

SUPPLEMENT FOR PROFESSIONAL PROGRAMME

ETHICS, GOVERNANCE AND SUSTAINABILITY

(PAPER - 6)

(Relevant for students appearing in June 2018 Examination)

This supplement is for the Professional Programme. The students are advised to read their Study Material along with these updates. These academic updates are to facilitate the students to acquaint themselves with the amendments in the relevant law upto 31st December, 2017, applicable for June 2018 Examination. The students are advised to read all the relevant regulatory amendments made and applicable upto 31st December, 2017 alongwith the study material. In the event of any doubt, students may write to the Institute for clarifications at academics@icsi.edu.

Disclaimer

These Academic Updates have 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 these Academic Updates should do so only after cross checking with the original source. This document is released with an understanding that the Institute shall not be responsible for any errors, omissions and/ or discrepancies or actions taken in that behalf.

The students may also refer to the E-book on Companies Act, 2013 on the MCA website for the updated Companies Act, 2013 and rules made thereunder.

The students are also advised to refer the websites of respective regulators for updated legislative provisions.

**IMPORTANT ANNOUNCEMENTS FOR STUDENT ON SUBJECT
ETHICS, GOVERNANCE AND SUSTAINABILITY**

1. Updates on Companies Act, 2013

A. Amendments in Companies (Amendments) Act, 2017

The Amendment is not applicable for the examination to be held in June, 2018. However, the students are advised to go through the Companies (Amendments) Act, 2013. http://www.mca.gov.in/Ministry/pdf/CAAct2017_05012018.pdf

B. Amendment in Secretarial Standards

Secretarial Standards on Meetings of the Board of Directors (SS-1) and General Meetings (SS-2) have been revised by the ICSI and approved by the Central Government under section 118(10) of the Companies Act, 2013. The revised SS-1 and SS-2 as issued by the ICSI are applicable to all the companies (except the exempted class of companies) w.e.f. 1st October, 2017. The revised SS-1 & SS-2 are available on ICSI website at the link: <https://www.icsi.edu/ssb/Home.aspx>.

For easy reference of the students, Comparative of the Original and the Revised Secretarial Standards are provided on the ICSI Website at the following links:

Comparative of Amendments in SS-1 :

https://www.icsi.edu/webmodules/ComparativeAnalysis_Amendments_SS1.pdf

Comparative of Amendments in SS-2:

https://www.icsi.edu/webmodules/ComparativeAnalysis_Amendments_SS2.pdf

C. Companies (Meetings of Board and its Powers) Second Amendment Rules 2017

Any director who intends to participate in the meeting through electronic mode may intimate about such participation at the beginning of the calendar year and such declaration shall be valid for one year.

Such declaration shall not debar him from participation in the meeting in person in which case he shall intimate the company sufficiently in advance of his intention to participate in person.

http://www.mca.gov.in/Ministry/pdf/CompaniesMeetingBoardPowersSecondRules_14072017.pdf

D. Amendment in Schedule IV of the Companies Act, 2013

An independent director who resigns or is removed from the Board of the company shall be replaced by a new independent director within "**three months**" from the date of such resignation or removal, as the case may be.

The independent directors of the company shall hold at least one meeting "in a **financial year**", without the attendance of non-independent directors and members of management.

http://www.mca.gov.in/Ministry/pdf/AmendmentIV_06072017.pdf

E. Companies (Appointment and Qualification of Directors) Amendment Rules, 2017

The amended Rule 4 provides that the following classes of unlisted public company(ies) are not required to appoint Independent Directors, namely:-

- (a) a joint venture;
- (b) a wholly owned subsidiary; and
- (c) a dormant company.

http://www.mca.gov.in/Ministry/pdf/CompaniesApptandQualificationofDirectorsAmdtRules_06072017.pdf

A clarification in this regard was further issued by MCA on 5th September 2017, wherein term joint venture has been defined as under:

“Joint venture”, would mean a joint arrangement, entered into in writing, whereby the parties that have joint control of the arrangement, have rights to the net assets of the arrangement. The usage of the term is similar to that under the Accounting Standards.

http://www.mca.gov.in/Ministry/pdf/GeneralCircular_05092017.pdf

2. Stewardship Code for Insurers in India

The growth in the Insurance Industry in recent years has resulted in a significant increase in the Funds of insurance companies. They are also significant investors in the securities markets and act as investors on behalf of the policyholders. There is increased emphasis on governance of public companies under the corporate and insurance law and the role and responsibility of Boards of companies has escalated.

Considering the fiduciary role played by the insurance companies as investors on behalf of the policyholders, it is felt that greater transparency is needed as regards the manner in which the investments are managed by them. In this regard, the Authority has examined the regulatory stipulations/ guidelines in various jurisdictions across the world and it was noticed that disclosures regarding decision making and voting at meetings of investee companies by institutional investors are being encouraged.

Insurance companies are significant institutional investors in listed companies and the investments are held by them as custodians of policyholders. Therefore, it is felt that insurance companies should play an active role in the general meetings of investee companies and engage with the managements at a greater level to improve their governance. This will result in informed decisions by the parties and ultimately improve the return on investments of insurers.

Therefore, the Authority has decided to implement a code for stewardship for the insurers. The code is in the form of a set of principles, which the insurers would need to adopt. The principles are being uniformly adopted for institutional investors, like Mutual Funds, Pension Funds, Foreign Portfolio Investors (FPIs), Alternative Investment Funds (AIFs), etc. The code broadly requires the insurers to have a policy as regards their conduct at general meetings of the investee companies and the disclosures relating thereto. It shall be applicable from FY 2017-18.

All insurers need to draw up a policy based on the principles spelt out in the stewardship code within 6 months from the date of issue of these guidelines and the Board of Directors should approve the same. The policy should be disclosed on the website within 30 days of approval by the Board by all insurers, alongside the public disclosures. Any change/modification to the policy on stewardship should be specifically disclosed at the time of updating the policy document on the website.

The principles are intended to strengthen the role of insurers as stewards on behalf of the policyholders. The Authority is of the view that adoption of the principles would improve the confidence of the policyholders in the insurers on one hand and also ensure better corporate governance and decision making at investee companies on the other.

For more detail, please visit IRDAI website at: https://www.irdai.gov.in/ADMINCMS/cms/frmGuidelines_Layout.aspx?page=PageNo3096&flag=1

3. Paris Agreement

At the 21st Conference of the Parties in Paris, Parties to the United Nations Framework Convention on Climate Change (UNFCCC) reached a landmark agreement to combat climate change and to accelerate and intensify the actions and investments needed for a sustainable low carbon future. The Paris Agreement brings all nations into a common cause to undertake take ambitious efforts to combat climate change and adapt to its effects, with enhanced support to assist developing countries to do so.

The Paris Agreement's central aim is to strengthen the global response to the threat of climate change by keeping the global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.

On Earth Day, 22 April 2016, 175 world leaders signed the Paris Agreement at United Nations Headquarters in New York. This was by far the largest number of countries ever to sign an international agreement on a single day.

<http://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf>