

Intimation to be given to the previous incumbent (Company Secretary) in terms of Clause 8 of the First Schedule to the Company Secretaries Act, 1980

Clause (8) of Part I of the FIRST SCHEDULE to The Company Secretaries Act, 1980 provides that a Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he — “accepts the position of a Company Secretary in Practice previously held by another Company Secretary in Practice without first communicating with him in writing.” The primary requirement under this clause is of prior communication with the previous incumbent. This is intended for reasons of professional courtesy.

The clause is not intended to prevent a client from changing over to another Company Secretary for his own reasons. The client as of right, has full freedom to change over to another Company Secretary. It would be desirable for the new incumbent to obtain a letter from the company letting him know the name of the earlier incumbent or that no other Company Secretary has been appointed for the same assignment. The communication mentioned in this clause does not mean that no-objection or consent of the previous incumbent is a prerequisite of accepting the said assignment.

In view of the recent regulatory prescriptions such as mandatory Secretarial Audit under the SEBI (LODR) Regulations and a host of other recognitions secured for Company Secretaries the Council in its 259th meeting held at New Delhi on 16th March, 2019 unanimously resolved that w.e.f. 1st April, 2019, before accepting any of the following assignments every company secretary in practice shall be required to communicate to the previous incumbent before accepting the assignment, in terms of Clause (8) of Part I of the FIRST SCHEDULE to The Company Secretaries Act, 1980:

- i. Signing of Annual Return in Form MGT-7 under Section 92(1) of the Companies Act, 2013 and Rule 11(1) of the Companies (Management and Administration) Rules, 2014.
- ii. Certification of Annual Return in Form MGT-8 under Section 92(2) of the Companies Act, 2013 and Rule 11(2) of the Companies (Management and Administration) Rules, 2014.
- iii. Issuance of Secretarial Audit Report in terms of Section 204 of the Companies Act, 2013.
- iv. Issuance of Secretarial Audit Report to material unlisted subsidiaries of listed entities (whose equity shares are listed) under Regulation 24A of SEBI (LODR) Regulations, 2015.
- v. Issuance of Annual Secretarial Compliance Report to Listed entities (whose equity shares are listed) under Regulations 24A of SEBI (LODR) Regulations, 2015.
- vi. Certification under SEBI (Listing Obligations & Disclosure Requirements) Regulations, 2015 that none of the directors on the board of the company have been debarred or disqualified from being appointed or continuing as directors of companies by the Board/Ministry of Corporate Affairs or any such statutory authority under Schedule V, Part C, Clause(10) (i).
- vii. Certification under Regulation 40(9) of SEBI (LODR) Regulations, 2015 certifying that all certificates have been issued within thirty days of the date of lodgement for transfer, sub-division,
- viii. consolidation, renewal, exchange or endorsement of calls/allotment monies.
- ix. Conduct of Internal Audit of Operations of the Depository Participants registered with NSDL and CDSL under the Bye Laws issued by NSDL and CDSL.
- x. Certification under Regulation 76 of SEBI (Depositories and Participants) Regulations, 2018 for Reconciliation of Share Capital Audit.
- xi. Acting as Compliance Auditor under third party certification/ Audit Scheme (Amendment), 2018 in the State of Haryana.

- xii. Issuance of Audit Report by the unlisted public companies, to be submitted on a half-yearly basis to the ROC, under whose jurisdiction the registered office of the company is situated, under the provisions of the Rule 9A(8) of the Companies (Prospectus & Allotment of Securities) Rules, 2014.
- xiii. Diligence reporting for Banks in case of multiple banking/consortium lending arrangements in terms of the circular issued by RBI.
- xiv. Conduct of Internal Audit of the stock brokers / sub brokers under SEBI Circular no. MIRSD/ DPSIII/ Cir-26/ 08 dated 22nd August 2008 and MRD/DMS/Cir-29/2008 dated 21st October 2008.

Format of intimation to be given to the previous incumbent (Company Secretary):

The Council has approved, the following format to be issued by Company Secretaries under Clause 8 of the First Schedule of the Company Secretaries Act, 1980.

CS.....

Address

Dear Sir / Madam,

Sub.: Intimation in terms of Clause 8 of the First Schedule to the Company Secretaries Act, 1980

I, CS /We, M/s....., Company Secretary in Practice / Firm of Company Secretaries have been approached by the management of M/s..... Limited to..... (list of professional services) for the FY
vide their letter No. dated

We understand that earlier the abovementioned professional services were being rendered by your goodself / firm to M/s. Limited during the Financial Year

I / We request you to kindly take this communication as an intimation to be given to the previous incumbent in terms of Clause 8 of the First Schedule to the Company Secretaries Act, 1980.

Regards,

CS

Membership No. ACS / FCS

CoP No.....

For & Co. / & Associates, Company Secretaries

Firm Unique Code

Date:

Place: