



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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PROFESSIONAL PROGRAMME

INFORMATION TECHNOLOGY AND SYSTEMS AUDIT

(OLD SYLLABUS)

(Relevant for students appearing in December, 2019 examination)

MODULE 2

PAPER 4

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.

Students appearing in December 2019 Examination shall note the following:

Students are also required to update themselves on all the relevant Notifications, Circulars, Clarifications, etc. issued by the Competent Authorities to relate to Law covering Information Technology and Systems Audit & Central Government on or before six months prior to the date of the examination.

These Updates are to facilitate the students to acquaint themselves with the amendments in laws relating to Information Technology and Systems Audit upto June, 2019, applicable for December, 2019 Examination. The students are advised to read their Study Material (2016 Edition) along with these Updates. In the event of any doubt, students may write to the Institute for clarifications at academics@icsi.edu

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FDI Policy on E-Commerce¹

In order to ensure due compliance of the FDI policy on e-Commerce, Press Note 2 (2018) has been issued. It puts in place certain conditions. These conditions include:

- i. An entity having equity participation by e-commerce marketplace entity or its group companies, or having control on its inventory by e-commerce marketplace entity or its group companies, will not be permitted to sell its products on the platform run by such marketplace entity.
- ii. e-Commerce marketplace entity will not mandate any seller to sell any product exclusively on its platform only.

This Press Note is effective from February 01, 2019. The details Press Note containing the FDI Policy on e-commerce is available at: https://dipp.gov.in/sites/default/files/pn2_2018.pdf

Representations have been received to defer the implementation of Press Note 2. The FDI policy on e-Commerce, first pronounced through Press Note 2 of 2000, permitted 100% FDI in B2B e-commerce activities. With a view to provide clarity to the extant policy and after extensive stakeholder consultations, guidelines for FDI on the e-commerce were issued vide Press Note 3 (2016). To provide further clarity to FDI policy on e-commerce, Press Note 2 (2018) was issued.

Stakeholder consultations on creating a framework for National Policy on e-Commerce with representatives from Government Ministries, Departments, Reserve Bank of India, industry bodies, e-commerce companies, telecom companies, IT companies and payment companies have been held. Issues regarding the e-commerce sector are regularly reviewed by the Government.

The e-commerce sector is expected to keep growing in future because of a number of reasons. The FDI policy on e-commerce has remained unchanged. Better enforcement of this policy will contribute significantly to growth of this sector over medium and long term.

¹ Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1562493>

The Aadhaar and Other Laws (Amendment) Bill, 2019²

The Aadhaar and Other Laws (Amendment) Bill, 2019 was introduced in Lok Sabha by the Minister of Electronics and Information Technology, Mr. Ravi Shankar Prasad on June 24, 2019. It replaces an Ordinance promulgated on March 2, 2019.

Offline verification of Aadhaar number holder: Under the Aadhaar Act, an individual's identity may be verified by Aadhaar 'authentication'. Authentication involves submitting the Aadhaar number, and their biometric or demographic information to the Central Identities Data Repository for verification. The Bill additionally allows 'offline verification' of an individual's identity, without authentication, through modes specified by the Unique Identification Authority of India (UIDAI) by regulations.

During offline verification, the agency must (i) obtain the consent of the individual, (ii) inform them of alternatives to sharing information, and (iii) not collect, use or store Aadhaar number or biometric information.

Voluntary use: The Act provides for the use of Aadhaar number as proof of identity of a person, subject to authentication. The Bill replaces this provision to state that an individual may voluntarily use his Aadhaar number to establish his identity, by authentication or offline verification. The Bill states that authentication of an individual's identity via Aadhaar, for the provision of any service, may be made mandatory only by a law of Parliament.

The Bill amends the Telegraph Act, 1885 and the Prevention of Money Laundering Act, 2002 to state that persons with a license to maintain a telegraph, banking companies and financial institutions may verify the identity of their clients by: (i) authentication or offline verification of Aadhaar, (ii) passport, or (iii) any other documents notified by the central government. The client has the choice to use either mode to verify his identity and no person shall be denied any service for not having an Aadhaar number.

Entities using Aadhaar: Under the Act, usage of Aadhaar number for establishing the identity of an individual, by the State or a body corporate under any law, is permitted. The Bill removes this provision. An entity may be allowed to perform authentication through Aadhaar, if the UIDAI is satisfied that it is: (i) compliant with certain standards of privacy and security, or (ii) permitted by law, or (iii) seeking authentication for a purpose specified by the central government in the interest of the State.

Aadhaar number of children: The Bill specifies that at the time of enrolling a child to obtain an Aadhaar number, the enrolling agency shall seek the consent of his parent or guardian. The agency must inform the parent or guardian of the manner in which the information will be used, the recipients with whom it will be shared, and of their right to access the information. After attaining eighteen years of age, the child may apply for cancellation of his Aadhaar.

Disclosure of information in certain cases: Under the Act, restrictions on security and confidentiality of Aadhaar related information do not apply in case the disclosure is pursuant to an order of a District Court (or above). The Bill amends this to allow such disclosure only for orders by High Courts (or above). Further, under the Act, an officer not below the rank of a Joint Secretary may issue directions for disclosing information in the interest of national security. The Bill amends this to allow such disclosure on directions of officers not below the rank of a Secretary.

² Redistributed from the source: <https://www.prsindia.org/billtrack/aadhaar-and-other-laws-amendment-bill-2019>

UIDAI Fund: Under the Act, all fees and revenue collected by the UIDAI will be credited to the Consolidated Fund of India. The Bill removes this provision, and creates the Unique Identification Authority of India Fund. All fees, grants, and charges received by the UIDAI shall be credited to this fund. The fund shall be used for expenses of the UIDAI, including salaries and allowances of its employees.

Complaints: Under the Act, courts can take cognizance of an offence only if the UIDAI registers a complaint. The Bill amends this to allow the individual to register complaints in certain cases, including impersonation or disclosure of their identity.

The Bill defines the Aadhaar ecosystem to include enrolling agencies, requesting agencies, and offline verification-seeking entities. It allows the UIDAI to issue directions to them, if necessary, for the discharge of its functions under the Act.

Penalties: Under the Bill, the UIDAI may initiate a complaint against an entity in the Aadhaar ecosystem for failure to (i) comply with the Act or the UIDAI's directions, and (ii) furnish information required by the UIDAI. Adjudicating Officers appointed by the UIDAI shall decide such matters, and may impose penalties up to one crore rupees on such entities. The Telecom Disputes Settlement and Appellate Tribunal shall be the appellate authority against decisions of the Adjudicating Officer.

National Policy on Software Products – 2019³

On February 28, 2019, the Union Cabinet, chaired by the Prime Minister Shri Narendra Modi has approved the National Policy on Software Products - 2019 to develop India as a Software Product Nation. The Detailed National Policy is available at https://www.meity.gov.in/writereaddata/files/national_policy_on_software_products-2019.pdf

Major impact

The Software product ecosystem is characterized by innovations, Intellectual Property (IP) creation and large value addition increase in productivity, which has the potential to significantly boost revenues and exports in the sector, create substantive employment and entrepreneurial opportunities in emerging technologies and leverage opportunities available under the Digital India Programme, thus, leading to a boost in inclusive and sustainable growth.

Expenditure involved

Initially, an outlay of Rs.1500 Crore is involved to implement the programmes/ schemes envisaged under this policy over the period of 7 years. Rs1500 Crore is divided into Software Product Development Fund (SPDF) and Research & Innovation fund.

Implementation strategy and targets

The Policy will lead to the formulation of several schemes, initiatives, projects and measures for the development of Software products sector in the country as per the roadmap envisaged therein.

To achieve the vision of NPSP-2019, the Policy has the following five Missions:

- I. To promote the creation of a sustainable Indian software product industry, driven by intellectual property (IP), leading to a ten-fold increase in India share of the Global Software product market by 2025.
 - II. To nurture 10,000 technology startups in software product industry, including 1000 such technology startups in Tier-II and Tier-III towns & cities and generating direct and in-direct employment for 3.5 million people by 2025.
 - III. To create a talent pool for software product industry through (i) up-skilling of 1,000,000 IT professionals, (ii) motivating 100,000 school and college students and (iii) generating 10,000 specialized professionals that can provide leadership.
- IV. To build a cluster-based innovation driven ecosystem by developing 20 sectoral and strategically located software product development clusters having integrated ICT infrastructure, marketing, incubation, R&D/testbeds and mentoring support.
 - V. In order to evolve and monitor scheme & programmes for the implementation of this policy, National Software Products Mission will be set up with participation from Government, Academia and Industry.

Background:

The Indian IT Industry has predominantly been a service Industry. However, a need has been felt to move up the value chain through technology oriented products and services. To create a robust software product ecosystem the Government has approved the National Policy on

³ Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1566748>

Software Products - 2019, which aims to develop India as the global software product hub, driven by innovation, improved commercialisation, sustainable Intellectual Property (IP), promoting technology startups and specialized skill sets. Further, the Policy aims to align with other Government initiatives such as Start-up India, Make in India and Digital India, Skill India etc so as to create Indian Software products Industry of USD ~70-80 billion with direct & indirect employment of ~3.5 million by 2025.