



**THE INSTITUTE OF  
Company Secretaries of India**  
**भारतीय कम्पनी सचिव संस्थान**  
**IN PURSUIT OF PROFESSIONAL EXCELLENCE**  
Statutory body under an Act of Parliament  
(Under the jurisdiction of Ministry of Corporate Affairs)



**VISION**  
"To be a global leader  
in promoting good  
corporate governance"

**ICSI Motto**  
सत्यं वद। धर्मं चर। इष्टकारं कुरु। कुरुते। कुरुते। कुरुते।

**MISSION**  
"To develop high calibre  
professionals facilitating  
good corporate governance"

*Souvenir*

# 22<sup>nd</sup> National Conference of Practising Company Secretaries

Passion for Profession : Empowering Entrepreneurship & Excellence

3-4 December, 2021 | Vedic Village Spa Resort, Kolkata, West Bengal





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# **22<sup>nd</sup>**

## **National Conference of Practising Company Secretaries**

*Theme*

***Passion for Profession : Empowering  
Entrepreneurship & Excellence***

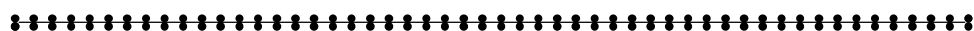
*Days & Dates*

***Friday & Saturday, December 3-4, 2021***

*Venue*

***Vedic Village Spa Resort  
Kolkata, West Bengal***

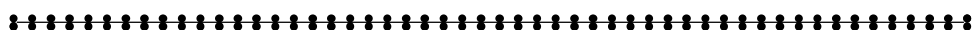




***Disclaimer :***

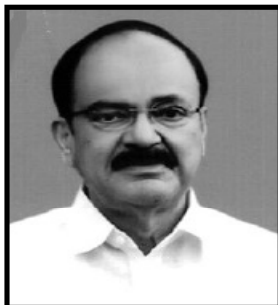
*The views expressed in the articles are personal views of the authors and do not necessarily reflect those of the Institute.*

*Although due care and diligence have been exercised in preparation of this Souvenir, the Institute shall not be responsible for any loss or damage, resulting from any action taken on the basis of the contents of this Souvenir. Any one wishing to act on the basis of the material contained herein should do so after cross checking with the original source.*





भारत के उपराष्ट्रपति  
VICE-PRESIDENT OF INDIA



**Message**

I am happy to know the Institute of Company Secretaries of India is organising its 22<sup>nd</sup> National Conference of Practising Company Secretaries in Kolkata on 3<sup>rd</sup> & 4<sup>th</sup> December 2021.

As India celebrates Azadi Ka Amrit Mahotsav, heralding an era of inclusive growth and development in alignment with the vision of building an Atmanirbhar Bharat, I must appreciate the Institute for choosing a pertinent theme for the conference, "Passion for Profession; Empowering Entrepreneurship and Excellence".

Company Secretaries are indeed the conscience-keepers of the corporates. I convey my congratulations to all the stakeholders working with the ICSI for playing a pivotal role in strengthening the corporate governance framework of the country. Going forward, the Institute must continue to train and nurture young professionals who will strengthen our economy by ensuring the principles of transparency, integrity and honesty are upheld at all times, in every business activity.

I am sure that this congregation will provide an apt platform to Practising Company Secretaries to discuss, deliberate and analyse their role and responsibility as sound professionals. I am hopeful that the conference will be an enriching experience for all the participants.

  
(M. Venkaiah Naidu)

**New Delhi**

**29<sup>th</sup> November, 2021**



মমতা বানার্জী  
মমতা বৈনজী  
ممتا بنرجی  
Mamata Banerjee



মুখ্যমন্ত্রী, পশ্চিমবঙ্গ  
मुख्यमंत्री, पश्चिम बंगाल  
وزیر اعلیٰ مغربی بنگال  
CHIEF MINISTER, WEST BENGAL



2<sup>nd</sup> December, 2021

## Message

I am happy to know that the **Institute of Company Secretaries of India (ICSI)** will organize the **22<sup>nd</sup> National Conference of Practising Company Secretaries** on 3<sup>rd</sup> & 4<sup>th</sup> December, 2021 in Kolkata and will also bring out a souvenir to commemorate the special event.

My heartiest greetings and best wishes to the organisers and participants of the conference on the occasion. I wish the event all success.

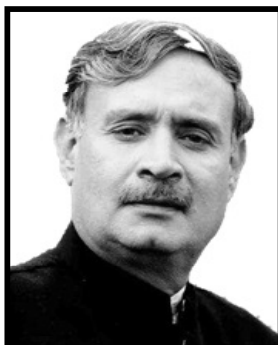
  
(Mamata Banerjee)

राव इन्द्रजीत सिंह  
**RAO INDERJIT SINGH**



राज्य मंत्री (स्वतंत्र प्रभार)  
सांख्यिकी और कार्यक्रम कार्यान्वयन मंत्रालय;  
राज्य मंत्री (स्वतंत्र प्रभार) योजना मंत्रालय तथा  
राज्य मंत्री कारपोरेट कार्य मंत्रालय  
भारत सरकार

Minister of State (Independent Charge) of the  
Ministry of Statistics and Programme Implementation;  
MOS (I/C) of the Ministry of Planning and  
MOS in the Ministry of Corporate Affairs  
Government of India



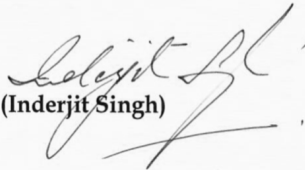
## Message

I extend my best wishes to the Institute of Company Secretaries of India (ICSI) for organizing its 22<sup>nd</sup> National Conference of Practising Company Secretaries on the theme, "Passion for Profession : Empowering Entrepreneurship and Excellence".

Practising Company Secretaries have been the catalysts in ensuring that robust compliance and best governance practise is being followed all throughout the Indian Corporate Sector so that a sustainable, ethical and socially beneficial economy can be built.

I hope and wish that the Conference gives an opportunity to all the Practising Company Secretaries to explore the renewed role and shoulder the responsibility of ensuring effective and result oriented implementation of the initiatives of the Government of India towards making the country self-reliant.

I wish you all a grand success.



(Inderjit Singh)

निशिथ प्रामाणिक  
NISITH PRAMANIK



गृह राज्य मंत्री  
भारत सरकार  
MINISTER OF STATE FOR  
HOME AFFAIRS  
GOVERNMENT OF INDIA



### Message

I am happy to note that the Institute of Company Secretaries of India (ICSI) is organizing its 22<sup>nd</sup> National Conference of Practising Company Secretaries on the theme "*Passion for Profession: Empowering Entrepreneurship and Excellence*" during 03-04 December, 2021 in Kolkata, West Bengal.

The theme of the Conference has been aptly chosen to highlight upon the increasing role of Company Secretaries in the light of recent regulatory developments.

I am confident that the Conference will provide ample opportunity to all the practicing Company Secretaries to explore the renewed role and shoulder the responsibility of ensuring effective and result-oriented implementation of the initiatives of the Government of India towards *Atmanirbhar Bharat*.

I wish the Conference a grand success.

[NISITH PRAMANIK]



## *The Institute*

The Institute of Company Secretaries of India (ICSI) is a premier national professional body constituted under an Act of Parliament, namely the Company Secretaries Act, 1980 (Act No. 56 of 1980) to regulate and develop the profession of Company Secretaries.

ICSI provides top-quality education to the students of Company Secretaries (CS) Course and has set and maintains best quality standards for CS members. The ICSI has on its rolls more than 65,000 qualified CS members including over 11,000 members holding certificate of practice. Around 3,00,000 students are presently pursuing the Company Secretaryship Course.

## *Motto*

“सत्यं वद । धर्मं चर ।  
इष्टार्कं त्रुथे अबेदु by the law”

## *Vision*

*“To be a global leader in promoting  
good corporate governance”*

## *Mission*

*“To develop high calibre professionals facilitating  
good corporate governance”*





## ***ICSI Nationwide Network***

*Head Office – New Delhi*

*Chapters – 72*

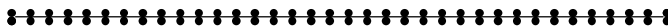
*Examination Centres – more than 200  
[including overseas centres at Dubai, USA, Singapore & London (UK)]*

*ICSI Study Centre – more than 100*

*Regional Offices – Chennai, Kolkata, Mumbai, New Delhi*

*Centre for Corporate Governance, Research & Training (CCGRT), Navi Mumbai*

*ICSI Centre of Excellence, Hyderabad*



## ***ICSI Subsidiaries***

*ICSI Governance Research and Knowledge Foundation (ICSI GRKF)*

*ICSI Institute of Insolvency Professionals (ICSI IIP)*

*ICSI Registered Valuers Organisation (ICSI RVO)*



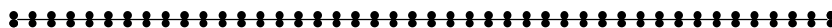
## *Functions of the Institute*



- Develops a cadre of Company Secretaries for ensuring governance and effective management in corporates. Students with 10+2 and/or graduate qualifications appear in Company Secretary Executive Entrance Test (CSEET) and after qualifying the same, they are registered for Executive Programme of Company Secretaryship Course with course contents in Law, Tax, Management, Accounting and Finance disciplines;
- Provides postal/oral/web-based coaching and training enabling students to qualify as Company Secretaries;
- Conducts Company Secretaryship Examination twice a year in June and December at centres spread all over India and at an overseas centre at Dubai;
- Arranges for practical training of Executive/ Professional Programme qualified Students with Companies / Practising Company Secretaries etc. empanelled with the Institute for the purpose;
- Enrolls qualified persons as Associate/ Fellow Members of the Institute and issues Certificate of Practice to Members taking up practice;
- Conducts Post Membership Qualification (PMQ) Courses for Members of the Institute;
- Formulates Secretarial Standards, Auditing Standards and brings out Guidance Notes thereon;
- Conducts elections to the Council of the Institute;
- Maintains library and publishes books and periodicals relating to management of companies and allied subjects;



## *Initiatives to Achieve the Objective*



- Publishes widely read and highly acclaimed monthly Journal, Chartered Secretary, disseminating information expeditiously;
- Brings out daily Info-capsules, Case Digest Series for Members and Students, theme based Student Company Secretary e-Journal, Subjectwise Monthly Updates for Executive and Professional Programmes, CS Foundation Course e-bulletin for Foundation Programme Students, CSEET Communique - e-bulletin and conducting of mock tests for CSEET registered candidates;
- Grants ICSI Signature Award (Gold Medal & Certificate) to the toppers of B.Com. Examinations of reputed Universities and selected programmes of IIMs as per the MoUs with the respective Universities/institutions;
- Ties up with reputed Colleges for establishment of Study Centres for providing basic services to the students;
- Organises Career Awareness Programmes (CAP) for the benefit of prospective students;
- Exercises supervision over the Members of the Institute both in practice and in employment in matters pertaining to Professional Ethics and Code of Conduct;
- Undertakes research in Corporate Laws, Corporate Governance, Management, Finance and Capital Market disciplines and brings out research publications of its own accord and on behalf of Government and its agencies/Institution;
- Renders expert advisory services to Members/ Industry on issues relating to corporate laws;
- Undertakes initiatives for enhancing self-governance;

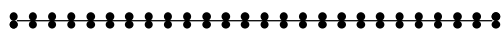


- Organises Professional Development and Continuing Education Programmes, National Convention of Company Secretaries, International/ National/ Regional Conferences directly or through its Regional Councils and Chapters, Chambers of Commerce, Department of Public Enterprises, Sister Professional Institutes and other Professional Development/ Management Bodies;
- Interacts with various National and Regional Chambers of Commerce with regard to various Government Policies and Legislations;
- Interacts with various international, multi-lateral bodies / institutions with regard to issues relating to Corporate Governance, Business Ethics, Sustainability and Corporate Social Responsibility;
- Interacts with Centre and State Governments on various issues concerning the profession;
- Undertakes benevolence of Members;
- Interacts with Members of Corporate Secretaries International Association (CSIA) and Company Secretaries Institutes in other jurisdictions;
- Bestows ICSI National Award for Excellence in Corporate Governance to best governed companies;
- Bestows ICSI CSR Excellence Award;
- Bestows best Secretarial Audit Report Award;
- Bestows ICSI Lifetime Achievement Award to eminent corporate personalities for translating Excellence in Corporate Governance into reality and;
- Conducts Investor Awareness Programmes throughout the country under the aegis of the Investor Education and Protection Fund (IEPF), Ministry of Corporate Affairs (MCA).



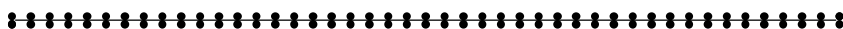


## *New Initiatives*



- The Institute for the first time moved over completely to online process in submission of Membership and Certificate of Practice (CoP) fees, for the Members.
- ICSI Chapter Gradation for the year 2020 has been completed with new nomenclature i.e. Diamond, Platinum, Gold and Silver. Jurisdiction of Chapters has been expanded for Student Activities.
- Annual General Meeting of 72 Chapters and 4 Regional Councils was held through online mode.
- In a move towards digitization, Fellow Company Secretary and Certificate of Practice certificates have been made available on the Digilocker platform in addition to I-Card and ACS Certificates for Members.

## *Building Future Professionals to Guide Corporate India*



The ICSI conducts the Company Secretaryship examination to bring in high level professionals specialized in corporate laws, management and governance.



## *Stages of Company Secretaryship Course*

*The Company Secretaryship Course is conducted in two stages as under :*

### **Executive Programme**

A student passed / appearing in the Senior Secondary (10+2) Examination equivalent thereto and passed CSEET Examination shall be eligible to appear in the CS Executive Programme.

*OR*

ICAI, ICMAI Final Course passed, Graduates (Minimum 50% Marks) and Post-Graduates students can seek direct admission to Executive Programme.

*OR*

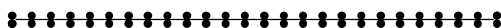
Foundation Passed of ICSI.

### **Professional Programme**

A registered student is admitted to the Professional Programme on passing the Executive Examination.



## ICSI Membership



*A Company Secretary is defined under the Company Secretaries Act, 1980 to mean a person who is a member of ICSI.*

### **Code of Conduct for Members**

The members of the Institute of Company Secretaries of India are subject to Code of Conduct as provided under the Company Secretaries Act, 1980.

### **Regulatory Supervision over Practising Members**

The Institute maintains strict regulatory supervision over its practising members through Guidelines issued in accordance with the provisions of Company Secretaries Act, 1980 and relevant council decisions. These include:

- Guidelines for Advertisement by Company Secretaries
- Guidelines for Attire and Conduct of Company Secretaries
- Continuous Professional Education Guidelines
- Guidelines for Peer Review of Attestation and Audit Services by Company Secretary in Practice
- Guidelines for Name/ Change of Name of Proprietorship Concern/Firm of PCS



- Guidelines for use of Individual Logo by Company Secretaries in Practice
- Unique Document Identification Number (UDIN) Guidelines
- Ceiling on Number of Secretarial Audit Report, Signing and Certification of Annual Return, Issuance of Annual Secretarial Compliance Report

### ***Disciplinary Mechanism***

The Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 made by the Central Government in exercise of powers conferred under of the Company Secretaries Act, 1980 provide elaborate provisions and fast track process for dealing with the complaints of professional or other misconduct filed under the Act.

### **ICSI SECRETARIAL STANDARDS**

- ***SS-1 : Secretarial Standard on Meetings of the Board of Directors***
- ***SS-2 : Secretarial Standard on General Meetings***
- ***SS-3 : Secretarial Standard on Dividend***
- ***SS-4 : Secretarial Standard on Report of the Board of Directors***

### **ICSI AUDITING STANDARDS**

Recognising the need to provide support to members in developing auditing acumen, techniques and tools and for inculcation of best auditing practices among its members, the Institute has developed four Auditing Standards under the aegis of 'ICSI Auditing Standards' as follows:

<b>CSAS-1</b>	<b>CSAS-2</b>	<b>CSAS-3</b>	<b>CSAS-4</b>
Auditing Standard on the Audit Engagement	Auditing Standard on Audit Process and Documen- tation	Auditing Standard on Forming of Opinion	Auditing Standard on Secretarial Audit





## *The Council*

### **President**

CS Nagendra D. Rao

### **Vice-President**

CS Devendra Vasant Deshpande

### *Members*

CS (Dr.) Ahalada Rao Vummenthala

Mr. Anil Gupta, *Government Nominee*

CS Ashish Garg, *Immediate Past President*

CS Narasimhan Balasubramanian

CS Chetan Babaldas Patel

CS C. Ramasubramaniam

CS Deepak Kumar Khaitan

Mr. Gyaneshwar Kumar Singh, *Government Nominee*

CS Hitender Mehta

Dr. (Ms.) Madhu Vij, *Government Nominee*

CS Manish Gupta

Mr. Manoj Pandey, *Government Nominee*

CS NPS Chawla

CS Praveen Soni

CS Ranjeet Pandey

CS Sandip Kumar Kejriwal

Mr. S Santhanakrishnan, *Government Nominee*

CS Vineet K. Chaudhary

***Secretary*** : CS Asish Mohan



## ***Eastern India Regional Council (ICSI - EIRC)***

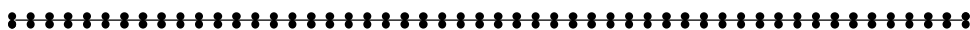
CS Sudhir Kumar Banthiya	<i>Chairman</i>
CS Biman Debnath	<i>Vice-Chairman</i>
CS Anil Kumar Dubey	<i>Member</i>
CS Priyadarshi Nayak	<i>Member</i>
CS Rajesh Chura	<i>Member</i>
CS Rajesh Mittal	<i>Member</i>
CS Deepak Kumar Khaitan	<i>Ex-officio Member</i>
CS Sandip Kumar Kejriwal	<i>Ex-officio Member</i>
Mr. Manoj Kumar Nambiar	<i>Co-opted Member</i>

## ***Practising Company Secretaries Committee***

CS Manish Gupta	<i>Chairman</i>
CS Narasimhan Balasubramanian	<i>Member</i>
CS Chetan Babaldas Patel	<i>Member</i>
CS Deepak Kumar Khaitan	<i>Member</i>
CS Praveen Soni	<i>Member</i>
CS Vineet K Chaudhary	<i>Member</i>



## 22<sup>nd</sup> National PCS Conference Committee



CS Manish Gupta, *Council Member & Chairman*  
*PCS Committee*

*Chairman*

CS Deepak Kumar Khaitan, *Council Member*

*Member*

CS Sandip Kumar Kejriwal, *Council Member*

*Member*

CS Asish Mohan, *Secretary*

*Member*

## 22<sup>nd</sup> National Conference of PCS Organising Sub-Committee



CS Deepak Kumar Khaitan, *Council Member*

*Chairman*

CS Sandip Kumar Kejriwal, *Council Member*

*Member*

CS. Sudhir Kumar Banthiya, *Chairman, EIRC*

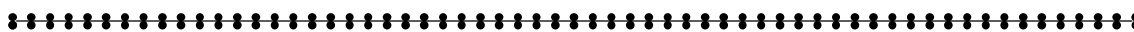
*Member*



## ***ICSI - Centre for Corporate Governance Research & Training (ICSI-CCGRT)***

ICSI-CCGRT was established with the sole purpose of conducting high end research and training programmes for the CS fraternity on the contemporary issues concerning the profession. The Centre was inaugurated and dedicated to the nation in the worthy hands of Dr. A S Anand, then Chief Justice of India on 16 May 1999. Since then the Centre has been performing as a organ of the Institute in the domain of research, governance and training.

The primary objective of the Centre is to act as a catalyst organisation in the professional development of the Indian corporate sector through qualitative research and high level corporate training with 'Corporate Governance' as the thrust area. Since its inception, the Centre has undertaken a number of activities aimed towards fostering qualitative research.



## ***ICSI Centre of Excellence (CoE), Hyderabad***

The ICSI in its candid endeavours to foster and empowering the sense of good corporate governance and inculcating analytical approach through research and training among CS fraternity and other vital segments of society has initiated to create learning and knowledge centres across India. The ICSI-CCGRT being the first of its kind located in Navi Mumbai, the Institute has created its second Research & Training centre as Centre of Excellence in Hyderabad which is on the anvil of commencement of its activities effective from June 2018.

The ICSI-Centre of Excellence sprawling in a lush green area of 4166 square meters is located in Uppal area of Hyderabad, the Capital of Telangana State which is best known as "City of Pearls" and located on the banks of Musi River. The Centre is at a walkable distance from NGRI Metro Station.

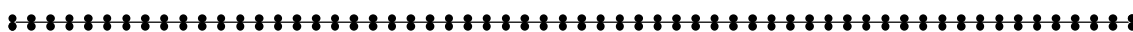
The vast campus of the Centre comprises 200 seater Auditorium, Training Halls of different seating capacity, Board Room, Computer Room, Library, Yoga Room & Institutional Blocks equipped with ultra modern and state of the art audio visual aids to facilitate high end training programmes and undertaking research works of topical interests of the Institute. The campus has also 24 self content dwelling units on twin sharing basis catering to the residential projects of the Institute.





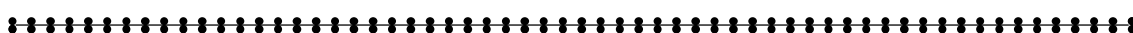
## ***ICSI Governance Research and Knowledge Foundation (ICSI GRKF)***

ICSI Governance Research and Knowledge Foundation (ICSI-GRKF) is a company promoted by the Institute of Company Secretaries of India (ICSI), which is registered under erstwhile Section 25 of the Companies Act, 1956 (now section 8 under the Companies Act, 2013). It was incorporated on September 23, 2013. The main object of ICSI GRKF is "to generate, spread and impart knowledge, directly or in association with person(s) having similar objects or engaged in similar activities, in the area of corporate laws, governance, management, business sustainability and corporate social responsibility, capital and financial markets, auditing, fiscal and economic laws and policies, information and control systems and allied disciplines through research, publications, training, education or in any other manner."



## ***ICSI Institute of Insolvency Professionals (ICSI IIP)***

The ICSI – Institute of Insolvency Professionals (ICSI IIP) is a section 8 Company incorporated under the Companies Act, 2013 and formed by ICSI with its 100% capital is owned by ICSI. The Company is registered as an Insolvency Professional Agency with Insolvency and Bankruptcy Board of India to enrol and regulate the members practising as Insolvency Professionals (IPs) in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 read with rules and regulations made thereunder.



## ***ICSI Registered Valuers Organisation (ICSI RVO)***

The ICSI Registered Valuers Organization (ICSI RVO) is a Section 8 Company incorporated under the Companies Act, 2013 and formed by ICSI with its 100% capital is owned by ICSI. The Company is recognised as Registered Valuers Organisation with Insolvency and Bankruptcy Board of India, formed with the intent to enrol, register, educate, train, promote, develop and regulate Registered Valuers as per the Registered Valuers Rules, while establishing and promoting high standards of practice and professional conduct and promote good professionalism, ethical conduct and competency ensuring quality of valuation work.



## *Articles*

- |     |  |      |
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| 3.  | <b><i>Ancient Indian Wisdom for Company Secretaries</i></b><br><i>CS Sudhakar Saraswatula</i>                              | A-10 |
| 4.  | <b><i>Emerging Technologies and the Role of Company Secretary</i></b><br><i>Mr. Manoj Kumar</i>                            | A-13 |
| 5.  | <b><i>Blockchain Technology &amp; the Role of Company Secretaries :<br/>The Way Forward</i></b><br><i>CS Kanika Raheja</i> | A-22 |
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# India's **First** and Only Entity Registered with SEBI as Category I Merchant Banker & IBBI as Registered Valuer-SFA

SEBI Registration No.: INM000012494

IBBI Registration No.: IBBI/RV-E/03/2021/136



Sundae Capital, the dream arising from the passion and exuberance of the people behind it, progresses to build up an Organisation with Trust, Integrity and Confidentiality.

**Our promoters and team comprises of professionals with over 125 years of experience in financial services and advisory across multiple industries.** Combining our experience and expertise with the zeal to deliver, we provide a compelling proposition and out of the ordinary solution.

**Our diversified array of advisory solutions provide access to capital markets and deliver investment banking services.**

## Capital Markets

- Pre IPO Advisory
- IPO and Rights Issue
- Buyback
- Open Offer
- Delisting
- Capital Re-structuring
- Qualified Institutional Placement
- Listing of securities

## Corporate Advisory & Transaction Services

- Pre-transaction: Transaction advisory, tax advisory, identifying alternative structures
- Transaction execution: Documentation, approvals, liaison and co-ordination with intermediaries
- Post transaction: Listing approval, 19(2)9b listing and other approvals

## Valuations

- Merger / Demerger / Fairness Opinion
- Allotment of securities
- Inward / Outward remittances (FEMA)
- Under Income Tax
- Under IND AS
- ESOP / option valuation / Sweat Equity
- Portfolio Valuation
- Acquisition / disposal
- Intangibles & IPRs

## Stock Incentive Plans (SIP)

- Advising on the structure & Implementation
- Drafting of SIP and related documents
- ESOP Trust formation
- Accounting and taxation advisory
- Assistance for allotment and listing

**SUNDAE**  
Sundae Capital Advisors Pvt. Ltd.

☂ Level 9, Platina 'G' Block,  
Plot No. C-59 Bandra Kurla Complex  
Bandra (East) Mumbai - 400 051

☂ 3rd Floor, C - 11, Community Centre  
Janak Puri, New Delhi - 110 058

✉ [info@sundaecapital.com](mailto:info@sundaecapital.com)

✉ [valuation@sundaecapital.com](mailto:valuation@sundaecapital.com)

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## ***Unlocking ESG Opportunities***

*CS Makarand M Joshi\* CS Pradnesh S Kamat\*\**

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Throughout the pandemic and its subsequent impact on business, many areas of company secretarial practice experienced a shift in growth. During this year, there have been many global, social, environmental, and governance factors that have created new areas of business. The United Nations 2030 Agenda and its 17 Sustainable Development Goals (UN SDGs) pose new challenges for the industry. Corporates have to modify their operations and change strategies to comply with the regulatory environment which is evolving as a response to the requirements of UN SDGs.

Governance, risk management, and compliance continue to be critical areas in today's environment and there has been an increased focus on the role of the company secretary in these areas. Corporate Social responsibility (CSR) and environmental, social and governance (ESG) factors are creating considerable interest in the company secretarial world. The organisations are facing pressure from stakeholders, independent directors, investors, and the community to get more involved in environmental sustainability governance. It is time that Practising Company Secretaries (PCS) can look at new areas of professional opportunities that are different from traditional practice areas. This article highlights 3 such areas wherein PCS can provide professional services. All 3 areas of opportunity have arisen due to changes in the law that took place in the year 2021.

### **Impact Assessment**

Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 states that every company having an average CSR obligation of ten crore rupees or more in pursuance of sub-section (5) of section 135 of the Act, in the three immediately preceding financial years, shall undertake impact assessment, through an independent agency, of their CSR projects having outlays of one crore rupees or more.

The impact Assessment report shall appropriately provide the ground reality and real impact arising out of the project. The impact of the CSR project is different from the output or outcome of the project. Impact Assessment shall also form part of the Annual Report. PCS can provide Impact assessment services by ensuring a high level of governance and compliance. PCS can also guide companies by ensuring correct disclosure in the Annual Report. Term Independent Agency has not yet been defined and whether it would mean agency should be independent as far as CSR Implementation is concerned or would there be also some other parameters will have to be seen.

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\* Partner of Makarand M. Joshi & Co.

\*\* Partner of Makarand M. Joshi & Co.

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As per data made available by the National CSR data portal, during the year 2019-20, there are 329 companies that spent more than 10 crores on CSR. Collectively these companies have spent ₹17,054 crores on CSR in the year 2019-20. If the projects undertaken by these Companies create a positive and measurable impact, it will be a great service to the nation and to the world. 5% of the above CSR spend comes to ₹852 crores and Rs.50 lac per company comes to ₹164 crores. This is the indicative size of the opportunity which will keep on increasing over the years. On average CSR spending is increasing by around 10% year on year.

### **BRSR/ESG**

SEBI, vide circular dated 10th May 2021, came out with a new format of BRSR for the top 1000 listed companies based on market capitalization. It is voluntary for the years 2021-22 while mandatory from the year 2022-23. The unlisted Companies can adopt of BRSR Lite format of reporting to begin sustainability reporting which is currently voluntary. On 26th October 2021, SEBI also came out with a consultation paper for introducing disclosure norms for ESG mutual fund schemes. SEBI has proposed that from October 1, 2022, asset management companies should only invest in securities with Business Responsibility and Sustainability Report (BRSR) disclosures. The proposed consultation paper may prompt many companies to adopt the BRSR format voluntarily in 2021-22. Apart from India, ESG is also driving substantial changes in regulatory and disclosure norms globally. Companies need to take immediate steps to implement ESG to enable them to report in the new format of BRSR.

Companies coming with Initial Public Offer are also disclosing their ESG performance to attract ESG focused investment. ESG is a crucial factor in the due diligence process in mergers and acquisitions or investment decisions. Inaccurate reporting or greenwashing is also a new concern for the investors or independent directors or other stakeholders. Assurance of ESG and sustainability data is also becoming increasingly relevant. ESG or sustainability services is an apt opportunity for PCS, and area of practice may include:

- Assessing current ESG compliance level
- Benchmarking with other industries and/or sectors
- Drafting new policies and processes
- Contractual and Compliance advisory pursuant to regulatory changes
- BRSR and global reporting Compliance
- Sustainable Investing and related disclosure
- Sustainability Assurance for ESG data

### **Risk Management**

Covid 19 situation has proved the importance of a robust Risk Management framework for the companies. SEBI has notified the SEBI (LODR) (Second Amendment) Regulation, 2021 on 5 May 2021 wherein the need for a holistic risk management framework to improve corporate governance standards of listed companies in India was emphasized. The provisions of Regulation 21 are applicable to the top 1000 listed entities determined based on market

capitalisation. As per regulation 27, these entities shall confirm compliance with the requirements in their quarterly filings of Compliance Report on Corporate Governance. Part D of Schedule II of the SEBI (LODR) specifies the role of the Risk Management Committee (RMC). The RMC shall have the power to obtain outside legal or other professional advice and secure the attendance of outsiders with relevant expertise, if it considers necessary. The PCS can play a crucial role as an external compliance advisor to ensure an effective risk management program is in place. The Board and RMC would look to the PCS to support them in the Risk management responsibilities. This is an excellent opportunity for the PCS and the role may include below areas:

- Assess current Risk management practices
- Drafting of Risk Management Policy
- Prepare Risk management framework including ESG related risks
- Determine comprehensive mitigation controls
- Conduct Risk Assessment at periodic intervals
- Monitor risk mitigation plan
- Reporting to RMC and Board
- Appropriate disclosure in Annual Report

### **Why PCS?**

Complying with the regulatory requirements arising out of UN SDG is a very high priority for the Corporates. The responsibility for developing policies and implementing processes to promote and sustain good corporate governance has fallen largely within the responsibility of the company secretary. He is a unique interface between the Board and shareholders and as such acts as an important link between the Board and the stakeholders. Through effective communication, he can coach and train management to understand the expectations of the regulator, and the value brought by the Board.

PCS need to be well-equipped with the necessary knowledge and expertise in the above new areas of practice. PCS shall be ready to adapt to new technology and use different tools to help them provide an efficient service in these new areas. They also need to widen their horizon by learning about changes happening in the global environment. Some of the areas that PCS can focus on are:

- Understand the socio-economic environment in India
- Involve yourself with the community of professionals
- Collaborate for ground-level support and subject experts
- Attend skill-building courses and training program (ICSI has already started offering some courses)
- Invest in Technology to enable accurate data compilation and analysis
- Take it as the purpose and not compliance



**Conclusion**

Change is the only constant thing. PCS need to understand changing global regulatory environment and challenges that the corporates may face while adopting them. PCS have expertise in dealing with regulatory authorities by setting high standards of governance. Continuous learning and adopting new technology will be key for being successful in the new areas of services. These non-conventional areas will bring more recognition and will help in creating an image as a Governance Practitioner that is beyond certification and compliance work. This will also help PCS to play a strategically more important role for the Company, nation, and whole world and at the same time very rewarding as well.

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## ***Dynamics of Regulatory Framework – Professional Approach***

*CS Kiran M. Chitale\**

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### **Background**

Governance has its place since ancient days from the times when Kings used to rule their respective Kingdom. Governance has changed its shape and form over centuries, however, it conceptually emanates from the fundamental principles dealing with the right vs. wrong when it comes to decisions and/ or actions. It is all about only doing the right things as doing the wrong thing was never considered an option (in the ideal - theoretical world). We need a framework to ensure that all players in the economy operate over the same plane or field and are provided equal opportunity. Interestingly, having a framework does not suffice as everyone does not or is not necessarily likely to operate exactly in line with the way the framework expects us to operate/ work. We need someone to regulate the framework or area of work to ensure there is adequate discipline, understanding, clarity, right set of behavior, equity and fair play and in addition, to help resolving issues/ queries/ problems of all kinds, to take initiatives to help the framework evolve over a period of time and make it robust (or at least better than before) in order to continue to enhance experience of all the players.

### **Environment**

We are operating in an environment which is so vibrant and is continuously impacted by head-winds and tale-winds blowing in the economy. The Regulators are learning from the past-present and (estimated/ potential) future scenarios and probably trying to explore and experiment on a regular basis in order to bring better version of the existing/ new regulations on a topic or matter that deals with the players, the transactions, inter-operations and the economy itself. In this context, the word “economy” needs to be flexibly interpreted to mean relevant market or environment within the relevant ecosystem (“Economy”). The regulations are primary package of ammunition available with the Regulators to kill existing bad behavior or prohibit future bad behavior and to allow/ bring/ encourage/ enhance or advance good behavior in the Economy. It is imperative for the players in the Economy to understand the regulations properly and ensure their adherence or compliance in order to operate within the defined framework acceptable to the Regulators and the other players.

### **Our role**

Professionals are considered to be trained army-men who help Regulators in enforcing governance (one can call it good governance if that makes it easy to understand). Professionals such as Company Secretaries carry essential knowledge and skills to derive and drive the

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\* Country Head-Legal, Barclays Global Service Centre Private Limited

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business which are major constituent of the Economy. A Company Secretaries carries all the necessary wherewithal to companies and other forms of business to enhance overall governance. Company Secretaries are expected to be specialist within the periphery of law, who primarily work with corporate, firms and limited liability partnerships in ensuring compliance under various laws applicable to these forms of businesses.

### **The Dynamics**

The legal system and various laws operating within the legal system in India were developed over multiple decades and the same will continue to evolve in order to support the Economy that is ever changing its form and structure. The Regulators have taken abundant initiatives and have come up with changes that could fit prevailing or potential requirements in the Economy. The number, nature and complexity of transactions taking place on a daily basis are mind boggling and are necessarily and (almost) completely dependent on the digital ways of working. It is very difficult for an individual to just become aware of and absorb what's going around (in his part of the world/ the Economy that he gets to experience or deal with).

Over years Regulators are trying to bring in legal mechanism that is more adaptable/ flexible in order to accommodate the changes and be able to absorb newer versions of bad behaviors (whether called as defaults/ crimes/ non-compliances, etc.) and improvising control over prior or existing versions of bad behavior by any of the players in the Economy (e.g. companies, shareholders, intermediaries, etc.). This has led to putting up relevant laws (whether in the form of an Act, Rules, Guidelines, etc.) in the form that sets out fundamental or broader structure that deals with the subject matter e.g. company law, foreign exchange, goods and services tax, etc.) and the underlying rules, regulations, guidelines, etc. act as supplementary and complementary parts of the legislative mechanism. This mechanism helps Regulators to adapt to changing needs of the game and bring those changes are a much faster pace than before. There are numerous reasons or factors that lead to creation of a new legislation or changes to an existing one. While this process takes its own time, the overall time taken for Regulators to bring new law or amend an existing law has reduced substantially. It is equally important for each player to play its role properly, without just criticizing Regulators or other players or trying to find escape routes in the game. With a meaningful number of digitization and simplification by Regulators, it is important for professionals to play their role in contributing to overall governance. We will face issues/ teething problems/ gaps until the new legislation settles down to find its own place in the whole scheme of things. Professionals can certainly help the new legislation or an amendment to settle down as soon as possible.

The flip side of these dynamics has at times led to bringing in changes in a hasty or haphazard manner or addressing part of the problem and at times trying to solve something that was never a problem to larger section of relevant set of population (e.g. private companies, listed companies, etc.). The dependency on digitization has many times paralyzed corporates and professionals who are willing to complete applicable compliance, due to non-availability of internet, accessibility issues, compatibility issues in technical (computer) terms and so on. All of these did cause frustration, poor experience and wastage of resources. Having stated that we all are marching towards better (governed) world every day and with that hope in mind, we as professionals should carry courage and willingness to keep continuously enlighten

the players in the Economy to continue to act in the right way. There could be areas which neither black, nor white. In those cases, it should be left to the best interpretation that brings appropriate balance between the letter and spirit of law. As professionals, it is our responsibility to be the driving force in implementing the Regulations from time to time.

Company Secretaries play and should continue to play crucial role in adding value to all the stakeholders in the Economy including to the Regulators.

As a professional, there are various stages in implementing right practices that demonstrate governance. It is essential to understand the facts, study the law on the subject including any changes or amendments, case law (as available), understand industry practice, compare the proposed solution or recommendation vis-à-vis letter and spirit of the law and then try to find pragmatic solution or approach that is best suited in the given place, time and situation. If you are in a situation where you have already failed to comply with a particular compliance requirement, at least completing that later (than never), if so permitted, would demonstrate your willingness to stop non-compliance at some point in time. At times, the only option is to make a disclosure and move on (if there is no alternative to past non-compliance) or to seek take corrective measures, if that is permitted and feasible.

A Company Secretary (in employment or in practice) would need to build strong repository of set of laws/ compliances that apply to his employer/ client organization and then continuously keep the same updated to incorporate any changes to the previous provision/ position under relevant law. It will be good to keep tracking industry practice. Also, one can use technology to be in a better control over situation when there are changes to a particular law. This could range from keeping database of employer/ client organizations to which a certain provision does not apply, to tracking potential changes to a particular law (or a provision in law) and being ready with the broader analysis as to their applicability to employer/ client organizations, once the changes in the law become effective. A variety of compliance tools are available these days, that can help monitoring and updating legal compliance and generate reports, as required. For example, if a provision in the Companies Act that applies to public companies is proposed to be made applicable to private companies as well, a Company Secretary in practice can check the applicability of the proposed change in law to his/ her clients that are private companies and can suitably communicate to those clients about such changes in order to keep them informed at the earliest point in time and take necessary actions (as applicable) in order to comply with the new requirements within permitted time limits.

The dynamics of regulatory framework would continue to evolve, operate and impact various players in different ways. It is for professionals such as Company Secretaries to figure out the applicability and the impact to his/ her employer/ client organizations and act accordingly.

A professional need not only be reactive to dynamic changes in the regulatory environment, but also proactively suggest certain changes that are desirable and are in the larger interests. It is essential to continuously attempt to streamline, standardize, simplify required regulatory actions/ compliances without deviating from the purpose of such regulatory provisions. A simple step such as maintaining an updated database in a use friendly format would help

filling and filing of Forms in a much robust and faster way. Likewise, one should explore areas where keeping proper database and records would improve governance or brings better ways of doing things (where all available options are in compliance with the relevant regulations).

With the regulations becoming more dynamic and adaptable, it has become difficult to keep track of all the changes and with reduced time to understand and digest those changes. It is important for Company Secretaries to deploy time management techniques to be able to absorb upcoming changes, understand what's going around, to build pipeline of what's coming in their way, in order to gain better control over new changes. It is equally important to apply one's mind to analyze the changes (proposed or introduced already) and use right channels to seek clarity and share feedback with a view to correct, clarify the grey or dark areas. At times, Regulators have been accommodative to come up with a quick clarification or revise effective date, etc. after having understood genuine difficulties with the players e.g. companies, intermediaries in the market, etc.

There are occasions when the gap is wide between the expectations from the Regulators and implementation by the relevant stakeholders on a particular regulation or amendment to the regulation. It will help communicating the same with Regulators through institutions or agencies that will help in providing feedback to the Regulators in much faster way and avoid or minimize adverse impact. It is important to build appropriate connects and ensure proper perception is built with the Regulators. This could increase of changes of being heard and improving overall perception about certain companies or players in the minds of Regulators.

The key is about having right set of attitude to regulations and desire to comply. Probably some minor misses or errors may not hit one badly if the rest of your record or legacy has demonstrated good level of governance in that area of regulation or compliance.

Building on the top of compliance requirement requires right mindset, walking out of the way, extra energy/ resources to raise the bar. The same would (over a period of time) change the culture in the organization and way one views regulations. There have been plenty of examples in India where certain industry groups or companies were/ are perceived to be following better practices in the context of compliance of laws/ regulations. There were times when financial statement published by certain companies were considered not only by their competitors or other companies for benchmarking, but also used by Regulators for introducing next version of regulations applicable to the subject matter to enhance the degree of governance applicable in that space. Such behavior aligns well with the dynamics of regulatory changes and supports regulatory framework in a cohesive and conducive manner.

Every new business challenge or problem is going to bring different solution or new ways of doing business. Likewise, such business challenge/ scenario will necessitate bringing new regulation or an amendment to an existing one. The same adds responsibility and provides opportunity to professionals such as Company Secretary to explore new areas of practice or a Company Secretary being perceived as a reliable touch point to help business to address the issue and provide right advice in the context of prevailing or new regulations.

## Conclusion

Company Secretaries have been continuously contributing to designing, developing and deciphering prevailing laws and regulations (either individually or collectively through The Institute of Company Secretaries of India) and the same was demonstrated a number of initiatives undertaken in the past to contribute to bringing better of version of Company law, as an example. Even if we consider the subject of income tax where the lawmakers and the regulators have taken high number of initiatives to reach to the current state (including level of digitization in the area of income tax), we realize the amount of time and effort it takes to move up the chain. It is therefore, useful if professionals continue to add value through various channels and means to build better version of ourselves through right set of regulations as applicable from time to time. I think, professionals continue to carry a high degree of responsibility to play their part, in order to minimize disruption and delays in implementing the laws/ regulations. A lot of development have already taken place in this direction. However, with continuous and fast changing pace at which business dynamics are entailing the Regulators to bring necessary changes in the legal/ regulatory domain, the same is passing expectations to professionals to build and contribute to enhancing overall degree of governance by all the players in the Economy. Sometimes the expectations may not align well or may not fit with the pace of execution, however, it should be our continuous effort to bring/ build adequate and appropriate set of regulations to govern a subject matter and then translate that through execution at right pace in the right direction to achieve desired compliance. It is necessary to have open dialogue between various players/ stakeholders, which would encourage better connect with the Regulators and re-set the pace as well as the expectations in delivery of dynamic regulations for overall betterment of the economic environment. Sometimes the need for certain regulations is well justified, while the infrastructure or machinery to enforce/ implement is not in place. Such situation is likely to create confusion and chaos and leads to unwillingness, frustration or sparing energy to find grey areas to dodge the problem/ expectations. It is therefore essential for professionals such as Company Secretaries to continue to actively contribute to better governance in the times to come.

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## ***Ancient Indian Wisdom for Company Secretaries***

*CS Sudhakar Saraswatula\**

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### **Introduction**

The economic development of any country depends upon the functioning of its corporate sector whose efficiency depends upon how effectively and efficiently the Corporate Boards as well as the corporate professionals are functioning and discharging their role and responsibilities. The current business environment day by day is becoming very complex and competitive, and the managerial effectiveness gained critical importance to navigate through such complexities. In the present era of globalization and liberalization, corporate sectors, all over the world are going through various complexities. Under such circumstances the importance of a wise counselor and a company secretary can't be undermined. With the growing legal complexities and demand of compliances, the role of Company Secretary has too widened. Companies Act, 2013 has recognized the Company Secretary as a Key Managerial Personnel and has statutorily stipulated the duties of a Company Secretary

With the separation of ownership from the management, the primary responsibility for running a business or an organization with honesty and integrity lies with the Board of Directors. Securing the interests of all shareholders and minority shareholders in particular, is the primary fiduciary duty of the Board. This has emanated the need for an appropriate Ethical and Governance structure. Corporate Governance is essentially concerned with the processes by which companies are governed and managed. The central challenge of corporate governance is to align the interests of Ownership, Board and Management, and their role in ameliorating problems arising from conflicts of interest. Boards are the bedrock of corporate governance, presumed at all times to be acting in the best interests of the Company, its shareholders and other stakeholders. Corporate Governance is the system by which companies are directed and controlled and provides the structure through which the Company's objectives are set along with the means of attaining these objectives as well as for monitoring the performance. It requires continuous nurturing and adapting to the dynamic business environment.

Corporate professionals and in particular Company Secretaries have a great role in ensuring and assisting the boards in establishing impeccable Corporate Governance structures across the organizations and the implementation of the same. Company Secretaries are the primary source of advice with reference to setting up compliance cultures and corporate governance structures. Providing advice on these two aspects is an increasingly important role for a company secretary. In view of the important role the company secretary plays in an

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\* *Vice - President (Corporate Secretarial), Reliance Industries Limited.*  
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organization, the company secretaries are to be professionally qualified with good knowledge, skill sets, ethical culture, etiquettes, professional maturity, experience and exposure to discharge these responsibilities. Company Secretaries are to be passionate about their Profession, about their Organization and in discharging their Responsibilities.

### **Learnings from Mahabharata**

Mahabharata is the epic of the clash between two warring clans / cousins – the Pandavas and the Kauravas. The corporate Mahabharata is the clash between compliances and non-compliances, as well as conflicts of interests. Company secretaries have a great role to play like lord Krishna in Mahabharata, by becoming the charioteer of the corporate boards, steering them and navigating them through the complexities of corporate law compliances and to ward off the conflicts of interests. Arjuna has taken birth to reinstate dharma (right action) in the world, but like many of us, he has failed to remember his purpose, the vision for his life and values. Similarly, corporate boards also sometimes fail to realize their fiduciary duties towards the shareholders in particular and towards the stakeholders in general. Sometimes they fail to realize the importance of compliance with the laws of the land and may indulge in activities involving conflict of interest. The true measure of a leader is the ability to recognize the temptations and to rise to a purer state whereby one can do that needs to be done and relinquish the rest. From the Bhagavad Gita, it can be acknowledged that lust or selfish desire of the leaders is the root cause of unethical practices. Ethical principles offer a comprehensive framework within which organizational structures are to be established. These principles may offer direction in unravelling ethical issues that otherwise may not necessarily be solved. For establishing the corporate governance structures in organizations, ethical principles lay the foundation of the same. Greed, lust, and selfish desires are the root cause of unethical practices, which are to be taken care off with sound principles of governance. Boards must maintain its values and not waver from its duties and values and company secretaires to assist the Boards in achieving and ensuring the same.

India has a very strong history and deep roots of culture, principles and ethics. Our ancient wisdom literature is the Vedas, Puranas, Upanishads, various Neetis and Smritis, epics such as Ramayana and Mahabharata, Bhagavad Gita and finally the Kautilya's Arthashastra are a storehouse of comprehensive and powerful knowledge and values that can be applied in all ages for the benefit of the mankind and corporate sector is no exception. They help us to transform our life from mediocrity to excellence.

In Mahabharat lord Krishna shown the path of Dharma to both Arjuna and Duryodhana. Though Arjuna heeded to the advice of lord Krishna, Duryodhana did not listen to him and the end result is known to all. Had he listened to lord Krishna, the Kurukshetra war would not have taken place. Similarly, in the Modern Yuga, it is the duty of the Board of Directors of the Corporate to run the organizations on the path of Dharma by seeking the advice of the Company Secretary, listening to his advises and abiding by all set of laws and rules in true spirit and words in such a way which shall take care of the interest of all the stakeholders of the Corporate and this is the true essence of Corporate Governance.

### **Learnings from Bhagavad Gita**

If we take Board as Arjuna of Corporate Mahabharata, and the Company Secretary as

lord Krishna the Company Secretary should play a similar and discharge, the following duties, namely: —

- to provide the directors of the company, collectively and individually, such guidance as they may require, with regard to their duties, responsibilities, and powers; (As Krishna did in Mahabharata by providing guidance to Arjuna to fight against adharma and established the rule of Dharma)
- to facilitate the convening of meetings and attend Board, Committee and General Meetings and maintain the minutes of those meetings; (To create Dharmakshetra as Krishna did for Pandavas)
- to represent before various regulators, and other authorities under the Act in connection with the discharge of various duties under the Act; (as Krishna represented Pandavas as Santidoot in the court of Kauravas); and
- to assist the Board in the conduct of the affairs of the company (As Krishna assisted Arjun to fulfill his duty while walking on the path of Dharma).

If we say Krishna was the custodian of Law i.e., “Dharma” for all beings of the universe, and we company secretaries are custodian of Laws for the corporates. When we equate the idea of our Profession with lord Shri Krishna, we have immense accountabilities and responsibilities, and our conduct should be pious, noble and impeccable

### **Conclusion**

Economic wellbeing of any nation largely depends upon a strong and reliable Governance structure. Company Secretary of the company shall be the conscious keeper of the organization and shall set highest standards of ethical business with a strong and efficient Corporate Governance structure and ensure compliance with the same.

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## ***Emerging Technologies and the Role of Company Secretary***

*Manoj Kumar\**

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### **Introduction**

Steve Jobs once said “Technology is nothing. What is important is that you have faith in people, that they are basically good and smart, and if you give them tools, they will do wonderful things with them.” Against the backdrop of the difficulties created by Covid-19, the Company Secretary has the opportunity to consider how an increasingly automated world through various technological advancements such as robotics and artificial intelligence, could assist both in improving governance as well as their role itself.

Digital transformation is the integration of digital technology into all areas of a business, fundamentally changing how one operate and deliver value to customers. It involves the use of digital technologies to make a process more efficient and effective. In other words, Digital transformation is the incorporation of computer-based technologies into an organization's products, processes and strategies. Organizations undertake digital transformation to better engage and serve their workforce and customers and thus improve their ability to compete.

In many instances, the Company Secretary devote a significant amount of time in allocated administrative responsibilities such as compiling notices, registers, compliance returns, agendas and taking down minutes during meetings of the Board. Such administrative responsibilities do affect the Company Secretary to focus on other important areas such as strategy, research, problem-solving, representation, co-ordination and management of information systems. For this reason, the Company Secretary cannot ignore the openings presented by technological advancements which offer the opportunity to manage the ever-increasing governance challenges and complex compliance requirements faced today by all organisations.

Communication advancements also present the Company Secretaries with the opportunity to facilitate more efficient board meetings. Video conference facilities can replace the traditional board meetings where all members have to be physically present at the organisation's boardroom to discuss and decide on agenda items. A board portal software could save Company Secretaries' and directors' time, to allow for more strategic work through electronic voting tools, submission of agenda, meeting minutes and messaging features.

Company Secretary must keep abreast of digital skills by undertaking appropriate training and assist Board members and other stakeholders to engage with the opportunities provided by technological advancements. Such training is to include not only hands-on experience for board members on how to operate innovative IT systems but also increase their awareness of IT risks such as cybersecurity.

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\* Deputy Director, The ICSI.

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## History of Automation

We are in the midst of the so-called 4th Industrial Revolution that focuses on advances in Artificial Intelligence (AI), robotics, the Internet of Things (IoT), 3D printing, genetic engineering, quantum computing, and other technologies to bring about enormous improvements in efficiency and productivity. A brief historical review of how technologies in the earlier industrial revolutions affected work helps trace implications for the current industrial revolution.

The 1<sup>st</sup> Industrial Revolution was associated with the advent of the steam engine in the 18th century, enabling the mechanization of production. Productivity increased in textile and other factories as they switched their energy source from watermill to steam.

The 2<sup>nd</sup> Industrial Revolution in the 19<sup>th</sup> century was triggered by electricity and the application of scientific principles, which led to the proliferation of mass production. Industrial engineers designed production processes, and factory workers executed the pre-planned tasks typically on an assembly line. In effect, craftsmen's work was disaggregated into standardized tasks that could be carried out by semi-skilled workers.

The 3<sup>rd</sup> Industrial Revolution began with the emergence of computing machines in the 1950s. This led to further automation of manufacturing using Computer-Aided Design (CAD), Computer-Aided Manufacturing (CAM), and the application of digital technology for communications (with the Internet), banking (with ATMs), and other service industries including logistics. While the first two industrial revolutions led to the substitution of mechanical power for human efforts, the third Industrial Revolution computerized human brainwork of the repetitive and routine sort. And computerization automated a broad range of white-collar workers including clerical, technical, and professional workers.

## Industry 4.0

Industry 4.0 which comprises, human concepts paired with IT tools and applications that complement a smart system of machines which communicate with each other and also human and are able to perform tasks autonomously. Cyber Systems, Internet of Things, Big Data, Cloud Computing, Robotics, Data Visualization Models are such tools. While automated machines and robots are said to be the arms and legs of the Industry 4.0, Artificial Intelligence acts as a brain.

Industry 4.0 converges IT (Information Technology) and OT (Operational Technology), to create a cyber-physical environment. Industry 4.0 describes the growing trend towards automation and data exchange in technology and processes within the industry, including:

- Artificial Intelligence
- Blockchain Technology
- Robotic Process Automation
- Internet of Things
- Big Data & Analytics
- Cloud and Cognitive Computing

## **Artificial Intelligence (AI)**

Artificial Intelligence is the ability of machines to demonstrate human like intelligence by performing cognitive tasks like thinking, perceiving, learning, problem solving and decision making. AI has evolved due to major advances implemented in collection of data, low cost of data storage and enhanced powers of information processing and computations. It is said that AI might just be the single largest technology revolution of our life time, with the potential to disrupt almost all aspects of human existence. Over the past 70 years computer scientists such as Alan Turing, Marvin Minsky and John McCarthy have made a significant contribution in the field of AI.

Data is the main unit on which AI works. AI uses different technologies to combine data with the help of fast technologies and algorithms and allows running software to learn automatically from various patterns and similar features occurring in huge datasets.

The natural language processing, image recognition and inference engines enable AI systems to analyse and understand the huge data sets. Just like humans, AI systems learn from experiences with the help of training data and their abilities are continuously enhanced. Prior to the advanced use of AI enabled softwares such tasks were performed by highly programmed expert systems based on rule based data analytics and techniques of statistical regression.

### **Impact of AI on Professionals**

The impact of AI on the future of work should be framed in terms of tasks, not jobs, automated by AI. AI substitutes some tasks, complements others, and creates new tasks. How this complex interplay of substitution, complementarity, and creation rebundles tasks into existing or new jobs remains uncertain. For this, we must take account of social and professional norms over and above technological feasibility. The professions perspective is useful for considering the future of work, as professionals are increasingly expected to become 'hybrid' in capability relating to and sometimes incorporating expertise in other areas.

Huge transformation is happening across world due to massive breakthrough of technological intelligence in the human life. With growing digitalization and free flow of information, society has seen many changes in the past few decades. Our interactive smart phone devices, tablets, Google Assistant and Amazon's Alexa are the examples of such technology breakthroughs made possible through Big Data, Machine learning and Artificial Intelligence programs.

### **Artificial Intelligence and 'Company Secretaries of the Future'**

Being identified as Key Managerial Personnel, Company Secretaries play a pivotal role to ensure that company pursues a highly ethical code of conduct and its Board is able to implement and maintain a transparent corporate governance mechanism. With passage of time, the role of a Company Secretary has grown many folds since it was introduced first in the country and now while India has already paved a path for going digital, the existing conventional definition of the profession of Company Secretaries will also take new dimensions.

It is most likely that AI will abolish the repetitive and administrative tasks, which still



form part of the Company Secretary's role. This does not mean that future Company Secretaries would not need to continue to acquaint themselves with these tasks, as there will always be nuances specific to a company, and Company Secretaries would need to be able to review the correctness or otherwise of such documents.

AI will reduce the manual workload and will automate lower level functions of the Company Secretary, thereby improving due diligence processes and providing assistance with compliance procedures. Instead of viewing AI as a threat to the Company Secretary role, AI should be seen as an opportunity to improve the overall knowledge base and fiduciary controls within the company. AI will not eradicate the strategic functions within the company nor will it absolve the advisory functions of the Company Secretary. AI will assist the Company Secretary to expedite research on various topics/issues such as confirming that possible new directors are not conflicted on any other platform prior to appointing them to the board by running extensive research throughout various social platforms.

With rapid involvement of AI and Machine learning in business decision making, Company Secretaries should realize that they need to be very attentive of what is happening in their organisation and what is being circulated to their Board. Company Secretaries should take more interest in the use of data and information services through which major decisions are being taken in company and at Board meetings so that while any decision is stuck somewhere, they are able to pass on their expert advice to the directors.

### **Blockchain**

Blockchain is a chain of blocks containing information. This technique was originally described in 1991 by a group of researchers who intended to timestamp digital documents so it is not possible to backdate or to tamper with them. However, it went mostly unused until it was adopted by Satoshi Nakamoto in 2009 to create a digital crypto currency "Bitcoin". A Blockchain is a distributed ledger, i.e., completely open to anyone, they have an interesting property once a data is recorded inside a blockchain it becomes very difficult to change it.

Blockchain's ability to disrupt technology with respect to Board and shareholder matters (specifically the Annual General Meeting or AGM) has been a hot topic as of late. The adoption of this technology will not only increase shareholder engagement but also reduce voting audits. It is an exciting prelude of things to come.

To cite a couple potential repercussions, blockchain technology will also reduce the burden on Company Secretaries as custodian of corporate records. The technology can be used as a corporate document depository accessible to shareholders and other parties. Blockchain technology is also expected to assume the responsibilities of maintaining shareholder registers and facilitating lists of individuals entitled to dividend payments. All of these are tasks which typically fall under the purview of Company Secretaries.

### **Robotic Process Automation**

Process automation is the breaking down of complex business processes into small blocks so as to define the sequence and optimize the work performed to yield best results. Robotic Process Automation can be easily confused with physical robots; however, this is not true. RPA is a variety of software's that has the ability to interact with multiple applications in a

computer. It can be programmed to complete basic tasks typically performed by an employee. RPA is considered a type of robot, used to automate repetitive tasks.

Jobs in the financial, legal services sector increasingly involve digesting and analyzing vast amounts of data, ensuring compliance with complex regulations worldwide, and handling repetitive, rule-driven work, making RPA the perfect combination in secretarial sector.

### **Internet of Things (IoT)**

IoT is an ecosystem of physical devices, vehicles, appliances, and other things that have the ability to connect, collect and exchange data over a wired and wireless network, with little or no human-to-human or human-to-computer intervention.

The connected "smart home" is a good example of IoT in action. Internet-enabled thermostats, doorbells, smoke detectors and security alarms create a connected hub where data is shared between physical devices and users can remotely control the "things" in that hub (i.e., adjusting temperature settings, unlocking doors, etc.) via a mobile app or website.

The network-controlled management of certain types of electronic devices — for instance, the monitoring of air temperature in a storage facility. Smart contracts make the automation of remote systems management possible. A combination of software, sensors, and the network facilitates an exchange of data between objects and mechanisms. The result increases system efficiency and improves cost monitoring.

### **Big Data Analytics**

Big data is the term used to describe the huge amount of data that is analysed and stored to improve business operations. Big Data Analytics is the use of big data to evaluate digital information for useful business intelligence. This data helps the companies to provide actionable information that can be used in real time to not only improve operations, but also to optimize applications in the cloud.

Big data can include structured data like employee records in a company or unstructured data like images, audio, video, sensor data, etc. or semi-structured data or a mix of all these types at the same time.

In simple words, Big Data Analytics is a process which is used to extract meaningful insights, such as hidden patterns, unknown correlations, market trends, and customer preferences. Big Data Analytics provides various advantages such as it can be used for better decision making, preventing fraudulent activities, etc.

Today, the Company Secretaries are also leveraging Big Data to promote data-driven decision making. The technology of Big data analytics is also helpful to perform Secretarial Audit & Internal Audit by Company Secretaries. This technology provides the opportunity to rethink the way audits are conducted.

### **Cloud and Cognitive Computing**

Companies are using Cloud Computing Service which helps them in collecting all the Data and later they combine this Big Data with other advanced technologies like Machine

Learning & Artificial Intelligence for further improvements. All the processes will take place according to the capacity of the system.

In today's world, Companies need to understand how to use big data analytics in the cloud because cloud technology is embraced and promoted as a fast-moving, innovative environment in which teams can use it to store more data and discover new use cases for their data, rather than just storing it in a traditional data centre.

The combination of the cloud's scalability and elasticity with its computing and storage capabilities allows companies to work with large data sets from which they can gain insights that were previously difficult or impossible to determine.

### **Some software tools for Company Secretaries**

*Accloud PLC : Business Tools* - This tool acts as facilitator for providing assistance in digitizing operations including everyday accounting and tax compliance. Its key features include professionally managing invoicing/ reminders, full GST compliance, transparent and simplified production of Accounts and comprehensive Financial Dashboards.

*Complyrelax Software* - Business Private Limited provides host of services through their ComplyRelax Software. Its key features include Virtual Office & Task Management, MCA Transaction Tracker, Document Creator, DSC Management, Compliance Tracker, Meeting Manager, Registrations Manager and Multiuser Dashboard.

*XBRL – Virtual Office for PCS* - M/s Webtel Electrosoft Pvt. Ltd. provides software for Practicing Company Secretaries that includes Web-XBRL Software, Virtual Office and Web Edge.

*EmGlobe* - It is a company secretarial and corporate compliance solution for large corporations and financial institutions with governance and entity management tools.

*Diligent* - With the use of high-end AI, Diligent helps create member directory over a single click and maintain records for company secretarial operations. This software helps a business to do one-click board meeting arrangement and staff management

*Nasdaq Boardvantage* - It is a governance and collaboration tool designed to help small to large businesses across industries streamline and manage board meeting processes. Enhance collaboration by creating single or multiple board meetings in a day and track details, files & attendance using board books.

*LexComply* - It is a cloud-based compliance management software designed to help organizations manage, monitor, and ensure alignment of IT, legal, financial, or operational processes with regulatory standards. Features include act and compliance library, reporting, escalations, and assessment scheduling.

*TaxCalc* - It is a tax practice management solution designed to help accountants, tax advisors, and finance professionals manage clients, calculate tax returns, prepare financial statements, and more. It enables finance teams file clients' tax returns, validate entries, and monitor due dates.

*PCSec* - It is a fully featured Company Secretarial Software designed to serve Enterprises,

SMEs and StartUps. PCSec provides end-to-end solutions designed for Web App and Android. This tool offers Annual Filings, Company Formation, Dividend Administration, Officer Management and Shareholder Management at one place.

*Hetikus* – It is an innovative integrated platform that allows organizations to manage, oversee and control all aspects of their governance, risk management, and compliance process, all in one place.

### **Skill of Company Secretaries in AI driven organizations**

Continuous learning will be the key skills for all. Apart from corporate laws, tax, finance etc., Company Secretaries should also focus on understanding their company and the industry in which it operates. It is important to understand that how the changing dynamics of industries are bringing a shift in the way human capital is being planned across various organizations. India will be a leader in Asia soon and is regarded as a promising destination for foreign companies to establish their businesses that also means that competition will be high in coming years and knowledge of advanced technologies will give it an exponential wave.

On the Administrative front, Government also aims to establish AI driven systems that are able to predict frauds and anomalies in corporate compliances and information submitted to the Regulators. Having good understanding about working of these technologies would be necessary for professionals in order to work with highest care and transparency on regulatory matters.

### **AI can transform and strengthen the role of CS**

Below are few tasks that can be completely automated with the help of AI driven systems and help professionals to save time to focus on other critical matters:

*Compliance Monitoring Activity* – Ensuring time bound compliance and putting in place an intelligent alert system to skip non-compliance defaults.

*Filing Annual Compliance and Reports* – Such as annual filing of routine forms, preparing and assessing XBRL documents.

*Circulating Notices and Agenda Papers for Board and General Meetings* – To handle large number of shareholder communications with ease,

*Circulating Minutes of Meeting to directors and recording response* – Automated circulation and recording of responses from Board members and maintaining records digitally.

*Contract Management Activity* – Checking for the standard and routine clauses in the Contract.

AI can help Company Secretaries to manage time intensive activities such as recording of Board meeting minutes and preparing physical notes and Evaluating Board of Directors individually on the basis of pre-defined rules and parameters.

### **Adapting to Technological Change**

To succeed in this age of technological advancement, Company Secretaries will have to

be receptive and accept an environment of continuous change. Technologies are evolving, decisions are being made quickly, and sign-offs are needed urgently. Company secretaries will have to contend with this pace of business and offer pragmatic yet innovative responses that do not compromise compliance, controls, and corporate governance.

Company Secretaries cannot afford to shy away from technological advancements. Whether the advancement of technology impacts their day-to-day tasks or permeates into boardroom or shareholder activities, Company Secretaries need to stay ahead of the curve. The ability to respond to change places the Company Secretary in an advantageous position to exploit opportunities and assume a defensive stance against risk – further elevating his/her position as a trusted, strategic adviser to the Board and proactive member of the organisation.

### **Conclusion**

Corporate governance is about being a good corporate citizen which speaks to the issue of job creation. It is vital for company secretaries to upskill junior company secretaries by for example, having those charged with doing company secretarial administrative tasks be trained and up-skilled to perform more of the complex duties of a company secretary. Company secretaries will always have a fundamental role to play within a company as the face of corporate governance – this cannot be automated. The attitude towards the development of AI ought to be positive with company secretaries seeing AI as an opportunity to allow them a greater voice within an organisation by having more time to focus on ensuring that the company is a good corporate citizen and legally compliant, and spending less time on administrative and repetitive tasks.

Given the above and from a strategic perspective, the focus should be on entrenching and growing the tasks of the Company Secretary, which are not susceptible to automation and to have less focus on the tasks, which can be automated. In our view, this will create a more challenging and rewarding working environment for the Company Secretary and will maximise the knowledge and skill of the Company Secretary thus enabling better job performance and processes.

Though the future remains unknown, rapid developments in AI are evident and we all need to be proactive in progressing with the changing landscape.

### **Way Forward**

In India, use of AI and other associated cutting edge technologies is still in a nascent stage. Digital India Initiative was a foundation laid by the Hon'ble Prime Minister over the existing National E-Governance Plan, which encouraged many data driven systems and Startups in the country. Transformation of fundamentals of business services through implementation of information driven business systems has resulted in increased efficiencies across sectors.

NITI Aayog, has also worked out the National Strategy for Artificial Intelligence popularly known as #AIforall initiative which chalks out a strategy to increase use of AI in various sectors.

India will take a leap ahead with the infusion of AI and Machine Learning technologies in the next decade. Corporates would continuously enhance their capacities to gain competitive

edge in the market and in such a situation, to be in the race, Company Secretaries would need to adapt to the changes taking place due to changing technological developments.

It is very important to understand the need for continuous skill enhancement, learning the business in global dimensions, understanding technology and to have a focus on research and development activities. Under these changing dynamics, Company Secretaries (especially Younger generation) should focus on regular capacity building activities on technical aspects too. We cannot deny using AI in our lives as we all have become accustomed to live with it and it would gradually take more space in our day to day life.

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## ***Blockchain Technology & The Role of Company Secretaries : The Way Forward***

*CS Kanika Raheja\**

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### **Introduction**

Technology is driving innovation and is helping Organizations to transform their operations in their Digital Transformation Journey. Digital Technology has an enormous impact on the way how businesses operate, transforming traditional office environments to fully automated world. Blockchain is one such technology which is in use from tracking or accessing information and for its continuous value creation in most of the business/services in the market.

It has been observed that currency transactions between persons or companies are often centralized and controlled by a third party organization. To do any digital payment or currency transfer we require any bank or credit card provider as a middleman to complete the transaction. In addition, a transaction charges a fee from a bank or a credit card company. The same process is applicable in several other domains, such as music, software etc. The transaction system is typically centralized, and all data and information are controlled and managed by a third party organization, rather than the two principal entities involved in the transaction. Blockchain technology has been developed to solve this issue. The goal of Blockchain technology is to create a decentralized environment where no third party is in control of the transactions and the data.

Blockchain Technology is considered as the biggest technology breakthrough similar to Internet which evolved in the early 1990s. At that time, Internet was proved to be more efficient & transparent way to search and for sharing information. Today, Blockchain Technology is considered to be a successful way to transact in a secure, immutable and for completing transactions in a transparent manner. As per Digital Scientists, it is categorized as a medium to high Impact Creating Technology. Though we came across with many emerging technologies such as Artificial Intelligence (AI) or IOT (Internet of Things), this technology is unique in its foundational nature. Unlike other technologies, which have the potential to deliver completely new services to citizens and other stakeholders alike, Blockchain has the potential to revamp currently existing processes to unlock new sources of efficiency and value.

Blockchain offers unique possibilities of addressing issues relating to improving governance. In business, by allowing 'self-regulation', India can considerably move towards improving the 'Ease of Doing Business' by allowing entities to interact through a trusted

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\* *Executive (Academics), ICSI.*

*The views expressed are personal views of the author and do not necessarily reflect those of the Institute.*



medium with a reduced dependency on cumbersome regulatory compliance mechanism. This technology is an attempt towards 'Enabling Ease of Business, Ease of Governance, and Ease of Living'.

### **How Blockchain Works**

The Blockchain Process consists of following steps:-

- The transaction is requested by some user.
- The request is broadcasted to all the computers in peer- to- peer network.
- Pre- Defined Algorithms are used by the computers to validate the request of the transaction.
- The verified transaction along with the other transactions is combined to create a new block.
- Then the new block is added to the chain.

Once added, the unique hash value is assigned to the block which makes it permanent and unalterable.

### **Importance of Blockchain Technology for Company Secretaries**

At present, companies are under immense pressure to improve data management and security, Block-chain is becoming a way for companies to conduct and review transactions immediately without a central authority. By simultaneously adding a third entry and then posting it in a common register accessible to all eligible participants, the data storage process will be improved and this will be helpful for CS Professionals in taking important decisions.

Blockchain is a technology that adapts seamlessly to the profession of Company Secretaries. A growing number of corporates are taking block-chain initiatives to better understand the impact of this disruptive technology. These efforts are gaining momentum and they are using block-chain to improve the efficiency and security of their business processes.

The potential uses of Blockchain are innumerable. There are number of possible uses of Blockchain have been suggested that could impact on our profession:

- *Use of Blockchain for Shareholders E-Voting* : Blockchain Technology has been used to record shareholdings and shareholders received voting right assets and voting token assets in accordance with their holdings.

*Eg - The Nasdaq pilot of e-voting in Estonian 2016 AGMs was the first to apply Blockchain technology to corporate voting. In February 2016, Nasdaq announced, in cooperation with the fully digital Estonian government, this Blockchain based e-voting application that allows shareholders that hold shares in companies listed on the Tallinn Stock Exchange to vote remotely in AGMs.*

- *Use of Blockchain Technology in Secretarial Audit* : CS Professionals can perform their audit functions smoothly as they have access to corporate records and financial information, knowing the data has not been manipulated.
- *Use of Blockchain Technology in maintaining Shareholder Registers, making Dividend Payments*

*etc.*: Use of Blockchain Technology helps in maintaining shareholder registers, making dividend payments and conducting corporate actions in a wholly transparent manner. For Eg. Share Registration companies are the first one to deploy the technology.

- *Use of Blockchain Technology in maintaining Corporate Records* : Blockchain technology will also reduce the burden on company secretaries as custodian of corporate records. The technology can be used as a corporate document depository accessible to shareholders and other parties. Corporate records, such as contracts and financial transactions, will be up-to-date and it helps individuals to place greater trust in the integrity of information. This positively impacts the process of due diligence of corporate activities.

Thus we can conclude, company secretaries can bolster the Board's understanding of the organization's key technology strategies, risks, and high-level controls and protocols by keeping in step with relevant technological advancements and opportunities. By embracing this new facet of their role, company secretaries provide the Board with a level of confidence to make IT-related decisions that are strategic, feasible, and impactful all of which results into effective governance.

### **Use of Blockchain Technology by CS Professional in protecting Intellectual Property Rights**

#### *Meaning of Intellectual Property Rights*

Intellectual property rights help in protecting creations of the mind that include inventions, literary or artistic work, images, symbols, etc. If you create a product, publish a book, or find a new drug, intellectual property rights ensure that you benefit from your work. Intellectual property rights are governed by WIPO, the World Intellectual Property Organization. WIPO harmonizes global policy and protects IPR across borders. These rights protect your creation or work from unfair use by others. These Rights include:-

#### *Copyrights and related rights*

Copyrights give authors the right to protect their work. It covers databases, reference works, computer programs, architecture, books, technical drawings, and others.

#### *Industrial property rights*

Industrial property rights include trademarks, patents, geographical indications, and industrial designs.

### **Technological Challenges in field of Intellectual Property Rights**

As there are many successful implications of Blockchain Technology for Company Secretaries, but at the same time the generation, recognition, protection and trading of Intellectual Property Rights are facing many Challenges in the effective application of Information Technology for a long period of time. Currently, IP owners have difficulties in protecting the IP works online, i.e. once the IP work is uploaded on the internet, it becomes difficult to maintain control of that work and to monitor who is using it for what purpose. Another major problem with IP rights management is tracing a complete chain of ownership. Due to the lengthy approval process and national IP regulations, it is very difficult for any user to assure who owns original IP work.

## **Application of Blockchain Technology in field of Intellectual Property**

As we all know that Blockchain technology is a way of creating a shared database, which can record and track transactions and assets. We can say any database or ledger could be created and maintained using Blockchain. It is not governed by any single user, so no centralized version of a ledger exists. It can be widely accessible to the public or to the large groups. The chain is updated with each transaction, so users can see the chronological activity for that particular Blockchain. If there is something on the database, it cannot be removed.

It is an open ledger of information that can be used to record and track transactions. This information is shared on a peer-to-peer network, so all parties can see, exchange and verify it. This allows for transparency among multiple parties who can see what will be entered onto a ledger in advance, without any single party having the ability to change any ledger entries later on. Each transaction or “block” is transmitted to all the participants in the network and must be verified by each participant “node” solving a complex mathematical puzzle. Once the block is verified, it is added to the ledger or chain.

Due to these characteristics, Blockchain can be a useful tool for IP protection, as it could be used to show evidence of registered and unregistered IP rights. It provides evidence of creatorship or functions as means of provenance authentication. Potential Inventors can use Blockchain Technology, to safeguard the novelty of their inventions. A ledger might be created which consist of a short description of the character and goal of the invention. If the inventors want to gain advantage of this technology or how this Blockchain works then the investors have to accept the provisions of an agreement i.e. (“smart contract”). Or Blockchain technology could be used by patent holders who wish to find potential licensees for related know-how and trade-secrets in addition to the patented invention. Inventors might be interested in publishing their technological developments in order to preserve the novelty of the inventions and guarantee their freedom to operate.

### **Blockchain Application in Intellectual Property Registration**

Blockchain helps in technology-based IP registration as it is considered as a Time-Stamping Tool where IP owners will get hashed digital certificates of their IP and These certificates are immutable and cannot be hacked or accessed by other parties. These Certificates are considered as a Proof of Evidence at a given time therefore, they can be used to get royalties from those who make use of their creations and inventions with the help of smart contracts.

As we all know, the waiting time for getting approval of the Invention from patent agencies and are long. Due to this it is very difficult to take the first-mover advantage in many industries where inventors need to act fast in order to protect their inventions and stay at the top. With the help of Blockchain Technology we can replace traditional registration systems and make it easier to not only register new IP but also update filings and transfer ownership at any time. With Blockchain, regulatory agencies will be able to achieve more with fewer resources. Therefore, Blockchain Technology also helps in determining creatorship, proof of ownership and origin.

#### *Blockchain application for storing original works*

As we all know that Blockchain transactions are immutable, so once a work has been

registered to a Blockchain, that information cannot be lost or changed. Blockchain is considered as a Technology-based Global IP registry in which the registration of various IP assets such as Trademark, Copyright & Patents are stored in a distributed ledger by an office and third parties use the Blockchain network to see the complete chain of ownership of a work, including any licenses, sub-licenses and assignments.

#### *Blockchain application for micropayments and licensing with the help of smart contracts*

When the IP work is registered and verified using Blockchain Technology, authors can search across a whole host of different sources simultaneously to ascertain who is using their work. This enables IP owners to identify and stop infringements and makes it easier to license their IP works. Blockchain and smart contracts can be used for licensing IP works by reducing the cost of transactions and creating a direct link between authors/inventors and users.

Smart Contracts helps in facilitating, executing and enforcing a contract by itself. The contractual terms are pre-programmed. This reduces the administrative burden and cost. Using smart contracts, IP licenses can be self-executing upon the use of a work.

Smart contracts can also be used for micropayments for use of content. The author could assign a Bitcoin address to an IP work, which then allows the user to make a micropayment to the author in return for using the work. This system can eliminate the need for financial intermediaries and thus enable the author to remunerate without having to pay the high transactions costs. The system also introduces simplicity and transparency in IP related transactions.

#### *Blockchain application as an enforcement tool*

With the help of the Internet, Digital Information can be infinitely produced and distributed. Because of this feature, Copyright Holders are losing their control over their IP right. With the help of Blockchain -based registration system, it will be much simpler to verify whether a new literary work is or isn't infringing upon the existing IP of a previously-registered literature work. This type of Blockchain-based detection system can be applied to text, art and music with the help of artificial intelligence.

For Eg. Mycelia Project has developed for Music Makers. Mycelia helps the musicians to sell their songs to the license holders as well as to the audience because of Smart Contract automation, the royalty will be credited to them.

### **Other applications of Blockchain Technology**

Although block-chain is still a nascent technology, but in recent years, block-chain technology has reached a wide range of industries, including banking, insurance, financial services, finance, telecommunications, healthcare, and many more, and is spreading to other areas like Supply chain & Logistics, etc. The various applications of Blockchain Technology in different sectors are presented below:

#### *Healthcare*

The Blockchain technology is also used in healthcare sector as when the Reports of a patient are generated, they can be securely stored in Blockchain after digitally signing the

records. This ensures that the patients have confidence that their Healthcare records are intact and cannot be manipulated later without their permission and Knowledge.

#### *Smart Contracts*

Self – Executing Contracts commonly known as Smart Contracts is also another application of Blockchain. Smart Contracts are computer programs that works on Blockchain technology and the Contracts automatically gets executed whenever a predetermined condition is met in a transaction.

#### *Voting*

Many Countries throughout the world have been using digital voting system during elections. As this system is faster and easy for counting, than the paper based system. The use of Blockchain technology can eliminate elections fraud and also maintain transparency and reduce personnel needed to conduct an election.

#### *Blockchain Technology and Real Time Accounting*

The Blockchain Technology can be used to increase audit efficiency as auditors will increase the potential of accounting profession by reducing the cost of maintaining, providing highly secured environment and reconciling ledgers. Blockchain will ensure traceable audit trails, automated accounting and reconciliations, tracking of ownership of assets and authenticating transactions. All accounting transactions will be digitally time-stamped with a cryptographic hash code, which is a unique 64-digit alpha-numeric signature that is recorded to every single transaction. Hash code will make the transaction immutable and transparent while establishing grater security.

#### *Blockchain Technology and Business Process Management*

The traditional Business Process Management (BPM) is concerned with the design, execution, monitoring, and improvement of business processes. Business processes are the series of events executed by an organization to deliver a product or a service to customers. Thus, BPM assists organizations in improving existing business processes, business rules, overall efficiency and management.

### **Benefits of Blockchain Technology**

The numerous advantages of using Blockchain Technology in various fields are:-

#### *Data integrity and Immutability*

Participants can reduce fraud while strengthening regulatory compliance. Once a record has been stored in the ledger, it can only be deleted after a consensus.

#### *Security*

All transactions will be digitally time stamped with a cryptographic hash code; a unique 64-digit alpha-numeric signature is recorded corresponding to every single transaction.

#### *High availability and Accessibility*

Due to decentralized networks, Blockchain Technology data would be complete, timely and accurate.

### *Reliability*

Blockchain Technology it is not regulated by a single control center and there's no single point of failure.

### *Decentralization*

Blockchain is a decentralized technology peer-to-peer transaction, removing the need for a third-party to intermediate, avoiding all the additional overhead cost and transaction fees

### *Transparency and Consensus*

All transactions conducted on the Blockchain Technology are transparent by any counterparty and allow for subsequent audits anytime. The shared ledger includes the details of the original source, destination, time and the date of the transactions

### *Automation*

Blockchain Technology uses Smart Contracts which are self-executed code commands that can be stored and executed on Blockchain.

### *Processing Time*

Using Blockchain technology one can reduce time for processing transactions or records, approximately from 3 days to minutes or seconds.

## **Limitations of Blockchain Technology**

Blockchain technology has also some technical challenges and limitations that have been identified. There are several technical challenges and limitations for the adaptation of Blockchain technology in the future:

### *Cost issues*

Blockchain Technology has initial costs and the use is not free of cost which is a drawback of decentralization. The users have to pay for the transactions and computational power.

### *Data malleability issues*

Data malleability is a potential issue in the Blockchain implementation. The signatures do not provide guarantee of the ownership. An attacker can modify and rebroadcasts a transaction which can cause problems in transaction confirmation.

### *Immaturity of the Technology*

Blockchain is a new technology, represents a complete shift to a decentralized network and might lead to organizational transformation, including changes in strategy, structure, process, and culture.

## **Conclusion**

Blockchain technology provide strong time stamping, proof-of-existence as well as the potential for smart contracts and enabled the creation of distributed, transparent, cost-effective environment open to all and where each transaction is auditable. While applying these characteristics to the different IP and innovation strategies, it could help copyrights to be

enforced more effectively in the context of digitization and render the patent system more efficient and less vulnerable to abuses. Blockchain can support companies willing to keep inventions secret as well as provide a reliable infrastructure for defensive publications.

With the help of above examples we can understand how IP owners can use Blockchain Technology for better control and how they can provide protection to their IP works, improve collaboration and achieve fair and efficient remuneration. Use of this technology has a massive impact on IP rights management in the digital environment by making the process more transparent and efficient, and cutting out financial intermediaries. Blockchain technology will have tremendous impacts on the way the world innovates and protects innovations.

As it is clear from above paragraph that applications of Blockchain appears to be very useful in protection of IP rights , but further research will be required in this field to assess the full potential and possible legal challenges that might arises in the near future.

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## ***FDI in Financial Services Sector in India***

*CS A Sekar\**

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### **Introduction**

Principally, there are four components in the Indian Financial System. These are: -

- Financial Institutions and Financial Intermediaries which includes Banks and Non-Banking Finance Companies (NBFC's) that provides funds;
- Financial Assets, which are the products that are traded and available in the Financial Markets;
- Financial Markets, which are the marketplaces where the buyers and sellers of financial products interact with each other and participate in the trading of various financial products such as a stock exchange; and
- Financial Services, which refer to a bundle of various intangible utilities that are aimed to bridge the gap between those who have the funds and those who need them.

Financial services in India have prevailed since time immemorial. Kautilya's Arthashastra can be said to be the first organized literature on financial service where the rules and regulations of money and mint management are described in some detail. The old instruments, like hundi resemble the bill of exchange or promissory note or bearer cheque of contemporary financial markets.

Financial services can be broadly categorized into two groups namely

- fund based activities and
- non-fund-based activities.

Fund based activities necessarily have the involvement of funds such as

- (i) Underwriting of or investment in shares, debentures, bonds etc. of new issues (primary market activities);
- (ii) Dealing in secondary market activities;
- (iii) Participating in money market instruments like commercial papers, certificate of deposits, treasury bills, discounting of bills etc.;
- (iv) Involving in equipment leasing, hire purchase, venture capital, seed capital etc.;
- (v) Dealing in foreign exchange market activities; and
- (vi) Portfolio management, Venture Capital, Private Equity etc.

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\* *Practising Company Secretary, Mumbai.*

*The views expressed are personal views of the author and do not necessarily reflect those of the Institute.*



Non-funds-based activities are those where intellectual property is used and advices are offered. A fee or commission is charged for rendering such services. These include: -

- (i) Issue Management activities in accordance with SEBI guidelines;
- (ii) Making arrangements for placement of capital and debt instruments with institutions;
- (iii) Arrangement of finance from Banks and Financial Institutions for client projects or for meeting working capital requirements and
- (iv) Assistance for getting various government approvals and permissions

The scope of financial services has in recent times extended to several fee-based activities, to name a few, Corporate Restructuring services, acting as trustees, Management Consultancy Services, Structuring Joint Ventures (JV's) & Collaborations, Risk Management Services etc.

### **Relevance of financial services sector to India's economy**

The service sector in India has been witnessing a boom in recent times. The Indian financial services sector along with Information Technology (IT)/ IT enabled services (ITES) sector have over the last more than a decade led the growth of India's service sector. The services sector which in FY 2000-01 had a share of 29.2% of India's Gross Domestic Product (GDP) has now grown to 55.17% of its GDP in FY 2019-20. The financial services sector has contributed to 6.07% of India's GDP in FY 2019-20<sup>1</sup>. The contribution of this sector becomes more apparent when one looks at the employment generation and its contribution to the exchequer in the form of tax revenues and dividend collection. Even more crucial is the ability of the financial services sector to ensure that affordable credit line is maintained to industry and other important sectors of the economy. While India's growth story has attracted Foreign Direct Investment (FDI) to almost all the important sectors of the Indian economy, FDI in service sector in general and in financial services sector in particular have attracted foreign investors significantly.

### **Overview of regulatory framework of FDI**

From a regulatory perspective of Foreign Exchange Management Act, 1999 (FEMA), there are two types of transactions namely – Capital Account Transactions and Current Account Transactions.

Capital Account transaction means a transaction which alters assets or liabilities including contingent liabilities outside India of person resident in India and vice-versa. It is an economic definition rather than an accounting or legal definition. Current Account transaction is transaction other than a capital account transaction. A simple principle to be remembered is that Current Account Transactions are freely permitted, unless prohibited, whereas Capital Account Transactions are prohibited, unless permitted and wherever permitted the prescribed conditions have to be followed.

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1. <https://statisticstimes.com/economy/country/india-gdp-sectorwise.php>

Primarily, it has to be understood that FDI is a Capital Account Transaction.

A significant amendment to the regulatory framework of FDI was made on 15th October, 2019 by two significant amendments in FEMA, namely Section 6 and Section 46.

As per the amended Section 6 of FEMA

- Reserve Bank of India (RBI) will govern capital account transactions involving debt instruments;
- Central Government (CG) will govern capital account transactions involving non-debt instruments, limits and other conditions and
- Debt instruments would be determined by CG in consultation with RBI.

As per the amended Section 9 of FEMA

- CG is empowered to determine instruments to be debt instruments under Section 6(7) and
- CG has power to stipulate permissible classes of Capital Account transactions as per Section 6(2A) of FEMA with reference to limits, prohibition or regulation of such transactions.

Pursuant to these amendments, the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 (NDI Rules) were notified by the CG.

The concept of Debt Instruments and Non-Debt Instrument is of great importance.

As per Rule 2(f) of NDI Rules, Debt Instruments means all instruments other than Non-Debt Instruments defined in Rule 2(ai) of the said rules.

Rule 2(ai) of NDI Rules defines the Non-Debt Instruments to mean the following namely:

- (i) All investments in equity in incorporated entities (public, private, listed and unlisted);
- (ii) Capital participation in limited liability partnerships;
- (iii) All instruments of investment as recognized in the foreign direct investment (FDI) policy as notified from time to time;
- (iv) Investment in units of alternative investment funds (AIFs), real estate investment trusts (REITs) and infrastructure investment trusts (InVITs);
- (v) Investment in units of mutual funds and exchange-traded funds (ETFs) that invest more than 50% in equity;
- (vi) The equity tranche of a securitization issue;
- (vii) The acquisition, sale or other direct dealing in immovable property;
- (viii) Contributions to trusts; and
- (ix) Depository receipts issued against equity instruments.

Also important are the following definitions: -

“FDI” or “Foreign Direct Investment” is defined in Rule 2(r) of the NDI Rules to mean investment through equity instruments by a person resident outside India in an unlisted Indian company; or in ten per cent or more of the post issue paid-up equity capital on a fully diluted basis of a listed Indian company. It has been clearly provided that in case an existing investment by a person resident outside India in equity instruments of a listed Indian company falls to a level below ten percent, of the post issue paid-up equity capital on a fully diluted basis, the investment shall continue to be treated as FDI.

Schedule I (Clause 3(a)) defines the Entry Routes for FDI namely

- (i) “Automatic Route” means the entry route through which investment by a person resident outside India does not require the prior approval of RBI or Government.

In the case of Foreign Portfolio Investment, foreign investment limits up to 49% of paid-up capital on a fully diluted basis or the sectoral cap limits whichever is lower, will not require Government approval

- (ii) “Government Route” means the entry route through which investment by a person resident outside India requires prior Government approval. Foreign investment received under this route shall be in accordance with the conditions stipulated by the Government in its approval.

In all cases, whether the entry route is through “Automatic Route” or “Government Route”, reporting requirements as stipulated in the NDI Rules have to be complied by the company receiving FDI.

The NDI Rules is divided into 9 Chapters, 33 Rules and 10 Schedules.

A snapshot of the NDI Rules is as given below: -

<i>Chapter</i>	<i>Rules</i>	<i>What it covers</i>
I	1 to 2	Preliminary – Short Title & Definitions
II	3 to 5	Restrictions / Permissions for making investments in India by Persons Resident Outside India
III	6	Investment by Persons Resident Outside India (Schedule I, VI, VIII and IX)
III	7	Rights or Bonus Issue
III	8	ESOP/ SWEAT EQUITY
III	9	Transfer of Equity Instruments
IV	10-11	Investment by Foreign Portfolio Investors (FPI)
V	12-13	Investment by NRI / OCI
VI	14-15	Investment by other Non-Resident Investors
VII	16-17	Investment by FVCI
VIII	18	Issue of convertible notes by Indian Start Up Company

VIII	19	Merger or Demerger of Amalgamation of Companies
VIII	20	Reporting requirements
VIII	21	Pricing guidelines
VIII	22	Taxes and remittances of sales proceeds
VIII	23	Downstream Investments
IX	24-33	Acquisition and Transfer of Immovable Property in India

*Source: Compiled by the Author*

<i>Schedule No.</i>	<i>Nature of Investment by a Person Resident Outside India (Non-Resident)</i>
1	Purchase/ Sale of capital instruments of an Indian company by a Non-Resident [Rule 6(a)]
2	Investment by Foreign Portfolio Investors [Rule 10(1)]
3	Investments by Non-Resident Indian (NRI) or Overseas Citizen of India (OCI) on repatriation basis [Rule 12(1)]
4	Investment by Non-Resident Indian (NRI) or Overseas Citizen of India (OCI) on Non-Repatriation basis [Rule 12(2)]
5	Investments by other Non -Residents [Rule 14]
6	Investment in a LLP [Rule 6(b)]
7	Investment by a Foreign Venture Capital Investor (FVCI) [Rule 16]
8	Investment by a Non-Resident in an Investment Vehicle [Rule 6(c)]
9	Investment in a Depository Receipt (DR) by a Non-Resident [Rule 6(d)]
10	Issue of Indian Depository Receipts (IDR) by Companies Incorporated outside India [Rule 10(2)]

*Source: Compiled by the author*

### **Regulation of FDI in the Financial Services Sector**

The Consolidated FDI Policy issued on 15th October, 2020 stipulates that Investment in financial services other than those indicated in the policy specifically will require Government approval. It should be noted that the Central Government has notified the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 (NDI Rules) with effect from 17th October, 2019 and there have been a few amendments to it. The FDI policy states very clearly that in the case of any conflict of the policy with the prevailing NDI Rules, the provisions in the notified NDI Rules will prevail.

The FDI policy as well as the NDI rules have identified 9 distinct financial services in respect of which there is clarity about the financial sectoral regulator. In these cases, the sectoral cap and the route - whether Automatic or Government approval route has been specified. In respect of those financial services, not falling within the purview of the 9 distinctly identified

services, but where there is an identified financial services regulator, it is eligible for automatic route up to 100%. However, where there is a doubt about the financial services regulator, such FDI can come in only through the Government approval route. The following table summarises the position: -

<i>Serial No. of NDI Rules / Para No. of FDI Policy</i>	<i>Description of Services</i>	<i>%</i>	<i>Route</i>
F1 / 5.2.17	Asset Reconstruction Companies	100%	Automatic
F2/5.2.18	Banking Private Sector	74%	Automatic up to 49% and Government route beyond 49% up to 74%
F3/5.2.19	Banking – Public Sector, subject to Banking Companies (Acquisition & Transfer of Undertakings) Acts, 1970/ 80. This ceiling is also applicable to the State Bank of India.	20%	Government route
F4/5.2.21	Infrastructure Companies in the Securities Market namely, stock exchanges, commodity exchanges, depositories and clearing corporations, in compliance with SEBI Regulations	49%	Automatic route
F5	Commodities Exchange (Investment shall be subject to guidelines prescribed by the Central or State Government)	49%	Automatic route
F6/5.2.24	Power Exchanges [under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010]	49%	Automatic route
F7/5.2.20	Credit Information Companies	100%	Automatic route
F8/5.2.22.1	Insurance Companies	74%*	Automatic route
5.2.22.2	<b>Intermediaries or Insurance Intermediaries</b> including insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, Surveyors and	100%	Automatic route

Loss Assessors and such other entities, as may be notified by the Insurance Regulatory and Development Authority of India from time to time.

F9/5.2.23	Pension Sector	49%	Automatic route
5.2.25	White Label ATM Operations	100%	Automatic route
F10/5.2.26	Other Financial Services, which are regulated by a financial sector regulator	100%	Automatic route
	Other Financial services where there is doubt regarding regulatory oversight or where only part of the activities are regulated by a financial sector regulator and these shall also be subject to minimum capitalisation norms as may be decided by the Government.	100%	Government route

\* Increased from 49% to 74% vide Press Note No.2 – 2021 dated 14.06.2021

Source: Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 read with Consolidated FDI Policy 2020

## Road Ahead

On the basis of India's domestic requirement of financial services, the FDI that has come in over the last two decades is in itself commendable and in terms of demand for various financial services there is greater potential for growth. This can be seen from the following facts and trends<sup>2</sup>: -

- **NBFC's** : They cater to 80% of equipment leasing and hire purchase activities in India. There were 9659 NBFC's as at 31st March, 2019. The public funds of NBFC's increased from US\$ 278.23 billion in FY 2016 to US\$ 470.74 billion in FY 2020 representing a CAGR of 14.04%.
- **Mobile Wallets** : India's mobile wallet industry is estimated to grow at a CAGR of 148% to reach US\$ 4.4 billion by 2022. In June 2021, United Payments Interface (UPI) recorded 2.80 billion transactions worth Rs. 5.47 lakhs Crores (US\$ 73.42 billion).
- **Digital Transactions** : Indian Companies are strengthening presence in other countries thereby enhancing their geographical exposure. The volume of India's digital payments is expected to increase to US\$ 1 trillion by 2023. The number of transactions through Immediate Payment Service (IMPS) was 279.81 million amounting to Rs. 2.66 trillion (US\$ 40.85 billion) in value in May 2021.

2. [www.ibef.org](http://www.ibef.org) – Report on Financial Services, July 2021.

- *Growth in General Insurance* : India's general insurance market is expected to grow at a Compounded Annual Growth Rate (CAGR) of 6.2% over 2019-2023.
- *Increasing Gross National Savings* : India's gross national savings at 28% of its GDP in 2019 (down by 2.71% from 2016 to 2019) is still quite high by international standards and presents an untapped potential.
- *Rising scope for Wealth Management* : India is one of the fastest growing wealth management markets in the world. The number of Ultra – High Net Worth Individuals (HNWI) in India is projected to grow by 73% from 5,986 in 2019 to 10,354 in 2024.
- *Untapped potential in Rural India* : Two-thirds of India's population lives in rural areas where the inroads made by financial services are still limited. However, Rural India has shown steadily increasing trend in its income, thereby creating a significant market for financial services which can be tapped. Use of Information Technology coupled with ITES is expected to lead this paradigm shift with respect to Rural India. The Rural India offers a huge potential market with respect to Agricultural, Livestock and Weather Insurance.
- *Rising Equity Markets and Corporate Earnings* : Growth in financial sector can be attributed to and reflected in the rise in the Equity Markets and Corporate Earnings.

However, what is going to be more exciting in the landscape of financial services are these two areas namely “Fintech services” and “International Financial Services Centre (IFSC)” which are expected to fuel India's growth story in the upcoming decade or two.

### ***Fintech Services***

Amidst the gloom brought about by COVID-19, the foreign investments in the Fintech sector got a big boost in 2020. Companies providing these services are called “Fintech Companies”. The term fintech refers to the synergy between finance and technology, which is used to enhance business operations and delivery of financial services. Fintech can take the form of software, a service, or a business that provides technologically advanced ways to make financial processes more efficient by disrupting traditional methods<sup>3</sup>. The number of financial services foreign direct investment (FDI) projects reached 36 last year (January to November data) from 14 projects five years earlier, according to Financial Times-owned data monitor “fDi Markets”<sup>4</sup>. The following are the technologies that contribute to Fintech<sup>5</sup>:-

- a) *Artificial Intelligence (AI) and Machine Learning (ML)* which offer a great potential in the financial services in the form of its applications inter alia in Credit Scoring, Fraud Detection, Regulatory Compliance and Wealth Management.
- b) *Big Data and Data Analytics* which offer high value through extracting of valuable information through large datasets about consumer preferences, spending habits and

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3. <https://corporatefinanceinstitute.com/resources/knowledge/finance/fintech-financial-technology/>

4. <https://www.thebanker.com/World/Asia-Pacific/India/Fintech-drives-Indian-financial-services-investment>

5. *Ibid* 3

investment behaviour that can be used for predictive analysis as also for formulating marketing strategies and fraud detection algorithms.

- c) *Robotic Process Automation (RPA)* which refers to the process of assigning manual and repetitive tasks to Robotics instead of humans for the purpose of streamlining workflow in financial institutions. Some of the popular applications of RPA are in Statistics & Data Collection, Regulatory Compliance Management, Transaction Management and Communication / Marketing through e-mails and chat-box.
- d) *Blockchain* which finds large scale application internationally due to its capability to securely store transaction records and other sensitive data in the sense that each transaction is encrypted thereby substantially reducing chances of a successful cyber-attack. Blockchain technologies are therefore the backbone of many cryptocurrencies.

### ***International Financial Services Centre (IFSC)***

International Financial Services Centre (IFSC) has the potential to become an investment gateway for India. The setting up of the IFSC in India is aimed at tapping global capital flows to meet India's development needs and simultaneously provide international issuers a globally competitive financial platform for the full range of international financial services. Though the IFSC was launched in Gujarat's GIFT city at Gandhinagar in the first instance in 2015, it was initially regulated by the domestic financial regulators, namely, RBI, SEBI, PFRDA and IRDAI until the setting of the IFSC Authority (IFSCA) on April 27, 2020 under the International Financial Services Centres Authority Act, 2019, with its headquarters at GIFT City, Gandhinagar in Gujarat. The IFSCA has been established as a unified regulator with a holistic vision in order to promote ease of doing business in IFSC and provide world class regulatory environment. The main objective of the IFSCA is to develop a strong global connect and focus on the needs of the Indian economy as well as to serve as an international financial platform for the entire region and the global economy as a whole.<sup>6</sup>

The IFSCA in the first instance issued a consultation paper to seek comments / views from public on the proposed regulations for issuance and listing of various securities in International Financial Services Centres (IFSC) in India. After this process, the "International Financial Services Centres Authority (Issuance and Listing of Securities) Regulations, 2021" has been notified with effect from 16th July, 2021. A perusal of these regulations reflects the intent of the Government to truly make India an alternative international financial hub in the wake of the restructuring of the global equations and take advantage of India's competitive strengths in continuing to showcase the country as an attractive FDI destination thereby also working towards Aatma Nirbhar Bharat.

### **Role of Company Secretary (CS) in Governance in the Financial Services sector**

Corporate Governance occupies an important place in every sector and more so in the financial services sector, where technological advancements, financial innovations in the form of new products and services, digital revolution and the demands of the stakeholders require

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6. <https://www.ifsc.gov.in/Pages/Contents/AboutIFSCA>



that the governance framework responds at a matching speed. The requirement in the emerging scenario is for not only adopting the best practices but also to demonstrate that the best practices are adopted. With financial services being regulated by multiple regulators such as RBI, SEBI, IRDA, PFRDA etc., depending upon the nature of the financial services, the CS, whether in employment or in practice by virtue of his / her academic background, knowledge in terms of understanding of key issues and experience in the design and functioning of compliance systems and governance framework is well placed to ensure that the compliances are ensured not only in letter but also in spirit, which will go a long way in strengthening governance in the entities in the financial services sector.

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## ***Thought Leadership***

### ***A Lesson for CS for Achieving Professional Excellence***

*Dr. S. K. Gupta\**

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#### **Who is a Thought leader ?**

*“The world is begging for you to lead.” — Seth Godin*

‘Thought leader’ is the new buzzword in the business world. A thought leader is an individual or firm that is recognized as an authority in a specialized field and whose expertise is sought and often rewarded. Thought leaders are the informed opinion leaders and the go-to people in their field of expertise. Thought leadership is commonly discussed in the business world, and to the average person, it may sound like another annoying corporate buzzword. But behind the jargon is the honest and admirable ambition of being viewed as a credible industry expert, one who cuts through the "noise" and offers something worth listening to. Thought leadership involves a combination of expertise and cutting-edge thinking. A thought leader is someone who excels in a particular field to create a difference.

A thought leader as an individual who is “one of the foremost authorities in selected areas of specialization” and who “significantly profits from being recognized as such.” These individuals, recognized and rewarded for their technical expertise, but this definition of thought leadership doesn’t keep up with the latest research and scholarship on leadership, which suggests that leaders require much more than technical expertise for effective leadership. Research shows there are three essential qualities, beyond technical expertise, that define good leadership—mindfulness, emotional intelligence, and strategic thinking. If what we consider “good” leadership has changed, then why hasn’t our conception of “good” thought leadership changed too? It’s time for a more nuanced conceptualization.

Thought leaders should not just be individuals who produce valid scientific ideas and observations rooted in their expert knowledge. They ought to be individuals who read complex business situations well and can bring out the best in other people. In other words, a thought leader should lead others to think—and thereby to innovate, self-motivate, and reach their highest potential. Inspiring other people in this way requires personal traits and skills that far exceed expert knowledge.

#### **What to expect from a thought leader**

1. You must, firstly, have original, interesting, thoughts. It's hard to be a thought leader unless you are first. Regurgitating popular concepts does not count.

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\* Managing Director - ICAI Registered Valuers Organization.

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2. A thought leader is an expert on the body of work that led them to their original thoughts. Expertise is a prerequisite to thought leadership because real thought leadership extends the thinking of all other experts along new trajectories. Other people have to acknowledge that your original thoughts are useful and valuable.
3. It isn't enough to come up with new stuff, it has to be new stuff that people can actually use. Otherwise, what's the point?
4. A real thought leader has more than one idea. They have a track record of creating new trajectories for expertise to follow.
5. A thought leader has not only new original thoughts, they have great stories to explain why their original thoughts are relevant and how they can be used. They aren't theorists. They're practitioners with experience of putting their ideas into action.

The idea of becoming a thought leader is a nebulous and confusing concept to grasp. Every leader's approach is different, and there's no secret formula to success. Becoming a thought leader doesn't happen overnight. It takes time ' not to mention a willingness to share the 'secrets' of your success. The term thought leader is the highest of compliments, and arguably the hardest moniker to achieve. It's not enough to be good at what you do; a thought leader is meant to be the greatest form of praise, geared towards someone who is on the absolute cutting edge of their industry or making big enough moves to warrant the distinction.

According to Forbes, the term thought leader is only reserved for those who are "capitalizing on the dramatically enhanced brand equity attained by being a thought leader." Thought leaders possess an innate ability to contribute to the conversations happening today, while also being able to speculate on what is going to happen tomorrow. One great aspect of thought leadership is, yes, you earn a position in your industry as a trusted and influential authority. But, it's also a position that you monetize. It's not just about being a great source of wisdom and knowledge. It's also about building your business around your thought leadership.

"I believe thought leaders are not only on the cutting edge in terms of their ideas, but also know how to inspire and influence others," said Walt Rakowich, a leadership speaker and the retired CEO of ProLogis. "Leaders can have great ideas, but true thought leaders have the courage to express their ideas and inspire others to implement them."

### **Establishing yourself as a thought leader – Guru mantras**

An effective thought leadership program is hard to describe and even harder to execute because it is a new management practice that requires a unique blend of art and science. Thought leaders do come in every shape and size, they do come from any background or community and they can be any age, gender or ethnicity. That said, not just anyone can be a thought leader. Thought leadership takes time (sometimes years); knowledge and expertise in a particular niche; a certain level of commitment and a willingness to buck the status quo or the way things have always been done. Thought leadership isn't something you create overnight. However, over time, with the right action steps and approach you can become a thought leader.

*Choose your specialty* : Don't be a generalist, be a specialist. "Get rich in a niche." Go an inch wide and a mile deep. Generalists try to be all things to all people and diversify too much; they go a mile wide and an inch deep and lack the depth that specialists have. Thought leaders have deep expertise in a specific subject. Clarify your area of expertise (and stick to it). Don't attempt to be a thought leader in every area related to your industry. Instead, focus on what you know best and hone in on that message repeatedly. It's more effective to go deep on a few topics, than to spray across too many complementary topics

*Ignite your passion* : Be a devotee. That is, devoted to your specialty, your chosen niche. Understand what truly motivates you. What puts the fire in your belly that makes you leap out of bed in the mornings? What would you do all day every day, even if you didn't get paid? You'll need to tap into this well of passion and devotion on the days when the ride gets bumpy or when you have to deal with a misstep, for example. It's your passion that will sustain you.

*Develop your own unique style* : The world doesn't need any more 'me too's.' Cultivate your unique viewpoint and personality. Stand out from the crowd. Study what other professionals are doing and focus on authentically differentiating yourself. "Thought leadership is not about being known; it's about being known for making a difference."—Denise Brosseau.

*Write more* : A thought leader is an authority. The root word of 'authority' is 'author.' If you want to establish yourself as an authority, you simply must write more. Publish regular blog posts, articles, and/or an email newsletter. Or, if writing is not your thing, at least find your favorite vehicle for publishing content – it may be audio (e.g. podcast) or video instead or as well as print. The key is to get your voice (thoughts) out there as much as possible. Do have high standards and don't get caught up in just cranking out anything for the sake of having content. It has to be high quality and relevant to your audience. Do a gut-check before each post. Before you share anything online, ask yourself, "What is my deepest intent?" "Do I have an agenda here?" Do your best to stay away from anything self-serving. Rather, focus on serving others and you'll deserve amazing success. Deserve comes from the Latin root "de servus": of or from service.

*Speak more* : If you're just starting out in your particular current career path, you might consider accepting as many speaking invitations as you feasibly can. This will give you tremendous visibility, assuming the stages and audience are the right ones for you. If public speaking is not your thing, do it anyway! Practice, practice, practice. You're not limited to physical stages at in-person events. Proactively seek out virtual stages, too. What online events, tele summits, and webinars can you contribute to? Also, seek out guest opportunities on radio and podcast shows. Anytime someone has a chance to hear your voice expressing your thought leadership, you increase your chances of getting more invitations to speak!

*Focus on quality over quantity* : This goes for both the audience you're building and the content you share. With the audience, it's not a competition or race to get the "biggest numbers." That's a fear of running out of people and with seven billion of us on the planet, there are plenty folks to reach! With content, be rigorous about only creating and curating the best quality articles, posts, and resources. You'll become known as someone with high standards and a trusted go-to person in your industry. Over time, with a quality network and quality content, you'll exponentially build your presence and business.

*Build your tribe* : If you'd like to get on the fast track to building an audience, find ways to do so proactively. Remember to also engage; respond to your @ mentions on Twitter and comments on Facebook. Consistent quality content + engagement + passionate caring = Growth.

*Listen deeply to your audience* : Get to know your people inside out. What are their needs, wants, desires, hopes, and dreams? How can you be their #1 trusted resource? How are your competitors servicing their customers? Is there a gap that you can fill? "The most important thing in communication is to hear what isn't being said." —Peter F. Drucker. Tap into your Facebook Insights to gather more data on your audience. Also, try out the advanced analytics of services like SocialBakers.com.

*Work with mentors and influencers* : Talk to them about your passions and innovative professional ideas. You can observe how they started and have now achieved the stature of a thought leader.. You can read and reflect on what they say on their blogs and social media platforms, and during their speaking engagements

*Create your own body of work* : As you produce your own content that you put out there for free, you should definitely also carve out time to create your own models, your own graphics and infographics – your own body of work. You can turn this body of work into information products, books, courses and live events all of which you offer for sale. "Becoming a thought leader is about making money and making history." —Forbes.com. Thought leadership is about constant growth and not about making the bet early and hoping you are not wrong. It is a path of perseverance and willingness to examine why something you think should work isn't working and then to remodel it into something more efficient, or abandon it entirely for a better position.

*Weave your story* : You can lead those who can relate to you. That is the one hook that needs to be in place in order to make things work. You will have to show them the real you. Only after this can you build a strong presence for yourself online through blogging or different marketing strategies. So look into yourself and embrace your experiences. Find the incidents that moved you, changed you and shaped your outlook on the world, and be sure to share them with whoever crosses your path. Being a thought leader involves putting yourself in the spotlight. Make use of your innate skills and sell your ideas that can be the instrument of change for others.

*Build your ripples of influence* : To build your first ripples of change, you'll test your ideas and opinions (often not yet fully baked) with knowledgeable stakeholders— colleagues, mentors and friends — gather their input, and continually refine your thinking. By listening to what resonates, you will distill many different points of view and those conversations will also inform you how to position and leverage your message to tell a bigger story.

*Codify your lessons learned* : The essential difference between leaders and thought leaders is often the latter's ability to distill their know how into a replicable model so that others can be inspired and empowered to expand on what those leaders have accomplished. To codify your ideas will require that you test and refine a repeatable and scalable blueprint for others.

*Put your "I" on the line* : To build sustainable momentum for a new idea requires someone to show the way, someone willing to step into the limelight and say "follow me." To do this,

you must be willing to "put your 'I' on the line" --- overcoming any self-imposed limits to standing front and center and risking your reputation to espouse a new direction or vision of the future, often long before others agree with your point of view.

*Incite (R) Evolution* : Has the transformation you've envisioned and worked towards begun to take hold? Now it's time to audit your progress to ensure that you gain traction for your ideas. As you accelerate and amplify your voice, you'll increase your influence, expand your impact and build a sustainable community of followers that will carry forward your efforts. Having followers will help you to prevent burnout as you bring about the evolutionary and even revolutionary change that will be your legacy.

*Attend industry conferences* : Whether you do public speaking or not, for sure research a variety of live events that you can attend locally and nationally, possibly internationally, as well. There's tremendous benefit to attending industry conferences: they are often terrific places to see and be seen. You can connect with influencers and industry leaders and begin to foster genuine relationships. Be sure to take plenty photos and post on your social sites, if appropriate!

*Create 'Radical Strategic Visibility'* : 'Radical Strategic Visibility' means you're seen in all the right places, by the right people, at the right times. This goes for both the online world and online. It's a power-blend of both. Depending on where you are at with your career path/business growth, you may wish to be more aggressive in seeking out opportunities to speak, write and provide your expert input. By diligently and passionately writing, speaking, and proactively seeking appropriate opportunities to get your voice out there, the compound effect will naturally kick in. Before you know it, people will be saying to you, "I keep seeing you everywhere." To which you respond, "Fantastic! My marketing is working!"

*Seek first to understand then to be understood* : The more visible you become through social media, the greater the possibility that not everyone will resonate with you ... and some will feel the need to contradict you. If you find yourself in the midst of a challenging situation, best you can, listen very, very intently to what's being said (and what's not being said) before stating your position. Or, in some cases, silence may be the best solution.

*Build everyone up* : By being a beacon of light and love to everyone you meet – online and offline – you can really make a difference to peoples' days. Encourage and acknowledge others; be personal and use their first name wherever appropriate. A simple 'Thank you,' or 'Congratulations,' or 'You go girl!' can make a huge impact.

*Keep a sense of humor* : Don't take yourself too seriously. Yes social media marketing is about building your own platform, and you do need to toot your own horn. However, by bringing levity to your interactions, you'll show others that life was not meant to be taken so seriously!!if leadership is about setting people's directions, then wit and humor are powerful tools to get them moving, turning work into play and chores into delights.

### **Are there risks to being a thought leader?**

Yes, there are some risks – you will be in the spotlight, which means you may take some pretty painful arrows. Besides the external arrows, making the journey from leader to thought leader is also an internal dialogue – one that often requires some soul searching and the

willingness to, as I call, it ‘put your “I” on the line’ – step into the spotlight as the person who is ready to lead the way. If you are facing that crossroads, ask yourself, "If not me, then who?" ‘Thought leadership’ is a controversial term.

### **The way forward**

Thought leadership is the key that unlocks a whole new level of professional accomplishment and achievement as well as career and personal satisfaction. Thought leadership also leads to invitations to join corporate boards, serve on government commissions and participate in industry-wide committees – opportunities to raise your profile from the local to the national to the international stage. They possess an innate ability to contribute to the conversations happening today, while also being able to speculate on what is going to happen tomorrow. Rather than chime in on every topic, they set the pace for the industry and offer intelligent insights and informed opinions. So Set your sights on becoming a thought leader. Take your focus off the ‘fame’ and ‘fortune.’ Take your focus off of building a ‘massive audience’ and accumulating as many fans and followers as you can. Instead, put your focus on truly mastering your subject matter, adding incredible value at every opportunity, and proactively creating as much visibility as possible

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## ***Dynamic Regulatory Framework – Meeting the Need of the Hour***

*CS Bidisha Achari\**

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### **INTRODUCTION**

“India is full of confidence, full of new energy along with possibilities. Over the years, India has placed a lot of emphasis on reforms and incentives-based stimulus”<sup>1</sup>.

The year gone by has been challenging and Indian economy, which had been witnessing an impressive growth, has been imperilled by the situation that was created by the pandemic and the consequent shutdown. The economy pummelled as a result and the GDP contracted by a whopping 7.3% in 2020<sup>2</sup>.

The corporate sector has the most vital role to play in the Indian growth story. However, the past year has been challenging to say the least for most of the corporates, especially the ones in the medium and small sector. Herein, under such desperate scenario, the regulator had to step in to provide much needed regulatory reliefs to protect the existing businesses as well as incentivise entrepreneurship, protect jobs and safeguard interest of all stakeholders.

### **ROLE OF THE REGULATOR**

The Ministry of Corporate Affairs (MCA) is the regulator of the corporate sector as it is concerned with the administration of the Companies Act, 2013 and the Limited Liability Partnership Act, 2008, under which any entity seeking a corporate structure is required to mandatorily register.

It envisions to be a facilitator of world class governance of corporates through the administration of the Companies Act, 2013, the Insolvency and Bankruptcy Code, 2016, the Competition Act, 2002 and certain other allied statutes<sup>3</sup>.

Moreover, the MCA broadly has two pronged functions, viz., (i) Policy functions - involving formulating legislature and subordinate legislature; and (ii) regulatory functions - involving administration of Acts and rules thereunder.

That apart, corporates whose securities are listed on a stock exchange in India are also subject to the regulatory regime of the Securities And Exchange Board of India (SEBI) which

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1. *From the Indian PM's address at the World Economic Forum's Davos Dialogue.*
  2. *The International Monetary Fund (IMF) country data.*
  3. *Vision 2019-2024 – Ministry of Corporate Affairs, Government of India.*

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\* *Practising Company Secretary.*

*The views expressed are personal views of the author and do not necessarily reflect those of the Institute.*



regulates the securities market in India. Further, depending on the type of business activity, corporates may be subject to the regulation of other sector specific regulators including the Reserve Bank of India, the Insurance Regulatory and Development Authority of India, etc.

Herein, the role played by the MCA, being the regulator of the corporate sector is being discussed.

## **FOCUS AREA**

The ministry's role includes undertaking new policy initiatives for improving the legal framework for investment and corporate growth. So, on the one hand the government's policy is focused on protecting and safeguarding the interests of the investors in the corporate sector while on the other hand it tasked to stimulate or encourage the growth of the corporate sector.

The regulatory framework for the corporate sector is dynamic with the ever-changing business environment within the country and outside. Businesses are evolving at a never-before-seen pace and the Companies Act, 2013 is also continuously evolving according to the changing scenario to provide greater ease of doing business.

In the recent past, the ministry has taken a slew of initiatives, to augment growth of the corporate sector which in turn would translate into employment generation, increased tax revenue, growth in GDP and other incidental benefits.

Various path-breaking initiatives have been undertaken to augment such growth in entrepreneurship including introducing One Person Companies (OPCs) as a type of business structure, omitting the minimum capital requirement for incorporation of a business, establishment of Central Registration Centre (CRC) for speedy and cost-effective incorporations of corporates in line with international best practices, insolvency resolution of sick corporates in time bound manner and so on.

Therefore, we can infer that the focus of the regulator behind all these initiatives has been to promote 'Ease of Doing Business' and emerge as a global hub for businesses.

## **REGULATORY FRAMEWORK**

The Companies Act, 2013 (the Act) that was notified by the central government on 30th August, 2013 and which replaced the erstwhile Companies Act, 1956, has a predominantly different approach towards the regulation of the corporates. The provisions of the new Act 'provide the corporate sector an opportunity for self-regulation, while mandating greater transparency and enhanced disclosures for improved compliance'.

The Act which in most parts came into effect from 1st April, 2014 has seen dynamic changes over the 7.5 years that it has been in existence. Although the Act is relatively new, a large number of changes have been brought into the Act in such short time span. It has been evolving with the rapid changes in businesses in the country and the changes in the government's policies towards regulating those businesses.

‘Amendment Acts’, were notified to amend various provisions of the Act in the years 2015, 2017, 2019 and 2020 apart from Ordinances to amend the Act in the years 2018 and 2019. The Companies (Amendment) Act, 2015 was brought out in order to facilitate ease of doing business to tackle challenges pointed out by World Bank in its Report “Doing Business 2015”. It brought in major changes to the Act including - omitting requirement of minimum paid-up capital at the time of incorporation, prescribing specific punishment for deposits accepted under the new act to deal with defaults in repayment to depositors, prescribing thresholds beyond which frauds shall be reported to central government, etc.

Likewise, the Companies (Amendment) Act, 2019 provided amongst others - re-categorization of 16 minor offences as purely civil defaults which will de-clog Special Courts, to make non-maintenance of registered office and non-filing of declaration of commencement of business as grounds for striking off name from register of companies, stringent provisions for creation and modification of charges, etc.

## **RECENT REGULATORY CHANGES**

The last few years have seen numerous changes being brought into the Act in quick succession. From such amendments it is clear that the government is seriously looking at ramping up business practices and corporate governance in the country to match it with the global best standards.

A slew of measures has been taken by the ministry in the last year specially to encourage entrepreneurship in order to (i) provide immediate reliefs to the burdened corporate sector, especially the smaller corporates, from the economic slowdown, (ii) improve investor’s confidence in Indian businesses through reliable disclosures and (iii) improve India’s standing globally in the Doing Business index.

### **I. Ease of Business:**

In order to provide impetus to entrepreneurship in the country, attract foreign investments and improve the overall business regulatory environment in the country, the government has in the past year taken various pro-business measures including:

#### **1. Compliance relaxations :**

Due to the outbreak of pandemic and consequent nationwide shut down, the MCA provided various relaxations to companies from routine compliances under the Act, including:

- i) Introduction of the Companies Fresh Start Scheme, 2020 (CFSS-2020), giving opportunity to defaulting companies to enable them to file their belated documents in the MCA registry without additional fee by condoning their delay and granting immunity from launching of prosecution or proceedings for imposing penalty on account of delay of certain mandatory filings<sup>4</sup>.

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4. MCA General Circular no. 12/2020 dated 30/03/2020.

- ii) Introduction of a scheme for condonation of delay for companies restored on register of companies between 01/12/2020 to 31/12/2020 by order of Hon'ble NCLT under section 252 of the Act, wherein such company's delay in filing forms with ROC is condoned and without payment of any additional fee. This scheme was operational from 01/02/2021 and available for filing of any overdue e-forms by such companies till 31/03/2021<sup>5</sup>.
- iii) Insertion of Rule 12A to the Companies (Share Capital and Debentures) Rules, 2014, whereby period of notice of Rights offer, under Section 62(1)(a)(i), stating the time period within which the offer shall be made for acceptance, has been reduced from 14 days to not less than 7 days from the date of offer<sup>6</sup>.
- iv) File abridged form of Annual return under section 92 of the Act in Form No. MGT-7A by One Person Companies and small companies would henceforth be required<sup>7</sup>.
- v) Extension of the mandatory minimum time gap between two consecutive meetings of board of directors by a period of 60 days for the first 2 quarters of FY 2021-22, i.e., the gap between two consecutive meetings of board of directors of a company may extend to 180 days during April-June 2021 and July-Sep 2021 quarters<sup>8</sup>.
- vi) Allowing companies whose Annual General Meeting were due to be held in 2020 or became due in 2021 to conduct the same on or before 31/12/2021<sup>9</sup>.
- vii) Allowing all matters to be decided at Board meetings to be deliberated and resolutions passed by board members through video conferencing or other audio-visual means. The measure is intended to increase flexibility to boards for conducting businesses and provide further ease of doing business<sup>10</sup>.
- viii) Allowing companies to conduct their Extra Ordinary General Meetings through Video Conferencing or Other Audio-Visual Means or transact special businesses through postal ballot up to 31/12/2021 as per framework in earlier circulars<sup>11</sup>.
- ix) Apart from above measures, MCA has provided extensions for filing various forms & returns through various circulars.

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5. MCA General Circular no. 3/2021 dated 15/01/2021.

6. Rule 12A inserted MCA after rule 12 of the Companies (Share Capital and Debentures) Rules, 2014 vide MCA notification dated 11/02/2021.

7. MCA commencement notification of section 23(i) of the Companies (Amendment) Act, 2017 dated 05/03/2021.

8. MCA General Circular no. 08/2021 dated 03/05/2021.

9. MCA General Circular no. 2/2021 dated 13/01/2021 in continuation of General Circular no. 20/2020 dated 05/05/2020.

10. Omission of Rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014 vide MCA notification no. G.S.R. 409(E) dated 15/06/2021.

11. MCA General Circular no. 10/2021 dated 23/06/2021 and earlier circulars on 13/04/2020, 15/06/2020, 28/09/2020 and 31/12/2020.

## **2. Incorporation :**

The Government Re-engineering Process (GRP) is being implemented by the ministry with the specific objective of providing speedy incorporation related services within stipulated time frames which are in line with the international best practices.

Further, the services offered at the time of incorporation of corporates, through web-based form, have now been extended to include Shops and Establishment Registration from June 2021 onwards<sup>12</sup>.

## **3. Decriminalization of offences :**

The Company Law Committee was set up on 18<sup>th</sup> September, 2019, to make recommendations to the ministry on matters relating to decriminalization of offences, introduction of settlement mechanism, measures for ease of doing business, remove bottlenecks in functioning of bodies set up under Companies Act or LLP Act. It's tenure has been further extended vide order dated 23.09.2021 till 16.09.2022.

## **4. Corporate Social Responsibility (CSR) :**

In this health crisis, spending of CSR funds for COVID-19 was declared as an eligible CSR activity by the ministry<sup>13</sup>.

The MCA through a clarification, further allowed corporate spending of CSR funds for setting up makeshift hospitals and temporary COVID care facilities as an eligible CSR activity under Schedule VII of the Act<sup>14</sup>.

Further, spending of CSR funds by a corporate for 'creating health infrastructure for COVID care', establishment of medical oxygen generation and oxygen concentrators, ventilators, cylinders and other medical equipment for countering COVID-19 or similar such activities have been allowed as eligible CSR activities under schedule VII of the Act. This was an immediate response to the health crisis faced by the nation for the corporates to come at the forefront and contribute<sup>15</sup>.

Further, during the health crisis, companies were allowed payment of ex-gratia to daily wagers during lockdown period to qualify as CSR expenditure as one-time exception. However, this was subject to a declaration to that effect by the board of directors of such company which would be duly certified by statutory auditors of such company.

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12. MCA notification no. G.S.R. 392(E) dated 07/06/2021.

13. MCA General Circular no. 10/2020 dated 23/03/2020.

14. MCA General Circular no. 05/2021 dated 22/04/2021.

15. MCA General Circular no. 09/2021 dated 05/05/2021.

## 5. Independent Directors :

Independent Directors (IDs) are the guardians of the interests of investors especially the minority shareholders. The MCA recognizes the crucial role played by the IDs in balancing the interests of all stakeholders in the company and therefore decided that the remuneration paid to such directors must also be commensurate with their role. To enable companies with inadequate profits to attract talent by paying proper remuneration, the MCA amended section 149 and 197 of the Act and allowed payment of remuneration to Non-Executive Directors and IDs in case of loss or inadequacy of profits<sup>16</sup>.

In view of various concerns being raised over their real independence as their appointment and payment is made by the promoters and also to strengthen the institution of IDs, the MCA amended provisions related to appointment and qualifications of IDs and also the code for IDs under the Act. The recent initiative of MCA requires board to provide details of IDs for data bank maintained by the Indian Institute of Corporate Affairs (IICA). It is a comprehensive repository of both existing IDs as well as individuals eligible and willing to be appointed as IDs.

MCA recently had also introduced an online proficiency self-assessment test which is conducted by IICA for inclusion of name in databank, to test the aptitude of such directors and whether they are fit for the role they are about to take up. MCA is also having a separate registry for IDs in order to have high-quality people in that position.

## 6. Limited liability Partnership :

In line with the relief provided to corporates by MCA, LLP Settlement Scheme was launched in March, 2020 allowing one-time condonation of delay in filing statutorily required documents with registrar<sup>17</sup>. It has been stated that around 1,05,643 LLPs have benefitted by availing the LLP Settlement Scheme, 2020.

Further, after a span of more than 12 years the LLP Act, 2008 has been amended by passing the LLP (Amendment) Bill, 2021. The amendments mainly provide for decriminalization of 12 compoundable offences involving minor or technical defaults, omission of one legal provision and shifting another to an alternative mechanism. The amendment also introduced 2 new concepts, viz., 'Small LLP' and 'Start-up LLP', thereby providing benefits of lesser compliances, lesser fees and lesser penalties in case of minor violations. Further, the amendments have added a new provision which empowers CG to prescribe Standards of Accounting and Standards of Auditing for certain classes of LLPs. These will result in increased popularity of LLPs.

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16. MCA commencement notification dated 18/03/2021 for sections 32 and 40 of the Companies (Amendment) Act, 2020;

17. MCA General Circular No. 6/2020 dated 04/03/2020;

## 7. One Person Companies (OPCs), small companies and start-ups:

The concept of OPC was introduced to encourage entrepreneurship and adopt the organized form of corporate structure of business even with a single member and with minimum capital. A slew of measures has been taken to ease norms for OPCs which would incentivize incorporation of OPCs.

The MCA has, to further incentivize and encourage the growth of OPCs in the country, provided:

- a. For OPCs to be converted into private or public companies, other than section-8 companies after increasing the minimum number of members and directors to 2 or 7 and 2 or 3 respectively.
- b. any natural person, who is a citizen of India, whether resident in India or not to be allowed to form an OPC. Previously, NRIs were not allowed to incorporate OPCs.
- c. For being considered as a resident, the residency period has been reduced to 120 days from 182 days for NRIs.
- d. Rule of voluntary conversion unless OPC has completed 2 years from date of incorporation has been omitted wef 01/04/2021. Conversion of OPC has been permitted anytime.
- e. Limitation of paid-up capital and turnover for OPCs (of Rs. 50 lakhs and Rs. 2 crores respectively) has been done away with so that there are no restrictions on the growth of OPCs.
- f. Rationalization of e-forms applicable to OPCs by omitting e-form INC-5 and modification of e-form INC-6 (for conversion of OPC).

Further, the definition of small companies has been amended to increase the limits of paid-up share capital and turnover to be recognized as such. With the amendment, the limits of paid-up capital and turnover of a small company shall not exceed Rs. 2 crores and Rs. 20 crores respectively wef 01/04/2021<sup>18</sup>.

Also, the government has extended the fast-track process of merger and amalgamation under section 233 requiring the approval of the central government (i.e., the Regional Director) to mergers between 2 or more start-up companies or between 1 or more start-up company with 1 or more small company<sup>19</sup>.

## 8. Micro Small and Medium Enterprises :

The MSME sector contributes about 29% towards the GDP through its national

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18. *Vide notification dated 01/02/2021 through the Companies (Specification of Definitions Details) Second Amendment Rules, 2021;*

19. *Vide notification dated 01/02/2021 in the Companies (Compromises, Arrangements And Amalgamations) Amendment Rules, 2021;*

and international trade and provides employment to a sizeable population of the nation<sup>20</sup>.

The past year has been especially tough for the MSME sector and therefore the government in order to salvage the situation promulgated the Insolvency and bankruptcy Code (Amendment) Ordinance, 2021 which provides for Pre-Packaged Insolvency Resolution Process (PPIRP) for corporate debtors classified as MSMEs.

A new chapter, viz., Chapter III-A has been inserted in the Insolvency and Bankruptcy Code, 2016 called 'Pre-packaged insolvency resolution process' for corporate MSMEs<sup>21</sup>, wherein the central government has specified Rs.10 lakhs as the minimum amount of default for corporate debtor to initiate insolvency resolution such chapter. The reason for introducing the pre-packs for MSMEs where the management retains control of the business is that their businesses have simpler corporate structures as compared to large corporates and they do not have enough resources to go through the entire corporate insolvency resolution process. It is largely aimed at providing opportunity to MSMEs to restructure their liabilities in a cost-effective manner and start with a clean slate while still providing adequate protection to creditors.

## **9. Producer companies :**

The concept of 'Producer Companies' has been re-introduced in the Act by inserting a new chapter, viz., XXIA in the Act along with Producer Companies Rules, 2021 which was notified on the same date<sup>22</sup>.

The purpose behind introduction of the concept of a producer company is to regulate the Indian agrarian economy more effectively.

## **10. International Financial Services Centre :**

IFSCs, under section 18 of the Special Economic Zones Act, 2005, are set up as a preferred destination with direct access to large capital pools from banks, insurance companies, investment funds, etc. for raising capital and availing of all international financial services in India and are subject to the regulation of the IFSC Authority.

The MCA has provided exemption to foreign companies and those (to be) incorporated outside India from sections 387-392 of the Act in case of offering securities for subscription, the requirements relating to prospectus and all matters incidental thereto in IFSC. That is, such foreign entities would not be required to comply the provisions of chapter XXII of the Act & would remain subject to regulations made by IFSCA. This was done to rationalize compliance framework and provide ease of doing business and attracting investment in IFSC<sup>23</sup>.

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20. Source: India Brand Equity Foundation (IBEF);

21. Vide the Insolvency and Bankruptcy Code (Amendment) Act 2021 wef 04/04/2021;

22. MCA commencement notification no. S.O. 644(E) dated 11/02/2021 for sections 52 and 66 of the Companies (Amendment) Act, 2020;

23. MCA notification no. S.O. 3156(E) dated 05/08/2021;

## 11. MCA21 :

The first phase of MCA21 version 3.0 (V3.0) was launched on 24/05/2021. MCA21 Version 3.0 comprises of revamped website, new email services for MCA officers and 2 new modules, viz., e-book and e-consultation. The e-consultation module would leverage Artificial Intelligence for compiling, grouping and categorizing comments/ inputs received from stakeholders and create analytical reports for quick policy decision making. It will further improve the 'ease of doing business' regime in the country by reducing the requirement of attachments, make forms as web based and strengthen pre-fill mechanism.

### **Stricter Compliance/ Disclosures:**

While providing relief to the corporates from the rigours of strict compliance, the MCA has also provided for certain mandatory disclosures and reporting in order to safeguard the interest of all stakeholders. This was considered important for conducive business environment in the country. Recent changes in this regard includes:

#### 1. *CARO 2020:*

The National Financial Reporting Authority (NFRA) was constituted by the MCA to have an independent audit regulator and is tasked with overseeing the quality of service of auditors of listed and other specified companies and to investigate professional or other misconduct of Chartered Accountants or firm who conducts statutory audit, especially after the major scams in the industry in the past.

Further, to strengthen the audit reporting standards in India, MCA in consultation with NFRA prescribed new format of reporting by statutory auditors, viz., the Companies (Auditor's Report) Order, 2020 (CARO) replacing earlier order, 2016. It has additional reporting requirements to enhance overall quality of reporting by auditors. However, in order to provide relief to corporate sector due to challenges faced on account of COVID-19 pandemic, the MCA has deferred the applicability of CARO 2020 and the same is now applicable for the financial years commencing on or after 01/04/2021<sup>24</sup>.

#### 2. *Business Responsibility and Sustainability Report (BRSR):*

The 'Committee on Business Responsibility Reporting' constituted by the MCA to develop new Business Responsibility Report (BRR) formats for listed and certain unlisted companies, in its report released on 11/08/2020, recommended a new reporting format called 'Business Responsibility and Sustainability Reporting' (BRSR). BRSR recommended by the Committee seeks disclosure from listed entities on their performance against 9 principles laid down by the National Guidelines on Responsible Business Conduct (NGRBCs), viz., concerning governance of business in ethical, transparent and accountable

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24. MCA order no. S.O. 4588(E) dated 17/12/2020.



manner, providing goods & services in a sustainable and safe manner, well-being of employees, responsiveness to all stakeholders, etc. Such reporting is made mandatory for the top 1000 listed companies by market capitalization with effect from the financial year 2022-23, replacing the existing BRR<sup>25</sup>.

### 3. *Central Scrutiny Centre:*

MCA recently launched Central Scrutiny Centre (CSC) on 25/03/2021 to scrutinize 'straight through process' (STP) forms filed by corporates on MCA21 registry and flag the companies for more in-depth scrutiny in order to ensure that the quality of data filed on MCA21 is uncompromised and free from flaws. Considering the dynamic nature of corporate compliance and regulatory ecosystem, the MCA continues to upgrade the sampling mechanism, process workflow and technology to address the needs of stakeholders and promote EoDB in India<sup>26</sup>.

## 12. **Mandatory name change:**

A new rule has been inserted which provides that in case a company fails to change its name as per the directions of the Regional Director within 3 months from the date of issue of such direction, the letters - "ORDNC" (Order of RD Not Complied), the year of passing direction, serial number and the existing CIN of company - shall become the new name of company without any further act by the company. The Registrar shall accordingly make entry in register of companies and issue a fresh Certificate of Incorporation in form no. INC-11C. Thereafter such company shall mention the statement "order of RD not complied" in brackets below the name of company. However, no such statement shall be required to be mentioned in case company subsequently changes its name in accordance with section 13 of the Act<sup>27</sup>.

## CONCLUSION

Entrepreneurship is at a steady growth in the economy, propelled by the government's efforts to make India the best destination to do business. As on 31st October, 2021, India has 14,29,166 active companies. While most of the emerging economies have witnesses FPI outflow in 2020, India on the other hand has received about \$11 billion in net FPI investment in equity market till October, 2020. Global investors are optimistic on India's economic resilience as evident by gross FDI inflows crossing \$35 billion during the period April – August 2020<sup>28</sup>.

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25. Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/562 dated 10/05/2021 issued by SEBI.

26. Posted by PIB Delhi, on 25/03/2021.

27. Rule 33A inserted in the Companies (Incorporation) Rules, 2014 vide MCA notification no. G.S.R. 503(E) dated 22/07/2021.

28. MCA Data for the month of October, 2021.

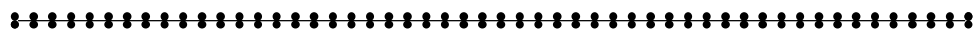
‘Ease of Doing Business’ is the need of the hour, in order to propel India as an economic powerhouse and fulfil the government’s aim of making it a \$5 Trillion economy by 2024-25.

“India remains one of the most open economies of the world. We are laying a red carpet for all the global companies to come and establish their presence in India. Very few countries will offer the kind of opportunities, India does today<sup>29</sup>.”

Considering these facts, the role of the regulator becomes immensely important to achieve the nation’s goals.

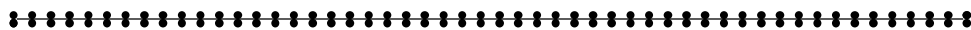
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29. Indian PM’s address at the India Global Week 2020.



## ***Opportunities for the Company Secretary as an Entrepreneur***

*CS Rajas Bodas\**



### **Introduction**

Entrepreneurship is an ability of a person to explore innovative ideas, exploit them commercially, and accept uncertainties and risks with a motive to earn profit. From a Practicing Company Secretary's perspective, entrepreneurship is a professional challenge accepted by excelling managerial skills, taking financial risk of developing, organizing and running his/her profession, to achieve success and in turn earning esteemed income with dignity.

From the statistics point of view, in India we currently have around 14,00,000+ companies and 2,25,000+ limited liability partnerships (LLPs) under the realm of the Ministry of Corporate Affairs. As per information there are 66,000 Company Secretaries in total, including approximately 12,000 Practicing Company Secretaries, approximately 35,000 Company Secretaries are in Employment and the balance 19,000 appear to be dormant or non-functional. The data itself is so exciting that the new generation is obviously inclined to seriously consider pursuing the Company Secretary as a profession.

In spite of the above factual statistics, empowerment is meant to be associated with recognition. Our peer professions like advocates, chartered accountants have already achieved desired recognitions in their respective fields. Not only their respective parent legislations are older than ours but they have also displayed their professional acumen, whenever industry demands. Many times we observe that they have occupied a non-replaceable position in the business mindset. While making any strategic decision, their expert advice plays an important role. Over a period, Company Secretaries have also strived hard to establish niche in the corporate sector as governance professionals. The society at large is highly benefitted because of timely suggestions and efficient service delivery by CS.

### **Recognitions to the PCS**

It is an accepted fact that unless a professional has enough statutory blessings, his/her mettle could not be adequately displayed. In retrospect, we observe the following important recognitions to better serve the corporate world, some among them are offered exclusively to the Practicing Company Secretaries (PCS).

#### **1. Under the Companies Act, 2013**

- a) undertake secretarial audit and present report u/s 204
- b) issue compliance certificate on the annual return u/s 92(2) and u/r 11(2) of the Companies (Management & Administration) Rules 2014

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\* *Rajas Bodas & Associates.*

*The views expressed are personal views of the author and do not necessarily reflect those of the Institute.*

- c) provide declaration u/s 7(1)(b) during the incorporation of a company stating all the requirements of the Act and rules made there-under have properly complied with
- d) issue certificate in respect of compliance of procedures and formalities pertaining to the buy-back of shares under Rules
- e) certify the annual statement required to be filed with the registrar stating the scheme is complied in tune with the order of tribunal/ regional director u/s 232(7)
- f) act as scrutinizer for e-voting, poll or postal ballot u/s 20 of Companies (Management & Administration) Rules 2014
- g) appear before NCLT or NCLAT for diverse issues under the Companies Act
- h) Undertake Pre-certification of many e-forms as prescribed by MCA notification dated 28-04-2014 and forms like SPICe+ introduced thereafter

Effective from 1st April 2021 the definition of small company prescribed under Section 2(85) read with Rule 2(t) of the Companies (Specification of definitions details) Rules, 2014 has amplified the scope of PCS in respect of pre-certification of prescribed forms becomes mandatory.

## **2. Under Other Laws**

- a) pre-certify certain forms like e-form FiLLip, 3, 4, 5, 8, 11, 15 which are having prominent contents as prescribed by the Limited Liability Partnership Act, 2008
- b) issue quarterly certification of reconciliation capitals held in the dematerialized form and changes thereto during each quarter besides confirming principal approval obtained for further issue of capital as prescribed under the SEBI (Depositories & Participants) Regulations 1996
- c) issue Corporate Governance Compliance certificate under clause 49 of Listing agreement
- d) can issue annual compliance audit report under Regulation 25 of SEBI (Research Analyst) Regulations, 2014
- e) issue internal audit reports to a Depository participant, Portfolio manager, Stock broker. PCS can issue concurrent audit report to Depository participant vide NSCL circular dated 24-06-2006 and CDSL communication dated 11-07-2006
- f) issue certificate regarding transfer of shares under clause 47(c) of Listing agreement
- g) issue a half yearly certificate in respect of maintenance of 100% assets cover created for non-convertible debt securities. Exception is provided only to listed banks, non-banking finance companies and government guaranteed bonds
- h) issue internal audit report to portfolio manager as prescribed under SEBI (Portfolio Managers) Regulations, 1993
- i) act as authorized representative before Securities Appellate Tribunal (SAT) as prescribed under SEBI Act, 1992

- j) act as authorized representative under various acts like Good & Service Tax 2017, Real Estate (Regulation & Development) Act, 2016, Competition Act, 2002, Arbitration and conciliation Act, 1996
- k) act as Trade Marks Agent under the provisions of the Trade Marks Act, 2002
- l) issue certificate pertaining to issue of shares under foreign direct investment and external commercial borrowing (ECB) under ECB guidelines issued by the apex bank
- m) having minimum 3 years' experience can act as Registered Valuer after successfully completing prescribed training and valuation examination
- n) having minimum 10 years' experience can act as Insolvency Professional after successfully completing IP examination and prescribed training
- o) can issue half yearly due diligence reports to the banks under consortium lending arrangements/multiple banking of Rs. 5 crores and more
- p) can issue compliance certificates u/r 10(b) for listing, u/r 13 for scheme implementation, u/r 26(3), 27(4) regarding general employee benefit scheme administration and implementation, u/r 36 regarding sweat equity issue

The above list is only illustrative and there are many more opportunities if thought about by an industrious Company Secretary to try for his/ her new strides. We should not miss out the statutory recognitions which ICSI has procured. They are as follows:

1. Regulation 6 of the Securities and Exchange Board of India SEBI (Listing Obligations and Disclosure Requirements) Second Amendment Regulations 2021 has made it mandatory for all listed companies to appoint a qualified company secretary as a Compliance Officer. The amendment has been made effective from 05th May, 2021.
2. Further Insurance Regulatory and Development Authority (IRDA) and Reserve Bank of India (RBI) are appraised to make similar provision mandatory for insurance and banking companies to depute qualified company secretaries to take care of their corporate governance.
3. PCS can play a decisive role of consultation in the new chapter of Insolvency and Bankruptcy Code, lately introduced exclusively for the Micro Small and Medium enterprises.
4. PCS can guide the small limited liability partnerships which are recently proposed in line with the small companies, where there will be lesser restrictions and larger leniencies.
5. PCS can undertake outsourcing assignments on behalf of the banks and financial institutions in respect of registration of charges under the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 with the Central Registry established for the purpose.
6. PCS can act as a facilitator in obtaining the registration number under Foreign Contribution Regulation Act, as the companies established under section 8 of the Companies Act, Trusts and societies usually have minuscule in-house strength and technical understanding on the subject.

7. Many genuine entrepreneurs working in philanthropic work find it difficult to get donations in foreign currency from abroad, on the backdrop of stringent procedures and practices followed under the Foreign Contribution (Regulation) Amendment Act, and Rules 2020. PCS can act as facilitator to get this registration complete and offer further consultation, wherever required.
8. Corporate Social Responsibility is mandated by Section 135 of the Companies Act, 2013. However many times companies are quite unaware about the social entrepreneurs really working seriously for the noble cause. PCS can act as a guide, CSR Professional to bridge the gap between the sources of corporate and the social activist/ organization.

### **Preparedness to Excel in Entrepreneurship**

In spite of all these recognitions, which are already offered and in the offing, every practicing Company Secretary has to find out his/her own forte and deep dive for its excellence. None other than his own psyche, knowledge and experience would lead him/ her to perform better every day. Post pandemic, judicial hearings have gone online which could save substantial professional time and cost. The MCA portal in its new avatar is coming up with more technical advancements like use of Artificial Intelligence (AI), Internet to things (IOT) and ultimately facilitated CS to save their considerable professional time. Automation, digitization, collaboration and effective supervision can bring in place appropriate reporting. With the assistance of dictation machines, cloud based compliance systems, digital signatures, voice commands and Virtual private networks (VPNs) the world is coming closer and avid entrepreneurs could work round the clock. With lesser regulations and larger reliance on professional acumen, regulators are offering ease of doing business in India. However it should never be forgotten that the government's high bar of expectation in the field of corporate governance can only be fulfilled by the strategic actions and determined contemplations by the active professionals and more particularly the Practicing Company Secretaries.

Generally, the object of any legislation is to make the people happy and to assure them a sense of safety in a lawful society. With the help of empirical experimentation and academic understanding PCS can become an imperative element of an aspirant business organization. Illustratively Section 15 of the Micro Small and Medium Enterprises (MSME) Act 2006, if the payment is delayed for more than 45 days of a MSME, reference may be made with the MSME facilitation council u/s 18 of the said act for the amount due along with the interest @ 3 times the prevailing bank rate as prescribed by Section 16 again in the same act. MSME Samadhan has become a vibrant judicial platform recently and number of entrepreneurs have already availed this facility. Such provisions are used to be immensely beneficial for MSMEs and an appropriate advice at the right time can change the fate of the concerned client MSME beyond words. Similarly there are many provisions under various laws which could be invoked and consciously explored to the advantage of corporate, as the technical entrepreneurs may not be aware about the exact nitty-gritty and legal perspective over a business issue. In this way, PCS should become guiding stars for the entrepreneurs and help them to support at every juncture on the path of growth, development and success.

### **Success Mantra of Management**

Intrapreneurship is the next virtue which needs to be cultivated in the office by every PCS

as it creates a cohesive climate with passion culture which pushes every employee to trainee to work innovatively and wholeheartedly for self-actualization as well as for the growth and development of the entire organization. This proactive approach with the firm signals a positive atmosphere among the clients which ultimately opens new opportunities for the professional. Broadening of areas of practice could be then easily augmented. One should not ignore the strength of his loyal employees, as in the long run they contribute extensively and continue to become pillars of a successful PCS firm. The only thing generally missed out in intrapreneurship is appreciation and it should be through tangible rewards and innovative incentivization.

The most important part of entrepreneurship is money management. Many PCS who have experienced a lot of hassles during and post pandemic season, where working capital cycles were substantially disturbed. Many clients were passing through fragile conditions, some of them were even on the verge of considering closing their businesses, the near and dear of the key managers, directors were hospitalized and we were expected to still carry their companies' compliance, being governance professionals! In such situations requesting advances from financially stable clients, effective use of credit card/s, availing Covid working capital credit facilities, then offered by a few banks would have helped our PCS to survive successfully. Efficient virtual meetings would have established the desired connect with the clients. However in such difficult times a PCS's interpersonal skills, historic service delivery, entrepreneurial stubbornness and innovative mindset count a lot to really succeed.

### **Balancing the Risks**

Besides internal challenges within the organization, PCS recently has passed through a serious external risk like Covid-19. The aftershocks of the pandemic are still going on and the consequences are substantial, while measuring the operational activities. Designing a continuation plan and its decisive execution was really a tough task we handled recently. Having rapport with the clients with a sense of belongingness was the only solution to come out of such draconian risks.

The obvious economic risks, post Covid, are affecting the established tie-ups, associations and client relationship. They are also hampering the new avenues of practice and reducing prospecting revenues substantially. Many businesses are voluntarily closed or declared defunct due to their non-foreseeable business prospects. The most affected sectors are malls, entertainment, hotels, hospitality, tours and travel. The financial risk unknowing carried during the period of social distancing was quite huge for many professionals. Receivables recovery rate has gone down due to consequent recessionary reasons, sometimes genuine, many a time intentional and the scene has not normalized till today.

It is observed that risk averseness attaches naturally to a seasoned professional entrepreneur. That's why very seldom we find the old firms exploring off track or out of the box areas of practice, even though that may be substantially lucrative. Unless a professional dives into new fields of verticals, tries out different ways and means, sets own processes and standards; s/he is bound to have limited progress. Hence risk taking should be deliberately explored to become a successful entrepreneur. E.g. running a multidisciplinary professional firm undoubtedly carries inherent risks of non-performance, stretching relationships, boiling egos and ultimately

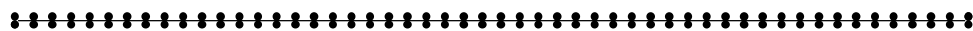
tarnishing entrepreneurial image; however taking this calculated risk only an ambitious professional can have multidimensional organic growth.

### **Conclusion**

For a PCS, it is important to hold a macro perspective of the canvas rather than to merely look into a narrow minded, smaller picture. Our institute is already striving hard to pitch for our further deserving recognitions in pursuit of better corporate governance. However to keep our echelon glowing, we need to imbibe in ourselves the best management practices for empowering entrepreneurship viz. knowledge, intrapreneurship and financial management. The best way to predict the future is to create it by yourself!

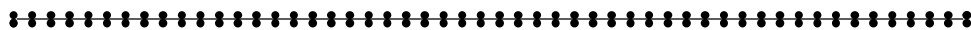
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## ***Passion for Profession: Empowering Entrepreneurship & Excellence***

*CS Yati Mittal\**



### **INTRODUCTION**

Passion is intense feeling to achieve something. It is eagerness or an admiration for an idea, proposal, or profession.

There is a saying that *“The future belongs to those who believe in the beauty of their dreams.”* - Eleanor Roosevelt

This means that a person who believe in their dreams and works for it and achieves it despite of any number of failures or issues. Achievement in any profession cannot be achieved without any passion and admiration for such profession.

Profession means any type of work which requires specialized training and knowledge. Profession includes Doctorate, Lawyer, Chartered Accountant, Company Secretary, Fashion Designer, sports etc. Adoption of profession means sincerity and hard work. A professional can either choose employment or entrepreneurship.

Passion is different than having job or having career. Three C's built Passion for Profession i.e. Choices, Chances and Changes which means Choice to take a Chance to see the Change. It's never too late to follow dreams and to find your passion. It is just one should have a talent to achieve it. One should not let anyone to hinder our passion. There will be rejections and failure but we should focus on our passion. A person should learn from their failures and move forward to achieve it rather than unfollowing their passion. Don't fail to listen to your heart, just focus on what excites you. Moreover, we should not allow anyone to limit our dreams, because, it is the best feeling to get paid for what we desire.

Passion can not only lead to find a good job but it can also help in becoming an entrepreneur.

### **WHO IS AN ENTREPRENEUR?**

An entrepreneur is a person who makes money by starting their own business and ready to take financial risk. Business could be small sized or large sized, start – up or some new venture with foreign collaboration. It's not necessary that every business gives profit in the beginning, one has to be patient for successful run of business.

Building up an entrepreneurship helps in creating jobs in the market and giving ray of hopes to many unemployed to have their own bread and butter.

Now a days, trend for business are shifting to e-commerce and now on e-commerce had

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\* *The views expressed are personal views of the author and do not necessarily reflect those of the Institute.*

seen a boon in today's time especially during covid time. There are few examples of start-ups which have seen a boon in recent times.

**Examples:**

**1. OYO ROOMS**

Oyo was the start up of Mr. Ritesh Agarwal in May 2013. Ritesh Agarwal is not from business background nor a son of multi – billionaire. But, he was born in Odisha and brought up in Titilagarh and his family runs a small shop. He moved to Delhi in 2011 for college but he dropped it out and was selected for Thiel Fellowship in 2013. He started a budgeted accommodation portal, Oravel Stays, for booking of budgeted hotels and it won the prize of \$100,00 as the winner of Thiel Fellowship program. Thus, after winning the prize he started the business name OYO in the year 2013. He has faced many allegations, but the founder did not give up and planned to expand its business.

He is such successful that he is known as the second youngest billionaire in 2021 in India. Slowly he has expanded his business and has multi – brand approach with new avenues introduced in its business.

**2. SWIGGY**

Sriharsha Majety and Nandan Reddy in the year 2013 designed an e-commerce website called BUNDL to facilitate courier service in India. But, it was halted, and they started Swiggy as food delivery app. At first it was difficult for the business to start because of other start ups at that time. Gradually, business took up and started earning profit. COVID-19 gave more opportunity to such e-commerce businesses. Since, local markets were shut, it expanded the delivery of general product at the doorstep. Later it launched Swiggy Gennie where delivery person will pick and drop the personal items to their loved ones within the city.

These e-commerce platforms opened the door for many unemployed to serve the company and help in generation of revenues which helps the country's growth.

**COMPANY SECRETARY**

Company Secretary is one of those profession which was hidden in earlier times, but after Satyam case and evolving of Companies Act, this profession seen a boon. A Company Secretary is a person who is well versed in Companies Act and looks towards company's compliance with statutory and regulatory requirements. Many individuals after learning about this course started studying it and started taking it as passion.

In earlier days, all the CS related work was done manually whether it is form filing or inspection of documents or secretarial audit etc. Steady and gradually, for the easement of system ministry started developing online portal and e-forms for filing of documents with the ministry. It took time to shift from offline to online with certain difficulties but now it is successful. Ministry of Corporate Affairs is the portal designed for systematic filing of documents. This system later on provided the platform to inspect the documents of any company by any stakeholder.

After successful implementation of MCA and their forms, ministry updated the website with many more opportunities such as E-Book for Companies Act, 2013 and various other laws for quick help for the professionals.

Something like this happened because of COVID-19 lockdown. Entire system had to be automated and businesses has to come online for their functioning. Same happened with our profession of CS.

CS appointed with the company has to maintain each and every document starting from notices to Minutes of the meeting online. Even they have to conduct Board Meetings, Annual General Meetings, Committee meeting through Video Conferencing, keeping every security point in mind and being in continuous contact with IT specialists.

CS in practice also faced difficulty while issuing Secretarial Audit Reports, E- Form no. MGT-8 and all other reports, as physical inspection of documents were not possible due to lockdown and after unlock, it was difficult with limited staff and absence of public transport and above all Safety was the utmost priority. Hence, companies had to maintain the essential documents online.

### **WHY TECHNOLOGY CHANGE ADOPTED?**

Technology change was adopted for reduction of time spend on administrative tasks, including lot of compliance activities. Tasks like maintaining insider lists can be done more quickly, and more accurately, using technology than they can be manually.

Through adoption of technology now Company Secretaries can devote time to other activities such as inspection and doing research activities. Many of these can be bracketed under the heading of board support, although that does not do justice either to the range of responsibilities or the amount of skill and expertise needed to carry them out effectively.

### **TOP SIX TECHNOLOGY SOLUTIONS FOR COMPANY SECRETARY**

COVID – 19 had taught us that one should not be dependent on manual and physical paper work but shall start switching to online portal. For company secretaries, this was quick change during this pandemic. Thus, many companies tried to launch various software which can be used by company secretary.

Few software is discussed below:

- 1. Board Intelligence :** It is one of the leading providers of end-to-end smart reporting solutions. It helps you easily create and distribute board packs so you can provide your board with the necessary time and accurate information they need to make decisions that have a lasting impact.
- 2. Virtual Boardroom :** Software is developed by Perivan Technology is another widely adopted software for better board reporting. The solution saves you time in creating and distributing board packs and other corporate governance information, and allows for a collaborative and more efficient approach within your administrative team.
- 3. Diligent :** It is a provider of secure corporate governance and collaboration solutions for boards and senior executives. The Diligent Boards (formerly Diligent Boardbooks)

solution speeds and simplifies how board materials are produced, delivered and collaborated on via any device, removing the security concerns of doing this by courier, email and file sharing.

4. **Blueprint Oneworld** : Software developed by Diligent is one of the leading solutions for global entity management and corporate governance software. Their Governance Cloud ecosystem solutions allow you to access, review and report on your data to help you ensure compliance and demonstrate good governance through global industry best practices. They help organisations centralise corporate data and simplify their processes to remain compliant with any local legislation.
5. **GEMS™ Global Entity Management System** : Software developed by Computershare is a centralised, electronic solution for companies that addresses today's global compliance challenges through entity management, insider management, board governance, registered agent services and regulatory filing solutions.
6. **Cygnatise** : It helps to create, audit and share your authorised signatory lists in just a few clicks. The solution uses blockchain technology to help you save admin time and costs, and it improves the security of your sensitive data by giving you control of access and sharing rights of your lists.

## COMPANY SECRETARIES AS TRUSTED ADVISERS

With emerging of technologies, now Company Secretaries are viewed on higher level. They are now considered as valued board advisers for corporate governance, mostly in the aspect of information technology.

Adoption and implementation of technologies across the organizations gives both opportunities and risks. They can bolster how the board understands the organization's main risks, technology strategies, and high levels of protocols and controls. This is evident when discussions are about data privacy, regulatory compliance, and cybersecurity.

Aside from compliance, financial, reputation, and operational fluidity are components that are inherent to the board-level discussions in technologies. Company secretaries are in a unique place to assist and support the board to oversee issues in the organization.

## TECHNOLOGY AS AN ENABLER

Technology now has become important for corporate compliance and this has become more important after outbreak of COVID-19 pandemic. Use of technology eliminates face to face meetings and makes corporate filings quicker and easier which in return makes legal department efficient.

Earlier signing of documents were done manually which included paper work as there were lot of print outs. But with the introduction of e-signing of facilities, signing of documents had been made easy and is being protected from forgery.

## RISK INVOLVED IN TECHNOLOGY ADOPTION

1. **Cybersecurity** : Using of technology is beneficial, but every factor has pros and cons, thus there is disadvantage of technology i.e. cybersecurity. Companies should ensure

that they do everything to keep customers and client data safe and protected. These kinds and severity of cybersecurity depend on where they set up the entity management system, and this varies for every vendor.

2. **Work-life balance impact** : Through adoption of technology, working hours has increased. Employees not only in offices but also at home has to work for their company. The corporate secretaries like other professionals can work from anywhere with ease no matter where their clients are from. This is possible if their organization has adapted to using important technologies so they can do this

## CONCLUSION

There are a couple of ways where technology helps in making the Company Secretary's role more efficient when it comes to time and cost. In a competitive market, clients expect a work that is high quality for fees that are relatively low. This expectation also extends to the external Company Secretaries and also internal ones. They are expected by the organization to take advantage of more inefficiencies so they will have more time to give additional values in more areas.

Adoption of technology has both pros and cons. Advancement of technology provide pressure to be more efficient and quicker in their work. Company Secretaries had to be well prepared and shall maintain backup of their documents as laptops/computer can crash at any time and there is no loss of legal and important documents.

Last, but not the least, though COVID-19 has slow down the growth of world and has taken many lives, but one thing has been done rapidly which is introduction and successful implementation of technology and thus, helping Company Secretaries to be up to date with their compliance.

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# पर्यावरण की सुरक्षा का संकल्प



इस संकल्प ने हमारे मन-मानस  
में गहरी जड़ पकड़ ली है।



**कोल इण्डिया लिमिटेड**

विश्व की बृहत्तम कोयला उत्पादक संस्था  
A Maharatna Company

प्रकृति के अस्तित्व में ही हमारा अस्तित्व है





## Motto

सत्यं वद। धर्मं चर।

इष्टवैरं तेन तृपतिः। अविद्वेहं तेन तेन विद्वान्।

## Vision

"To be a global leader in promoting good corporate governance"

## Mission

"To develop high calibre professionals facilitating good corporate governance"



**THE INSTITUTE OF  
Company Secretaries of India**

**भारतीय कम्पनी सचिव संस्थान**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

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