MEMORANDUM OF UNDERSTANDING

BETWEEN

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA (ICSI)

AND

NATIONAL INSTITUTE OF SECURITIES MARKETS (NISM)
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June 03, 2016
MEMORANDUM OF UNDERSTANDING

This Memorandum of understanding (hereinafter referred to as "MOU") (which expression shall include all amendments in writing thereto from time to time) made at Mumbai on this 3rd day of June 2016,

By and between

National Institute of Securities Markets, a public trust, established by Securities and Exchange Board of India ("SEBI") and registered with Charity Commissioner under NO. F-31013 (Mumbai) under Bombay Public Trusts Act, 1950 and having its registered office at Mittal Court, B-Wing, First Floor, Nariman Point, Mumbai 400021 and its office at NISM Bhavan, Plot No. 82, Sector -17, Vashi, Navi Mumbai – 400 703, hereinafter for the sake of convenience and brevity referred to as "NISM" (which term and expression shall, whatever the context so admits, be deemed to mean and include its successors-in-office and interest and permitted assigns) of the FIRST PART

and

The Institute of Company Secretaries of India, a statutory body constituted under an act of Parliament i.e., the Company Secretaries Act, 1980 and having its Head Office at "ICSI House, 22, Institutional Area, Lodi Road, New Delhi -110003", hereinafter for the sake of convenience and brevity referred to as "ICSI" (which term and expression shall, whatever the context so admits, be deemed to mean and include its successors-in-office and interest and permitted assigns) of the SECOND PART

NISM & ICSI are hereinafter jointly referred to as "Parties" and individually as "Party"

THIS MOU WITNESSETH AND PARTIES HERETO AGREE AS FOLLOWS:

1. OBJECTIVE

The objectives of entering into this MOU by Parties are:

1.1 That the parties have appreciated each other's objectives in promoting excellence, inter alia, in professional education, training & research and determined through detailed deliberations and by mutual co-operation to set forth the general principles of co-
operation in common areas of interest for mutual benefit and advantage.

1.2 That this MOU will be carried on within the framework of the respective laws and regulations of both the institutes and is not intended to create any legally binding rights and obligations.

2. TERM AND TERMINATION

2.1 The principle MOU signed between NISM and ICSI on June 16, 2013 shall continue to be in full force for a further period of Three (3) years i.e. till June 15, 2019. MOU may be extended further on the mutually agreed terms and conditions as decided by the parties.

2.2 This MOU may be terminated by mutual consent of the parties before the aforesaid term of three years.

2.3 However, either party may terminate this MOU by giving a clear Ninety (90) calendar days’ prior written notice. Provided that Parties shall continue to discharge their obligations under this MOU to complete any programme where participants have already been enrolled.

3. SCOPE

Both the parties enjoy special concern for each other and believe that the confidence of stakeholders in transparency and promoting good governance practices are critically important to the effective functioning of markets and in building & sustaining investor confidence.

Both the parties have commonality of interest in promoting Corporate Governance & Public Policy, Financial Reporting & Disclosures, Inclusive Growth & Sustainable development, Business Environment, Capacity Building, Corporate Social Responsibility, Quality & Assurance Services and other mutually beneficial cooperation between them.

Hence both the parties have deliberated and reached the following understanding:

3.1 They would jointly organize seminars, conferences, workshops, certificate programs for corporate and securities market professionals and executives, as well as students’ exchange programmes, subject to mutual consent on sharing of expenses for such programmes.
3.2 They would jointly endeavour to develop appreciation by the companies for corporate governance in securities market and build capacity of the members of ICSI for implementation of corporate governance in letter and spirit.

3.3 NISM shall endeavour to extend fee concession/exemption to the students/members of ICSI, who appear for the Certification Courses or Programmes in Securities Markets, being conducted by NISM.

3.4 ICSI shall endeavour to offer the company secretaryship course to the students of NISM's Securities Market Programme (SMP) on mutually agreed terms.

3.5 They would jointly organize specialized training programmes for Government Institutions/Organizations/official partners of ICSI and NISM.

3.6 They would undertake joint research projects/surveys, publish monographs/papers/reports/studies/cases etc. on corporate governance, corporate finance, financial markets, corporate social responsibility, sustainability & sustainability reporting and other areas as identified in mutual consultation with each other.

3.7 They would jointly design and conduct certification modules and conduct development programmes for Director's/top management in areas of Corporate Governance, Corporate Laws, Accounting, Finance, Management etc.

3.8 They would jointly organize mid-career and re-orientation training programmes for members of ICSI and corporate executives at premises of NISM, ICSI or any other agreed venue.

3.9 They would explore the possibility of associating with International Organisations in joint activities in due course.

3.10 They would collaborate in Education, Training and Research, in order to reach out to audience(s) in India, Afro-Asian and other regions to improve Governance, Market Practices and foster economic development.

3.11 They would extend help and co-operation in developing curriculum of academic, continuing education and training programmes, develop study material in areas of expertise, and also develop and deliver new certification modules, capsule training programmes etc.
3.12 They would participate in National and International Conferences organized by the parties thereto on reciprocal basis.

3.13 They would share the respective infrastructure facilities and resources for conducting the programmes and other facilities on such terms and conditions as may be mutually agreed by the parties.

3.14 They would exchange Journals and other publications published by the parties hereto on a complimentary basis, with liberty to reproduce in each others' publications such portion or portions which may be of interest, subject to acknowledging the source.

3.15 They would build up a communication strategy so as to portray objectives of this MOU amongst stakeholders nationally to achieve the objectives stated herein. The parties shall continue to work closely with each other on a basis of commonality of Issues.

3.16 No Party shall conduct any activity which is detrimental to the interest of other Party during the term of this MOU.

4. INTELLECTUAL PROPERTY RIGHTS

4.1 The proprietary rights of the courseware, course design, course structure, e-learning modules and other course material ("Course Material"), which shall be provided by ICSI, shall vest with ICSI and those provided by NISM shall vest with NISM.

4.2 The proprietary rights of the course ware, course design, course structure, e-learning modules and other course material, developed jointly shall vest jointly with the parties.

4.3 Either party shall have the right to use the Course Material provided by the other party only for the limited purposes of this MOU, while duly acknowledging the source.

4.4 Parties hereby grant each other a course design and development fee, non-transferable right to use the trademarks, logos, trade names ("Intellectual Property") as for purpose of jointly executing the terms of this MOU and for promotions/marketing/advertisement of this MOU, or the marketing/promotional/advertising/Course Material and in the manner as may be specifically decided between parties.

4.5 Parties agree and undertake to obtain the prior written consent of the other before using/displaying the intellectual Property of the other Party. Neither ICSI nor NISM shall launch
Courses under the same name or with the similar course design, course structure, e-learning module or in any other form using the name of NISM or ICSI, as the case may be, without prior written consent of the other. However, parties are free to conduct similar courses/programmes individually or in collaboration with other organisations.

5. **FEE STRUCTURE AND SHARING OF EXPENSES**

5.1 The fees for the above Joint Certification, Programmes, Seminars, Workshops, Conferences, Webcasts etc. shall be as fixed by the parties mutually after considering applicable Service Tax and other taxes from time to time.

5.2 The fees from the candidates shall be collected by ICSI or NISM, as mutually decided by the parties on the terms agreed upon.

5.3 The parties shall share the expenses and income on such terms and conditions as may be mutually agreed by the parties.

6. **CONFIDENTIALITY**

6.1 Parties hereby agree that all confidential, proprietary and/or trade secret information, as disclosed by one to the other, including without limitation, Course Material, Intellectual property, information in relation to the MOU and any notes, compilations, studies, interpretation, presentation, correspondence and/or other writing made available by one to the other, whether in physical or electronic form, whether after or prior to the execution of this MOU, and is specifically marked “Confidential”, including any verbal indication that has been documented in writing and marked as “Confidential”, shall be deemed to be Confidential information (“Confidential Information”). The Parties agree that all Confidential Information shall be treated with utmost confidence by itself and the personnel to whom the same has been shared and shall not disclose to any person such information otherwise than in terms of this MOU. Parties shall impose a similar duty of confidentiality on any person to whom such party is permitted to transfer such information in accordance with the terms hereof. It is further agreed by Parties hereto that any such disclosure to any third person or party shall be on a strictly need-to-know basis only.

6.2 Neither Party shall, without the prior written consent of the other, display and/or disclose all and/or any party of the Confidential information, in any manner and/or circumstances whatsoever, to any person and/or any third party and the Confidential Information shall be used by the Parties and their
authorized personnel, directly or indirectly, solely for the purpose this MOU. Neither Party shall use the Confidential Information in any way detrimental to the other.

6.3 The confidentiality provisions shall not apply to information, provided the Receiving Party can demonstrate (i) it was in its possession at the time of disclosure and without restriction as to confidentiality, (ii) at the time of disclosure is generally available to the public or after disclosure becomes generally available to the public by way of no breach of agreement or other wrongful act by the Receiving Party, (iii) it has been received from a third party without restriction on disclosure and without breach of agreement or other wrongful act by the Receiving Party, (iv) it is independently developed by the Receiving Party without regard to the Confidential Information of the Disclosing Party, or (v) it is required to be disclosed under applicable law, regulation or in pursuance of order of a court of competent jurisdiction, tribunal or other governmental authority, to the extent of such required disclosure, provided further that the Receiving Party shall furnish prompt written notice of such required disclosure and reasonably cooperate with the Disclosing Party, at the Disclosing Party's cost and expense, in any effort made by the Disclosing Party to seek a protective order or other appropriate protection of its Confidential Information.

6.4 Provided that upon the expiration, cancellation, or termination of this MOU, each party shall, upon the written request of the other party, return or destroy, to the satisfaction of the other Party, all Confidential Information, documents, manuals and other materials specified by the other Party.

7. FORCE MAJEURE

The Party shall not be liable for any failure to perform, any of its obligations under this MOU if the performance is prevented, hindered or delayed by a Force Majeure event (defined below) and in such case its obligations shall be suspended for so long as the Force Majeure Event continues. Each party shall promptly inform the other of the existence of a Force Majeure Event and shall consult together to find a mutually acceptable solution.

"Force Majeure Event" means any event due to any cause beyond the reasonable control of the Party, including, without limitation, unavailability of any communication system, sabotage, fire, flood, explosion, acts of God, civil commotion, strikes or industrial action of any kind, riots, insurrection, war or acts of government.
8. **INTERPRETATION**

In this MOU, unless the context otherwise requires:

8.1 Any reference herein to any Clause or Annexure is to such Clause of or Annexure to this MOU.

8.2 Words importing the singular include the plural and vice versa, and pronouns importing a gender include each of the masculine, feminine and neutral gender;

8.3 Reference to statutory provisions shall be constructed as meaning and including references also to any amendment or re-enactment, whether before or after the Effective Date for the time being in force and to all statutory instruments or orders made pursuant to such statutory provisions; and

8.4 Any reference to this MOU shall include all amendments, changes and/or modifications made to this MOU in accordance with the provisions hereof.

9. **MISCELLANEOUS**

9.1 Announcements and Publicity: Neither Party shall make any public disclosures or announcements regarding this MOU or its subject matter without the prior written consent of the other party, which consent shall not be withheld unreasonably. Provided prior written consent shall include consent given by electronic mail.

9.2 General Assignment: This MOU is personal to Parties and neither MOU nor the rights, licenses and obligations thereunder may be assigned by either party without the prior written approval of the other party. Neither party shall assign or sub-let any of its rights and obligations hereunder whether in whole or in part without the prior written consent of the other.

9.3 Headings: The headings in this MOU are for reference purposes only and are not intended to be taken into account in the interpretation of the provisions of this MOU.

9.4 Non Waiver: No delay, neglect or forbearance on part of either party in enforcing against the other party any term or condition of this MOU shall either be or be deemed to be a waiver or in any way prejudice any right of that Party under this MOU. No right, power or remedy in this MOU conferred upon or reserved for either part is exclusive of any other right, power or remedy available to that Party. Failure to exercise by either party of any right under this MOU in one or more instances shall not constitute a
waiver of those rights in another instance. Such waiver by one Party of any of the rights established herein shall not be considered as a waiver of another right established herein. A provision or right under this MOU shall not be waived except in writing signed by the party granting the waiver, or varied except in writing signed by both the parties.

9.5 Entire MOU: This MOU embodies the entire understanding and MOU between Parties in connection with the subject matter of this MOU and neither Part is relying on any representations, promises, terms, conditions or obligations oral or written, express or implied other than those contained in this MOU. Neither Party seeks to exclude liability for fraudulent misrepresentation.

9.6 Variation: This MOU constitute the complete Agreement between the Parties and shall not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorized officer or representative of each of the Parties.

9.7 Notices: All notices under this MOU shall be in writing and all such notices shall be deemed to have been duly given when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or if transmitted by fax or email and a successful transmission report or return receipt is generated; or on the fifth business day following mailing, if mailed by nation ordinary mail, postage prepaid; or on the tenth business day following mailing, if mailed by airmail, postage prepaid, in each case addressed to the most recent address, email address, or facsimile number notified to the other party. The same are provided as under:

For “NISM”

To:
National Institute of Securities Markets, NISM Bhavan, Plot No. 82, Sector-17, Vashi, Navi Mumbai – 400703

A.S.Ramayya, Vice President (Legal & Compliance)
e-mail: as.ramayya@nisma.c.in
Tel : 022 66735121
Facsimile:022 266735110.

For “ICSI”

To:
“The Institute of Company Secretaries of India, ICSI House, 22, Institutional Area, Lodi Road, New Delhi -110003”
9.8 Invalidity: Any term or provision of this MOU which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provision of this MOU or affecting the validity or enforceability of any of the terms or provisions hereof in any other jurisdiction.

9.9 Counterparts: This MOU may be executed in one or more counterparts, each of which will be deemed to be an original copy of this MOU and all of which, when taken together, will be deemed to constitute one and the same MOU.

10. AMENDMENT TO THIS MOU

10.1 No change, alteration or modification of this MOU shall be valid, unless in writing and signed by both the Parties hereto. If during the operation of this MOU, circumstances arise which call for alteration/modification to this MOU, such alteration/modification shall be mutually discussed and agreed upon in writing.

11. GOVERNING LAW AND JURISDICTION

11.1 This MOU and all matters arising from it and any dispute resolutions referred to below shall be governed by the construed in accordance with the laws of India.

11.2 Both Parties submit to the exclusive jurisdiction of the Courts of Delhi.

12. ARBITRATION

12.1 Parties will attempt to resolve any dispute arising under or related to this MOU by mutual discussion.

12.2 In the event that discussion is not successful in resolving any dispute between the Parties that arises under or is related to this MOU, such dispute shall then be referred to the decision of the sole arbitrator to be appointed in writing by the parties.

12.3 If they cannot agree upon a sole arbitrator within 30 days of any party invoking arbitration, the same shall be referred to a panel of three arbitrators, comprising two arbitrators, one to be appointed
by each of the Parties to the dispute, and the third arbitrator to be appointed by the two arbitrators.

12.4 Arbitration, whether by a sole arbitrator or by a three member arbitral tribunal, shall be conducted under and in accordance with the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modifications on re-enactment thereof as in force..

12.5 Delhi will be the venue for such arbitration proceedings. The language to be used in the mediation and in the arbitration shall be English. The cost of the Arbitration proceedings shall be shared equally by both the parties.

13. DISPUTES BETWEEN CANDIDATES AND INSTITUTE

13.1 In the event of any dispute between the Candidates and the ICSI arising out of and/or relating to this MOU, its interpretation of performance hereunder, NISM shall not be a part to such dispute and shall not be responsible for any liability arising out of such disputes except in so far as it pertains to activities of NISM as described in this MOU. ICSI shall have same protection and indemnity in the event of any dispute between the Candidates and the NISM arising out of and/or relating to this MOU, its interpretation of performance hereunder.

14. APPROVAL

14.1 This MOU is subject to the approval of the respective Governing Councils of the parties hereto and subject to changes as may be suggested.

15. Non-Binding Nature of the MOU

a. Nothing in this MOU shall be construed as creating any contract, partnership, agency or other legal relationship between the parties. The acts/ performance and actions taken by either party in furtherance of their respective activities of operation shall not bind the other except to the extent provided under this MOU. The acts performed and action taken by either party that do not fall under the MOU shall have binding effect on the other to the extent they are reduced to writing and the prior consent of the other party is obtained.

b. The personnel(s) employed / hired / engaged (permanent / regular / casual / contractual / temporarily / daily wager or whatever be the status / name) by a party directly or indirectly for the performance of the obligations under this MOU, shall not be employee / officer of the other party for any purpose.
16. **Non-Exclusive Agreement**

This MOU is a non-exclusive agreement. The parties will be free to enter into same or similar kind of arrangement with any third person or body of persons during currency or the extended currency of this MOU.

17. **Indemnification:**

Each Party shall, at its own expense, defend, indemnify, and hold the other Party harmless for damages, liabilities, claims, losses, costs, demands, suits, actions, and reasonable expenses (including but not limited to reasonable attorneys' fees and settlement costs) (collectively, "Damages") arising out of or related to any third party suits or claims brought against the indemnified Party (i) arising out of or related to the indemnifying Party's violation of any applicable laws, gross negligence, or willful misconduct, or (ii) arising out of or related to any physical damage to property, or personal injury or death, caused by the indemnifying Party or any of its Affiliates, participants, officers, directors, and employees.

The indemnifying party shall be granted immediate and complete control of any claim of indemnity and the indemnified party shall not prejudice the indemnifying party's defence of the claim.

The indemnified party shall give the indemnifying party all reasonable assistance at the expense of the indemnifying party on such claim of indemnity.

18. **Representations and Warranties**

The Parties represent and warrant that they have relevant authority and permission under the applicable laws/ rules/ notifications or by virtue of the order/ instruction/ directive from the relevant authority to enter into this MOU.

19. **TEXT**

19.1 This MOU is written in English with two copies - one for each party. Both copies have the same effect.
IN WITNESS WHEREOF PARTIES HERETO HAVE SET THEIR RESPECTIVE HANDS ON THE DATE AND YEAR FIRST HEREINBEFORE MENTIONED, IN DUPLICATE, EACH TO BE TREATED AS AN ORIGINAL.

Signed and delivered by

For "National Institute of Securities Markets"

Sandip Ghose
Director, NISM

Signed and delivered by

For "The Institute of Company Secretaries of India"

Dr. Rajesh K Agrawal
Director (Centre for Corporate Governance, Research and Training), ICSI

Witness

Karanbir Singh

Jitendra Kumar