company may resolve to provide that in the audit firm appointed by it, the auditing partner and his team shall be rotated at such intervals as may be resolved by members.
 - The limit in respect of maximum number of companies in which a person may be appointed as auditor has been proposed as twenty companies. (section 141)
 - Auditor cannot render any of the following services, directly or indirectly to the company or its holding company or subsidiary company:
 - Accounting and book-keeping service
 - Internal audit



- Design and implementation of any financial information system
- Actuarial services
- Investment advisory services
- Investment banking services
- Rendering of outsourced financial services
- Management services
- Other prescribed services

Internal Audit

- Internal audit may be made mandatory for prescribed companies (section 138)

Cost Audit (section 148)

- The Central Government after consultation with regulatory body may direct class of companies engaged in production of such goods or providing such services as may be prescribed to include in the books of accounts particulars relating to utilisation of material or labour or to such other items of cost.
- If the Central Government is of the opinion, that it is necessary to do so, it may, direct that the audit of cost records of class of companies, which are required to maintain cost records and which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed, shall be conducted in the manner specified in the order.
- 'cost auditing standards' have been mandated.

14. Financial Statement (Section 2(40))

- For the first time, the term 'financial statement' has been defined to include:-
 - (i) a balance sheet as at the end of the financial year;
 - (ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;
 - (iii) cash flow statement for the financial year;
 - (iv) a statement of changes in equity, if applicable; and
 - (v) any explanatory note annexed to, or forming part of, any document referred to in sub-section (i) to sub-section (iv):
- the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement;

Signing of financial statement (Section 134)

The financial statement, including consolidated financial statement, if any, shall be approved by the Board of directors before they are signed on behalf of the Board at least by the Chairperson of the company authorised by the Board or by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the company, the Chief Financial Officer and the company secretary of



the company, wherever they are appointed, or in the case of a One Person Company, only by one director, for submission to the auditor for his report thereon.

Re-opening of accounts on court's or Tribunal's (Section 130)

- Generally reopening of accounts is not provided under the act, but an application can be made by the central government, income tax authorities, SEBI, any other statutory regulatory body or any person concerned to the tribunal for the purpose and the tribunal may order reopening of accounts of a company after giving notice to the government authorities if it deems fit.

Voluntary revision of financial statements or Board's report (Section 131)

- If the board of directors of the company feels that the financial statement or the board's report doesn't comply with their respective provision then they may exercise the revision of statements in respect of any of the three preceding financial years after making an application to the tribunal and obtaining approval for the same. The approved order shall be filed with the registrar to get effect. Such revision shall not be filed more than once in a financial year.

15. National Financial Reporting Authority (NFRA) (Section 132)

- The Central Government may be notification constitute a National Financial Reporting Authority to provide for matters related to accounting and auditing standards.
- Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—
 - (a) make recommendations to the Central Government on the formulation and laying down of accounting and auditing policies and standards for adoption by companies or class of companies or their auditors, as the case may be;
 - (b) monitor and enforce the compliance with accounting standards and auditing standards in such manner as may be prescribed;
 - (c) oversee the quality of service of the professions associated with ensuring compliance with such standards, and suggest measures required for improvement in quality of services and such other related matters as may be prescribed; and
 - (d) perform such other functions relating to sections (a), (b) and (c) as may be prescribed.

Notwithstanding anything contained in any other law for the time being in force, the National Financial Reporting Authority shall—

- (a) have the power to investigate, either suo moto or on a reference made to it by the Central Government, for such class of bodies corporate or persons, in such manner as may be prescribed into the matters of professional or other misconduct committed by any member or firm of chartered accountants, registered under the Chartered Accountants Act, 1949:

Provided that no other institute or body shall initiate or continue any proceedings in such matters of misconduct where the National Financial Reporting Authority has initiated an investigation under this section;

- (b) have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit.



- (c) where professional or other misconduct is proved, have the power to make order for—
- (A) imposing penalty of -
 - (I) not less than one lakh rupees, but which may extend to five times of the fees received, in case of individuals; and
 - (II) not less than ten lakh rupees, but which may extend to ten times of the fees received, in case of firms;
 - (B) debaring the member or the firm from engaging himself or itself from practice as member of the institute for a minimum period of six months or for such higher period not exceeding ten years as may be decided by the National Financial Reporting Authority.
 - Any person aggrieved by any order of the National Financial Reporting Authority, may prefer an appeal before the Appellate Authority constituted by the Central Government.

16. Investor Protection Measures

- Issue and transfer of securities and non-payment of dividend by listed companies, shall be administered by SEBI by making regulations.(Section24)
- An act of fraudulent inducement of persons to invest money is punishable with imprisonment for a term which may extend to ten years and with fine which shall not be less than three times the amount involved in fraud.(Section 36)
- A suit may be filed by a person who is affected by any misleading statement or the inclusion or omission of any matter in the Prospectus or who has invested money by fraudulent inducement. (Section 37).

Class action suits

- For the first time, a provision has been made for class action suits. It is provided that specified number of member(s), depositor(s) or any class of them, may, if they are of the opinion that the management or control of the affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members or depositors, file an application before the Tribunal on behalf of the members or depositors.
- Where the members or depositors seek any damages or compensation or demand any other suitable action from or against an audit firm, the liability shall be of the firm as well as of each partner who was involved in making any improper or misleading statement of particulars in the audit report or who acted in a fraudulent, unlawful or wrongful manner.
- The order passed by the Tribunal shall be binding on the company and all its members, depositors and auditors including audit firm or expert or consultant or advisor or any other person associated with the company. (section 245)

Serious Fraud Investigation Office (section 211)

Statutory status to SFIO has been proposed. Investigation report of SFIO filed with the Court for framing of charges shall be treated as a report filed by a Police Officer. SFIO shall have power to arrest in respect of certain offences of the Act which attract the punishment for fraud. Those offences shall be cognizable and the person accused of any such offence shall be released on bail subject to certain conditions provided in the relevant section of the Act.



Stringent penalty provided for fraud related offences.

Fraud defined (Section 447)

- The term "Fraud" has for the first time been defined in the Act. Any person who is found to be guilty of fraud, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud.

Where the fraud in question involves public interest, the term of imprisonment shall not be less than three years

Prohibition of insider trading

New provision has been introduced with respect to prohibition of insider trading of securities. The definition of price sensitive information has also been included [section 195].

Prohibition on Forward dealings

Directors and the key managerial personnel of a company are prohibited from forward dealings in securities of the company.(section 194).

17. Inspection, Enquiry and Investigation

- A new provision has been added to provide that where in connection with enquiry or investigation into the affairs of the company or reference by the Central Government, or on complaint by specified number of members or creditors or any other person having a reasonable any person that the transfer or disposal of funds, properties or assets is likely to take place which is prejudicial to the interest of the company, then the Tribunal may order for the freezing of such transfer, removal or disposal of assets for a period of three years. [section 221]
- Another new provision seeks to provide that the provisions of inspection or investigation applicable to Indian companies shall also apply mutatis-mutandis to inspection or investigation of foreign companies. (section 228).

18. Restructuring and Liquidation

- The entire rehabilitation and liquidation process has been made time bound.
- Winding up is to be resorted to only when revival is not feasible. (section 258).
- The Tribunal may appoint an interim administrator or a company administrator from the panel of Company Secretaries, CAs, CWAs, etc. maintained by the Central Government. [section 259(1)].
- The Company Administrator shall prepare a scheme of revival and rehabilitation. [section 261(1)].
- If revival scheme is not approved by the creditors, the Tribunal shall order for winding up of the company. (section 258).
- No civil court shall have jurisdiction in respect of any matter on which Tribunal or Appellate Tribunal is empowered. (section 268).



19. Company Liquidators (Section 275)

The Tribunal may appoint Provisional Liquidator or the Company Liquidator from a panel maintained by the Central Government consisting of Company Secretaries, Chartered Accountants, Advocates and Cost Accountants.

On an appointment as provisional liquidator or Company Liquidator, such liquidator is required to file a declaration in the prescribed form disclosing conflict of interest or lack of independence in respect of his appointment, if any, with the Tribunal.

Professional assistance to Company Liquidator (Section 291)

The Company Liquidator may, with the sanction of the Tribunal, appoint one or more professionals including Company Secretaries to assist him in the performance of his duties and functions under the Act.

20. Compounding of Certain Offence (Section 441)

This section provides for the compounding of certain offences by Tribunal or regional director in certain cases before the investigation has been initiated or is pending under this Act. It further provides the procedure followed for compounding of offence. It also provides penalty for any officer or other employee of the company who fails to comply with the order of Tribunal or Regional Director.

21. National Company Law Tribunal and Appellate Tribunal (Section 408 and 410)

The Central Government shall, by notification, constitute, a Tribunal to be known as National Company Law Tribunal and an Appellate Tribunal to be known as National Company law Appellate Tribunal.

22. Special Courts

- For the speedy trial of offences, the Central Government has been empowered to establish special courts in consultation with the Chief Justice of the High Court within whose jurisdiction the judge is to be appointed. (section 435).
- All offences under this Act shall be triable by the Special Court established for the area in which the registered office of the company in relation to which the offence is committed or where there are more special courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned. (section 436)
- The Special Court would have the liberty to try summary proceedings for offences punishable with imprisonment for a term not exceeding three years, although it may order for the regular trial. (section 436).

23. Mediation and Conciliations Panel (Section 442)

- The Central government shall maintain a panel of experts to be called Mediation and Conciliation Panel for mediation between the parties during the pendency of any proceedings before the Central Government or the Tribunal or the Appellate Tribunal under this Act.

24. Cross-Border Mergers (Section 234)

- The Act has allowed cross border mergers with any foreign company;
- The cross border merger may be made between companies registered under this Act and companies incorporated under jurisdiction of such countries as may be notified by the Central Government.



25. Registered Valuers (Section 247)

- A new chapter has been inserted in relation to registered valuers.
- Valuation in respect of any property, stock, shares, debentures, securities, goodwill, networth or assets of a company shall be valued by a person registered as a valuer.
- The Central Government shall maintain a register of valuers. .

The valuer shall be a person having such qualification and experience and registered as a valuer in such manner and on such terms and conditions as may be prescribed.

26. Power to Exempt Class or Classes of Companies from Provisions of this Act (Section 462)

- The Central Government may in the public interest, by notification direct that any provisions of this Act:
 1. shall not apply to such class or classes of companies; or
 2. shall apply to class or classes of companies with such exceptions, modifications and adaptations as may be specified in the notification.
- The notification in draft to be laid in both the Houses of Parliament for a period of 30 days.
- Houses may disapprove or modify.

27. Adjudication of Penalty (Section 454)

The Central government may by an order publish in the Official Gazette, appoint as many officers of the Central Government, not below the rank of Registrar, as adjudicating officers for adjudicating penalty under the provisions of this Act in the manner as may be prescribed.

II. REVISED CLAUSE 49 OF LISTING AGREEMENT ON CORPORATE GOVERNANCE

Securities and Exchange Board of India (SEBI) has overhauled the existing Clause 49 of the Listing Agreement and replaced it with a revised Clause 49 with the objective to align it with the provisions of the Companies Act, 2013, adopt best practices on corporate governance and to make the corporate governance framework more effective. The revised clause provides additional requirements to strengthen the corporate governance framework for listed companies in India.

The revised clause 49 would be applicable w.e.f. October 01, 2014. The revised clause is based on the principle of ensuring equitable treatment to all shareholders and recognising the rights of all stakeholders in the company. The revised clause is attempting to achieve this object by setting up an effective corporate governance framework within the company and providing for timely and accurate disclosures.

Salient features of Revised Clause 49

Independent Directors

The revised clause confers greater power and responsibility on the independent directors on matters relating to corporate governance. The clause incorporates methods to ensure professional, independent and transparent approach for selection and appointment of independent directors. The clause retains the requirement of having at least one third of directors as independent directors if the chairman of the board of directors is a non-executive director. If the company does not have a regular non-executive Chairman, at



least half of the board of directors should comprise of independent directors. Certain key changes in respect of the independent directors are listed below:

Tenure of Independent Directors

The revised clause restricts the total tenure of an Independent Director to a two terms of 5 years each. However, if a person who has already served as an Independent Director for 5 years or more in a listed company as on the date on which the amendment to Listing Agreement becomes effective, he shall be eligible for appointment for one more term of 5 years only. Further, if an independent director has been completed his total tenure, he shall be eligible for reappointment only after a period of three years.

Restriction on the number of Boards Independent Directors can serve

There is a restriction on the maximum number of boards an independent director can serve on listed companies as seven. If such person is serving as a whole time director in a listed company, then he cannot be serve more than three boards of listed companies.

Separate Meeting of independent directors

The independent directors shall conduct a separate meeting at least once in year. A separate meeting without the presence of the management/ executive directors provides them an opportunity to express their opinion freely and independently.

Performance Evaluation of Independent Directors

It is mandatory to conduct the performance evaluation of the independent directors. The evaluation shall be done by the whole board except the directors being evaluated. The decision to extend/ continuer the terms of the independent directors are made on the basis of such performance evaluation.

Prohibition of Stock Option to Independent Directors

In line with the Companies Act 2013, the revised clause makes it clear that the independent directors are not entitled to any stock option in the company. One of the main arguments against granting stock options to independent directors is the conflict interest resulting out of such options. If they are permitted to hold stock options in the company, they will have a financial interest in the company which will affect their independence. This also makes it categorically clear that the independent directors should not have any pecuniary interest in the company apart from the director's remuneration.

Exclusion of Nominee Directors from the definition of Independent Director

It excludes nominee directors from the definition of the independent directors. This is another step to avoid the inherent conflict of interest in allowing the nominee directors to act as independent directors. The nominee directors have a clear cut mandate to safeguard the constituency they represent, which are generally the lenders of the company. Hence, including them with in the pool of independent directors may not be appropriate for the overall corporate governance of the Company.

Related Party Transactions ("RPTs")

Abusive RPTs are one of the main concerns of corporate governance the world over. Most of the abusive RPTs are carried out between group companies. The shareholding patterns of these companies are concentrated among the controlling shareholders. Hence, requirement of obtaining shareholders' approval



for such transaction does not serve any purpose as the majority of voting rights are held by the controlling shareholders.

The revised clause provides that all material RPT requires prior approval of the shareholders through a special resolution and the related parties are prohibited from voting such resolutions. Mandating the approval of RPTs by the majority of the shareholders who are not interested in the transactions can curb abusive RPTs.

Audit Committee has been entrusted with the role of preventing the abusive RPTs. Currently, the Audit Committee reviews RPTs on a periodical basis. The periodical reviews do not serve much purpose as a transaction already carried out cannot be undone. Hence, all RPTs requires prior approval of Audit Committee.

It also widens the definition of RPTs significantly. Even a transaction between related parties without any charge has been included in the definition of RPT. Further, the disclosure of all material RPTs has been mandated in the quarterly compliance report on corporate governance.

Subsidiary Company

The revised clause extends certain principle of corporate governance to material subsidiaries of listed companies. A material subsidiary is defined as a subsidiary whose income or net worth exceeds 20% of the consolidated income or net worth, as the case may be, of the listed holding company. It mandates that at least one Independent Director on the board of the holding company shall be a director on the board of the material non-listed Indian subsidiaries also. The Audit Committee of the listed holding company shall also review the financial statements of the unlisted subsidiary company.

There have been instances where the ownership of major subsidiaries was transferred to controlling shareholders, without taking the approval of other shareholders. The revised clause states that no company shall dispose of shares in its material subsidiary which would reduce its shareholding to less than 50% or cease the exercise of control over the subsidiary without passing a special resolution in its general meeting. It also provides that selling, disposing and leasing of assets amounting to more than twenty percent of the assets of a material subsidiary shall require prior approval of shareholders by way of special resolution

Expanded role of Audit Committee

To align with the requirement of the Companies Act 2013, it significantly enhances the power of the Audit Committee entrusting it with various responsibility to ensure corporate governance standards. It requires Audit Committee to have minimum three directors as members and two third of members shall be independent directors. The Audit Committee has been given a significant role regarding the appointment and monitoring of auditors, financial reporting of the Company, monitoring inter corporate loans, RPTs, reviewing the functioning of the whistle blower mechanism, etc.

Compulsory Whistle Blower Mechanism

The revised clause requires companies to establish a vigil mechanism to enable directors and employees to report unethical behaviour and frauds. The mechanism should also provide adequate safeguards to prevent victimisation of the whistle blower. In the light of the growing corporate scams and scandals, development of a legislative framework for adequate whistle blower mechanism is a move towards the right direction.



Nomination and Remuneration Committee

Under the revised clause, it is mandatory for companies to set up a Nomination and Remuneration Committee to formulate criteria for determining qualifications, positive attributes and independence of a director and recommend a policy relating to the remuneration of the directors, key managerial personnel and other employees.

Other Requirements

- The board of directors is required to form a code of conduct and strict compliance with such code. A declaration to this effect shall be incorporated in the annual report.
- The board of directors shall be responsible for framing, implementing and monitoring the risk management plan for the company. The Company shall also constitute a risk management committee.
- Detailed disclosure requirements in respect of RPT, accounting treatments, information about the directors, their appointment letters, reasons for resignation, etc.
- In line of the Companies Act 2013, the Clause mandates representation of at least one woman director in the board.

Secretarial Standards

Companies follow diverse secretarial practices and, therefore, there is a need to integrate, harmonise and standardise such practices so as to promote uniformity and consistency to improve the corporate governance regime.

The Institute of Company Secretaries of India (ICSI) has been the first professional body in the world to start the process of formulating Secretarial Standards for integration, harmonization and standardization of corporate secretarial practices.

Considering the increasing importance of corporate governance, the (Indian) Companies Act, 2013 requires every company to observe secretarial standards specified by the Institute of Company Secretaries of India with respect to general and board meetings [Section 118 (10) of 2013 Act].

Accordingly, the Secretarial Standards Board (SSB) of the Institute of Company Secretaries of India (ICSI) has revised its Secretarial Standard on Meetings of the Board of Directors (SS-1) and Secretarial Standard on General Meetings (SS-2) as per the Companies Act, 2013 and Rules thereunder and hosted the Exposure Drafts thereon for public comments, on the Institute website.

Based on public comments received, these two Standards would be finalised and sent to the Central Government for their consideration and subsequent notification u/s 118(10) of the Companies Act, 2013. Once notified, the companies will be required to follow these standards.

Corporate Social Responsibility (CSR)

Corporate Social Responsibility (CSR) is referred to by various names such as Sustainability, Corporate Citizenship, Corporate Responsibility etc. CSR considers the current and future impact of business operations, purchasing, and the sale of products and services on the environment, employees, local community and society in general. CSR is a more about the voluntary actions a business takes over and above compliance with the law. It includes, but is not limited to corporate governance and philanthropy.



The fundamentals of CSR rest on the fact that not only public policy but even corporates should be responsible enough to address social issues. Thus companies should deal with the challenges and issues looked after to a certain extent by the states.

Among other countries, India has one of the richest traditions of CSR. Ever since their inception, large corporate houses in India have been involved in serving the community. Through donations and charity events, many other organizations have been doing their part for the society. The basic objective of CSR in these days is to maximize the company's overall impact on the society and stakeholders. CSR policies, practices and programs are being comprehensively integrated by an increasing number of companies throughout their business operations and processes.

A growing number of corporates feel that CSR is not just another form of indirect expense but is important for protecting the goodwill and reputation, and increasing business competitiveness. Companies have specialised CSR teams that formulate policies, strategies and goals for their CSR programs and set aside budgets to fund them. These programs are often determined by social philosophy which have clear objectives and are well defined and are aligned with the mainstream business.

CSR programs ranges from community development to development in education, environment and healthcare etc. Provision of improved medical and sanitation facilities, building schools and houses, and empowering the villagers and in process making them more self-reliant by providing vocational training and a knowledge of business operations are the facilities that many companies focus on.

One of the key provisions of the Companies Act, 2013 is the introduction of Section 135 making India the first country to mandate Corporate Social Responsibility (CSR) through a statutory provision.

The provisions of the Section 135 of the Companies Act, 2013 are summarized as under:

1. The Section applies to the following classes of companies:

- (i) Companies having net worth of rupees five hundred crore or more;
- (ii) Companies having turnover of rupees one thousand crore or more;
- (iii) Companies having Net Profit of rupees five crore or more

The companies specified above are required to constitute a Corporate Social Responsibility Committee (CSR Committee) of the Board consisting of three or more Directors, out of which at least one Director to be an Independent Director. After taking into account the recommendations of the CSR Committee, the Board is to approve the CSR Policy for the company, the contents of which are to be disclosed in the Board's report.

2. In addition, CSR policy is to be placed on the Company's website in a prescribed manner.

Schedule VII of the Act includes the following activities, which may be included by companies in their CSR Policy:

- (i) eradicating extreme hunger and poverty;
- (ii) promotion of education;
- (iii) promoting gender equality and empowering women;
- (iv) reducing child mortality and improving maternal health;
- (v) combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
- (vi) ensuring environmental sustainability;
- (vii) employment enhancing vocational skills;



- (viii) social business projects;
- (ix) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Government for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and
- (x) such other matters as may be prescribed.

By requiring companies, with a minimum net profit of rupees five crore, to spend on CSR activities, the Companies Act, 2013 is likely to bring in many SMEs into the CSR fold. The law aims that core values of business are shaped around the belief that business should earn profits and achieve growth to serve society.

III. NEW COMPANIES BILL IN MALAYSIA

On 2nd July 2013, the Companies Commission of Malaysia (CCM) published a draft of the new Companies Bill (Bill) for public consultation. The Bill sets out the legal framework that will replace the current Malaysian Companies Act 1965 (CA 1965) and aims to introduce a modernized corporate legal framework for Malaysia; in line with current international standards.

Salient features of the Bill

Unlimited Capacity for Companies: Currently, the objects clause of a company defines a company's capacity to carry out commercial activities. Any acts of transactions entered into by a company outside its objects clause are ultra vires and cannot be ratified by the company. Under the Bill, a company may choose not to specify its objects. Effectively, this will give a company the powers of a natural person (i.e. unlimited capacity) and removes the burden on third parties to verify if a company has capacity to enter into a transaction.

Single Shareholder and Director : The CA 1965 prohibits a company from carrying on business with fewer than 2 shareholders for more than 6 months. The only exception is a company whose issued shares, are wholly held by a holding company. A company is also currently required to have a minimum of 2 resident directors (i.e. individuals who have their only or principal place of residence in Malaysia). Under the Bill, companies can be incorporated and operated with a single individual or corporate shareholder and need only have one resident director (who can also be the sole shareholder of the company).

No AGMs Necessary : Currently, all companies (public and private) must hold an Annual General Meeting ("AGM") once every calendar year. The Bill dispenses with this requirement for private companies. To prevent minority shareholders from being disadvantaged, shareholders representing 5% of the paid-up capital of a company may request for a general meeting to be convened if a general meeting has not been held in the past 12 months.

Abolishing the Unanimity Rule for Written Shareholder Resolutions : Section 152A of the CA 1965 allows resolutions in writing to be passed, if signed by all shareholders and will be treated as duly passed at a general meeting. Efficacy is restricted as all shareholders need to sign and any single shareholder can prevent a resolution from being passed. The Bill abolishes the requirement for unanimity for private companies (but retains it for public companies) and allows for the passing of a written resolution by the same majority as required at a general meeting. As an additional safeguard however, any shareholder of a private company having 5% or more of the total voting rights of the company may require the company to circulate a resolution accompanied by a statement on the subject matter of the resolution prior to the passing of the written resolution.



No-Par Value Regime: Shares of Malaysian companies are currently issued with a par/nominal value. The Bill introduces a no-par value regime where all new shares issued by a company shall have no par/nominal value. The paid-up amount of any shares issued prior to the coming into force of Section 72 of the Bill, shall be the paid-up par value of such shares and shall exclude any premium paid above the par value. To ensure a smooth transition, the Bill provides for transitional provisions (such as a 24-month period to enable companies to utilize any amounts standing in its existing share premium account) and provisions to preserve the effect of existing contracts and other instruments which rely on the concept of par/nominal value.

Alternative Procedures for a Reduction of Capital: Under Section 64 of the CA 1965, if allowed by its Articles of Association, a company may reduce its capital if the reduction is approved by a special resolution and is confirmed by the Courts. The Bill does not move away from this concept but instead introduces an alternative capital reduction procedure based on a solvency test. The alternative procedure aims to facilitate quicker implementation of corporate exercises provided that the company is able to demonstrate that creditor's interests are protected by satisfying the solvency test.

Reforming Share Buy-Backs: Section 67A of the CA 1965 allows a listed company to buy back its own shares if a majority of its directors declare that the company is solvent at the date of purchase and will not become insolvent as a result of the buy-back. Under the Bill, the requirements of Section 67A are preserved but are further modified.

Extending the Definition of "Director" to include 'Shadow Directors': Section 4(1) of the CA 1965 defines a director to include 'a person in accordance with whose directions or instructions the directors of a corporation are accustomed to act'. This definition is arguably wide enough to encompass a 'shadow director'. But this definition makes it practically impossible to hold such persons accountable to the company as it becomes difficult to prove that the entire Board is accustomed to act in accordance to the person's instructions or directions. The new Bill remedies this deficiency by providing that a person is to be regarded as a director of a company if 'the majority of directors of a corporation are accustomed to act in accordance with the person's instructions and directions'.

Director's Remuneration to be approved by Shareholders: The CA 1965 is silent on the approval of a director's remuneration.

Under the Bill, the remuneration of directors of public companies and any benefits payable shall be approved by the shareholders at a general meeting. The Bill also prescribes that the service contract of a director of a public company should be made available for inspection at the company's registered office.

Corporate Rescue Mechanisms: Under the CA 1965, there are limited options available to an insolvent company i.e. it can enter into receivership, wind-up or undertake a scheme of arrangement with its creditors. To facilitate the rescue and rehabilitation of companies in financial difficulties instead, the Bill introduces two alternative mechanisms, Judicial Management and the Corporate Voluntary Arrangement.

IV. CORPORATE GOVERNANCE CODE IN MALAYSIA

Malaysian Government issued the Malaysian Code on Corporate Governance (Code) in the year 2000 to strengthen corporate governance framework in Malaysia. Subsequently, the Code was revised and securities and companies laws were amended. The Audit Oversight Board was established to provide independent oversight over external auditors of companies. The Securities Industry Dispute Resolution Center was established to facilitate the resolution of small claims by investors. Statutory derivative action was introduced to encourage private enforcement action by shareholders.



Malaysian Corporate Governance Code, 2012

The Securities Commission Malaysia's (SCM) five-year Corporate Governance Blueprint launched on July 8, 2011, providing for action plan to raise the standards of corporate governance in Malaysia by strengthening self and market discipline and promoting greater internalisation of the culture of good governance.

The Malaysian Code on Corporate Governance 2012 effective from December 31, 2012 is the first deliverable of the CG Blueprint and supercedes the Malaysian Code on Corporate Governance. It sets out broad principles and specific recommendations on structures and processes which companies should adopt in making good corporate governance an integral part of their business dealings and culture.

The code focuses on clarifying the role of the board in providing leadership, enhancing board effectiveness through strengthening its composition and reinforcing its independence. It also encourages companies to put in place corporate disclosure policies that embody principles of good disclosure. Companies are encouraged to make public their commitment to respecting shareholder rights.

The Malaysian Code on Corporate Governance, 2012 consists of eight principles encapsulating broad concepts underpinning good corporate governance that companies should apply when implementing the recommendations.

The recommendations are standards that companies are expected to adopt as part of their governance structure and processes. Listed companies should explain in their annual reports how they have complied with the recommendations. The companies are allowed to determine the best approach to adopting the principles. Where there is non-observance of a recommendation, companies should explain the reasons.

Each recommendation is followed by a commentary which seeks to assist companies in understanding the recommendation. It also provides some guidance to companies in implementing the recommendation. Although some of the commentaries provide examples and suggestions, these should not be taken to be exhaustive.

The Principles and Recommendation as enumerated under the Malaysian Code on Corporate Governance 2012 are as under:

PRINCIPLE 1: ESTABLISH CLEAR ROLES AND RESPONSIBILITIES

The responsibilities of the board, which should be set out in a board charter, include management oversight, setting strategic direction premised on sustainability and promoting ethical conduct in business dealings.

Recommendation 1.1: The board should establish clear functions reserved for the board and those delegated to management.

Recommendation 1.2 : The board should establish clear roles and responsibilities in discharging its fiduciary and leadership functions.

Recommendation 1.3 : The board should formalise ethical standards through a code of conduct and ensure its compliance.

Recommendation 1.4 : The board should ensure that the company's strategies promote sustainability.

Recommendation 1.5 : The board should have procedures to allow its members access to information and advice.



Recommendation 1.6 : The board should ensure it is supported by a suitably qualified and competent company secretary.

Recommendation 1.7 : The board should formalise, periodically review and make public its board charter.

PRINCIPLE 2: STRENGTHEN COMPOSITION

The board should have transparent policies and procedures that will assist in the selection of board members. The board should comprise members who bring value to board deliberations.

Recommendation 2.1 : The board should establish a Nominating Committee which should comprise exclusively of non-executive directors, a majority of whom must be independent.

Recommendation 2.2 : The Nominating Committee should develop, maintain and review the criteria to be used in the recruitment process and annual assessment of directors.

Recommendation 2.3 : The board should establish formal and transparent remuneration policies and procedures to attract and retain directors.

PRINCIPLE 3: REINFORCE INDEPENDENCE

The board should have policies and procedures to ensure effectiveness of independent directors.

Recommendation 3.1 : The board should undertake an assessment of its independent directors annually.

Recommendation 3.2 : The tenure of an independent director should not exceed a cumulative term of nine years. Upon completion of the nine years, an independent director may continue to serve on the board subject to the director's re-designation as a non-independent director.

Recommendation 3.3 : The board must justify and seek shareholders' approval in the event it retains as an independent director, a person who has served in that capacity for more than nine years.

Recommendation 3.4 : The positions of chairman and CEO should be held by different individuals, and the chairman must be a non-executive member of the board.

Recommendation 3.5 : The board must comprise a majority of independent directors where the chairman of the board is not an independent director.

PRINCIPLE 4: FOSTER COMMITMENT

Directors should devote sufficient time to carry out their responsibilities, regularly update their knowledge and enhance their skills.

Recommendation 4.1 : The board should set out expectations on time commitment for its members and protocols for accepting new directorships.

Recommendation 4.2 : The board should ensure its members have access to appropriate continuing education programmes.

PRINCIPLE 5: UPHOLD INTEGRITY IN FINANCIAL REPORTING

The board should ensure financial statements are a reliable source of information.

Recommendation 5.1 : The Audit Committee should ensure financial statements comply with applicable financial reporting standards.



Recommendation 5.2 : The Audit Committee should have policies and procedures to assess the suitability and independence of external auditors.

PRINCIPLE 6: RECOGNISE AND MANAGE RISKS

The board should establish a sound risk management framework and internal controls system.

Recommendation 6.1 : The board should establish a sound framework to manage risks.

Recommendation 6.2 : The board should establish an internal audit function which reports directly to the Audit Committee.

PRINCIPLE 7: ENSURE TIMELY AND HIGH QUALITY DISCLOSURE

Companies should establish corporate disclosure policies and procedures to ensure comprehensive, accurate and timely disclosures.

Recommendation 7.1 : The board should ensure the company has appropriate corporate disclosure policies and procedures.

Recommendation 7.2 : The board should encourage the company to leverage on information technology for effective dissemination of information.

PRINCIPLE 8: STRENGTHEN RELATIONSHIP BETWEEN COMPANY AND SHAREHOLDERS

The board should facilitate the exercise of ownership rights by shareholders.

Recommendation 8.1 : The board should take reasonable steps to encourage shareholder participation at general meetings.

Recommendation 8.2 : The board should encourage poll voting.

Recommendation 8.3 : The board should promote effective communication and proactive engagements with shareholders.

MANDATORY Vs. VOLUNTARY GOVERNANCE

Today no one argues against the need for a system of good corporate governance to attract capital to the corporate sector. Regulators, which have the responsibility to protect the interest of shareholders, continuously endeavour to improve the standard of corporate governance.

The term “mandatory” in the context of corporate governance used to denote the mandated compliances with penalties imposed on those who fail to comply. While “Voluntary” denotes a firm’s adoption of corporate governance practices or standards in the absence of a legal requirement to do so. The voluntary code does not replace but is an addition to a corporate governance regime already in place in statute.

A major advantage of the mandatory structure is that it allows the regulators to establish minimum standards to which market participants must adhere. On the other hand, purely voluntary legislation provides no guarantees that the minimum governance standards established by the regulators will be achieved and the companies will choose to apply corporate governance when they realize the economic benefit of doing so. This indeed happens when they see the results through increased access to external financing, lower cost of capital, better operational performance, and reduced risk of financial crisis. Governments may be able to mandate the letter of the law, but not the spirit behind corporate governance.



Cultural change is just as necessary as an improved legal framework to promote values such as transparency and openness.

Often, enterprise performance is used as a measure of the effectiveness of the corporate governance system. Capital flows to companies, have good track record of economic performance in terms of creating shareholders' wealth. It is well known that the level of corporate governance varies significantly from country to country. While a country's guidelines and standards provide a general framework for its corporate governance, significant variation also occurs among individual firms within a country. The existence of this variability suggests that implementing good governance is in part a voluntary choice. However, good governance has no exceptions to private or public sector, the principles of good corporate governance can be applied equally by both private and public sector even though it's not mandated by law.

While some countries, including the UK and many Commonwealth countries, adopted what is known as a 'principles-based' or 'comply or explain' approach to the enforcement of the provisions of corporate governance codes, in US, provisions of Sarbanes Oxley and other statutes follow a rule based approach. In India, clause 49 of the listing agreement follows a hybrid approach, as those requirements which can be enforced are classified as mandatory and others, which are desirable, are classified as non-mandatory. The disclosures of the compliance with mandatory requirements and adoption / non-adoption of the non-mandatory requirements need to be reported in the Annual Report.

Since the late 1990s, significant efforts have been made by Indian regulators, as well as Indian industry representatives and companies, to fine tune Indian corporate governance. Not only reform measures have been put into place prior to discovery of major corporate governance scandals, but both industry groups and government actors have sprung into action following the Satyam scandal. The current corporate governance regime in India straddles both voluntary and mandatory requirements. The rule based approach alone may not serve the purpose of improving the Corporate Governance of listed companies. A hybrid approach, wherein the broad principles are laid down to give broad direction to the companies on Corporate Governance and what is expected of them followed by rules to mandate compliance with specific aspects of Corporate Governance would be considered as the most effective mechanism for improving Corporate Governance in the Indian scenario.

ROLE OF COMPANY SECRETARIES UNDER THE COMPANIES ACT, 2013

Company secretaries are the natural conscience keepers for the corporate sector, as they are specialists in the fields of corporate governance, compliances and processes and are the eyes and ears of the Board on such matters. The Companies Act, 2013 expects the company secretary to play a wider role in terms of guiding the activities of a company, in addition to certifying its compliance-oriented actions.

The Companies Act, 2013 has substantially strengthened the role and position of the company secretaries. In particular, it considers a company secretary as key managerial personnel, while this will enhance the position of a company secretary, it also casts responsibility on him for due compliance with the provisions of law. Therefore, Company secretaries would be required to play a very important role in implementation of the Companies Act, 2013.

Key areas for Company Secretaries Professionals under the Act are as follows:

- **Secretarial Audit (Section 204)**

Secretarial Audit has been introduced for the first time in section 204 of the Companies Act, 2013. Under the section, every listed company and a company belonging to such class as may be prescribed in the rules, shall



annex with its Board's report a Secretarial Audit Report, given by a company secretary in practice. Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 prescribed the other class of companies as under:

- o every public company having a paid-up share capital of fifty crore rupees or more; or
- o every public company having a turnover of two hundred fifty crore rupees or more.

Further, if any qualifications or observations or other remarks are made by the company secretary in practice in his report, the Board shall provide explanation for the same in its report. Stringent penal provisions have been provided for non-compliance. Powers/duties of auditors apply mutatis mutandis to CS in practice conducting secretarial audit. This provision highlights the enhanced role the company secretaries in practice are expected to play under the Act.

- **Secretarial Standards (Section 118)**

Section 118(10) mandates that every company shall observe Secretarial Standards with respect to general and board meetings as specified by the ICSI and approved by the Central Government. In view of this statutory provision, the role of company secretaries is enhanced further.

- **Annual Return (Section 92)**

The annual return is a comprehensive document and contains information about the company relating to its share capital, directors, shareholders, changes in directorships, etc. Much reliance is placed on the annual return by the regulators, shareholders, judicial and other regulatory authorities.

Section 92 of the Act has further widened the requirement of filing annual return signed by company secretary in practice by providing that annual returns of companies having such paid up share capital and turnover as may be prescribed shall also be required to be certified by a company secretary in practice. The certification shall be to the effect that the company has complied with all the provisions of the Act. Further, prescribed extracts of the annual return shall be included in the Board's report. These provisions seek to ensure that information filed through annual returns in the Registry is properly verified by qualified professionals.

Appointment of Whole-time Key Managerial Personnel (Section 203)

In order to ensure that companies of a prescribed class are effectively managed by a whole time managerial personnel, Section 203 provides for compulsory appointment of whole-time Key Managerial Personnel (KMP) as under:

- o As per the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, every listed company and every other public company having a paid-up share capital of ten crore rupees or more shall have whole-time key managerial personnel.
- o Further, the company other than those covered above which has a paid up share capital of five crore rupees or more shall also be required to appoint a whole-time company secretary. (inserted vide Rule 8A notification dated 9th June, 2014)

Functions of Company Secretary (Section 205)

For the first time, the functions of the company secretary have been specified in the Companies Act. He has to report to the Board about the compliance of the provisions of the Act, rules and other laws applicable to



the company. He has also to ensure that the company complies with the Secretarial Standards (as issued by the ICSI and approved by the Central Government) as applicable to the company. This provision casts an onerous responsibility on company secretaries in employment in the discharge of their duties and they are expected to exhibit a proactive and responsible role to meet the expectations of the respective companies and regulatory authorities.

Professional Assistance to Company Liquidator

With the sanction of the Tribunal, the Company Liquidator may appoint one or more professionals, including company secretaries, to assist him in the performance of his duties and functions under the Act.

Appearance before Tribunal (Section 432)

A party to any proceedings or appeal before the Tribunal or the Appellate Tribunal may authorize amongst others, a company secretary, to present the case before the Tribunal or the Appellate Tribunal, as the case may be.

Declaration of Compliance at the time of Incorporation (Section 7)

A company secretary in practice engaged for the incorporation of a company shall be competent to give a declaration that all requirements of the Act and rules in respect of registration and the matters precedent or incidental thereto have been complied with.

Qualifications of Members of Tribunal (Section 409)

The constitution of the National Company Law Tribunal offers opportunities to company secretaries in practice to become Technical Members of the Tribunal. Amongst others, a company secretary in practice is eligible to become a Technical Member of National Company Law Tribunal, if he is in practice for at least fifteen years.

Adjudication of penalties (Section 454)

Section 454 provides for appointment of adjudicating officers for adjudging penalty under the provisions of Companies Act. The adjudicating officer shall have power by an order to impose penalty on the company and the officer who is in default for non-compliance or default after giving a reasonable opportunity of being heard. The adjudicating officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such company and the officer who is in default. Any person aggrieved by an order will have a right to prefer an appeal to the Regional Director.

This would greatly enhance role of Company Secretaries both in employment as well as in practice as they would be called upon to represent the companies before the Registrar/Regional Director in such matters.

In addition to the above, company secretaries can also play a key role in the fields of valuation, corporate restructuring, winding up and in certification of areas of compliances specified in the Act.



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* Discussion Papers circulated at the Business Breakfast Session(s) during the 9th International Professional Development Fellowship Programme will be included in the forthcoming issues of e-CS Nitor.



Articles / Reviews invited for *e-CS Nitor*

We invite the members to contribute articles/checklist/reviews or any other relevant material pertaining to the Companies Act, 2013 for inclusion in the coming issues of ***e-CS nitor*** through e-mail at: ecsnitor@icsi.edu.

Broad topics for submission of Articles

- One Person Company
- Annual Return
- AGM
- Bonus Shares
- Preferential issues
- Board Disclosures
- Incorporation
- Incorporation conversion
- Shareholders democracy
- Acceptance of Deposits
- Rules under Companies Act, 2013
- Resolutions to be filed under Companies Act, 2013

10 PCH for Members
Twenty five PDP for Students

42nd National Convention of Company Secretaries

*Days : Thursday-Friday-Saturday
Dates : 21-22-23 August, 2014
Venue: Science City, Dhapa, Kolkata*

Theme:
CS – Change. Challenge. Opportunity

Kindly block these dates in your diary. Other details about the National Convention being hosted on ICSI website shortly.

VISION

To be a global leader
in promoting good
corporate governance

MISSION

To develop high calibre
professionals facilitating good
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