



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)

SUPPLEMENT PROFESSIONAL PROGRAMME (NEW SYLLABUS)

For

December, 2022 Examination

**GOVERNANCE, RISK MANAGEMENT,
COMPLIANCES AND ETHICS**

MODULE 1

PAPER 1

Disclaimer: This document has been prepared purely for academic purposes only and it does not necessarily reflect the views of ICSI. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.

Content

SI No	Lesson Number & Name	Page Number
1	Lesson 2 Legislative Framework of Corporate Governance in India	3

Lesson 2

Legislative Framework of Corporate Governance

“Related Party”

According to Regulation 2(1) (zb) of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, related party means a related party as defined under sub-section (76) of section 2 of the Companies Act, 2013 or under the applicable accounting standards:

Provided that:

(a) any person or entity forming a part of the promoter or promoter group of the listed entity; or

(b) any person or any entity, holding equity shares:

(i) of twenty per cent or more; or

(ii) of ten per cent or more, with effect from April 1, 2023;

in the listed entity either directly or on a beneficial interest basis as provided under section 89 of the Companies Act, 2013, at any time, during the immediate preceding financial year; shall be deemed to be a related party:]

Provided 18[*further*] that this definition shall not be applicable for the units issued by mutual funds which are listed on a recognised stock exchange(s);

“Related Party Transaction”

As per Regulation 2(1) (zc) of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, related party transaction means a transaction involving a transfer of resources, services or obligations between:

(i) a listed entity or any of its subsidiaries on one hand and a related party of the listed entity or any of its subsidiaries on the other hand; or

(ii) a listed entity or any of its subsidiaries on one hand, and any other person or entity on the other hand, the purpose and effect of which is to benefit a related party of the listed entity or any of its subsidiaries, with effect from April 1, 2023;

regardless of whether a price is charged and a “transaction” with a related party shall be construed to include a single transaction or a group of transactions in a contract:

Provided that the following shall not be a related party transaction:

(a) the issue of specified securities on a preferential basis, subject to compliance of the requirements under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018;

(b) the following corporate actions by the listed entity which are uniformly applicable/offered to all shareholders in proportion to their shareholding:

i. payment of dividend;

ii. subdivision or consolidation of securities;

iii. issuance of securities by way of a rights issue or a bonus issue; and

iv. buy-back of securities.

(c) acceptance of fixed deposits by banks/Non-Banking Finance Companies at the terms uniformly applicable/offered to all shareholders/public, subject to disclosure of the same along with the disclosure of related party transactions every six months to the stock exchange(s), in the format as specified by the Board:

Provided further that this definition shall not be applicable for the units issued by mutual funds which are listed on a recognised stock exchange(s);

"Independent Director"

According to Regulation 16(1)(b) of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, Independent Director means a non-executive director, other than a nominee director of the listed entity:

(i) who, in the opinion of the board of directors, is a person of integrity and possesses relevant expertise and experience;

(ii) who is or was not a promoter of the listed entity or its holding, subsidiary or associate company or member of the promoter group of the listed entity;

(iii) who is not related to promoters or directors in the listed entity, its holding, subsidiary or associate company;

(iv) who, apart from receiving director's remuneration, has or had no material pecuniary relationship with the listed entity, its holding, subsidiary or associate company, or their promoters, or directors, during the three immediately preceding financial years or during the current financial year;

(v) none of whose relatives—

(A) is holding securities of or interest in the listed entity, its holding, subsidiary or associate company during the three immediately preceding financial years or during the current financial year of face value in excess of fifty lakh rupees or two percent of the paid-up capital of the listed entity, its holding, subsidiary or associate company, respectively, or such higher sum as may be specified;

(B) is indebted to the listed entity, its holding, subsidiary or associate company or their promoters or directors, in excess of such amount as may be specified during the three immediately preceding financial years or during the current financial year;

(C) has given a guarantee or provided any security in connection with the indebtedness of any third person to the listed entity, its holding, subsidiary or associate company or their promoters or directors, for such amount as may be specified during the three immediately preceding financial years or during the current financial year; or

(D) has any other pecuniary transaction or relationship with the listed entity, its holding, subsidiary or associate company amounting to two percent or more of its gross turnover or total income:

Provided that the pecuniary relationship or transaction with the listed entity, its holding, subsidiary or associate company or their promoters, or directors in relation to points (A) to (D) above shall not exceed two percent of its gross turnover or total income or fifty lakh rupees or such higher amount as may be specified from time to time, whichever is lower.

(vi) who, neither himself /herself , nor whose relative(s) —

(A) holds or has held the position of a key managerial personnel or is or has been an employee of the listed entity or its holding, subsidiary or associate company 68[or any company belonging to the promoter group of the listed entity,] in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed:

Provided that in case of a relative, who is an employee other than key managerial personnel, the restriction under this clause shall not apply for his / her employment.

(B) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of —

(1) a firm of auditors or company secretaries in practice or cost auditors of the listed entity or its holding, subsidiary or associate company; or

(2) any legal or a consulting firm that has or had any transaction with the listed entity, its holding, subsidiary or associate company amounting to ten per cent or more of the gross turnover of such firm;

(C) holds together with his relatives two per cent or more of the total voting power of the listed entity; or

(D) is a chief executive or director, by whatever name called, of any non-profit organisation that receives twenty-five per cent or more of its receipts or corpus from the listed entity, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent or more of the total voting power of the listed entity;

(E) is a material supplier, service provider or customer or a lessor or lessee of the listed entity;

(vii) who is not less than 21 years of age.

(viii) who is not a non-independent director of another company on the board of which any non-independent director of the listed entity is an independent director:

Explanation- In case of a 'high value debt listed entity':

(a) which is a body corporate, mandated to constitute its board of directors in a specific manner in accordance with the law under which it is established, the non- executive directors on its board shall be treated as independent directors;

(b) which is a Trust, mandated to constitute its 'board of trustees' in accordance with the law under which it is established, the non-employee trustees on its board shall be treated as independent directors.

Board of Directors

Regulation 17 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that:

(1) The composition of board of directors of the listed entity shall be as follows:

(a) board of directors shall have an optimum combination of executive and non-executive directors with at least one woman director and not less than fifty per cent. of the board of directors shall comprise of non-executive directors;

Provided that the Board of directors of the top 500 listed entities shall have at least one independent woman director by April 1, 2019 and the Board of directors of the top 1000 listed entities shall have at least one independent woman director by April 1, 2020;

Explanation: The top 500 and 1000 entities shall be determined on the basis of market capitalisation, as at the end of the immediate previous financial year.

(b) where the chairperson of the board of directors is a non-executive director, at least one-third of the board of directors shall comprise of independent directors and where the listed entity does not have a regular non-executive chairperson, at least half of the board of directors shall comprise of independent directors:

Provided that where the regular non-executive chairperson is a promoter of the listed entity or is related to any promoter or person occupying management positions at the level of board of director or at one level below the board of directors, at least half of the board of directors of the listed entity shall consist of independent directors.

Explanation.- For the purpose of this clause, the expression "related to any promoter" shall have the following meaning:

(i) if the promoter is a listed entity, its directors other than the independent directors, its employees or its nominees shall be deemed to be related to it;

(ii) if the promoter is an unlisted entity, its directors, its employees or its nominees shall be deemed to be related to it.

(c) The board of directors of the top 1000 listed entities (with effect from April 1, 2019) and the top 2000 listed entities (with effect from April 1, 2020) shall comprise of not less than six directors.

Explanation: The top 1000 and 2000 entities shall be determined on the basis of market capitalisation as at the end of the immediate previous financial year.

(d) where the listed company has outstanding SR equity shares, atleast half of the board of directors shall comprise of independent directors.

(1A) No listed entity shall appoint a person or continue the directorship of any person as a non-executive director who has attained the age of seventy five years unless a special resolution is passed to that effect, in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such a person.

(1C). The listed entity shall ensure that approval of shareholders for appointment of a person on the Board of Directors 80[or as a manager] is taken at the next general meeting or within a time period of three months from the date of appointment, whichever is earlier:

Provided that the appointment or a re-appointment of a person, including as a managing director or a whole-time director or a manager, who was earlier rejected by the shareholders at a general meeting, shall be done only with the prior approval of the shareholders:

Provided further that the statement referred to under sub-section (1) of section 102 of the Companies Act, 2013, annexed to the notice to the shareholders, for considering the appointment or re-appointment of such a person earlier rejected by the shareholders shall contain a detailed explanation and justification by the Nomination and Remuneration Committee and the Board of directors for recommending such a person for appointment or re-appointment.

(2) The board of directors shall meet at least four times a year, with a maximum time gap of one hundred and twenty days between any two meetings.

(2A) The quorum for every meeting of the board of directors of the top 1000 listed entities with effect from April 1, 2019 and of the top 2000 listed entities with effect from April 1, 2020 shall be one-third of its total strength or three directors, whichever is higher, including at least one independent director.

Explanation I – For removal of doubts, it is clarified that the participation of the directors by video conferencing or by other audio-visual means shall also be counted for the purposes of such quorum.

Explanation II - The top 1000 and 2000 entities shall be determined on the basis of market capitalisation, as at the end of the immediate previous financial year.

(3) The board of directors shall periodically review compliance reports pertaining to all laws applicable to the listed entity, prepared by the listed entity as well as steps taken by the listed entity to rectify instances of non-compliances.

(4) The board of directors of the listed entity shall satisfy itself that plans are in place for orderly succession for appointment to the board of directors and senior management.

(5) (a) The board of directors shall lay down a code of conduct for all members of board of directors and senior management of the listed entity.

(b) The code of conduct shall suitably incorporate the duties of independent directors as laid down in the Companies Act, 2013.

(6) (a) The board of directors shall recommend all fees or compensation, if any, paid to non-executive directors, including independent directors and shall require approval of shareholders in general meeting.

(b) The requirement of obtaining approval of shareholders in general meeting shall not apply to payment of sitting fees to non-executive directors, if made within the limits prescribed under the Companies Act, 2013 for payment of sitting fees without approval of the Central Government.

(c) The approval of shareholders mentioned in clause (a), shall specify the limits for the maximum number of stock options that may be granted to non-executive directors, in any financial year and in aggregate.

(ca) The approval of shareholders by special resolution shall be obtained every year, in which the annual remuneration payable to a single non-executive director exceeds fifty per cent of the total annual remuneration payable to all non-executive directors, giving details of the remuneration thereof.

(d) Independent directors shall not be entitled to any stock option.

(e) The fees or compensation payable to executive directors who are promoters or members of the promoter group, shall be subject to the approval of the shareholders by special resolution in general meeting, if-

(i) the annual remuneration payable to such executive director exceeds rupees 5 crore or 2.5 per cent of the net profits of the listed entity, whichever is higher; or

(ii) where there is more than one such director, the aggregate annual remuneration to such directors exceeds 5 per cent of the net profits of the listed entity:

Provided that the approval of the shareholders under this provision shall be valid only till the expiry of the term of such director.

Explanation: For the purposes of this clause, net profits shall be calculated as per section 198 of the Companies Act, 2013.

(7) The minimum information to be placed before the board of directors is specified in Part A of Schedule II.

(8) The chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II.

(9) (a) The listed entity shall lay down procedures to inform members of board of directors about risk assessment and minimization procedures.

(b) The board of directors shall be responsible for framing, implementing and monitoring the risk management plan for the listed entity.

(10) The evaluation of independent directors shall be done by the entire board of directors which shall include -

(a) performance of the directors; and

(b) fulfillment of the independence criteria as specified in these regulations and their independence from the management:

Provided that in the above evaluation, the directors who are subject to evaluation shall not participate.

(11). The statement to be annexed to the notice as referred to in sub-section (1) of section 102 of the Companies Act, 2013 for each item of special business to be transacted at a general meeting shall also set forth clearly the recommendation of the board to the shareholders on each of the specific items.

Audit Committee

Regulation 18 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that:

(1) Every listed entity shall constitute a qualified and independent audit committee in accordance with the terms of reference, subject to the following:

(a) The audit committee shall have minimum three directors as members.

(b) [At least] two-thirds of the members of audit committee shall be independent directors [and in case of a listed entity having outstanding SR equity shares, the audit committee shall only comprise of independent directors.

(c) All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.

Explanation (1).- For the purpose of this regulation, “financially literate” shall mean the ability to read and understand basic financial statements i.e. balance sheet, profit and loss account, and statement of cash flows.

Explanation (2).- For the purpose of this regulation , a member shall be considered to have accounting or related financial management expertise if he or she possesses experience in finance or accounting, or requisite professional certification in accounting, or any other comparable experience or background which results in the individual’s financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

(d) The chairperson of the audit committee shall be an independent director and he/she shall be present at Annual general meeting to answer shareholder queries.

(e) The Company Secretary shall act as the secretary to the audit committee.

(f) The audit committee at its discretion shall invite the finance director or head of the finance function, head of internal audit and a representative of the statutory auditor and any other such executives to be present at the meetings of the committee:

Provided that occasionally the audit committee may meet without the presence of any executives of the listed entity.

(2) The listed entity shall conduct the meetings of the audit committee in the following manner:

(a) The audit committee shall meet at least four times in a year and not more than one hundred and twenty days shall elapse between two meetings.

(b) The quorum for audit committee meeting shall either be two members or one third of the members of the audit committee, whichever is greater, with at least two independent directors.

(c) The audit committee shall have powers to investigate any activity within its terms of reference, seek information from any employee, obtain outside legal or other professional advice and secure attendance of outsiders with relevant expertise, if it considers necessary.

(3) The role of the audit committee and the information to be reviewed by the audit committee shall be as specified in Part C of Schedule II.

Nomination and Remuneration Committee

Regulation 19 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that:

(1) The board of directors shall constitute the nomination and remuneration committee as follows:

- (a) the committee shall comprise of at least three directors ;
- (b) all directors of the committee shall be non-executive directors; and
- (c) at least two-thirds of the directors shall be independent directors.

(2) The Chairperson of the nomination and remuneration committee shall be an independent director:

Provided that the chairperson of the listed entity, whether executive or non-executive, may be appointed as a member of the Nomination and Remuneration Committee and shall not chair such Committee.

[(2A) The quorum for a meeting of the nomination and remuneration committee shall be either two members or one third of the members of the committee, whichever is greater, including at least one independent director in attendance.

(3) The Chairperson of the nomination and remuneration committee may be present at the annual general meeting, to answer the shareholders' queries; however, it shall be up to the chairperson to decide who shall answer the queries.

[(3A) The nomination and remuneration committee shall meet at least once in a year.

(4) The role of the nomination and remuneration committee shall be as specified as in Part D of the Schedule II.

Related Party Transactions

Regulation 23 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that:

(1) The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions including clear threshold limits duly approved by the board of directors and such policy shall be reviewed by the board of directors at least once every three years and updated accordingly:

Provided that a transaction with a related party shall be considered material, if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds rupees one thousand crore or ten per cent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity, whichever is lower.

(1A) Notwithstanding the above, with effect from July 01, 2019 a transaction involving payments made to a related party with respect to brand usage or royalty shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceed {five} percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.

(2) All related party transactions and subsequent material modifications shall require prior approval of the audit committee of the listed entity:

Provided that only those members of the audit committee, who are independent directors, shall approve related party transactions.

Provided further that:

(a) the audit committee of a listed entity shall define “material modifications” and disclose it as part of the policy on materiality of related party transactions and on dealing with related party transactions;

(b) a related party transaction to which the subsidiary of a listed entity is a party but the listed entity is not a party, shall require prior approval of the audit committee of the listed entity if the value of such transaction whether entered into individually or taken together with previous transactions during a financial year exceeds ten percent of the annual consolidated turnover, as per the last audited financial statements of the listed entity;

(c) with effect from April 1, 2023, a related party transaction to which the subsidiary of a listed entity is a party but the listed entity is not a party, shall require prior approval of the audit committee of the listed entity if the value of such transaction whether entered into individually or taken together with previous transactions during a financial year, exceeds ten

per cent of the annual standalone turnover, as per the last audited financial statements of the subsidiary;

(d) the audit committee shall review, at least on a quarterly basis, the details of related party transactions entered into by the listed entity pursuant to each of the omnibus approvals given.

(e) Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year:

(4) All material related party transactions and subsequent material modifications as defined by the audit committee under sub-regulation (2) shall require prior approval of the shareholders through resolution and no related party shall vote to approve] such resolutions whether the entity is a related party to the particular transaction or not:

Provided that prior approval of the shareholders of a listed entity shall not be required for a related party transaction to which the listed subsidiary is a party but the listed entity is not a party, if regulation 23 and sub-regulation (2) of regulation 15 of these regulations are applicable to such listed subsidiary.

Explanation: For related party transactions of unlisted subsidiaries of a listed subsidiary as referred above, the prior approval of the shareholders of the listed subsidiary shall suffice.

Provided further that the requirements specified under this sub-regulation shall not apply in respect of a resolution plan approved under section 31 of the Insolvency Code, subject to the event being disclosed to the recognized stock exchanges within one day of the resolution plan being approved;

(5) The provisions of sub-regulations (2), (3) and (4) shall not be applicable in the following cases:

(a) Transactions entered into between two government companies;

(b) Transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

[(c) Transactions entered into between two wholly-owned subsidiaries of the listed holding company, whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.]

Explanation. - For the purpose of clause (a), "Government Company (ies) means Government Company as defined in sub-section (45) of section 2 of the Companies Act, 2013.

(6) The provisions of this regulation shall be applicable to all prospective transactions.

(7) [***]

(8) All existing material related party contracts or arrangements entered into prior to the date of notification of these regulations and which may continue beyond such date shall be placed for approval of the shareholders in the first General Meeting subsequent to notification of these regulations.

[(9) The listed entity shall submit to the stock exchanges disclosures of related party transactions in the format as specified by the Board from time to time, and publish the same on its website:

Provided that a 'high value debt listed entity' shall submit such disclosures along with its standalone financial results for the half year:

Provided further that the listed entity shall make such disclosures every six months within fifteen days from the date of publication of its standalone and consolidated financial results:

Provided further that the listed entity shall make such disclosures every six months on the date of publication of its standalone and consolidated financial results with effect from April 1, 2023.

Obligations with respect to Independent Directors

Regulation 25 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that:

(1) No person shall be appointed or continue as an alternate director for an independent director of a listed entity with effect from October 1, 2018.

(2) The maximum tenure of independent directors shall be in accordance with the Companies Act, 2013 and rules made thereunder, in this regard, from time to time.

(2A). The appointment, re-appointment or removal of an independent director of a listed entity, shall be subject to the approval of shareholders by way of a special resolution.

(3) The independent directors of the listed entity shall hold at least one meeting in a [financial] year, without the presence of non-independent directors and members of the management and all the independent directors shall strive to be present at such meeting.

(4) The independent directors in the meeting referred in sub-regulation (3) shall, *inter alia*-
(a) review the performance of non-independent directors and the board of directors as a whole;

(b) Review the performance of the chairperson of the listed entity, taking into account the views of executive directors and non-executive directors;

(c) Assess the quality, quantity and timeliness of flow of information between the management of the listed entity and the board of directors that is necessary for the board of directors to effectively and reasonably perform their duties.

(5) An independent director shall be held liable, only in respect of such acts of omission or commission by the listed entity which had occurred with his /her knowledge, attributable through processes of board of directors, and with his /her consent or connivance or where he /she had not acted diligently with respect to the provisions contained in these regulations.

(6) An independent director who resigns or is removed from the board of directors of the listed entity shall be replaced by a new independent director by listed entity at the earliest but not later than three months from the date of such vacancy:

Provided that where the listed entity fulfils the requirement of independent directors in its board of directors without filling the vacancy created by such resignation or removal, the requirement of replacement by a new independent director shall not apply.

(7) The listed entity shall familiarise the independent directors through various programmes about the listed entity, including the following:

(a) nature of the industry in which the listed entity operates;

(b) business model of the listed entity;

(c) roles, rights, responsibilities of independent directors; and

(d) any other relevant information.

(8) Every independent director shall, at the first meeting of the board in which he participates as a director and thereafter at the first meeting of the board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, submit a declaration that he meets the criteria of independence as provided in clause (b) of sub-regulation (1) of regulation 16 and that he is not aware of any circumstance or situation, which exist or may be reasonably anticipated, that could impair or impact his ability to discharge his duties with an objective independent judgment and without any external influence.

(9) The board of directors of the listed entity shall take on record the declaration and confirmation submitted by the independent director under sub-regulation (8) after undertaking due assessment of the veracity of the same.

(10) With effect from January 1, 2022, the top 1000 listed entities by market capitalization calculated as on March 31 of the preceding financial year, shall undertake Directors and

Officers insurance ('D and O insurance') for all their independent directors of such quantum and for such risks as may be determined by its board of directors.

(11). No independent director, who resigns from a listed entity, shall be appointed as an executive / whole time director on the board of the listed entity, its holding, subsidiary or associate company or on the board of a company belonging to its promoter group, unless a period of one year has elapsed from the date of resignation as an independent director.

(12) A 'high value debt listed entity' shall undertake Directors and Officers insurance (D and O insurance) for all its independent directors for such sum assured and for such risks as may be determined by its board of directors.

Statement of Deviation(S) or Variation(S)

Regulation 32 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that:

(1) The listed entity shall submit to the stock exchange the following statement(s) on a quarterly basis for public issue, rights issue, preferential issue etc. , -

(a) indicating deviations, if any, in the use of proceeds from the objects stated in the offer document or explanatory statement to the notice for the general meeting, as applicable;

(b) indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between projected utilisation of funds made by it in its offer document or explanatory statement to the notice for the general meeting, as applicable and the actual utilisation of funds.

(2) The statement(s) specified in sub-regulation (1), shall be continued to be given till such time the issue proceeds have been fully utilised or the purpose for which these proceeds were raised has been achieved.

(3) The statement(s) specified in sub-regulation (1), shall be placed before the audit committee for review and after such review, shall be submitted to the stock exchange(s).

(4) The listed entity shall furnish an explanation for the variation specified in sub-regulation (1), in the directors' report in the annual report.

(5) The listed entity shall prepare an annual statement of funds utilized for purposes other than those stated in the offer document/prospectus/notice, certified by the statutory auditors of the listed entity, and place it before the audit committee till such time the full money raised through the issue has been fully utilized.

(6) Where the listed entity has appointed a monitoring agency to monitor utilisation of proceeds of a public or rights issue, the listed entity shall submit to the stock exchange(s)

any comments or report received from the monitoring agency [within forty-five days from the end of each quarter].

(7) Where the listed entity has appointed a monitoring agency to monitor the utilisation of proceeds of a public or rights issue, the monitoring report of such agency shall be placed before the audit committee on[a quarterly basis], promptly upon its receipt.

Explanation,—For the purpose of sub-regulations (6) and (7), “monitoring agency” shall mean the monitoring agency as specified in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.

[(7A) Where an entity has raised funds through preferential allotment or qualified institutions placement, the listed entity shall disclose every year, the utilization of such funds during that year in its Annual Report until such funds are fully utilized.]

(8) For the purpose of this regulation, any reference to “quarterly/quarter” in case of listed entity which have listed their specified securities on SME Exchange shall respectively be read as “half yearly/half year”.

Documents & Information to Shareholders

Regulation 36 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that:

(1) The listed entity shall send the annual report in the following manner to the shareholders:

(a) Soft copies of full annual report to all those shareholder(s) who have registered their email address(es) either with the listed entity or with any depository;

(b) Hard copy of statement containing the salient features of all the documents, as prescribed in Section 136 of Companies Act, 2013 or rules made thereunder to those shareholder(s) who have not so registered;

(c) Hard copies of full annual reports to those shareholders, who request for the same.

(2) The listed entity shall send annual report referred to in sub-regulation (1), to the holders of securities, not less than twenty-one days before the annual general meeting.

(3) In case of the appointment of a new director or re-appointment of a director the shareholders must be provided with the following information:

- (a) a brief resume of the director;
- (b) nature of expertise in specific functional areas;
- (c) disclosure of relationships between directors inter-se;
- (d) names of listed entities in which the person also holds the directorship and the membership of Committees of the board[along with listed entities from which the person has resigned in the past three years]; and
- (e) shareholding of non-executive directors in the listed entity, including shareholding as a beneficial owner;
- [(f). In case of independent directors, the skills and capabilities required for the role and the manner in which the proposed person meets such requirements.

[(4) The disclosures made by the listed entity with immediate effect from date of notification of these amendments-

- (a) to the stock exchanges shall be in XBRL format in accordance with the guidelines specified by the stock exchanges from time to time; and
- (b) to the stock exchanges and on its website, shall be in a format that allows users to find relevant information easily through a searching tool:

Provided that the requirement to make disclosures in searchable formats shall not apply in case there is a statutory requirement to make such disclosures in formats which may not be searchable, such as copies of scanned documents.

(5) The notice being sent to shareholders for an annual general meeting, where the statutory auditor(s) is/are proposed to be appointed/re-appointed shall include the following disclosures as a part of the explanatory statement to the notice:

- (a) Proposed fees payable to the statutory auditor(s) along with terms of appointment and in case of a new auditor, any material change in the fee payable to such auditor from that paid to the outgoing auditor along with the rationale for such change;
- (b) Basis of recommendation for appointment including the details in relation to and credentials of the statutory auditor(s) proposed to be appointed.

Note: Students appearing in December, 2022 Examination should also update themselves on all the relevant Notifications, Circulars, Clarifications, Orders etc. issued by MCA, SEBI, ICSI & or other authority till 31st May, 2022.
