



Practicing Company Secretaries allowed to become designated / active partner of a Limited Liability Partnership

February 10, 2015

Dear Professional Colleagues,

The Council at its 227th Meeting held at New Delhi on January 18, 2015 while approving the formation of LLPs by PCS granted general permission to the members in practice to:

- (a) become designated / active partner of a limited liability partnership (LLP) the objects of which include carrying out attestation services which fall within the scope of the profession of Company Secretaries irrespective of whether or not the practising member holds substantial interest in that LLP;
- (b) become passive partner of LLP which is engaged in any other business or occupation provided that the practising member does not hold substantial interest in that LLP.

For the purposes of the above resolution:

- (i) **“Attestation Services”** include Secretarial Audit and Certification of Annual Return in terms of the provisions of the Companies Act, 2013.
- (ii) **Non-attestation Services”** means services which are not attestation services.
- (iii) A **“passive partner”** means a partner of LLP who fulfils the following conditions:
 - (a) he must not be a designated partner;
 - (b) subject to the LLP agreement, he may make agreed contribution to the capital of LLP and receive share in the profits of the LLP; and
 - (c) he must not take part in the management of the LLP nor act as an agent of the LLP or of any partner of the LLP;

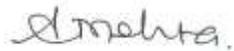
However, none of the following activities shall constitute taking part in the management of the LLP:

- (1) Enforcing his rights under the LLP agreement (unless those rights are carrying out management function).
- (2) Calling, requesting, attending or participating in a meeting of the partners of the LLP.
- (3) Approving or disapproving an amendment to the partnership agreement.
- (4) Reviewing and approving the accounts of the LLP;

- (5) Voting on, or otherwise signifying approval or disapproval of any transaction or proposed transaction of the LLP including -
- (a) the dissolution and winding up of the LLP;
 - (b) the purchase, sale, exchange, lease, pledge, mortgage, hypothecation, creation of a security interest, or other dealing in any asset by or of the LLP;
 - (c) a change in the nature of the activities of the LLP;
 - (d) the admission or removal of a partner of the LLP;
 - (e) transactions in which one or more partners have an actual or potential conflict of interest with one or more partners or the LLP;
 - (f) any amendment to the LLP agreement;

(iv) a member shall be deemed to have a “**substantial interest**” in an LLP if he is entitled at any time to not less than 25% of the profits of such LLP.

Regards,



CS Atul H. Mehta
President