



Law and Regulations Related to Cyber Security and Data Privacy

Self Practice Questions

Q1. What is Cyber Crime and its categories?

Answer: Cybercrime refers to all the activities done with criminal intent in cyberspace. The field of Cybercrime is just emerging and new forms of criminal activities in cyberspace are coming to the forefront with the passing of each new day.

Cybercrimes can be basically divided into 3 major categories being Cybercrimes against persons, property and Government.

Q2. Is Cyber terrorism a Crime against Government?

Answer: The third category of Cybercrimes relate to Cybercrimes against Government. Cyber Terrorism is one distinct kind of crime in this category. The growth of Internet has shown that the medium of Cyberspace is being used by individuals and groups to threaten the international governments and also to terrorise the citizens of a country. The use of hate websites and e-mails being the most popular way in doing so.

Q3. What are the objectives of IT Act, 2000?

Answer:

- ✓ legal recognition to electronic transactions by recognizing digital signatures either by general public or Govt. official or agency, including publication of rules, regulations or any other matter including gazette notification.
- ✓ facilitate electronic filing of documents and retention thereof in govt. records (public cannot insist for use of electronic mode only)
- ✓ consequential amendments to other acts
- ✓ to set up licensing, monitoring and certifying authority

Q4. Are organizations permitted to collect personal sensitive data of Public for their use? What if they don't maintain adequate security for the same?

Answer:

According to Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011, Organizations may collect personal sensitive data only on compliance of following guidelines:

- a) Information shall not be collected unless it is for lawful purpose, and is considered necessary for the purpose. The information collected shall be used only for the purpose for which it is collected and shall not be retained for a period longer than which is required;
- b) Ensure that the person(s) providing information are aware about the fact that the information is being collected, its purposes & recipients, name and addresses of the agencies retaining and collecting the information;

- c) Offer the person(s) providing information an opportunity to review the information provided and make corrections, if required;
- d) Maintain the security of the information provided; and
- e) Designate a Grievance Officer, whose name and contact details should be on the website who shall be responsible to address grievances of information providers expeditiously.

According to Section 43A, Whenever a corporate body possesses or deals with any sensitive personal data or information, and is negligent in maintaining a reasonable security to protect such data or information, which thereby causes wrongful loss or wrongful gain to any person, then such body corporate shall be liable to pay damages to the person(s) so affected.

Q5. Write short notes on following BI tools:

- a) OLAP
- b) Real Time BI
- c) Embedded BI

Answer:

- a) OLAP stands for Online analytical processing. These BI tools enable users to analyze data along multiple dimensions, which is particularly suited to complex queries and calculations.
- b) In real-time BI applications, data is analyzed as it's created, collected and processed to give users an up-to-date view of business operations, customer behavior, financial markets and other areas of interest. The real-time analytics process often involves streaming data and supports decision analytics uses, such as credit scoring, stock trading and targeted promotional offers.
- c) Embedded business intelligence tools put BI and data visualization functionality directly into business applications. That enables business users to analyze data within the applications they use to do their job. Embedded analytics features are most commonly incorporated by application software vendors, but corporate software developers can also include them in home grown applications.

Multiple Choice Questions

1. Certifying Authority get licence to operate from:

a. Ministry of IT	b. SEBI
c. Controller of Certifying Authority	d. none of the above

2. Which among the following is not an offence under IT Act.

a. tampering with computer source documents	b. hacking: destruction, deletion, alteration of nay data in any computer with an intention of damage/ injury
c. misrepresentation to controller or certifying authorities	d. making a faulty contract

3. Information Technology (Reasonable Security Practices And Procedures And Sensitive Personal Data Or Information) Rules, was notified in the year:

a. 2011	b. 2012
c. 2013	d. 2014

4. OSBI stands for.

a. Operational source Business Intelligence	b. Open source business Innovation
c. Open source Business intelligence	d. none

5. The key benefits that businesses can get from BI applications include the ability to:

a. speed up and improve decision-making;	b. optimize internal business processes;
c. increase operational efficiency and productivity;	d. all of the above

6. Decision of Cyber appellate Tribunal can be appealed to;

a. High Court	b. supreme Court
c. None of the above	d. Not appealable

7. Information Technology (Reasonable Security Practices And Procedures And Sensitive Personal Data Or Information) Rules, 2011.

a. only apply to bodies corporate and persons located in India.	b. only apply to bodies corporate and persons located out of India.
c. Apply to individuals	d. All of the above

8. Which among the following is not a Cyber crimes under the IT Act:

a. Tampering with Computer source documents	b. Hacking with Computer systems, Data alteration.
c. Publishing obscene information.	d. Sending threatening messages by email

9. Which of the following is not an cyber Offence to Public

a. Terrorism	b. Warfare
c. Piracy	d. Data alteration

10. Access someone's computer without the right authorization of the owner and does not disturb, alter, misuse, or damage data or system by using wireless internet connection, is called:

a. Squatting	b. Vandalism
c. Hacking	d. Trespass

Answer to MCQs

1	(c)	2	(d)	3	(a)	4	(c)	5	(d)
6	(a)	7	(a)	8	(d)	9	(d)	10	(d)



Specific Legal Provisions Related to MSME Sector

1. Balaram is school drop out but took over his father's business after his sudden death. The business, a proprietorship firm, is manufacturing and selling rubber spares and is located at remote place in the District of West Bengal. Turnover of business was Rs. 342 crore. Though not audited or evaluated, the investment in plant and machinery is around Rs. 93 lakhs. The business is not registered with DIC but with GST. He pays income tax. He wants to expand his business and wants to know:
 - i) What category of industry the business is falling?
 - ii) Is registration compulsory?
 - iii) Where to register?
 - iv) What are the benefits of registration?

Answer:

- i) The business falls under micro enterprise as defined under MSME Act and Rules. Since the investment in Plant and Machinery or Equipment:
Not more than Rs. 1 crore and Annual Turnover; not more than Rs. 5 crore.
- ii) Registration is not compulsory but lot of benefits are not available to unregistered parties.
- iii) Registration has to be taken in the office District Industries Centre(DIC)
- iv) Registered units shall get the benefit of loan, loan repayment moratorium, tax holiday, price preference by Govt. organizations etc.

2. The buyer is liable to make payment on or before the appointed day but in case of failure or dispute, any party may move to an authority. Explain briefly about composition of such authority/Council?

Answer:

Any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council. The State Government shall, by notification, establish one or more Micro and Small Enterprises Facilitation Councils, at such places, exercising such jurisdiction.

It shall consist of not less than three but not more than five members to be appointed from amongst the following categories, namely:-

- ✓ Director of Industries, or any other officer not below the rank of such Director.
- ✓ One or more office-bearers or representatives of associations of micro or small industry or enterprises in the State; and
- ✓ One or more representatives of banks and financial institutions lending to micro or small enterprises; or
- ✓ one or more persons having special knowledge in the field of industry, finance, law, trade or commerce.

3. Write short note on **ECLGS or the Emergency Credit Line Guarantee Scheme**

Answer: It is a scheme launched by the Government of India as a special scheme, considering the COVID-19 crisis. The Scheme aims to provide 100% guarantee coverage to banks and NBFCs

to enable them to extend emergency credit facilities to business enterprises / MSMEs in view of COVID-19 to meet their additional term loan or additional working capital requirements.

Recently, the Government extended the ECLGS to 31st March 2022 with the purpose to provide relief to MSMEs.

100% guarantee coverage for the additional funds sanctioned under the Emergency Credit Line Scheme. The interest rate charged is capped at 9.25% for banks and 14% for NBFCs. A maximum tenure of 4 years from the date of disbursement is stipulated under the Scheme. The moratorium period on the principal amount is 12 months.

4. What is appointed day?

Answer: means the day following immediately after the expiry of the period of fifteen days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

“the day of acceptance” means,-

- (i) the day of the actual delivery of goods or the rendering of services; or
- (ii) where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

“the day of deemed acceptance” means, where no objection is made in writing by the buyer regarding acceptance of goods or services within 15 days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

Multiple Choice Questions

1. NSIC stands for:

a. National Social Institute Corporation	b. National Small Institute Corporation
c. National Scheme for Industries and companies	d. National Small Industries Corporation.

2. If a unit has investment in plant an equipment of Rs. 55 crore and turnover of Rs. 300 crore. It will be classified as:

a. Micro	b. Small
c. Medium	d. none of the above

3. While calculating the value of assets for ascertaining the classification, the value of the following is excluded.

a. Land	b. furniture and fittings
c. none of the above	d. both of the (a) and (b)

4. While calculating the value of assets for ascertaining the classification, the value of the following is excluded.

a. any sales	b. domestic sales
c. exports	d. none of the above

Answer to MCQs

1	(d)	2	(d)	3	(d)	4	(c)
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The Competition Act, 2002

1. An understanding has been reached among the manufacturers of cement to control the price of cement, but the understanding is not in writing and it is also not intended to be enforced by legal proceedings.

Examine whether the above understanding can be considered as an 'Agreement' with the meaning of Section 2(b) of the Competition Act, 2002.

Answer:

'Agreement' includes any arrangement or understanding or action in concert:

- (i) Whether or not, such arrangement, understanding or action is formal or in writing or
- (ii) Whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings. [Section 2(b)].

In view of the above definition of 'agreement', and understanding reached by the cement manufacturers to control the price of cement will be an 'agreement' within the meaning of section 2(b) of the Competition Act, 2002 even though the understanding is not in writing and it is not intended to be enforceable by legal proceedings.

2. Mr. Zupi was appointed as a Member of the Competition Commission of India by Central Government. He has a professional experience in international business for a period of 12 years, which is not a proper qualification for appointment of a person as member. Pointing out this defect in the Constitution of Commission, Mr. P. K. against whom the commission gave a decision, wants to invalidate the proceedings of the commission. Examine with reference to the provisions of the Competition Act, 2002 whether Mr. P. K. will succeed.

Answer:

As per section 15 of Competition Act 2002 any act or proceeding of the Commission shall not be invalidated merely on the ground of:

- (a) any vacancy in, or any defect in the constitution of the Commission; or
- (b) any defect in the appointment of a person acting as a Chairperson or as a member; or
- (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Here in this case Mr. Zupi should have professional qualification of not less than 15 years as per section 8 of the Act but this disqualification will not invalidate the proceeding of the Commission.

3. Whether a person purchasing goods not for personal use, but for resale can be considered as a 'consumer' under the Competition Act, 2002.

Answer:

According to Competition Act, 2002 "consumer" means any person who—

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, whether such purchase of goods is for resale or for any commercial purpose or for personal use.

4. Upon an enquiry made by the Competition Commission of India it was found that Huge Limited is enjoying dominant position in the market and there is every possibility that the company may abuse its dominant position. In order to overcome such a possible situation, the Competition Commission of India wants to order for division of Huge Limited. Referring to the provisions of the Competition Act, 2002, describe the matters which may be provided in the said order.

Answer:

The Commission, may, notwithstanding anything contained in any other law for the time being in force, by order in writing, direct division of an enterprise enjoying dominant position to ensure that such enterprise does not abuse its dominant position. The order may provide for all or any of the following matters, namely:

- (a) the transfer or vesting of property, rights, liabilities or obligations.
 - (b) the adjustment of contracts either by discharge or reduction of any liability or obligation or otherwise.
 - (c) the creation, allotment, surrender or cancellation of any shares, stocks or securities.
 - (d) Omitted.
 - (e) the formation or winding up of an enterprise or the amendment of the memorandum of association or articles of association or any other instruments regulating the business of any enterprise.
 - (f) the extent to which, and the circumstances in which, provisions of the order affecting an enterprise may be altered by the enterprise and the registration thereof.
 - (g) any other matter which may be necessary to give effect to the division of the enterprise.
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5. ABC Ltd. made an initial public offer of certain number of equity shares. Examine whether these shares can be considered as 'Goods' under the Competition Act, 2002 before allotment.

Answer

Debentures and shares after allotment can be considered as 'goods' within the meaning given under Section 2(i) of Competition Act, 2002

6. Mr. M was a member of The Competition Commission of India. He retired on 31st March 2012. He was offered the post of Chairperson in White Ltd. with appropriate remuneration and perquisites. Discuss whether he can accept the job. What will be the position if Mr. M joins Gail Ltd., a Government company with effect from 1st April 2013

Answer:

According to Section 12 Competition Act, 2002, The Chairperson and other Members shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or be connected with the management or administration of, any enterprise which has been a party to a proceeding before the Commission, other than employment in Government or Government Organisation /Companies.

MR. M cannot join White LTD. However, there is no restriction for him to join GAIL on 1st April 2013 as it is a government company.

7. An arrangement has been made among the cotton producers that the cotton produced by them will not be sold to mills below a certain price. The arrangement is in writing but it is not intended to be enforced by legal proceeding. Examine whether the said arrangement can be considered as an agreement within the meaning of Section 2(b) of the Competition Act, 2002.

Answer

According to Section 2(b) This arrangement can be considered as an agreement.

8. The association of Truck Operators of India by agreement insisted that members of the association shall not deal with non-members in transportation of goods. The association claims that this agreement is entered for the welfare of trade and not for any other purpose. Would this agreement be under the purview of the Act? Will the answer be different if the association attempts to control the provisioning of services rendered by its members?

Answer:

Agreement is horizontal anti-competitive, hence void and control or provisioning of services is also void, sec. 3(3)(b).

9. The orange producers from Kashmir have formed an association to control production of oranges. Examine whether it will be considered as a cartel within the meaning of sec 2© of the Competition Act, 2002.

Answer

“cartel” includes an association of producers, sellers, distributors, traders or service providers who, by agreement amongst themselves, limit control or attempt to control the production, distribution, sale or price of, or, trade in goods or provision of services. The association that has been formed is that of orange producers. It clearly falls within the definition of „cartel“ as given under Sec 2(c) of Competition Act, 2002.

10. Mr. A was a member of the Competition Commission of India. On the basis of information that he had acquired such financial interest as was likely to affect prejudicially his functions as a member of the Commission, the Central Government appointed an officer to hold an inquiry. On the basis of report of the said officer the Central Government issued an order of removal of Mr. A. Decide whether the action of the Central Government is in order under the provisions of the Competition Act, 2002?

Answer:

Yes, Sec. 11 empowers CG to remove the Chairperson or any member of the Commission on various grounds



Laws related to Insurance Sector (Including Insurance Act, IRDA Act, 1999)

1. "life Policy cannot be questioned after the expiry of 2 years from the date on which it was effected". Explain with reference to Section 45 of the act.

Answer:

Inaccurate or false particulars: An insurer shall not call in question a Life Insurance Policy after the expiry of 2 years from the date on which it was effected on the ground that –

- (a) a statement made in the proposal for insurance. Or
- (b) in any report of a Medical Officer, or Referee, or Friend of the insured, or in any other document leading to the issue of the policy, was inaccurate or false. [Sec. 45]

Exception: The above provision does not apply if the Insurer shows that such statement was on

- a) A material matter or suppressed facts which it was material to disclose and
- b) That it was fraudulently made by the policy-holder and
- c) That the policy-holder knew at the time of making it that the statement was false or that it suppressed facts which it was material to disclose. Only the insurer can repudiate - LIC Vs. G.M.Chennabasamma.

LIC challenged a policy after 2 years after its issue. It was in evidence that the assured fraudulently suppressed facts. "was held that the LIC was not liable - Mithoolal Vs. LIC (SC 1962).

Held that "If a period of 2 years has expired from the date on which the policy of life insurance was effected, that policy cannot be called in question by an insurer on the ground that a statement made in the proposal for insurance or on any report of a medical officer or referee, or a friend of the insured, or in any other document leading to the issue of the policy, was inaccurate or false." - LIC Vs. Janaki Ammal (Mad HC 1968).

Note:

- (a) Policies issued in India shall be subject to law in force in India.
 - (b) The insurer can notify the Policyholder of the options available to him in case of non-payment of premiums.
 - (c) The Life Policy Holders have the right to seek for Medical Reports procured by the Insurer.
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2. Explain briefly the powers of the Central Government to issue directions to the IRDA, as per IRDA Act 1999.

Answer:

The provisions of section 18 of IRDA Act 1999 may be explained as follows:

1. Nature of directions and their binding effect [Section 18(1)]

Without prejudice to the foregoing provisions of this Act, The Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Opportunity to Authority before giving directions [Proviso to Section 18(1)] . The Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

2. 'Question of policy or not' to be decided by the Central Government [Section 18(2)]

The decision of the Central Government, whether a question is one of policy or not, shall be final.

3. Whether appointment of Controller of Insurance is Compulsory? Explain.

Answer:

The provisions relating to appointment of Controller of Insurance is explained as below:

1. Appointment on supersession of IRDA [Section 2B(1)]

If at any time, the Authority is superseded under sub-section (1) of section 19 of the Insurance Regulatory and Development Authority Act, 1999, the Central Government may, by notification in the Official Gazette, appoint a person to be the Controller of Insurance till such time the Authority is reconstituted under section 19(3) of the said Act

2. Factors to be considered at the time of appointment of Controller of Insurance [Section 28(2)]

In making any appointment of Controller of Insurance, the Central Government shall have due regard to the following considerations, namely, whether the person to be appointed has had experience in industrial, commercial or insurance matters and whether such person has actuarial qualification.

4. What shall be the composition of the Insurance regulatory and development authority?

Answer:

The composition of the Authority may be explained as follows:

Chairperson and Members [Section 4(1)]

The Authority shall consist of following members namely:

- (a) a Chairperson:
 - (b) not more than 5 whole time members:
 - (c) not more than 4 part-time members,
- to be appointed by the Central Government from amongst persons of ability, integrity and standing who. Have knowledge or experience in life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration or any other discipline which would, in the opinion of the Central Government be useful to the Authority.

Requirement as to specialised areas [Section 4(2)]

The Central Government shall, while appointing the Chairperson and the whole-time members. ensure that atleast one person each is a person having knowledge or experience in life insurance, general insurance or actuarial science, respectively.

5. Explain the Provisions relating to transfer of assets and liabilities of Interim Insurance Regulatory Authority.

Answer:

The provisions relating to transfer of assets and liabilities at Interim Insurance Regulatory Authority, as contained in section 13, are as follows: On the appointed day, -

- (a) all the assets and liabilities of the Interim Insurance Regulatory Authority shall stand transferred to, and vested in, the Authority.
Explanation:- The assets of the Interim Insurance Regulatory Authority shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of. such properties as may be in the possession of the Interim Insurance Regulatory Authority and all books of account and other documents relating to the same: and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind
- (b) Without prejudice to the provisions of clause (a), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, "with or for the Interim Insurance Regulatory Authority immediately before that day, for or in connection with the purpose of the said Regulatory Authority, shall be deemed to have been incurred, entered into or engaged to be done with or for, the Authority
- (c) all sums of money due to the Interim Insurance Regulatory Authority immediately before that day shall be deemed to be due to the Authority: and
- (d) all suits and other legal proceedings instituted or which could have been instituted by or against the Interim Insurance Regulatory Authority immediately before that day may be continued or may be instituted by or against the Authority.

6. Section 14(2) of the Insurance Regulatory and Development Authority Act, 1999 specifies the powers and functions of the Insurance Regulatory and Development Authority, list out those powers and functions of the Authority.

Answer:

The powers and functions of the Insurance Regulatory and Development Authority shall include,-

- (i) issue to the applicant a certificate of registration, renew, modify, withdraw, suspend or cancel such registration.
- (ii) Protection of the interests of the policy-holders in mailers concerning assigning of policy, nomination by policy-holders insurable interest. settlement of insurance claim, surrender value of policy and other terms and conditions of contracts of insurance:
- (iii) Specifying code of conduct of the Surveyors.
- (iv) Determining qualifications and training aspect of agents and intermediary.
- (v) Levying fees and charges for their work.
- (vi) Conducting investigations and enquiries relating to issues concerning insurance business.
- (vii) Regulating and controlling business not controlled by Tariff Advisory committee under section 64 of Insurance Act 1938.
- (viii) Regulatory investment funds by the Insurance Companies.
- (ix) Regulating maintenance of margin of solvency.
- (x) Adjudicating and settling disputes between intermediaries and insurers.
- (xi) Supervising the functioning of Tariff Advisory Committee.

7. M/s Samrat is a company engaged in providing services of supplying goods all over the world through aircrafts. The aircrafts of the said company is registered and insured in India with the reputed insurance company. Company found that the insurance policy of one of aircraft which is in Europe had expired. Company said to his officer to get new insurance policy of that aircraft in Europe. State the validity of such an act of registration of aircraft in Europe.

Answer:

Given problem is based on the section 2CB of the Insurance Act, 1938. Said section deals with the Indian properties not to be insured with foreign insurers. According to the section, no person shall take out or renew any policy of insurance in respect of any property in India or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India, without the permission of the IRDAI.

In the given case, act of registration of aircraft of M/s Samrat which is an Indian property, with an insurer in Europe, is an invalid act.

8. Which principle of insurance is related to the following statements?

(I) The cause for loss must be related to the purpose of insurance.

(II) The insured should not be allowed to make any profit by selling damaged or in the case of lost property being recovered.

Answer:

(I) Principle of Causa Proxima

(II) Principle of Subrogation

9. Is there any maximum limit on shareholding by the promoter in an Indian Insurance company, as per Insurance Act, 1938?

Answer

Maximum limit is 26% or such other percentage as may be prescribed, of the paid-up equity capital in an Indian Insurance company. [section 6AA]



Laws related to Banking Sector (Including Banking Regulation Act, SARFAESI)

1. The Board of Director of ABC Ltd., a banking Company incorporated in India, for the accounting year ended 31-3-2010 transferred 15% of its net profit to its Reserve Fund. Certain Shareholder of the Company objects to the above act of the Board of Directors on the ground that it is violative. Examine the provision of Banking Regulation Act, 1949 and decide -
 - i. Whether contention of the Shareholder is tenable?
 - ii. Would your answer be still the same in case the Board transfers 30% of the Company's Net Profits to Reserve Fund?

Answer

- i. The objection made by the shareholders is valid since the minimum amount to be transferred to the reserve fund is 20% of profits according to Section 17 of Banking Regulation Act, 1949.
- ii. The Board is free to transfer to reserve anything over and above 20% of net profits.

2. Soft Banking Company Limited has advanced a sum of `25.00 lacs to Mr. A, a director of the company, to meet his personal liabilities but due to some adverse conditions, Mr. A is not in a position to repay the loan. The Board of directors of the company is considering to remit a sum of `10.00 lacs. The Board of Directors seeks your advice.

Answer

Prior approval of RBI is required (Section 20A)

3. Accounts and Balance Sheet along with auditor's reports has been filed with Reserve Bank of India after nine months from the end of the period to which these relate. Comment on the validity based on Banking Regulation Act, 1949.

Answer:

Section 31 provides for publication of the Profit & Loss Account, Balance Sheet and the Auditor's report in the prescribed manner as well as for the submission of three copies thereof as returns to the Reserve Bank within a period of three months which may be extended up to six months.

Hence, it amounts to contravention of section 31 of the Banking Regulation Act, 1949.

4. PQR Bank Limited is not managing its affairs properly. Employees as well as depositors of the bank have complained to the Central Government from time to time about such mismanagement and requested the Central Government to acquire the undertaking of the Banking Company. Explain the powers of the Central Government in this regard under the Banking Regulation Act, 1949.

Answer

According to section 36AE, the Central Government may, after such consultation with the Reserve Bank as it thinks fit, by notified order, acquire the undertaking of such company

5. What measures can a securitization or reconstruction company adopt for the purpose of asset reconstruction?

Answer:

According to Section 9, an asset reconstruction company may for the purposes of asset reconstruction, provide for any one or more of the following measures, namely:

- (a) the proper management of the business of the borrower, by change in or takeover of, the management of the business of the borrower;
 - (b) the sale or lease of a part or whole of the business of the borrower;
 - (c) rescheduling of payment of debts payable by the borrower;
 - (d) enforcement of security interest in accordance with the provisions of this Act.
 - (e) settlement of dues payable by the borrower;
 - (f) taking possession of secured assets in accordance with the provisions of this Act;
 - (g) conversion of any portion of debt into shares of a borrower company.
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SEBI Regulations

Self Practice Questions

1. Write a small note on differential pricing.

Answer:

An issuer may offer equity shares and convertible securities at different prices, subject to the following condition:

- (a) The retail individual investors/shareholders or employees entitled for reservation making may be offered equity shares at a price which is not lower than 10% the price at which net offer is made to other categories of applicants.
- (b) In case of a book built issue, the price of the equity shares and convertible securities offered to an anchor investor cannot be lower than the price offered to other applicants.
- (c) In case the issuer opts for the alternate method of book building, the issuer may offer specified securities to its employees at a price lower than the floor price. However, the difference between the floor price and the price at which equity shares and convertible securities are offered to employees should not be more than 10% of the floor price.
- (d) Face value may be less than 10 but not less than Rs. 1 if the issue price is Rs. 500 or more per share. If issue price is less than Rs. 500 the face value shall be Rs. 10 per share.

2. What do mean by “lock in period”?

Answer:

Lock-in period refers to the number of years in which investors cannot withdraw or sell the funds they have created.

- (a) minimum promoters’ contribution is locked-in for a period of 3 years from the date of commencement of commercial production or date of allotment in the public issue, whichever is later.
- (b) promoters’ holding in excess of minimum promoters’ contribution is locked-in for a period of 1 year. However, excess promoters’ contribution in a further public offer are not subject to lock-in.

3. Define “unpublished price sensitive information”.

Answer:

“unpublished price sensitive information” means any information, relating to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities and shall, ordinarily including but not restricted to, information relating to the following: –

- (i) financial results;
- (ii) dividends;
- (iii) change in capital structure;
- (iv) mergers, de-mergers, acquisitions, delistings, disposals and expansion of business and such other transactions

(v) changes in key managerial personnel.

4. Discuss in detail, the book building process.

Answer:

Book Building means a process undertaken to elicit demand and to assess the price for determination of the quantum or value of specified securities.

(a) In an issue made through the book building process, the allocation in the net offer to public category is made as follows:

(1) Not less than 35% to retail individual investors.

(2) Not less than 15% to non institutional investors i.e. investors other than retail individual investors and qualified institutional buyers.

(3) Not more than 50% to Qualified Institutional Buyers; 5% of which would be allocated to mutual funds;

provided that in addition to 5% allocation available in terms of clause (3), mutual funds shall be eligible for allocation under the balance available for qualified institutional buyers.

In an issue made through the book building process under sub-regulation (2) of regulation 6, the allocation in the net offer to public category shall be as follows:

(1) not more than 10% to retail individual investors;

(2) not more than 15% to non-institutional investors;

(3) not less than 75% to qualified institutional buyers, 5% of which shall be allocated to mutual funds:

In an issue made through the book building process, the issuer may allocate up to 60% of the portion available for allocation to qualified institutional buyers to an anchor investor in accordance with the conditions specified.

(b) In an issue made other than through the book building process, allocation in the net offer to public category will be made as follows:

(1) minimum 30% to retail individual investors, and

(2) remaining to individual applicants other than retail individual investors and other investors including corporate bodies or institutions, irrespective of the number of equity shares and convertible securities applied for.

(3) the unsubscribed portion in either of the categories specified above (point 1 and 2) may be allocated to applicants in the other category.

If the retail individual investor category is entitled to more than 50% on proportionate basis, the retail individual investors will be allocated that higher percentage.

5. What are the requirements of a company which wants to make public issue for the first time?

Answer:

An issuer may make an initial public offer only in following cases

(1) The issuer has net tangible assets of at least Rs. 3 crores in each of the preceding 3 years (of 12 months each) of which not more than 50% are held in monetary assets. If more than 50% of the net tangible assets are held in monetary assets, then the issuer has to make firm commitment to utilize such excess monetary assets in its business or project. The 50% criteria will not apply in case of IPO entirely through offer for sale.

(2) It has a minimum average pre-tax operating profit of Rs. 15 crores, calculated on a restated and consolidated basis, during the 3 most profitable years out of the immediately preceding 5

years.

(3) The issuer company has a net worth of at least Rs. 1 crore in each of the preceding 3 full years (of 12 months each).

(4) In case of change of name by the issuer company within last one year, at least 50% of the revenue for the preceding 1 year should have been earned by the company from the activity indicated by the new name.

Multiple Choice Questions

1. Maximum days for keeping an issue open is;

a. 7	b. 8
c. 9	d. 10

2. At the time of IPO, the issuer has to have a:

a. CFO	b. MD
c. Designated Compliance Officer	d. Atleast one Independent Director

3. Which of the following do not require prospectus

a. Rights Issue	b. Bonus Issue
c. IPO	d. FPO

4. Minimum Face value of shares can be-

a. 10	b. 5
c. 1	d. 15

5. Takeover means

a. buying few shares	b. acquiring 10%
c. acquiring shares which will give control over the management.	d. none of the above

6. The purpose of the SEBI Act is to provide for the establishment of a Board called Securities and Exchange Board of India (SEBI). The Preamble to the Act provides for the establishment of a Board to:

a. Protect the interests of investors in securities	b. Promote the development of the securities market
c. To regulate the securities market	d. All of these

7. SEBI has three functions rolled into one body. Which of the following is not the function of SEBI?

a. Quasi-legislative	b. Quasi-judicial
c. Quasi-executive	d. Quasi-official

8. For the appointment, reappointment, remuneration and removal of the director of a banking company, prior approval of should be obtained.

a. Chairman	b. RBI
c. Managing Director	d. Finance Secretary

Answer to MCQs

1	(d)	6	(d)
2	(b)	7	(d)
3	(c)	8	(b)
4	(c)		
5	(c)		

State True or False

- 1) SEBI regulations normally apply to public issues.
- 2) Promoters contribution is locked in for 3 years
- 3) Only Company secretary can be compliance officer.
- 4) Information relating to change in capital structure comes under “unpublished price sensitive information” under Insider Trading Regulation
- 5) SEBI (SAST) regulation and takeover code is same.

Fill in the blanks

- 1) In case of IPO, the minimum promoters contribution shall bepercent of the post issue capital
- 2) When promoters of the target company voluntarily transfers shares, it is called.....takeover
- 3) In case of open offer, the account where payable amount to shareholders are kept is called.....
- 4) Identified date meansworking days after closure of the offer.
- 5) Minimum subscription is percentage of the issue size.

Answer to True/False

1	True
2	True
3	False
4	True
5	True

Answer to Fill in the Blanks

1	20
2	Friendly
3	Escrow Account
4	10
5	90



Foreign Exchange Management Act, 1999

Residential Status

1. Printex Computer is a Singapore based company having several business units all over the world. It has a unit for manufacturing computer printers with its headquarters in Pune. It has a branch in Dubai which is controlled by the headquarters in Pune. What would be the residential status under FEMA, 1999 of printer units in Pune and that of Dubai branch?

Answer:

Printex Computer being a Singapore based company would be person resident outside India [(Section 2(w))].

Section 2 (u) defines 'person' under clause (viii) thereof, as person would include any agency, office or branch owned or controlled by such person. The term such person appears to refer to a person who is included in clause (i) to (vi).

Accordingly, Printex unit in Pune, being a branch of a company would be a 'person'.

Section 2(v) defines a person resident in India. Under clause (iii) thereof person resident in India would include an office, branch or agency in India owned or controlled by a person resident outside India. Printex unit in Pune is owned or controlled by a person resident outside India, and hence it, would be a 'person resident in India.'

However, Dubai Branch though not owned is controlled by the Printer unit in Pune which is a person resident in India. Hence, the Dubai Branch is a person resident in India.

2. Examine, with reference to the provisions of the Foreign Exchange Management Act, 1999, the residential status of the branches mentioned below:
 - i) MKP Limited, an Indian company having its Registered Office at Mumbai, India established a branch at New York U.S.A. on 1st April, 2004.
 - ii) WIP Ltd., a company incorporated and registered in London established a branch at Chandigarh in India on 1st April, 2004.
 - iii) WIP Ltd.'s Singapore branch which is controlled by its Chandigarh branch.

Answer:

Therefore, residential status of MKP Limited as well as the New York branch of MKP under FEMA shall be determined for each of them separately.

- i) MKP Limited is incorporated in India. Therefore, it is a 'person resident in India'. MKP Limited (a 'person resident in India') has established a branch outside India. Therefore, the New York branch of MKP Limited falls under the clause 'an office, branch or agency outside India owned or controlled by a person residential India' and so the New York branch is a 'person resident in India'.
- ii) WIP Ltd. as well as Chandigarh branch of WIP Ltd. is a 'person'. WIP Ltd. (a foreign company) does not fall under any of the clauses of the definition of a 'person resident in India'. Therefore, WIP Ltd. is a person resident outside India. The Chandigarh branch of WIP Ltd. is a 'person resident in India' since it falls under the clause an office, branch or agency in India owned or controlled by a person resident

- outside India'.
 iii) The Singapore branch of WIP Ltd., though not owned, is controlled by the Chandigarh branch. The Singapore branch is a person resident in India' since it falls under the clause 'an office, branch or agency outside India owned or controlled by a person resident in India'.

3. Mr. X resided in India during the financial year 2000-2001 for less than 183 days. He came to India on 1st April, 2001 for employment. What would be his residential status during the financial year 2001-2002 under FEMA, 1999?

Answer:

The residential status of an individual for a particular financial year is determined with reference to his residence in India in the immediately preceding financial year. In the problem given, Mr. X resided in India for less than 183 days in the financial year 2000-01. Therefore, for the financial year 2001-02 he is a 'Person resident outside India'

4. Mr. Kishore resided in India during the Financial Year 2009-2010 for less than 182 days. He came to India on 1st April, 2010 for business. He closed down his business on 30th April, 2011 and left India on 30th June, 2011 for the purpose of employment outside India. Decide the residential status of Mr. Kishore during the Financial Years 2010-2011 and 2011-2012 under the provisions of the Foreign Exchange Management Act, 1999.

Answer:

The residential status of an individual for a particular financial year is determined with reference to his residence in India in the immediately preceding financial year.

Residential status of Mr. Kishore for financial year 2010-2011

For the financial year 2010-11, Mr. Kishore is a 'Person resident outside India' since he did not reside in India for more than 182 days in the preceding financial year, viz. 2009-2010.

Residential status of Mr. Kishore for financial year 2011-2012

Mr. Kishore resided in India for more than 182 days in the preceding financial year, viz. 2010-2011. Also, he came to India for the purpose of business. Therefore, he became a person resident in India. However, he left India for employment outside India on 30th June, 2011, and so he ceased to be a person resident in India.

Thus, Mr. Kishore was a person resident in India only up to 30th June, 2011 and not for the entire financial year 2011-2012.

Current Account and Capital Account Transactions

5. Mr. Sane, an Indian National desires to obtain Foreign Exchange for the following purposes:
 (i) Remittance of US Dollar 50,000 out of winnings on a lottery ticket.
 (ii) US Dollar 100,000 for sending a cultural troupe on a tour of U.S.A.
 Advise him whether he can get Foreign Exchange and if so, under what conditions?

Answer:

Under provisions of section 5 of the Foreign Exchange Management Act, 1999 certain Rules have been made for drawal of Foreign Exchange for Current Account transactions. As per these Rules, Foreign Exchange for some of the Current Account transactions is prohibited. As regards

some other Current Account transactions, Foreign Exchange can be drawn with prior permission of the Central Government while in case of some Current Account transactions, prior permission of Reserve Bank of India is required.

- (i) In respect of item No.(i), i.e., remittance out of lottery winnings, such remittance is prohibited and the same is included in First Schedule to the Foreign Exchange Management (Current Account Transactions) Rules, 2000. Hence, Mr. Sane can not withdraw Foreign Exchange for this purpose.
- (ii) Foreign Exchange for meeting expenses of cultural tour can be withdrawn by any person after obtaining permission from Government of India, Ministry of Human Resources Development, (Department of Education and Culture) as prescribed in Second Schedule to the Foreign Exchange Management (Current Account Transactions) Rules, 2000. Hence, in respect of item (ii), Mr. Sane can withdraw the Foreign Exchange after obtaining such permission.

In all the cases, where remittance of Foreign Exchange is allowed, either by general or specific permission, the remitter has to obtain the Foreign Exchange from an Authorised Person as defined in Section 2(c) read with section 10 of the Foreign Exchange Management Act, 1999.

6. Under the auspices of the Foreign Exchange Management Act, 1999, (the Act) examine whether the given situations fall under "Current Account Transactions" or not as defined in the Act?

- (i) Mr. S. a resident in India, imports machinery from a vendor in UK for installing in his factory.
- (ii) An Indian resident, imports machinery from a vendor in US for installing in his factory on a credit period of 3 months. An Indian resident, transfers US\$ 1,000 to his NRI brother in New York as "gift". The funds are sent from resident's Indian Bank account to the NRI brother's Bank account in New York.

Answer:

Current Account Transaction means a transaction other than a capital account transaction and without prejudice to the generality of the foregoing such transaction includes:

- ✓ Payments due in connection with foreign trade , other current business, services, and short-term banking and credit facilities in the ordinary course of business
- ✓ Payments due as interest on loans and as net income from investments.
- ✓ Remittances for living expenses of parents, spouse and children residing abroad, and
- ✓ Expenses in connection with foreign travel, education and medical care of parents, spouse and children.

- i) An Indian resident imports machinery from a vendor in UK for installing in his factory. As per FEMA, it does not alter an asset in India for the UK vendor. It does not create any liability to a UK vendor for the Indian importer. Once the payment is made, the Indian resident or the UK vendor neither owns nor owes anything in the other country. Hence it is a Current Account Transaction.
- ii) An Indian resident imports machinery from a vendor in UK for installing in his factory on a credit period of 3 months. Under FEMA, it is a liability outside India. However, under definition of Current Account Transaction ."short-term banking and credit facilities in the ordinary course of business" are considered as a Current Account Transaction. Hence import of machinery on credit terms is a Current Account Transaction.
- iii) An Indian resident transfers US\$ 1,000 to his NRI brother in New York as "gift". The

funds are sent from resident's Indian bank account to the NRI brother's bank account in New York. As per FEMA, once the gift is accepted by the NRI, no one owns or owes anything to anyone in India or USA, the transaction is over. Hence it is a Current Account Transaction.

7. State which kind of approval is required for the following transactions under the Foreign Exchange Management Act, 1999:

- (i) X, a Film Star, wants to perform along with associates in New York on the occasion of Diwali for Indians residing at New York. Foreign Exchange drawal to the extent of US dollars 20,000 is required for this purpose.
- (ii) R wants to get his heart surgery done at United Kingdom. Up to what limit Foreign Exchange can be drawn by him and what are the approvals required?

Answer:

Approval to the following transactions under FEMA, 1999:

- i) Foreign Exchange drawals for cultural tours require prior permission/approval of the Ministry of Human Resources Development (Department of Education and Culture) irrespective of the amount of foreign exchange required. Therefore, in the given case X, the Film Star is required to seek permission of the said Ministry of the Government of India.
- ii) Individuals can avail of foreign exchange facility within the limit of USD 2,50,000 only. Any additional remittance in excess of the said limit for the expenses requires an approval from RBI. However in connection with medical treatment abroad, no approval of the Reserve Bank of India is required. Therefore, R can draw foreign exchange up to amount estimated by a medical institute offering treatment.

8. Lifesys Limited, a billion-dollar, Indian company wishes to create a chair in a reputed university in the US. This chair is for the department of computer science. The company wishes to obtain your advice in regard to the following with reference to the FEMA, 1999.

- (i) Is such "chair" creation permissible?
- (ii) What is the maximum amount that can be denoted for such chair?
- (iii) Any formalities to be complied with?

Answer:

The following remittances exceeding the limits mentioned below shall require prior approval of the RBI-

Donations exceeding Lower of:

- (a) 1% of their foreign exchange earnings during the previous 3 financial years or
- (b) USD 5,000,000 for-

- ✓ creation of Chairs (Paying faculty's salary) in reputed educational institutes.
- ✓ contribution to funds (not being an investment fund) promoted by educational institutes; and
- ✓ contribution to a technical institution or body or association in the field of activity of the donor Company.

- (i) In the first case, "chair" creation for the department of computer science in reputed university in the U.S. is permissible.
- (ii) Maximum amount that can be donated for such chair will be 1% of their foreign

- exchange earnings during the previous 3 financial years or USD 5,000,000, whichever is less without prior approval of the RBI.
- (iii) In case where donations exceed 1% of their foreign exchange earnings during the previous 3 financial year or USD 5,000,000, it shall require prior approval of RBI.

9. Mr. Bandha, a software Engineer, Indian Origin took employment in USA. He is a resident of USA for a long time. He desires
- (i) to acquire a farmhouse in Munnar (Kerala).
 - (ii) to make investment in KLJ (Nidhi) Ltd., registered as Nidhi Company.
 - (iii) to make investment in Rose Real Estate Ltd., an Indian Company formed for the development of township.

Whether there are any restrictions in respect of the transactions desired by Mr. Bandha.

Answer:

According to Regulation 4 of the FEM (Permissible Capital Account Transaction) Regulations, 2015, No person resident outside India shall make investment in India, in any form, in any company or partnership firm or proprietary concern or any entity, whether incorporated or not, which is engaged or proposes to engage:

- (a) in the business of chit fund.
- (b) as Nidhi Company.
- (c) in agricultural or plantation activities.
- (d) in real estate business, or construction of farmhouses.
- (e) in trading in Transferable Development Rights (TDRs).

Hence, in view of above,

- (i) Mr. Bandha, cannot acquire a farmhouse in Munnar (Kerala).
- (ii) Mr. Bandha cannot make investment in KLJ (Nidhi) Ltd.
- (iii) Mr. Bandha can make investment in Rose Real Estate Ltd., an Indian Company formed for the development of township because "real estate business" shall not include development of townships.

10. Referring to the provisions of the Foreign Exchange Management Act, 1999, state the kind of approval required for the following transactions:

- (i) M requires U.S. \$ 5,000 for remittance towards hiring charges of transponders.
- (ii) P requires U.S. \$ 2,000 for payment related to call back services of telephones.

Answer:

Under section 5 of the Foreign Exchange Management Act, 1999, and Rules relating thereto, some current account transactions require prior approval of the Central Government, some others require the prior approval of the Reserve Bank of India, some are freely permitted transactions and some others are prohibited transactions.

- i) Accordingly, It is a current account transaction, where M is required to take approval of the Central Government for drawal of foreign exchange for remittance of hire charges of transponders.
- ii) Withdrawal of foreign exchange for payment related to call back services of telephone is a prohibited transaction. Hence, Mr. P cannot obtain US \$ 2,000 for the said purpose.

11. Mr. Hillary Benjamin, a citizen of India, left India for employment in U.S.A. on 1st June 2015. Mr. Hillary Benjamin purchased a flat at New Delhi for Rs. 60 lacs in September 2016. His brother, Mr. Henry Benjamin employed in New Delhi, also purchased a flat in the same building in September 2016 for Rs. 65 lacs. Mr. Henry Benjamin's that was financed by a loan from a Housing Finance Company and the loan was guaranteed by Mr. Hillary Benjamin. Examine with reference to the provisions of the foreign Exchange Management Act, 1999 whether purchase of flat and guarantee by Mr. Hillary Benjamin are capital Account transactions and whether these transactions are permissible.

Answer:

Capital Account Transaction means a transaction which alters The assets or liabilities, including contingent liabilities, outside India of Persons Resident in India [PRI] or Assets or liabilities in India of Persons Resident Outside India [PROI].

Subject to the provisions of Sec 6(2) & 6(2A), any person may sell or draw foreign exchange to or from an Authorized person for a capital account transaction.

In the given case, there are 2 Capital Account Transactions.

- ✓ Purchase of immovable property in India by Mr. Ram [PROI].
- ✓ Giving of Guarantee by Mr. Ram [PROI] on behalf of Mr. Gopal [PRI] to the Housing Finance Company

and both of them are Permissible

12. Suresh resided in India during the Financial Year 2013-14. He left India on 15th July, 2014 for Switzerland for pursuing higher studies in Biotechnology for 2 years. What would be his residential status under the Foreign Exchange Management Act, 1999 during the Financial Years 2014-15 and 2015-16?

Mr. Suresh requires every year USD 25,000 towards tuition fees and USD 30,000 for incidental and stay expenses for studying abroad. Is it possible for Mr. Suresh to get the required Foreign Exchange and, if so, under what conditions?

Answer:

According to section 2(v) of the Foreign Exchange Management Act, 1999, 'Person resident in India' means a person residing in India for more than 182 days during the course of preceding financial year [Section 2(v)(i)]. However, it does not include a person who has gone out of India or who stays outside India for employment outside India or for any other purpose in such circumstances as would indicate his intention to stay outside India for an uncertain period.

Generally, a student goes out of India for a certain period. In this case, Mr. Suresh who resided in India during the financial year 2013-14 left on 15.7.2014 for Switzerland for pursuing higher studies in Biotechnology for 2 years, he will be resident as he has gone to stay outside India for a 'certain period' RBI has however clarified in its AP circular no. 45 dated 8th December 2003, that students will be considered as non-residents. This is because usually students start working there to take care of their stay and cost of studies.

Mr. Suresh will be treated as person resident in India for Financial Year 2014-2015 as he resided in India in preceding FY 2013-2014.

However, during the Financial Year 2015-2016, Mr. Suresh will not be considered as resident as he left India on 15th July 2014. He is determined to be person resident outside from 16th July 2014 for the financial year 2015-2016.

Foreign Exchange for studies abroad: According to Para I of Schedule III to Foreign Exchange Management (Current Account Transactions), Amendment Rule, 2015 dated 26th May, 2015, individuals can avail of foreign exchange facility for the studies abroad within the limit of USD 2,50,000 only. Any additional remittance in excess of the said limit shall require prior approval of the RBI. Further proviso to Para I of Schedule III states that individual may be allowed remittances (without seeking prior approval of the RBI) exceeding USD 2,50,000 based on the estimate received from the institution abroad. In this case the foreign exchange required is only USD 55,000 per academic year and hence approval of RBI is not required.

13. Examine with reference to the provisions of the Foreign Exchange Management Act, 1999 whether there are any restrictions in respect of the following: A person who was resident of U.S.A. for several years, is planning to return to India permanently. Can he continue to hold the investment made by him in the securities issued by companies in U.S.A.?

Answer:

As per Section 6(4), a person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

Hence, the USA Resident shall be entitled to hold the foreign securities even after he becomes a person resident in India.

14. Mr. P has won a big lottery and wants to remit US Dollar 20,000 out of his winnings to his son who is in USA. Advise whether such remittance is possible under the Foreign Exchange Management Act, 1999.

Mr. Z is unwell and would like to have a kidney transplant done in USA. He would like to know the formalities required and the amount that can be drawn as foreign exchange for the medical treatment abroad.

Answer:

According to section 5 of the FEMA, 1999, any person may sell or draw foreign exchange to or from an authorized person if such a sale or drawal is a current account transaction. Provided that Central Government may, in public interest and in consultation with the reserve bank, impose such reasonable restrictions for current account transactions as may be prescribed.

As per the rules, drawal of foreign exchange for current account transactions are categorized under three headings-

1. Transactions for which drawal of foreign exchange is prohibited,
 2. Transactions which need prior approval of appropriate government of India for drawal of foreign exchange, and
 3. Transactions which require RBI's prior approval for drawal of foreign exchange.
- (i) Mr. P wanted to remit US Dollar 20,000 out of his lottery winnings to his son residing in USA. Such remittance is prohibited and the same is included in the Foreign Exchange Management (Current Account Transactions) Rules, 2000. Hence Mr. P cannot withdraw foreign exchange for this purpose.
- (ii) "Remittance of foreign exchange for medical treatment abroad" requires prior permission or approval of RBI where the individual requires withdrawal of foreign exchange exceeding USD 250,000. The Schedule also prescribes that for the purpose of

expenses in connection with medical treatment, the individual may avail of exchange facility for an amount in excess of the limit prescribed under the Liberalized Remittance Scheme, if so required by a medical institute offering treatment. Therefore, Mr. Z can draw foreign exchange up to the USD 250,000 and no prior permission/ approval of RBI will be required. For amount exceeding the above limit, authorised dealers may release foreign exchange based on the estimate from the doctor in India or hospital or doctor abroad.

15. Mr. Rohan, an Indian Resident individual desires to obtain Foreign Exchange for the following purposes:

- (A) US\$ 120,000 for studies abroad on the basis of estimates given by the foreign university.
(B) Gift Remittance amounting US\$ 10,000.

Advise him whether he can get Foreign Exchange and if so, under what condition(s)?

Answer:

Foreign exchange may be released for studies abroad up to a limit of US \$ 250,000 for the studies abroad without any permission from the RBI. Above this limit, RBI's prior approval is required. Further proviso to Para I of Schedule III states that individual may be allowed remittances exceeding USD 250,000 based on the estimate received from the institution abroad. In this case since US \$ 120,000 is the drawal of foreign exchange, so permission of the RBI is not required.

Under the provisions of Section 5 of FEMA 1999, certain Rules have been made for drawal of foreign exchange for current account transactions. Gift remittance is a current account transaction. Gift remittance exceeding US \$ 250,000 can be made after obtaining prior approval of the RBI. In the present case, since the amount to be gifted by an individual, Mr. Rohan is USD 10,000, there is no need for any permission from the RBI.

Multiple Choice Questions

1. The Foreign Exchange Management Act came into force on -----.

a. 1 st May, 1999	b. 1 st June, 1999
c. 1 st October, 1999	d. 1 st June, 2000

2. The objective of the Act is to ----- and for promoting the orderly development and maintenance of foreign exchange market in India.

a. Facilitating external trade and payments	b. Promote the orderly development of foreign exchange market in India
c. Promote the maintenance of foreign exchange market in India	d. All of these

3. Authorised person means -----.

a. An authorised dealer	b. Money changer
c. Off-shore banking unit	d. All of these

4. A transaction shall be a capital account transaction if -----.

a. It alters the assets or liabilities in India of persons resident outside India	b. It alters the assets or liabilities outside India of persons resident in India
c. Either (a) or (b)	d. None of these

5. 'Current account transaction' means a transaction -----.

a. Other than a capital account transaction	b. Which is permitted only after obtaining specific permission of RBI
c. Both (a) and (b)	d. Which is not permitted under FEMA

6. 'Currency' includes -----

a. Currency notes, cheques, drafts, bills of exchange and promissory notes	b. Postal notes, postal orders, money orders, travellers' cheques, letters of credit
c. Such other instruments, as may be notified by the Reserve Bank	d. All of these

7. Remittances for living expenses of parents, spouse and children residing abroad is -----.

a. A capital account transaction	b. A current account transaction
c. Either (a) or (b)	d. None of these

8. 'Repatriate to India' means bringing into India the realised foreign statement and the holding of realised amount in an account with an authorised person in India -----.

a. Without any limit	b. Upto the limit contained in the Act
c. Upto the limit prescribed in the Rules	d. To the extent notified by the Reserve Bank

9. While determining as to whether a person is a resident in India or not, the period for which he has resided in India in the is to be considered.

a. Current financial year	b. Current calendar year
c. Preceding financial year	d. Preceding calendar year

10. No person shall deal in or transfer any foreign exchange or foreign security to any person not being -----.

a. An authorised person	b. A person resident in India
c. A person resident outside India	d. All of these

11. Automatic route in FDI means.

a. Prior permission of RBI not required	b. Prior permission of Central Govt. not required
c. Prior permission of neither RBI nor Central Govt. is required	d. None of the above

12. For investment in market securities, FIIs are to be registered with:

a. Ministry of Corporate Affairs	b. RBI
c. SEBI	d. None of the above

13. DPIIT comes under:

a. Industry and Commerce	b. Finance
c. Corporate Affairs	d. None of the above

14. Sale of shares from a resident to non resident is::

a. current account transaction	b. Capital Account Transaction
c. Any of the above	d. None of the above

15. FDI is prohibited in the which of the following sectors:

a. Lottery Business including Government/ private lottery, online lotteries.	b. Gambling and betting including casinos.
c. Chit funds	d. All of the above

16. Individuals can avail of foreign exchange facility for the following purposes within the LRS limit on financial year basis for the following:

a. Private visits to any country (except Nepal and Bhutan)	b. Gift or donation Going abroad for employment
c. Emigration	d. All of the above

17. Eligible borrower can raise up tomillion US\$ through ECB in automatic route.

a. 500	b. 750
c. 1000	d. 1250

18. Total maximum remittance during a financial year under LRS scheme is:

a. US \$ 1,00,000	b. US \$ 1.25.000
c. US \$ 1,50,000	d. US \$ 2,50,000

19. The following remittance is prohibited

a. Remittance for any purpose specifically prohibited under Schedule-I (like purchase of lottery tickets/ sweep stakes, proscribed magazines, etc.) or any item restricted under Schedule II of Foreign Exchange Management (Current Account Transactions) Rules, 2000.	b. Remittance from India for margins or margin calls to overseas exchanges/overseas counterparty.
c. Remittances for purchase of FCCBs issued by Indian companies in the overseas secondary market.	d. All of the above

20. Zenith Ltd. is accompany registered in UK, issues shares to citizen of UK. Under the Indian law, the shares are;

a. Foreign Security	b. Indian Security
c. Any of the above	d. None of the above

21. FEMA.....foreign currency transaction.

a. encourages	b. prohibits
c. restricts	d. None

Fill in the Blanks

- FEMA has replaced.....
- Security issued by any foreign entity is a.....security.
- A resident Indian purchasing a house in London is a.....account transaction.
- FEMA is regulated by.....
- WOS stands for.....
- In case of FEMA, Master directors are issued by.....
- Any foreign exchange transaction which is not categorized as capital accounts is a..... account transaction.
- In Case of FCCB, the bond is converted into equity shares of the.....company.
- FPI stands for.....
- RFC account denotes.....

Answer to MCQs

1	(d)	6	(d)	11	(c)	16	(d)	21	(c)
2	(d)	7	(b)	12	(c)	17	(b)		
3	(d)	8	(d)	13	(a)	18	(d)		
4	(c)	9	(c)	14	(b)	19	(d)		
5	(a)	10	(a)	15	(d)	20	(d)		

Answer to Fill in the blanks

a	FERA
b	Foreign
c	Capital
d	RBI
e	Wholly owned subsidiary
f	RBI
g	Current
h	Indian
i	Foreign Portfolio Investment
j	Resident Foreign Currency Account

Case Study (Self Practice Questions)

Modern Technologies, an unlisted Indian company, having a capital of Rs. 23 crores are negotiating with foreign investor for 20 % stake in the company by issue of fresh shares at a price to be negotiated. The Company is in high tech area where there no limit on foreign investment. You are the CFO of the company. Please prepare a note for directors, whether the issue is possible and if so, the steps to be taken.

Solution

Note for Directors.

Our Company, Modern Technologies, is an unlisted company and SEBI regulations do not apply. However, Company has to comply with FEMA regulations.

As per present FDI regulation, no Govt. approval is required. Neither one requires prior approval of RBI.

2. The investment is within limit. Once the remittance is received, RBI has to be given intimation.
3. The shares certificates have to be issued in dematerialised mode. There is no restriction on repatriation of dividend, subject to tax, as per Indian laws.
4. The shares shall have same voting and other rights.



Prevention of Money Laundering

Class Questions

1. Explain the meaning of the term "Property" under the Prevention of Money Laundering Act, 2002. Mr. Raja was arrested for Counterfeiting 2,000 Notes. State the maximum punishment that can be awarded to him under Prevention of Money Laundering Act, 2002.

Answer:

Property means any property or assets of every description, whether

- (i) corporeal or incorporeal,
- (ii) movable or immovable
- (iii) tangible or intangible and includes
- (iv) deeds and instruments evidencing title to, or interest in, such property or assets, wherever located.

The offence involving Proceeds of crime relates to any offence specified under paragraph 2 of Part A [Offences under the Narcotic Drugs] shall be punishable with Rigorous imprisonment of Minimum 3 years and maximum 10 years and Fine

Any other case shall be punishable with Rigorous imprisonment of Minimum 3 years and maximum 7 years and Fine

In the given case Mr. Raja was arrested for Counterfeiting Rs. 2,000 Notes. This is an offence specified under Part A - Paragraph 1 of the Schedule of the PMLA, 2002. He will be punishable with Rigorous imprisonment of Minimum 3 years and Maximum years and Fine.

2. Mr. B purchased a flat out of the proceeds earned by Drug Trafficking. The flat was attached by the Director, Director of Enforcement after complying the procedures under Section 5 of the Prevention of Money Laundering Act, 2002 (PMLA, 2002). Mr 'B' got a stay from the High Court for any proceedings under the said Act. The stay was subsequently vacated. State the relevant provisions of the PMLA, 2002 for computing the period of provisional attachment including extension, if any. Whether Mr. 'C' son of Mr. 'B' can occupy the flat during the period of provisional attachment?

Answer:

Where the Director or any other officer not below the rank of Deputy Director authorized by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that –

- (a) any person is in possession of any proceeds of crime; and
- (b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter,

he may, by order in writing, provisionally attach such property for a period not exceeding 180 days from the date of the order, in such manner as may be prescribed.

However according to Section 5(4), Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached.

In the given case, Mr. C, son of Mr. B can occupy the flat during the period of provisional attachment if he claims to have any interest in the said property.

3. Based on the provisions of the PMLA 2002, analyse with reasons, the contentions of Adjudicating Authority with regard to the following:

(a) Whether interest created in a property prior to event of money laundering leading up to the attachment of property, takes priority over the attachment?

(b) Whether a mere nexus between the attached property where it did not qualify as "proceeds of crime" under the PMLA and the party accused of money laundering was sufficient for the attachment to take place?

Answer:

a) According to Section 5(4), Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached. Accordingly, an order of attachment under money laundering Act is not said to be illegal merely because a person interested had a prior interest in such property and further issuance of an order of attachment under the Act cannot, by itself, render illegal the prior statutory right of a person interested in attached property.

b) Where the Director or any other officer not below the rank of Deputy Director authorized by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that –

(a) any person is in possession of any proceeds of crime; and

(b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter,

he may, by order in writing, provisionally attach such property for a period not exceeding 180 days from the date of the order, in such manner as may be prescribed. Hence, it is necessary that the attached property should qualify as 'proceeds of crime'. Therefore, a mere nexus between the attached property where it did not qualify as "proceeds of cent to under the PMLA and the party accused of money laundering was NOT sufficient for the attachment to take place

4. SSG Bank Limited has recently started its operations. The bank approached you for your advice regarding the maintenance of records as a reporting entity in terms of the provisions of the Prevention of Money Laundering Act, 2002. Referring to and analyzing the relevant provisions of the Prevention of Money Laundering Act, 2002, advice the Bank.

Answer:

Section 12 of Prevention of Money Laundering Act, 2002 provides for the obligation of Banking Companies, Financial Institutions and Intermediaries of securities market. Every banking company, financial institution and intermediary shall:

a) Maintain a record of all transactions, the nature and value of which may be prescribed for a period of 5 years from the date of transaction between a client and the reporting entity.

- b) Furnish information of the above transactions to the Director within the prescribed time.
- c) Omitted
- d) Omitted
- e) maintain record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients for a period of 5 years from Later of- After the business relationship between a client and the reporting entity has ended or The account has been closed,

As per the facts given in the questions, Manav Kalyan, a charitable organization opened current account with ABZ Bank on 1 July 2012 and closed the account on 30th June 2016.

ABZ Bank has to Maintain record of all transactions, for 5 years from the date of transaction between a client and the reporting entity.

ABZ Bank has to maintain record of documents evidencing identity of its clients for 5 years from Later of After the business relationship between a client and the reporting entity has ended or The account has been closed,

So, accordingly the ABZ Bank has to maintain the records relating to the account of "Manav Kalyan" till 30th June, 2021

Multiple Choice Questions

1. Every reporting entity shall maintain a record of all transactions for a period of ----- from the date of transaction between a client and the reporting entity.

a. 8 years	b. 6 years
c. 5 years	d. 3 years

2. Every reporting entity shall maintain record of documents evidencing identity of its ----- and -----.

a. Clients; beneficial owners	b. Employees; officers
c. Employees; directors	d. Directors; members

3. An appeal to the Appellate Tribunal against an order of the Adjudicating Authority may be preferred by -

a. The Director	b. Any person aggrieved
c. Both (a) and (b)	d. The Central Government

4. Where an appeal is preferred to the Appellate Tribunal, the Appellate Tribunal shall dispose of the appeal within -----.

a. 3 months	b. 6 months
c. 1 year	d. 2 years

5. Every reporting entity shall maintain record of:

a. all transactions in cash of more than Rs. 10 lakhs.	b. All series of integrated transaction below Rs. 10 Lakh per month
c. All transaction of receipt of Rs. 10 lakhs and more on its equivalent foreign currency	d. All of the above

6. FIU stands for:

a. Financial Intelligence Unit	b. Financial Issue Unit
c. Featured Intelligence Unit	d. None of the above

7. In part B of the schedule, offences involved a value of Rs. ____ is mentioned.

a. 15 Lakh	b. 50 Lakh
c. 75 Lakh	d. 1 crore

8. STR stands for-

a. Suspicious Trade Report	b. Special Trade Reserve
c. Suspicious Transaction Reports	d. Special Trade Reports

9. Reporting authority shall send the KYC data to Central Registry within ____ days.

a. 5	b. 10
c. 15	d. 20

10. The Money Launderer introduces the illegal funds into the financial systems. This is called:

a. Placement	b. Layering
c. Integration	d. None of the above

11. The cases under PMLA can be tried in:

a. Common Courts	b. High Courts only
c. Special Designated Courts	d. None of the above

Answer to MCQs

1	(c)	6	(a)	11	(c)
2	(a)	7	(d)		
3	(c)	8	(c)		
4	(d)	9	(b)		
5	(d)	10	(a)		

Fill in the Blanks

- The authority under PMLA is.....
- Every scheduled offence is a.....offence under the act.
- The maximum imprisonment in money laundering case is.....years.
- FIU stands for
- STR stands for
- Under PMLA, every reporting entity shall maintain record of all transactions, including record of cash transaction of more than Rs.....lakhs
- Central KYC records Registry has been constituted in the year
- The PMLA Record Rules were introduced in the year in

Answer to Fill in the Blanks

1	Directorate of Enforcement, Ministry of Finance
2	Predicate

3	7
4	Financial Intelligence Unit
5	Suspicious Transaction report
6	10
7	2015
8	2005

Self Practice Questions

1. Discuss the purpose of PMLA.

Answer:

The objects sought to be achieved under the Act are:

- ✓ To prevent and control money laundering.
- ✓ To confiscate and seize the property obtained from the laundered money. and
- ✓ To deal with any other issue connected with money laundering in India.

2. What is the function of central KYC Registry?

Answer:

Central KYC (CKYC) registry acts as a centralized KYC repository which stores information/documents pertaining to a customer who is undertaking a financial transaction or availing a financial service. A central KYC registry has been constituted in 2015 to keep centralised data which would include analysis, dissemination transforming of data. The registry will comply with the instructions issued the Regulation.

3. Write a note on Special courts under PMLA.

Answer:

For trial of offence punishable under section 4 of PMLA, 2002, the Central Government, in consultation with the Chief Justice of the respective High Courts, by notification, has designated one or more Courts of Session as Special Court or Special Courts for such area or areas or for such case or class or group of cases as specified in the notifications. While trying an offence of money laundering under PMLA, 2002, a Special Court has also to try the offences, with which the accused may, under the Code of Criminal Procedure. An offence of money laundering punishable under Section 4 of PMLA, 2002 and any scheduled offence connected to the offence of money laundering, shall be triable by the Special Court constituted for the area in which the offence has been committed.

Case Study

There was a petition made to civil court against a senior Govt. officer on corruption for irregularities in appointment of “D” category staff in Govt. Simultaneously, a complaint was made to Director, Enforcement under PMLA. On investigation, ultimately, a huge cash was found in the residence one of the person who is indirectly related to the person against whom corruption charges have been made. The person cannot explain the sources but says that the money belongs to another person whose name he will not disclose. In your opinion, what would be the fate of the case.

What rights are available to the accused?

PMLA empowers certain officers of the Directorate of Enforcement to carry out investigations in cases involving offence of money laundering and also to attach the property involved in money laundering. PMLA envisages setting up of an Adjudicating Authority to exercise jurisdiction, power and authority conferred by it essentially to confirm attachment or order confiscation of attached properties. It also envisages setting up of an Appellate Tribunal to hear appeals against the order of the Adjudicating Authority and the authorities like Director FIU-IND.

PMLA envisages designation of one or more courts of sessions as Special Court or Special Courts to try the offences punishable under PMLA and offences with which the accused may, under the Code of Criminal Procedure 1973, be charged at the same trial.

In view of the above, If a person is accused of an offence under PMLA, the burden to prove that proceeds of crime are untainted shall be on the accused. Hence investigation may be started and thereafter he shall have the right of appeal as mentioned above.



Corporate Governance

Self Practice Questions

Descriptive Questions

1. Mention differences between:
 - (a) law and ethics
 - (b) ethics and Corporate Governance
 - (c) environment sustainability and corporate social responsibility

(a)

Laws refer to the set of codified norms which are enforced by the state. They act as external obligations. On the other hand, ethics refer to the set of norms which guide our internal compass and judgements.

The law is created by the Government, which may be local, regional, national or international. On the other hand, ethics are governed by an individual, legal or professional norms, i.e. workplace ethics, environmental ethics and so on.

(b)

Ethics	Corporate Governance
The values and principles considered as foundation. It relates to the inner self of an individual which reflects at the workplace.	The method of governance should be with ethical values but is the methods which are important.
Applies at all levels. A manager has to be honest at every level.	Normally applies at top level, corporate policies and procedures are made at higher level only.
Emerges naturally	Needs to be studied and experienced. There are established guidelines on these issues which have emerged in course of time
Regulations are not important	Regulations are important as it needs strict compliance. In most of the countries, corporate governance is regulated.

(c)

While environmental sustainability is usually a part of corporate social responsibility, CSR does not only focus on sustainability. For many companies, treating the environment well is important, and this value may be reflected in their CSR programs.

A sustainable business is one that works in step with societal and environmental goals, rather than at odds with them. Corporate sustainability is a business strategy for long-term growth that works in harmony with people and the planet.

2. What are three approaches to sustainable development, commonly known as triple bottom-line approach.

Answer:

Economic approach: The current decision should not impair the prospects of maintaining or improving future living standards. This also called “Profit” approach.

2. Ecological/Environment Approach: Scarce natural resources should be preserved for the future, which would include preservation of genetic diversity, water, mines, forests etc. Industries should use minimum natural resources. Any industry damaging the environment through affluent discharge should be avoided or minimised. This also called “Planet” approach

3. Social approach: The industry is for the society and shall not damage social security, values and welfare of the people. This also called “People” approach

3. How can a company identify whether its CSR activities are impactful or not?

Answer:

Any CSR project/activity should have some impact, big or small. In order to know the impact, an impact analysis study is supposed to be made, which would compare the achieved results with the desired result. In order to get real picture, it is the following issues needs consideration.

- (a) Should preferably done by an independent agency
- (b) Focused on the impact only
- (c) Done immediately after the benefit given
- (d) Should be data based

4. What parameters to be checked when CSR activity is being done through third party implementing agencies?

Answer:

When the project is being implemented by implementing agencies, , the organisation needs to evaluated, which can be done with following checks.

- (a) Documentation
- (b) Inspection of project site
- (c) Track record of the organisation
- (d) Beneficiary feedback
- (e) Sponsors’ feedback
- (f) Interview of the persons responsible for implementation.

5. Discuss the issues in family managed companies.

Answer:

Emerging issues in CG in family managed companies in India.

- (i) Separation of ownership and management: In few companies in India, the main promoter or owner have chosen to be investor and not to a part of management even as part time chairman. The whole Board of directors are non owners and are hard core professionals.
- (ii) Family members acquiring professional courses from reputed institutes.
- (iii) Promoters are encouraging professionals in the organisation.
- (iv) Promoters are more focused on compliances to avoid loss of reputation which may result to price fall in the share market.
- (v) Role and leadership clarity decided at board level
- (vi) Owners are accepting and honouring opinion of managers.
- (vii) Family’s social and emotional issues are being satisfied by forming trusts/foundations which are separate from the business entity, without any conflict of interest.

6. There are various methods of rating a company's governance parties. However, one has to keep few issues in mind while assessing the Governing practices. Comment

Answer:

- (i) Board Structure and balancing
- (ii) Share holder Rights and Compensation'
- (iii) Accounting
- (iv) Ownership and Control
- (v) Professionalism
- (vi) Disclosures
- (vii) Market price of shares
- (viii) Compliance of law
- (ix) Earnings Dividend pay-out
- (x) Dealing with conflict of interest
- (xi) Related party transactions
- (xii) Risk management
- (xiii) Investor grievances
- (xiv) Customer grievances
- (xv) Vendor grievances
- (xvi) CSR initiatives

7. The following points relate to which theory?

- a) Directors are regarded as stewards of the company's assets. They decide what is to be done and drive the people of the company
- b) This theory considers wide inclusion of stakeholders, other than shareholders. Hence the directors need to keep a balance between the interests of various stakeholders.

Answer:

- a) Stewardship Theory
- b) Stakeholder Theory

8. Is it wise for the company to practice good governance which comes with additional cost?

Answer:

Good Governance has a lot of benefits as enumerated under:

- 1. Better governed company is essential for growth and stabilization
- 2. Reputation of the company will enhance one people know that you are a honest or good governed company.
- 3. Better use of funds of the company, which may be fines collected from public of the company by the managers.
- 4. Better management of resources which are available to the company.
- 5. Better governed ensures long term and steady growth.
- 6. Establishing stakeholders' confidence
- 7. Leverage of competitive advantages
- 8. Alliances with other companies are easy as others are interested to be associated with your company.

Good corporate governance is generally associated with publicly listed companies, the governance benefits to non-listed companies are less often talked about. However, An increase in confidence by investors and banks in the company due to robust financial management reporting will not only improve access to capital, but also minimise both cost of capital and cost of equity, resulting in an optimised capital flow and also sales margin.

So in the long run, practicing good governance will undoubtedly be cost effective and bundled with a lot of more benefits.

9. The National Guidelines on Responsible Business Conduct comprises nine thematic pillars of business responsibility that are known Principles. Enumerate.

Answer:

- ✓ Principle 1: Businesses should conduct and govern themselves with integrity and in a manner that is ethical, transparent and accountable. The principle ensures ethical behaviour in all operation, functions and processes, is the basic of businesses that are guiding their governance of economic, social and environmental responsibilities.
- ✓ Principle 2: Businesses should provide goods and service in a manner that is sustainable and safe. The principle emphasises that businesses have to focus on safety and resource-efficiency in the design and manufacture of their products. These products have to be manufactured in such a way, by which it creates value by minimising and mitigating its adverse impacts in the environment and society through all stages of its life cycle, from design to final disposal. This principle encourages businesses to understand every material sustainability issues across their product life cycle and value chain.
- ✓ Principle 3: Businesses should respect and promote the well-being of all employees, including those in their value chains. The principle encloses all policies and practises that are about the equity, dignity and well-being and the provision of decent work, for every employee that who are engaged within a business or in its value chain, without any discrimination and in a way that contributes to the diversity. The principle identifies the well-being of an employee and the welfare of his/ her family.
- ✓ Principle 4: Businesses should respect the interests of and be responsive to all its stakeholders. This principle recognises the businesses operate in an eco-system that consists of some stakeholders, being shareholders and investors and their activities affect natural resources, habitats, communities and the environment. The principle brings into light that businesses have a responsibility to maximise the positive effects and minimise and mitigate the negative impacts of the products, operations and practises on their stakeholders.
- ✓ Principle 5: Businesses should respect and promote human rights. This principle identifies the human rights are rights that have to be inherent to all human beings and these guidelines are applied without discrimination. These human rights are considered to be inherent, inalienable, interrelated, interdependent and indivisible. This principle is inspired, informed and guided by the Constitution of India and the International Bill of Rights, and recognises the primacy of the State's duty to protect and fulfil human rights.
- ✓ Principle 6: Businesses should respect and make efforts to protect and restore the environment. This principle gives preference to environmental issues that are interconnected at the local, regional and global levels doing businesses to address the problems like pollution, biodiversity conservation, sustainable use of natural resources and climate change in a comprehensive and systematic manner. The principle encourages firms to adopt environmental practises and processes that minimise or eliminates the harmful effects of their operations across the value chain. Moreover, it also persuades businesses to follow the Precautionary Principle in all its actions.

- ✓ Principle 7: Businesses, when engaging in influencing public and regulatory policy, should do so in a manner that is responsible and transparent. This principle concedes that businesses operate within a specified national and international legislative and policy frameworks that guide their growth and also provides specific restrictions and boundaries. The principle recognises the legitimacy of businesses to engage with governments for redressal of a grievance or for influencing public policy. In addition to this, the law demands that public policy advocacy has to expand public good.
- ✓ Principle 8: Businesses should promote inclusive growth and equitable development. The principle rests the challenges of the social and economic development that are faced by the country and enhances the national and development agenda according to the government policies and priorities. The principle mentioned the need for collaboration amongst businesses, government agencies and civil society in this development agenda.
- ✓ Principle 9: Businesses should engage with and provide value to their consumers in a responsible manner. The principle is based on the fact consumers that are safe to use, creating value for both. It recognises consumers having freedom of choice for the usage of goods and services, and the enterprises strive to provide the products that are safe.

Multiple Choice Questions (MCQs)

1. Three Ps of triple bottom line are:

a. planet, people and purpose	b. planet, people and profit
c. planet, profit and purpose	d. planet, profit and period

2. At which level corporate governance is more relevant in a company?

a. top level	b. middle level
c. lower level	d. all levels

3. which among the following would amount to undesirable practice by a senior executive of a company

a. using published information of the competitor for his company's benefit	b. using unpublished information of the competitor for his company's benefit
c. using unpublished and secret information of the competitor obtained from undisclosed and unfair source for his company's benefit	d. lure the executives of the competitor to join his company.

4. Which , out of the following would not amount to Sustainable Development activity.

a. rain water harvesting	b. paddy cultivation
c. solar energy	d. plantation of sapling for forestation

5. corporate governance practices are almost.....by companies in India.

a. formalised	b. regulated
c. accepted	d. rejected

6. The latest committee on Corporate governance was:

a. narayan Murthy committee	b. kotak committee
c. kumar Mangalam Birla committee	d. rahul Bajaj Committee

7. The ideal implementing agency of CSR projects, should be:

a. section 8 company	b. trust
c. society	d. one of the above

8. Economic approach to sustainability relates to:

a. Planet	b. Profit
c. People	d. none of the above

9. Corporate governance is more about:

a. achieving results	b. managing things
c. method of managing a company	d. fair method of managing a company

10. The items under Schedule VII of the Act, should be:

a. strictly interpreted	b. liberally interpreted
c. depends on the company	d. only a guideline

11. CG practises should target to keep balance amongst:

a. all shareholders	b. all employees
c. employees and shareholders	d. All stakeholders

12. When a company evaluates an implementing agency, first step is to :

a. local feedback	b. interviewing the officials
c. inspection of site	d. examining documents

13. Every CSR activity is ultimately for the:

a. Company	b. govt.
c. implementing agency	d. beneficiary

14. The CSR fund earmarked for on going project, needs to be spent within:

a. one year	b. two years
c. three years	d. Four years

15. Clause 49A which was the first major compliance of corporate governance by listed companies was on the basis of recommendation of:

a. Narayan Murthy committee	b. Kotak committee
c. Kumar Mangalam Birla committee	d. Rahul Bajaj Committee

16. Corporate governance is close to:

a. ethical conduct of business	b. managerial conduct of business
c. target oriented business	d. none of the above

17. A foreign entity cannot be :

a. implementing agency of CSR project in India	b. advisor
c. trainer	d. consultant

18. Some of the reasons for which companies cannot practice good governance may be:

a. narrow mind-set of the promoters	b. financial problem in the company
c. unhealthy completion in the market	d. all or any of the above.

19. A company sponsors the expenditure of a primary school of physically disabled students having 200 students. Three employees' children, being physical disabled, have also been admitted in that school:

a. the school will qualify as CSR project as admission of the employees' children is incidental	b. not qualify as CSR project as there are students who are employees' children
c. depends on how the company represents the same to the auditors	d. depends on Board of Directors

20. Which will not qualify as CSR expenditure

a. direct donation to a unrecognised charitable organisation	b. contribution to fund under schedule VII of the Act
c. any activity under schedule VII	d. Direct implementation of a CSR project by the company

21. Advantages of direct implementation of CSR activity by the company are:

a. Flexible, since, even small decisions also are taken by the company	b. Better supervision, since it is being directly implemented
c. Quick decision making	d. All of the above

22. Advantages of third party implementation of CSR projects, are:

a. Expertise	b. Better supervision at site
c. Unbiased	d. all of the above

23. CG ratings are done by :

a. commercial banks	b. RBI
c. Credit Rating Agencies	d. SEBI

24. Audit committee can:

a. interact with statutory auditors only	b. interact with internal auditors only
c. interact with both statutory and internal auditors	d. none if the above

25. The recommendation of the Audit Committee:

a. may not be accepted by Board of Directors	b. has to be accepted by Board
c. In case not accepted, Board has to records the reasons	d. Recommendation need not go to Board meetings

26. Which of the following is the advantage of the family business over non-family business?

a. Staff recruitment	b. Raising funds for growth
c. Ownership vs. Management	d. Deep industry insight

Answer to MCQs

1	b	6	b	11	d	16	a	21	d	26	d
2	a	7	d	12	d	17	a	22	d		
3	c	8	b	13	d	18	d	23	c		
4	b	9	d	14	c	19	a	24	c		
5	b	10	b	15	c	20	a	25	c		

State True or False

1. Most of the provisions relating to corporate governance of a listed company is stipulated under LODR.
2. Stakeholders means shareholders only.
3. The chairman of CSR committee has to be an independent director
4. The signing of code of conduct by directors is optional
5. Companies having budget up to Rs. 90 lakhs in a year, need have a CSR committee

Fill in the Blanks

1. Corporate governance is to be practiced at.....level of management.
2. CSR provisions apply to companies with a turnover of Rs.....crores
3. The recommendation ofcommittee was incorporated in listing agreement.
4. The CEO certification under CG relates to.....
5. ABRR relates to annualresponsibility report.
6. A director can be member of maximum.....committees taking all companies into consideration.
7. Managerial remuneration appears under schedule of the companies Act.
8. PRI stands for
9. SDG, in parlance to sustainability means.....
10. The Voluntary guidelines on CSR was issued in the year.....
11. ABRR stands for.....
12. The areas of CSR is mentioned under schedule.....to Companies Act. 2013.
13. No CSR Committee is required, If the CSR Committee budget is up to Rs. `

Answers to True/False

1	True
2	False
3	False
4	False
5	True

Answers to Fill in the Blanks

1	Top/ higher
2	1000
3	Kumar Mangalam Birla
4	Code of conduct
5	Business

6	10
7	V
8	Principles of Responsible Investment
9	Sustainability Development Goals
10	2011
11	Annual Business Responsibility Reporting
12	VII
13	50 Lakhs

Case Study 1:

1. M/s ABC Tyres Ltd., manufactures of tyres of all types of vehicles, is a public limited company has three manufacturing units, one at Durgapur, West Bengal, Palej, Gujarat and Munnar in Kerala with corporate office at Kolkata. The company is professionally managed, the promoter being the chairman, only comes in Board meetings and does not interfere in day to day management. The other directors are independent professionals. The company has sales offices and dealers pan India.

The financial performance of the company is as follows: (Rs in Crores)

Parameters	2017-2018	2018-19	2019-20	2020-21
Turnover	700	650	920	1010
Net worth	402	42.3	480	530
Net profit	14.5	15.7	16.8	18

Questions:

1. Do the company comes under CSR obligation?
2. What would be minimum budget for 2021-22.
3. Is CSR committee required?
4. What are the other obligations for CSR under the Act?
5. What will happen if the stipulated amount is not spent within the year.
6. What will happen if a project is taken up but full allocated amount is not spent?

1. Section 135 of the Act provides for the applicability of the CSR provisions on corporates. Sub-section (1) of section lays down that every company having
 - net worth of Rs 500 Crores or more; or
 - turnover of Rs 1000 Crores or more;
 - net profit of Rs 5 Crores
 Therefore, ABC Tyres Ltd. Comes under CSR obligation.
2. Minimum budget will be Rs 2.7 lakhs for 2021-22. This 2% of average profit of last 3 financial years.
3. Yes, CSR committee is required to be formed as it comes under the purview of section 135 of the Act.
4. Other obligations are spending the amount within the financial year. The details have to be disclosed in Board's report as annexure. Form CSR 1 needs to be filed.
5. The unspent amount will have to be transferred to a special account.
6. If a project is taken up and full amount is not spent, the amount shall be kept separately for financing the which will be called as "ongoing project".