

# COMPANY SECRETARY

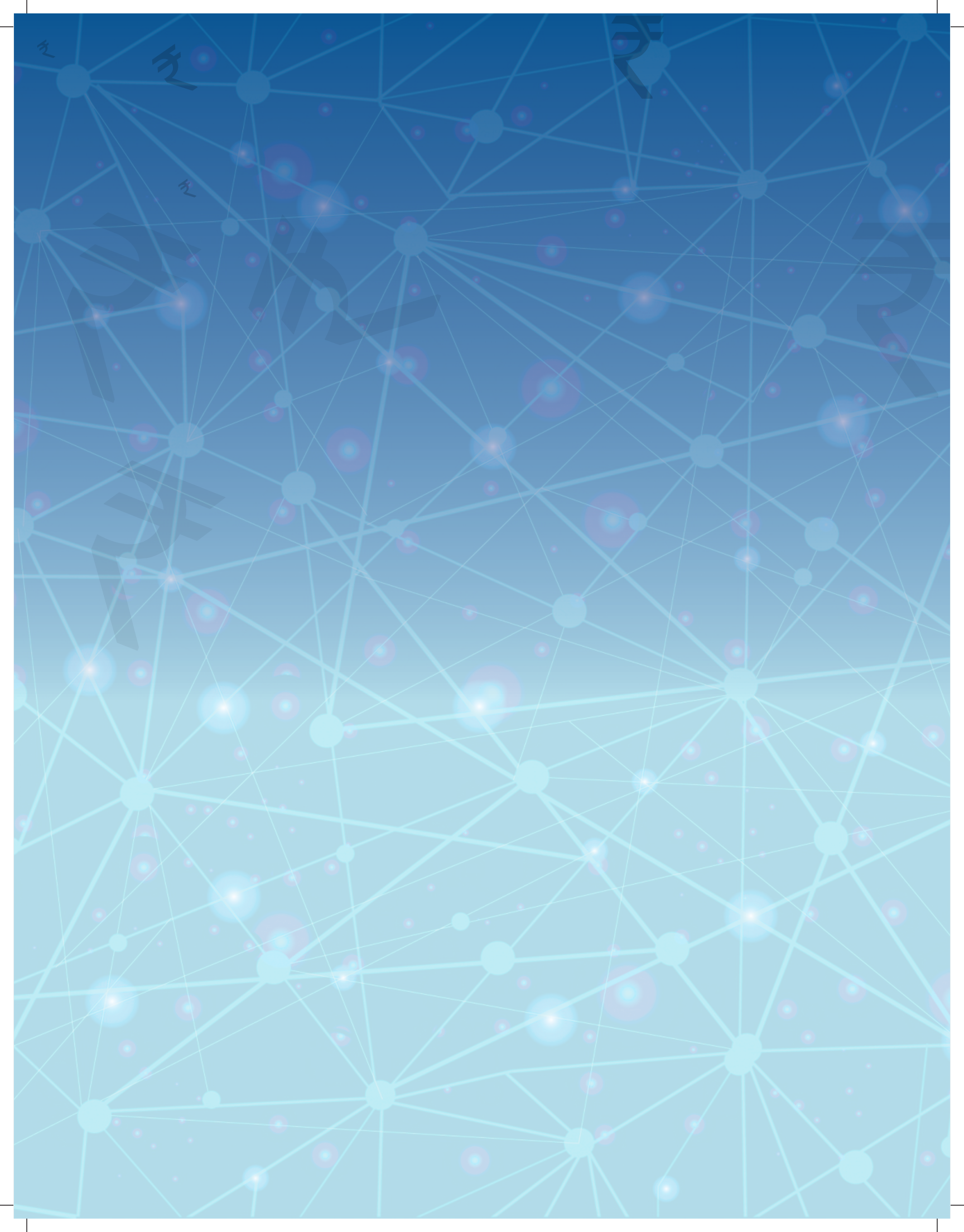
# PROFESSIONAL CATALYST IN CAPITAL MARKET



**THE INSTITUTE OF  
Company Secretaries of India**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

Statutory body under an Act of Parliament



अरुण जेटली  
वित्त, कार्पोरेट कार्य  
एवं रक्षा मंत्री  
भारत



**Arun Jaitley**  
Minister of Finance, Corporate Affairs  
and Defence  
India

5<sup>th</sup> July, 2017

## **MESSAGE**

It is rightly said that "Appreciate everything that you and your comrades do for the profession. Nothing else can quite substitute for a few well-chosen, well-timed sincere words of acclaim. They are absolutely free and worth a fortune." For the profession of Company Secretaries, the day of recognition and credit was 15<sup>th</sup> June in the year 1988, when the Company Secretaries in Practice were accorded recognition for certifying the Annual Returns under the erstwhile Companies Act, 1956.

Since then, the hard work, dedication, perseverance, commitment, assurance and pledge to provide effective professional expertise and proficiency. The professional community of Company Secretaries has been duly recognized as global professional in field of corporate compliance and governance. The pivotal role played by the Company Secretaries in laying down the standards of sustainable governance in the country has also been duly appreciated. They also played an important role in ensuring effective compliance, fulfilling legislative requirements and following the best practices in the field of corporate governance in both letter and spirit.

In today's scenario, when India is moving forward on the path of global economic super power transformation, the professional community of Company Secretaries is persistently working hard in establishing their expertise and specialization in various areas of corporate compliance and governance. It would be appropriate to mention here that in process of transforming india, the role of Company Secretaries would be highly important.

(Arun Jaitley)

---

Office : 134, North Block, New Delhi - 110001, Tel.: 23092810, 23092510 Fax : 23092828  
Residence : 2, Krishna Menon Marg, New Delhi-110011, Tel.: 23794990, 23794556 Fax : 23794543

# CONTENTS

S. NO.	TOPIC	PAGE NO.
1.	Introduction	6
2.	Recognitions to Company Secretary under various Securities laws	8
3.	Recognitions to Company Secretary in Employment	9
4.	Recognitions to Company Secretary in Practice	10
5.	Capital Market - A Journey of Metamorphosis	24

## FOREWORD

Capital market is considered to be the mainstay of any economy which ensures the effective savings of the hard earned money of the society through a structured channel for industrial, commercial and public enterprises. Since ages, well-organized capital market has always been and is one of the essential pre-requisite for economic development of a country.

A developed, vibrant and robust Capital Market immensely contribute towards speedy economic growth and development of the nation. However, the development of capital market depends upon certain key factors like availability of savings, proper organisation of intermediary of mutual interests, regulation of investments, balancing regulation of capital market itself.

The development, promotion and sustainment of the robust capital market also requires directed implementation and compliance of the regulatory regime, and hence force, Compliance Professionals - Company Secretaries plays a role of professional catalyst in ensuing the balance regulation of the Indian capital market along with the support for its significant development both dimensionally and directionally.

In this perspective, Institute publishes this book on “*Company Secretary – Professional Catalyst in Capital Market*” to describe and indoctrinate an advanced understanding of professional opportunities for Company Secretaries and facilitating role, they perform in the advancement of capital market along with ensuring the effective and efficient regulation of the market as a whole.

I commend the dedicated efforts put in by CS Khusbu Mohanty, Assistant Director, and CS Sunaina Bhardwaj, Consultant, Directorate of Professional Development, Perspective Planning & Studies, ICSI in preparing the manuscript of this publication under the guidance and overall supervision of CS Mahavir Lunawat, Chairman, Financial Services Committee & Central Council Member, The ICSI.

I am sure that this publication would surely guide in up keeping the high standards of professional excellence, the Company Secretaries serve towards the directed regulatory regime confirming the global growth of Capital Market in India.

New Delhi  
14 July, 2017

**CS (Dr.) Shyam Agrawal**  
President  
The Institute of Company Secretaries of India

## Introduction

The Institute of Company Secretaries of India (ICSI) has been constituted under an Act of Parliament i.e., the Company Secretaries Act, 1980 to develop and regulate the profession of Company Secretaries. The ICSI functions under the administrative jurisdiction of Ministry of Corporate Affairs, Government of India. The ICSI awards the designation of Company Secretary to a candidate qualifying for the membership of the Institute and exercises professional supervision. The ICSI has on its rolls around 51,000 members including around 9300 members holding Certificate of Practice and 4,00,000 students pursuing the Company Secretary ship Course.

*“Success is a journey, not a destination.”*

*– Ralph Arbitelle*

The Institute of Company Secretaries of India has pursued the path of progress, despite difficulties without being trapped into any crisis. Since 1980, every year, The Institute has made remarkable progress and every time it has helped to enhance the reputation of the profession amongst the fraternity of professionals. From being quadragenarian to Quinquagenarian- A journey of unforgotten struggle and reforms as the Institute will witness its prosperous 50 years of existence, it will celebrate its Golden Jubilee on 04 October, 2018. It is rightly said:

*“A new dawn is ahead of us. The onus is on each one of us to herald this dawn with passion and commitment. Our future generation will then radiate in its sunshine.”*

## Capital Markets Week

*– a journey of metamorphosis*

The Institute of Company Secretaries of India (ICSI) has been actively engaged in promoting the interest of investors and the orderly development of the capital market in India. As part of its continuous initiative towards investor education and good governance in Capital Markets, the ICSI is observing Capital Markets Week for last five consecutive years.

- The Institute organises mega programmes at various cities and a number of activities are being undertaken during the Week such as panel discussions, lectures, interactive meetings with market regulators/stock exchanges and investor awareness programmes by the respective Regional Councils and Chapters of ICSI.
- It is apt to reiterate the fact that accountability and transparency is the pillar of good governance and Conducting of 'Capital Markets Week' is yet another initiative towards this direction and the programmes and other initiatives which would be held throughout the country would be mutually beneficial to the participants, partner organisations and the Institute on knowledge terms.

## Investor Awareness Programmes

Investor education and awareness is one of the core activities of the Institute towards promoting good corporate governance. In this direction, the Institute has partnered with Ministry of Corporate Affairs, Securities and Exchange Board of India and Stock Exchanges for organizing investor awareness programmes and seminars through its various Regional Councils/Chapters across the country. The Institute is registered under the Investor Education and Protection Fund (Awareness and Protection of Investors) Rules, 2001 since 2005 and has organized more than 4100 Investor Awareness Programmes under IEPF till March 31, 2017.

## Company Secretary Professional Catalyst in Capital Markets

Indian economy witnessed sea changes since the onset of LPG (Liberalization, Privatization and Globalization) era, and in midst of these changes, the Indian Financial Services sector too metamorphosed in several ways and notable of them being 'Financial Sector Reforms', whose genesis can be traced back to the 90s and were initiated with the aim of tackling the challenges posed by a complex financial structure to ensure that the new emerging face of the Indian financial sector will culminate in a robust, transparent and buoyant system. Empirical evidences suggest positive correlation between financial development and growth. Indian economy and its growth are dependable on its capital market to a larger extent.

In line with the exceptional role of capital market in the inclusive growth of our nation at global platform, The Institute of Company Secretaries of India has come up the concept of featuring the thick and thin of the market in the form of an innovative event named “Capital Markets Week” every year. This is one of the mega events of the Institute and focuses on providing latest updates to the professional fraternity about the contemporary transformations in the capital market.

During the past few years, the Capital Market Regulator- SEBI has come up with several policy initiatives in order not only to strengthen the regulatory framework of the Indian Capital market but also align the role of capital market to the larger vision of the Government of India, international best practices and more importantly to the investing and funding needs of the inspirational Indian population. Recent policy initiatives have come a long way in further strengthening the investor confidence in the market. Broadly, the regulatory framework in India is in compliance with the OECD Principles, an international benchmark worldwide.

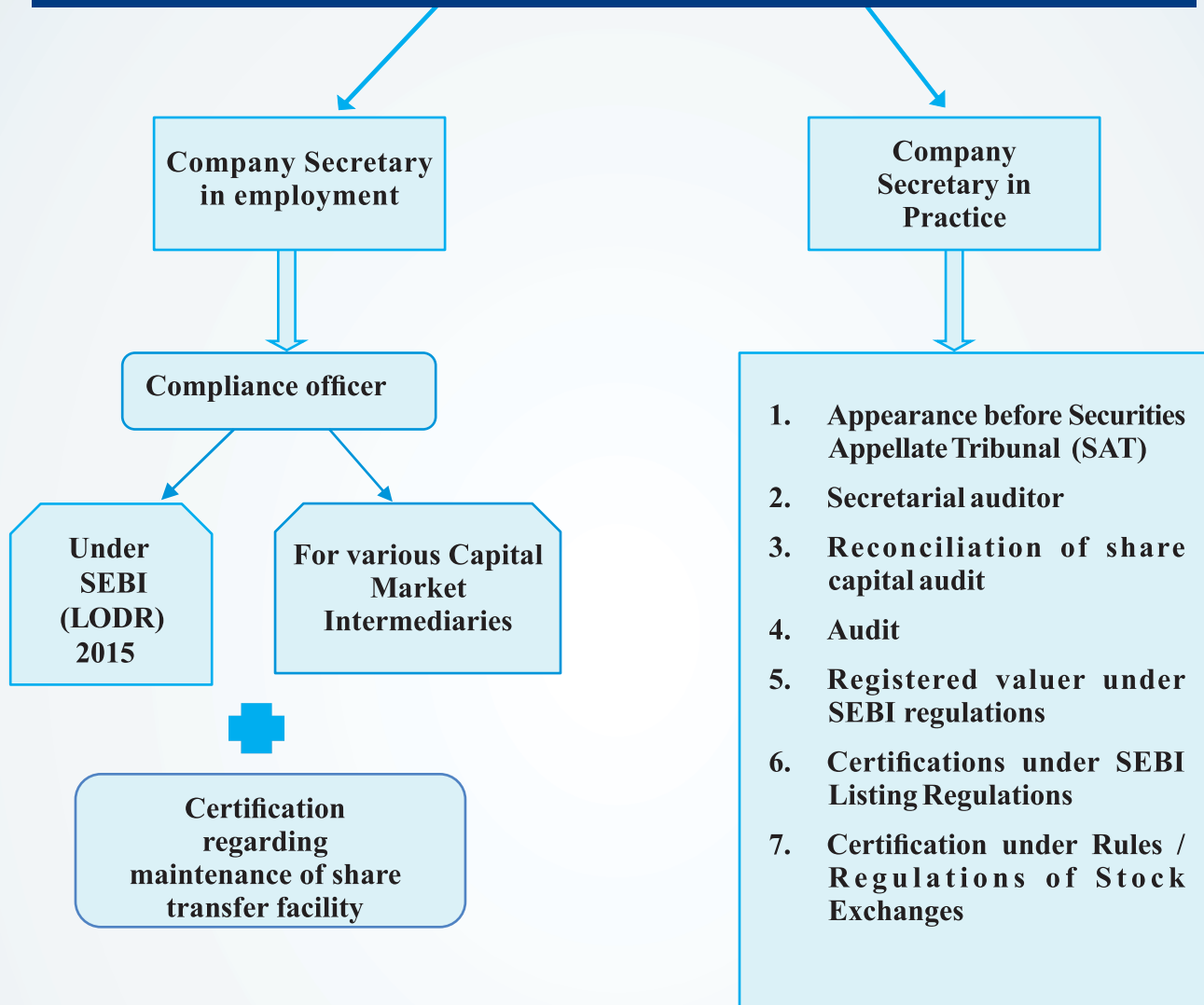
All these developments in the capital market or otherwise say technologically, policy initiatives and new legislations emphasize the importance of accountability and transparency. SEBI from its very inception appreciated the independent professional intervention in the orderly development and growth of capital market and in turn strengthen the governance framework of listed companies. It is truer for the profession of Company Secretaries than for anyone else.

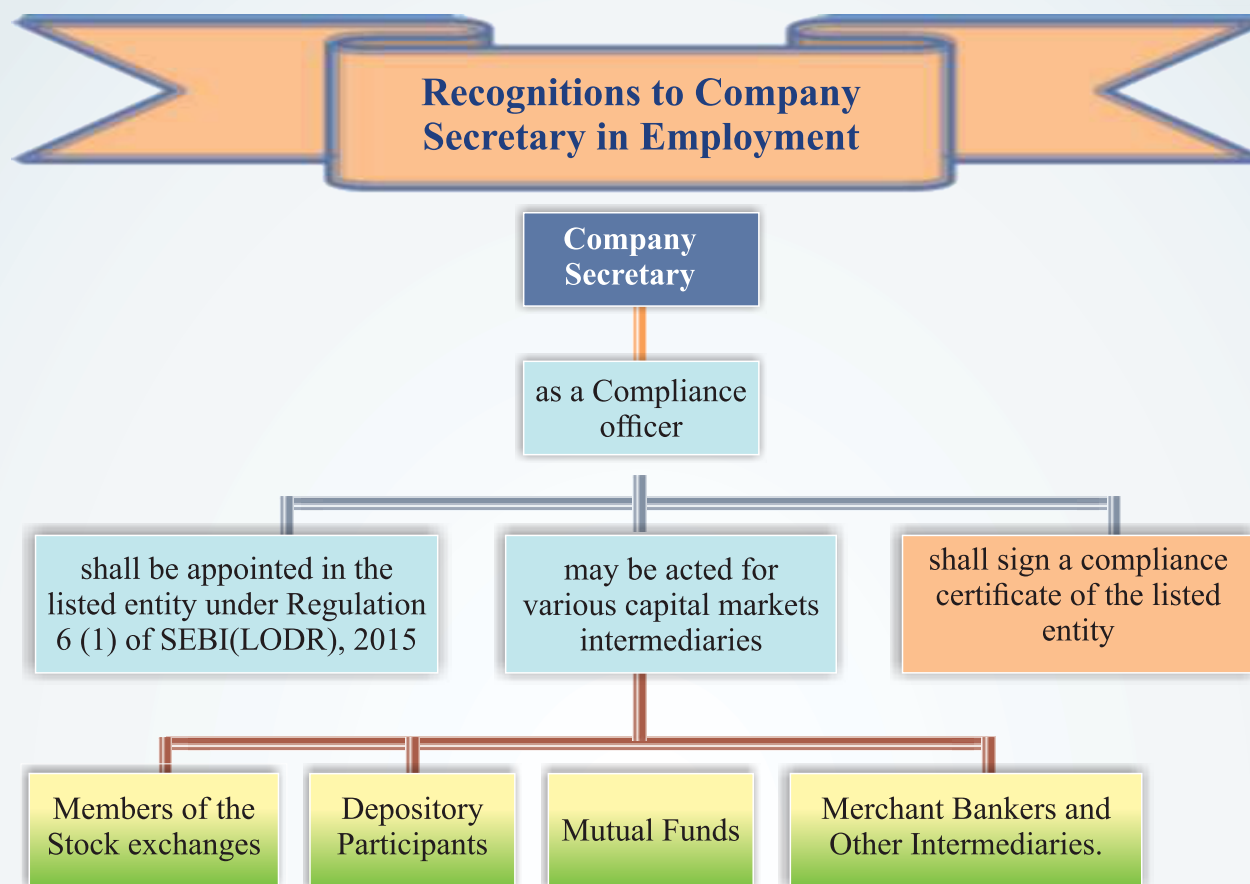
“It is not often that a man can make opportunities for himself. But he can put himself in such shape that when or if the opportunities come he is ready.”

*Theodore Roosevelt*

The Company Secretary is the versatile genius in anything on securities laws and compliances. The CS is enjoined with the conduct of secretarial audit for listed companies, audit of intermediaries, and appearance before Tribunals to be set up and many more implicit and explicit areas covering wide range of issues such as compliance officer etc.

## RECOGNITIONS TO COMPANY SECRETARY UNDER VARIOUS SECURITIES LAWS





## COMPLIANCE OFFICER

### Under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

The listed entity has to mandatorily appoint a Company Secretary as Compliance Officer except for units of Mutual Funds listed on Stock Exchanges. **[Regulation 6 (1)]**

#### For various Capital Market Intermediaries

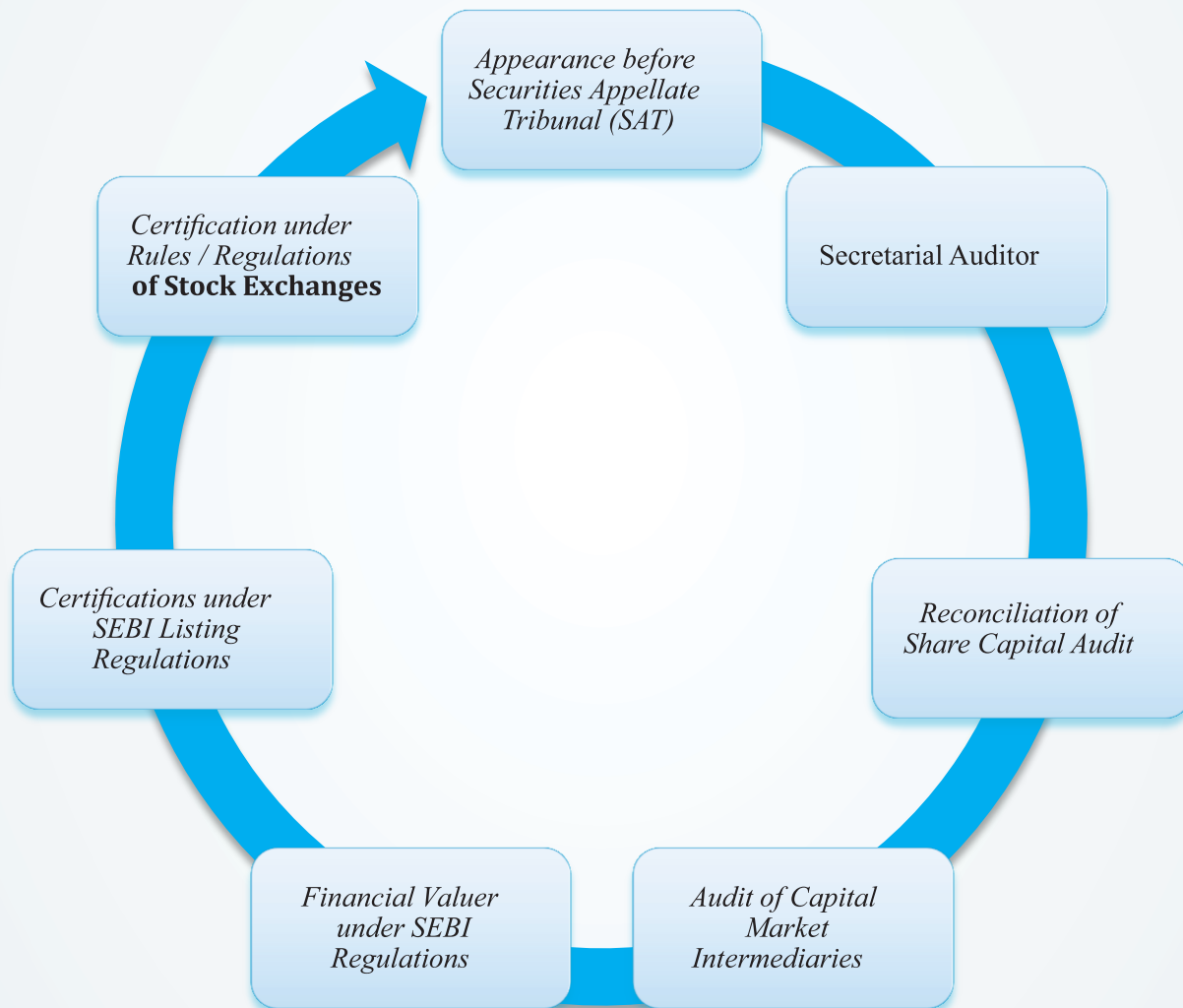
Company Secretary also acts as Compliance Officer for various capital markets intermediaries, such as:

- Members of the Stock exchanges
- Depository Participants
- Mutual Funds
- Merchant Bankers and Other Intermediaries.

#### Certification Regarding Maintenance of Share Transfer Facility

The listed entity shall submit a compliance certificate to the exchange, duly signed by both the compliance officer of the listed entity and the authorise representative of the share transfer agent, whenever applicable within one month of end of each half of the financial year certifying that all activities in relation to both physical and share transfer facility are maintained either in house or by Registrar to an issue and share transfer agent registered with SEBI. **[(Regulation 7 (3) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015]**

## RECOGNITIONS TO COMPANY SECRETARY IN PRACTICE



### Appearance before Securities Appellate Tribunal (SAT)

- Practising Company Secretary has been authorised to appear as authorised representative before the Securities Appellate Tribunal (SAT) under SEBI Act, 1992 and Depositories Act, 1996. **[Section 15 V of SEBI Act, 1992; Section 23C of Depositories Act, 1996]**

### Secretarial Auditor

- Every listed company and every public company having a paid-up share capital of fifty crore rupees or more; or every public company having a turnover of two hundred fifty crore rupees or more, shall annex with its Board Report, a secretarial audit report, given by a Company Secretary in Practice, in Form No. MR - 3. **[Section 204 & Rule 9 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014]**

### Reconciliation of Share Capital Audit

- Practising Company Secretary is authorised to issue quarterly certificate with regard to reconciliation of the total issued capital, listed capital and capital held by depositories in dematerialized form, details of changes in share capital during the quarter, and in-principle approval obtained by the issuer from all the stock exchanges where it is listed in respect of such further issued capital under SEBI (Depositories and Participants) Regulations, 1996. **[Regulation 55A of SEBI (Depositories and Participants) Regulations, 1996]**

### Audit

- Efficient internal control systems and processes are pre-requisite for good governance. The governance being a dynamic concept requires constant evaluation and monitoring of the systems and processes. In the context of Capital Markets, capital markets intermediaries are an important constituent of overall governance framework. Being an important link between regulators, investors and issuers, they are expected to ensure that their internal controls are so efficient that ensure effective investor service at all times and provide regulators comfort as to the compliance of regulatory prescription. It is in this direction that SEBI has authorised Practising Company Secretaries to undertake internal audit of various capital market intermediaries.



**a) Internal Audit of Portfolio Managers**

Practising Company Secretary is authorized for conducting the internal audit of Portfolio Manager. The report is to be submitted twice a year, as on 31st of March and 30th of September. The scope of internal audit comprises the checking of compliance of SEBI (Portfolio Managers) Rules, 1993, SEBI (Portfolio Managers) Regulations, 1993 and circulars, notifications or guidelines issued by SEBI and internal procedures followed by the Portfolio Manager. [SEBI Circular IMD/PMS/CIR/1/21727/03 dated Nov. 18, 2003]

**b) Internal Audit of Stock Brokers/Clearing Members/Trading Members**

Practising Company Secretary is authorised to carry out Internal Audit of Stock Brokers/Trading Members/Clearing Members on a half yearly basis. The scope of internal audit of stock brokers, being wide enough, covers *inter alia* the existence, scope and efficiency of the internal control system, compliance with the provisions of the SEBI Act, 1992, Securities Contracts (Regulation) Act, 1956, SEBI (Stock Brokers and Sub Brokers) Regulations, 1992, circulars issued by SEBI, agreements, KYC requirements, Bye Laws of the Exchanges, data security and insurance in respect of the operations of stock brokers/clearing members. [SEBI Circular MRD/DMS/CIR-29/2008 dated October 21, 2008]

**c) Internal Audit of Credit Rating Agencies**

Practising Company Secretary is authorized to carry out internal audit for Credit Rating Agencies (CRA) on a half yearly basis. The Audit covers all aspects of CRA operations and procedures, including investor grievance redressal mechanism, compliance with the requirements stipulated in the SEBI Act, Rules and Regulations made thereunder and guidelines issued by SEBI from time to time. [SEBI Circular MRD/CRA/CIR-01/2010 dated January 06, 2010]

**d) Internal Audit of Depository Participants**

The two depository service providers in India, viz., National Securities Depository Ltd. (NSDL) and Central Depository Services (India) Limited (CDSL) have authorised Practising Company Secretary to undertake internal audit of the operations of Depository Participants (DPs). [CDSL Byelaws 16.3.1, NSDL Byelaws 10.3.1]

**e) Concurrent Audit of Depository Participants**

SEBI authorised the Practising Company Secretaries, amongst other Professionals to carry out audit of Investment Advisers on yearly basis. Regulation 19(3) of the SEBI (Investments Advisers) Regulations, 2013 requires yearly audit of compliance of Investments Advisers under SEBI (Investment Advisers) Regulations, 2013 by a member of the Institute of Company Secretaries of India.

**f) Annual Audit of Research Analyst**

Practising Company Secretary is authorized to carry out annual audit of research analyst. Regulation 25(3) of SEBI (Research Analysts) Regulations, 2014 requires annual audit of research analysts under SEBI (Research Analysts) Regulations, 2014 by a member of the Institute of Company Secretaries of India.

**g) Yearly Audit of Investment Adviser**

Practising Company Secretary is authorized to carry out concurrent audit of Depository Participants which covers audit of the process of demat account opening, control and verification of Delivery Instruction Slips (DIS). [NSDL/Policy/2006/0021 dated June 24, 2006 and CDSL circular-number CDSL/AUDIT/DP/721 dated July 11, 2006]

## FINANCIAL VALUER UNDER SEBI REGULATIONS

Financial Valuer



SEBI (Real Estate Investment Trusts) Regulations, 2014



SEBI (Infrastructure Investment Trusts) Regulations, 2014

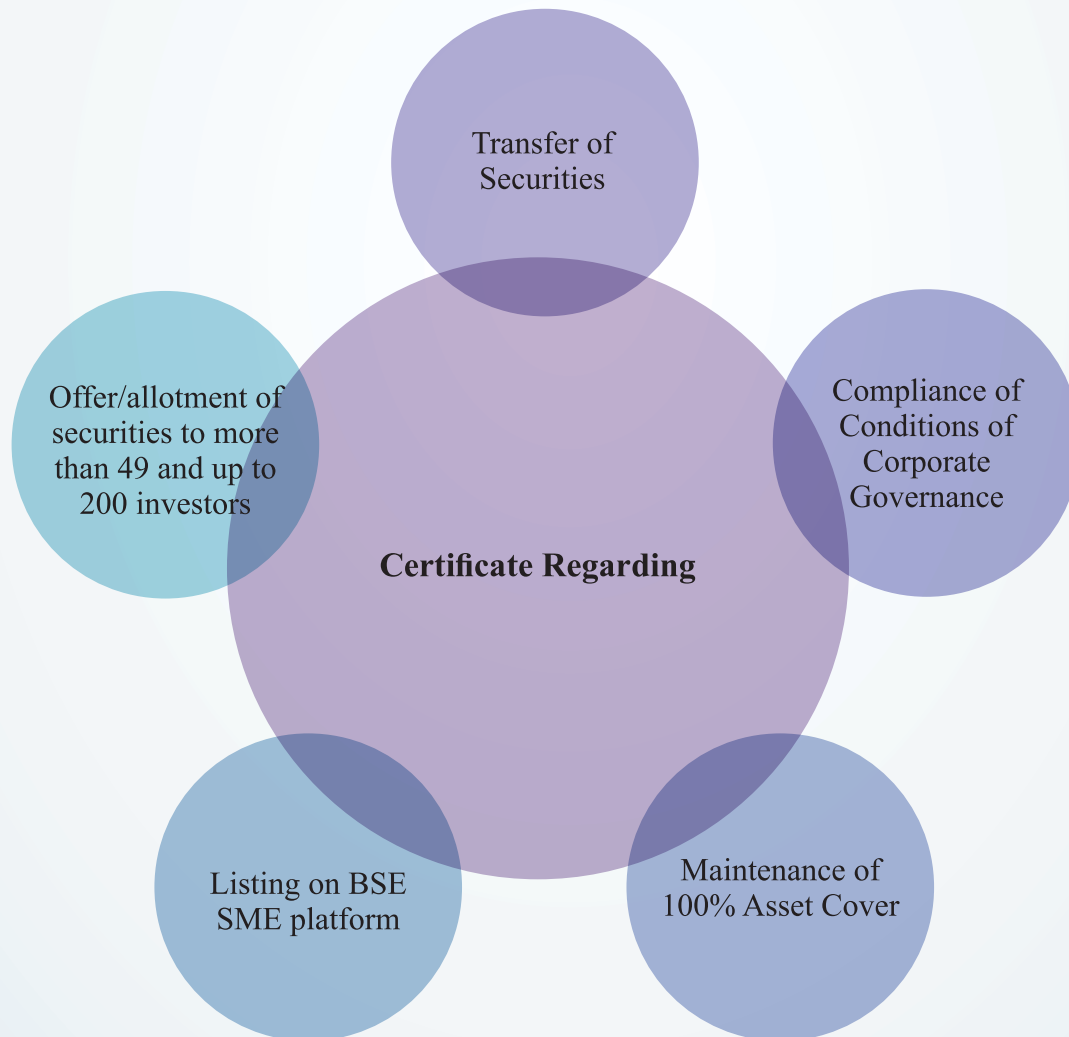
#### A. SEBI (Real Estate Investment Trusts) Regulations, 2014

Practising Company Secretary is recognised under Regulation 2 sub- regulation (1) Clause zz (a) (i) of SEBI (Real Estate Investment Trusts) Regulations, 2014 to act as financial valuer to undertake financial valuation of the REIT assets.

#### B. SEBI (Infrastructure Investment Trusts) Regulations, 2014

Practising Company Secretary is recognised under Regulation 2 sub- regulation Clause (zzf) (a) (i) of SEBI (Infrastructure Investment Trusts) Regulations, 2014 to act as financial valuer to undertake financial valuation of the InvIT assets.

### Certifications under SEBI Listing Regulations



### **Certificate regarding Transfer of Securities**

Certification to the effect that all transfers have been completed within the stipulated time. **[Regulation 40(9)]**

### **Certificate Regarding Compliance of Conditions of Corporate Governance under SEBI Listing Regulations**

SEBI listing regulations authorizes Practising Company Secretary to issue certificate regarding compliance of conditions of Corporate Governance. **[Schedule V, Clause E]**

### **Certificate Regarding Maintenance of 100% Asset Cover**

To issue half yearly certificate regarding maintenance of 100% security cover in respect of listed non-convertible debt securities. **[Regulation 56(1)] (d)**

### **Compliance Certificate by a Practising Company Secretary for listing on BSE SME platform**

BSE vide its circular dated 26th November 2012 requires that Companies seeking listing on BSE SME Platform through IPO are required to comply with the quantitative eligibility norms as prescribed by BSE. Additionally, it will be desirable for the company to file a compliance certificate by a Practising Company Secretary as per the guidance note issued by the Institute of Company Secretaries of India as and when such a certification is made applicable by the SME Platform of BSE Ltd.

### **Certification by Practising Company Secretary in case of offer/allotment of securities to more than 49 and up to 200 investors**

To issue a certificate regarding issuance of securities to more than 49 and up to 200 investors that the refund procedure as prescribed by SEBI has been duly complied with. **[SEBI Circular No. CFD/DIL3/CIR/P/2016/53 dated May 03, 2016]**



## CERTIFICATION UNDER RULES / REGULATIONS OF STOCK EXCHANGES

### Certification under Bombay Stock Exchange Ltd.

#### Net worth Certificate

- Company Secretary is authorized to issue Net worth Certificate to be submitted by all active members including representative members of Cash segment, Limited Trading members & Trading and/or Clearing members of the Derivatives segment of the Bombay Stock Exchange. [Source: [www.bseindia.com](http://www.bseindia.com)]

#### For listing of IPO

##### A Certificate from a practising Company Secretary stating that:

- Allotment has been made as per the basis of allotment approved by the Designated Stock Exchange.
- The share certificates corresponding to equity securities under lock in have been en faced with non-transferability condition.
- In case of Employee reservation in the issue then "Allotment of shares from the employees' quota has been made to permanent/regular employees of the company and of the promoter companies, as on the date of the opening of the public issue and who are entitled to such allotment. [Source: [www.bseindia.com](http://www.bseindia.com)]



#### Forfeiture of securities

- A certificate from the Managing Director as well as the practising Company Secretary specifically certifying that the company had duly complied with the provisions contained in the company's Memorandum & Articles of Association and the Companies Act, 2013. [Source: [www.bseindia.com](http://www.bseindia.com)]

#### For Listing of Non-Convertible Debentures pursuant to Public Issue

- A Certificate from practising Company Secretary stating allotment has been made as per the basis of allotment approved by the designated Stock Exchange. [Source: [www.bseindia.com](http://www.bseindia.com)]

#### For revocation of suspension in trading of equity shares

- A Compliance certificate obtained from the practising Company Secretary on compliance w.r.t. Regulations 17-27 of the SEBI Listing Regulations. [Source: [www.bseindia.com](http://www.bseindia.com)]

## For Listing on the BSE Hi-Tech (Institutional Trading Platform)

(I) Without  
Public Issue

(II) Pursuant To  
Public Issue

### I. Without Public Issue

- A certificate from a practising Company Secretary certifying the statement of material contracts and documents. [Source: www.bseindia.com]

### II. Pursuant To Public Issue

- A certificate from a practising Company Secretary certifying the statement of material contracts and documents.
- A Certificate from the Managing Director / Company Secretary or PCS stating the following –
  - a) The company has achieved point wise compliance with the Eligibility Criteria as specified under Regulation 106Y of the Amended SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 as notified on August 14, 2015.
  - b) Confirmation from BRLM/Lead Manager regarding the applicant company being pointwise in compliance with Regulation 4(2) of SEBI (ICDR) Regulations, 2009.
  - c) The securities of the Company are not listed on any Recognized Stock Exchange.
  - d) The company is not promoted by promoters and directors of an entity delisted under regulation 106ZD(2), for a period of five years from the date of such delisting.
  - e) The Company, group companies or subsidiaries has not been referred to the Board for Industrial and Financial Reconstruction (BIFR).
  - f) There is no winding up petition against the company, which has been admitted by the court or a liquidator has not been appointed.
  - g) No regulatory action has been taken against the company, its promoter or director, by SEBI, Reserve Bank of India, Insurance Regulatory and Development Authority or Ministry of Corporate Affairs within a period of five years prior to the date of application for listing. [Source: www.bseindia.com]

### Listing on the BSE-SME Platform

- **A Certificate from the Managing Director / Company Secretary or practising Company Secretary stating the following –**
  - a) The Company has not been referred to the Board for Industrial and Financial Reconstruction (BIFR).
  - b) There is no winding up petition against the company, which has been admitted by the court or a liquidator has not been appointed.

- c) There has been no change in the promoter/s of the Company in the preceding one year from date of filing application to BSE for listing on SME segment.
- **A Certificate from practising Company Secretary stating that:**
  - a) Allotment has been made as per the basis of allotment approved by the Designated Stock Exchange.
  - b) The share certificates corresponding to equity Securities under lock in have been encased with non-transferability condition.
  - c) Allotment of shares from the employees' quota has been made to permanent/regular employees of the company and of the promoter companies, as on the date of the opening of the public issue and who are entitled to such allotment. [Source: www.bseindia.com]

### **For granting approvals under Regulation 28(1) of the SEBI Listing Regulations in case of Qualified Institutions Placement (QIPs)**

#### **I. Pre allotment**

- A Networth certificate from practising Company Secretary together with related workings of the company based on the audited balance sheet of the previous financial year. [Source: www.bseindia.com]

#### **II. Post allotment**

- A Certificate from a practising Company Secretary confirming the floor price has been based on the pricing formula prescribed under Chapter VIII of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 and the company has been in receipt of funds against the placement of securities with QIBs. [Source: www.bseindia.com]

### **For “In-principle approval” for issue of securities issued on a preferential basis under Regulation 28(1) of the SEBI Listing Regulations**

- **A Certificate from a Practising Company Secretary confirming that:**
  - a) None of the proposed allottee(s) has/ have sold any equity shares of the company during the six months period preceding the relevant date. Further, where the proposed allottee(s) is/ are promoter/ promoter group entity, then none of entities in the promoter and promoter group entities has/ have sold any equity share of the company during the six month period preceding the relevant date.
  - b) The pre-preferential shareholding of each of proposed allottee(s) has been locked in accordance with Regulation 78(6) SEBI (ICDR) Regulations, 2009. Further, there is no sale/pledge of pre-preferential holding from Relevant Date till date of lock-in.
  - c) None of the proposed allottees belonging to promoter(s) or the promoter group is ineligible for allotment in terms of Regulations 72(3) of SEBI (ICDR) Regulations, 2009.
  - d) The proposed issue is being made in accordance with the requirements of Chapter VII of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, Section 42 and 62 of the Companies Act 2013 and Rule 14 of the Companies (Prospectus and Allotment of Securities) Rules, 2014.

- e) The company will comply with all legal and statutory formalities and no statutory authority has restrained the company from issuing these proposed securities.
- A certificate from a practising Company Secretary confirming the relevant date for the purpose of said minimum issue price for the proposed preferential issue and that the minimum issue price is based on the pricing formula prescribed under Chapter VII of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009. [Source: www.bseindia.com]

#### **For granting listing approvals, for the equity shares issued on a preferential**

- A Certificate from a practising Company Secretary with respect to the proposed preferential allotment certifying that:
  - ❖ The company has complied with all the provisions of Chapter VII of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, Companies Act, 2013 including Section 42 and Section 62 of the Companies Act 2013 and Rule 14 of the Companies (Prospectus and Allotment of Securities) Rules, 2014. Further the company has also complied with all the legal and statutory formalities for allotment of aforesaid equity shares issued on a preferential basis.
  - ❖ Allotment of shares has been made only to such persons to whom offer / invitation was made.
  - ❖ No statutory/regulatory authorities has restrained the company for issuing equity shares to the company on preferential basis.
  - ❖ In the case of convertible instruments, the allottees have exercised the option to convert the instrument within a period of 18 months from the date of allotment of the instrument.
  - ❖ The pre-preferential shareholding of the allottees (mentioning the quantity) are under lock for the period starting from relevant date up to a period immediately prior to allotment.
  - ❖ At the time of allotment the pre-preferential shareholding (if any) of all the allottees were held in dematerialized form only and no allotment has been made to any allottee whose pre-preferential shareholding was in physical form or was in the process of dematerialization.
  - ❖ No allotment has been made to an allottee who did not have PAN at the time of allotment, unless the entity is exempt from PAN.
  - ❖ None of the allottee has breached investment limit prescribed by any regulator. [Source:www.bseindia.com]

#### **For listing of equity shares issued pursuant to exercise of options granted under ESPS/ESOS/SARS/GEBS/RBS basis - Post issue**

- A Certificate from Company Secretary for receipt of money.
- A quarterly certificate from the practising Company Secretary specifically certifying that the company has received the application/allotment monies from the applicants of these shares. [Source:www.bseindia.com]

### **Listing of securities issued pursuant to the Rights**

- A certificate from practising Company Secretary that allotment has been done as per basis of allotment approved by the designated stock exchange. [Source: www.bseindia.com]

### **Listing approval for Bonus equity shares issued by the Companies**

- A certificate from practising Company Secretary to the effect that the SEBI (ICDR) Regulations, 2009 for bonus issue has been complied with. [Source: www.bseindia.com]

### **For Direct Listing for Companies which are listed with Stock Exchanges in Equity Segment**

- **Companies having Average Turnover more than Rs. 500 crores in previous Financial Year:**
  - An original certificate from a Practising Company Secretary regarding compliance with Corporate Governance requirements in accordance with Regulations 17-27 of the SEBI Listing Regulations.
  - If Regulations 17-27 of the Listing Regulations is not applicable to the company, a certificate from an independent professional e.g. practising Company Secretary has to be given at the time of applying for Listing, stating the reasons thereof. [Source: www.bseindia.com].
- **Companies having Average Turnover less than Rs. 500 crores in previous Financial Year:**
  - An original certificate from a practising Company Secretary regarding compliance with Corporate Governance requirements in accordance with Regulations 17-27 of the SEBI Listing Regulations. [Source: www.bseindia.com]



## Certification under National Stock Exchange Ltd.

### Trading Members (NSE Circular No. 541, Ref. NSE/MEM/7835)

- Details of director/proprietor in format C-3 of Annual Return submitted by Trading Member to the Stock Exchange.
- Details of shareholding pattern/ sharing pattern of corporates in format C-6 of Annual Return submitted by Trading Member to the Stock Exchange.
- Details of shareholding pattern/ sharing pattern of firms in format C-6 of Annual Return submitted by Trading Member to the Stock Exchange.
- Details of Dominant group of corporates in format C-7 of Annual Return submitted by Trading Member to the Stock Exchange.
- Undertaking from Relative of Persons constituting Dominant Promoter Group in format C-8 of Annual Return submitted by Trading Member to the Stock Exchange.
- Undertaking from corporates supporting Dominant Promoter Group in format C-8 of Annual Return submitted by Trading Member to the Stock Exchange.



### Promoter to be reclassified as public shareholder [Regulation 31A (6) SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015]

- Where an entity becomes professionally managed and does not have any identifiable promoter the existing promoters may be reclassified as public shareholders and in such a case the pre and post shareholding pattern pursuant to proposed reclassification should be certified by a practising Company Secretary [Source:www.nseindia.com]

### Name Change

- In case of Name Change, the company is required to provide a Certificate from practising Company Secretary providing the detailed bifurcation of income earned by the Company under various activities as suggested by the new name. [Source:www.nseindia.com]

### In principle approval for securities issued underlying GDRs/ADRs

- **Certificate from a practising Company Secretary for the following confirmations:**
  - a) The pricing of the issue along with the detailed working of the same.
  - b) The company has received the entire consideration payable prior to the allotment of shares. [Source: www.nseindia.com]

### Grant of approval under Regulation 37 of the SEBI Listing Regulations, 2015 (Demerger - Resulting Company Seeking Listing at Exchange, other companies, reduction of Capital under Section 66 of Companies Act, 2013, re-commencement of trading of listed company post scheme of arrangement / capital reduction)

- A Certificate from practising Company Secretary for Networth of the Company pre and post Scheme under Sections 101, 391 and 394 of the Companies Act, 1956. [Source:www.nseindia.com]

### **Listing of further issue of securities issued pursuant to scheme of amalgamation/ merger/ scheme of arrangement etc.**

- A Certificate from practising Company Secretary regarding lock-in details (Mentioning the Lock-in date details). [Source: [www.nseindia.com](http://www.nseindia.com)]

### **Listing of further issue of securities issued as Bonus**

- Certificate from practising Company Secretary to the effect that the SEBI (ICDR) Regulations, 2009 for bonus issue is duly complied with. [Source: [www.nseindia.com](http://www.nseindia.com)]

### **Issue of securities under Qualified Institutional Placement (QIP) and Institutional Placement programme (IPP)**

#### **I. Pre allotment**

- A Certificate from practising Company Secretary confirming the Networth calculation regarding pre allotment of shares in case of a QIP and IPP. [Source: [www.nseindia.com](http://www.nseindia.com)]

#### **II. Post allotment**

- A Certificate from practising Company Secretary confirming the calculation of the floor price in case of QIP and IPP. [Source: [www.nseindia.com](http://www.nseindia.com)]

### **In-principle approval for listing of securities issued under Rights/ Public Issues by already listed company**

- A Certificate from a practising Company Secretary confirming securities under lock-in (the certificate should include the distinctive numbers of securities under lock-in and date from and upto which these shares are under lock-in). [Source: [www.nseindia.com](http://www.nseindia.com)]

### **Listing of Indian Depository Receipts (IDRs)**

- A Certificate from a practising Company Secretary stating that allotment has been made as per the basis of allotment approved by the Designated Stock Exchange. [Source: [www.nseindia.com](http://www.nseindia.com)]

### **For In-principal Approval on Debt Market Segment**

- A Confirmation from a practising Company Secretary stating the issuer is compliant with the Regulation 17 to 27 SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. [Source: [www.nseindia.com](http://www.nseindia.com)]

### **Listing of shares arising out of Conversion of Debentures / Warrants / Notes / Bonds into Equity Shares**

- Certificate from Practising Company Secretary for receipt of money at the time of allotment of Convertible Debentures/Warrants/Notes, etc. [source: [www.nseindia.com](http://www.nseindia.com)]

### **Grant of In-principle approval (Preferential Issue) for listing under Regulation 28(1) of the SEBI Listing Regulations, 2015**

- **A Certificate from practising Company Secretary for the following confirmations:**
  - ❖ The entire pre-preferential holding of the allottee(s) and that the same is in dematerialized form.
  - ❖ The Pricing of the issue along with the detailed working of the same. [Source: [www.nseindia.com](http://www.nseindia.com)]

#### **Pre-preferential holding of the allottee/s**

- A Certificate from a practising Company Secretary confirming:
  - ❖ The entire pre-preferential holding of the allottee/s (mentioning the quantity) is locked-in for the period starting from relevant date up to a period immediately prior to the allotment.
  - ❖ The total equity shares are allotted pursuant to preferential allotment (the certificate should include the distinctive numbers of securities under lock-in) and the date from and upto a period of 1 Year/ 3 Years from the date of latest Trading Approval under which these shares are under lock-in. [source: [www.nseindia.com](http://www.nseindia.com)]

#### **Listing of shares/securities issued on Preferential/Private Placement basis in case of allotment under Section 62 (3) of Companies Act, 2013**

- A confirmation signed by the Compliance Officer of the company duly counter confirmed by the Practising Company Secretary confirming that the said allotment has been made in accordance with the provisions of section 62(3) of the Companies Act, 2013. [Source: [www.nseindia.com](http://www.nseindia.com)]



## CAPITAL MARKET - A JOURNEY OF METAMORPHOSIS

There is a visible shift in regulatory prescription from control regime to self-regulatory regime providing market players desired level of flexibility to manage their affairs and at the same time minimize regulatory interventions. The concept of self-regulation imbibe in it independent professional support to assure that the affairs of the business are conducted conforming to regulatory requirements in true letter and spirit. This independent professional intervention creates a win-win situation for all constituents of governance process and in particular the market players.



### PUBLIC ISSUE

Public issue of securities is an important segment of capital market as it enables the Corporate Sector, to raise resources required for business and related purposes. What is imperative for a company considering a public issue of securities is to take an objective view after examining all aspects with due clarity on the purpose of the issue, including evolving state of investment climate, performance of the industry, its prospects, investors' appetite for various type of securities both retail and institutional as well as the state of primary and secondary market of the stock exchanges.

Company Secretaries as a member of IPO team plays an important role in a public issue, beginning from fixing the price band and looking after the due diligence process of an IPO/FPO. Particularly they play the following role in the issue process:

- Directing and co-ordinating the activities with Underwriters, Registrars, Bankers and other intermediaries.
- Complying with requirements of various laws, such as Companies Act, Regulations and Guidelines issued by SEBI and Stock Exchange requirements.
- Ensuring adherence to all Board Procedures relating to resolutions concerning the IPO/FPO and that the consent of the shareholders has been obtained.
- Conformity with Articles of Association with the Securities Contracts (Regulation) Act, 1956 and other applicable rules and regulations
- Ensuring that the company has received necessary approval from concerned regulatory authorities
- Ensuring Compliance of various requirements under SEBI (Issue of Capital and Disclosure Requirements) Regulations
- Compliance with Listing Conditions as specified under SEBI Listing Regulations, SCRA and the rules made thereunder and those specified by Stock Exchanges.

## COMPLIANCE CERTIFICATE ON IPO / FPO

As an aid to this process and in order to ensure that the formalities and procedures connected with the issue process from Pre-IPO to Listing are adhered to and the Issuer is fully compliant with the Regulations connected therewith, the Institute of Company Secretaries of India conceived the concept of Certification on IPO/FPO and after holding series of prolonged discussions with senior professionals, Stock Exchanges and market intermediaries, formulated the Compliance Certificate on IPO/FPO, to be provided by a practising Company Secretary.

Voluntary in nature, the Certification includes *inter alia*, confirmation of compliance of conditions/stipulations prescribed by the Regulatory Authorities and Stock Exchanges for listing of equity shares on Initial Public Offer (IPO), Further Public Offer (FPO), etc.

The scope of the Certification include compliance of all rules, applicable regulations, guidelines in relation to issue of securities, issue of certificates in relation to all transactions of company's securities, physical verification of relevant records and documents. The certification provides comfort and assurance to both the Merchant bankers and regulators to the effect that the proposed Initial Public Offering (IPO) and Further Public Offer (FPO), conforms to all regulatory prescriptions.

### **The Compliance Certificate provides an assurance as to the:**

- Compliance with relevant laws
- Formalities with SEBI / Stock Exchange / ROC, etc.
- Compliances with regulations relating to Issue of Capital and Disclosure Requirements
- Compliances with all the Listing Conditions as prescribed under SEBI listing regulations
- Other matters like utilization of promoter's contribution, etc.

## ADVISOR TO AN ISSUE FOR SMALL AND MEDIUM SCALE ENTERPRISES

As stated earlier, SEBI has recognized the services of Company Secretaries in employment and practice through introduction of various clauses in the SEBI Listing Regulations viz. appointment of Company Secretary as Compliance Officer, certification with regard to compliance of conditions of corporate governance and completion of all transfers within stipulated time.

A SME in order to get its securities listed on SME Exchanges is required to ensure compliance of various provisions of the Companies Act, 2013, other laws, regulations, listing regulations etc., as applicable.

In order to ensure that the formalities and procedures connected with the issue process by SME are adhered to and the issuer is fully compliant with the Regulations connected therewith, the services of Practising Company Secretaries, as an Advisor to an Issue can be availed guiding adherence to various compliances by the SME proposing listing on the Stock Exchange.

## **COMPLIANCE REPORT BY AN INDEPENDENT PROFESSIONAL**

The companies can avail the services of Practising Company Secretaries regarding Compliance of conditions, whenever there is preferential allotment of shares, issue of rights share and initial public offer as well as follow on public offer. This is a win-win situation for the companies, the investors as well as regulators.

It insulates Company directors from the consequences of unintended non-compliance of laws; provide the investor much needed comfort thereby strengthening their faith and confidence in the company and the capital market. For regulator, the better compliances help reduce the incidences of misgovernance thereby helping them achieving the defined objectives of investor protection and the growth of well governed capital market.

## **MEMBER OF STOCK EXCHANGES**

Practising Company Secretaries can take memberships of the exchange(s) on fulfilling the eligibility requirements laid down by SEBI.

## **COMPLIANCE CERTIFICATE ON 'QUALIFIED INSTITUTIONS PLACEMENT'**

In terms of Regulation 84(3) of Chapter VIII of SEBI (ICDR) Regulations, 2009 a Company Secretary can issue a Compliance Certificate to be given to stock exchanges for seeking listing approval.

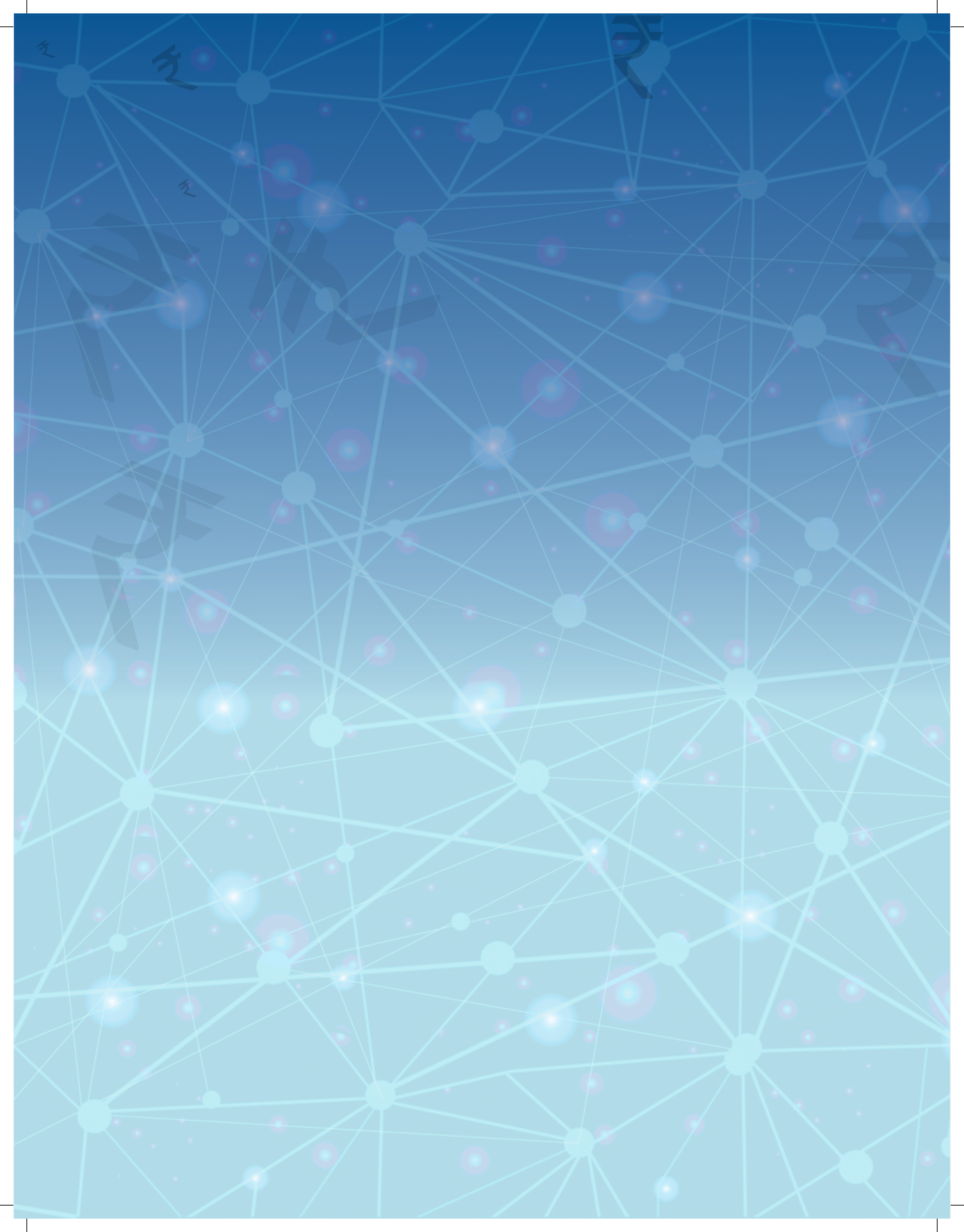
## **BUY-BACK, DELISTING, OPEN OFFERS UNDER TAKEOVER CODE**

There are various regular compliance requirements by a listed entity and its promoters under SEBI (Substantial Acquisition of Shares & Takeover) Regulations, 2011 and SEBI (Prohibition of Insider Trading) Regulations, 2015.

The issuer companies may avail the services of practicing Company Secretaries, on voluntary basis, to certify compliance of Takeover Code and Insider Trading Regulations on yearly/half-yearly/quarterly basis to help improve compliances.

## **CERTIFICATION REGARDING COMPLIANCE OF SEBI RULES & REGULATIONS**

The Issuer Company may on voluntary basis, obtain comprehensive Certificate of Compliance, from a practising Company Secretary, covering various conditions / requirements applicable for listing / continued listing, compliance with SEBI Rules, Regulations for each financial year.





### Motto

“ सत्यं वद। धर्मं चर।  
इष्टकारं कुरु। तृप्तोः शोचते ननु कुरु। ”

### 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

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**  
Statutory body under an Act of Parliament

#### Headquarters

ICSI House, 22, Institutional Area, Lodi Road, New Delhi 110 003

tel 011-45341000, 4150 4444 fax +91-11-2462 6727

email [info@icsi.edu](mailto:info@icsi.edu) website [www.icsi.edu](http://www.icsi.edu)