

Due Diligence and Corporate Compliance Management

377

Roll No.

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 7

NOTE : Answer SIX questions including Question No.1 which is compulsory.

1. (a) State, with reasons in brief, whether the following statements are true or false :
- A friendly takeover is with the consent of target company.
 - A limited two-way fungibility scheme has been put in place by the Government of India for ADRs/GDRs.
 - Companies proposing to issue IDRs need not be listed companies.
 - Bonus issue can be made in lieu of dividend.
 - Foreign investment in India is freely permitted in all sectors.
- (2 marks each)
- (b) Critically examine and comment on the following :
- Cultural differences are to be addressed at the time of merger/amalgamation.
 - The all-India financial institutions while granting term loans to companies insist on certain formalities to be completed by a company availing such loan.
- (5 marks each)
2. (a) Write the most appropriate answer from the given options in respect of the following :
- An independent audit committee should consist of atleast —
 - One-fourth of the independent directors
 - One-third of the independent directors
 - One-half of the independent directors
 - Two-thirds of the independent directors.

2/2011/DDCCM

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377/1

377

: 2 :

- (ii) The role of a Company Secretary in securities management and compliances does not include —
- (a) Certifications
 - (b) Appearances
 - (c) Audits
 - (d) Book-keeping.
- (iii) Section 284 of the Companies Act, 1956 deals with —
- (a) Removal of the Auditor
 - (b) Removal of the Chief Financial Officer
 - (c) Removal of Directors
 - (d) Removal of the Company Secretary.
- (iv) Compliance certificate issued by a Practising Company Secretary is addressed to —
- (a) The Board of Directors
 - (b) The Chief Financial Officer
 - (c) The Chief Executive Officer
 - (d) The Shareholders.
- (v) Reporting to Reserve Bank of India after completion of a GDR issue has to be made within —
- (a) 45 Days
 - (b) 30 Days
 - (c) 15 Days
 - (d) 60 Days.
- (vi) A listed company is required to notify the stock exchange concerned, the date of the Board meeting at which the rights issue is proposed to be considered at least —
- (a) 2 Days before the Board meeting
 - (b) 7 Days before the Board meeting
 - (c) 10 Days before the Board meeting
 - (d) 21 Days before the Board meeting.

(1 mark each)

2/2011/DDCCM

Contd

: 3 :

(b) Distinguish between the following :

- (i) 'Legal due diligence' and 'financial due diligence'.
- (ii) 'Conglomerate merger' and 'reverse merger'.

(5 marks each)

3. (a) Aman, Naman and Vansh hold jointly 100 equity shares in Priyanka Ltd. They want to change the order of names in the share certificate as Vansh, Aman and Naman. They make an application to the company for change and lodge the share certificate. The company directed them to execute a proper instrument of transfer to effect the change. Is the company justified ? Advise.

(5 marks)

(b) List any five instances where resolution can be passed through circulation by the Board.

(5 marks)

(c) The Board of directors of Pee Kay Beverages Ltd. at a Board meeting held on 23rd May, 2011 declared an interim dividend to its equity shareholders. In the next Board meeting held on 12th June, 2011, the Board revoked the declaration of the said interim dividend. Some of the shareholders have protested that the Board has no right to revoke the interim dividend. As the Company Secretary, advise the Board taking into account the relevant provisions of the Companies Act, 1956.

(6 marks)

4. (a) The Board of directors of Astute Ltd. met thrice in the year 2010 and the fourth meeting, though called yet could not be held in the year 2010 and adjourned twice for lack of quorum. Examine —

- (i) Whether any provisions of the Companies Act, 1956 have been violated.
- (ii) Whether any item of business which has not been included in the agenda can be taken up in the adjourned Board meeting.

(5 marks)

377

: 4 :

- (b) Explain the meaning of 'setting-up of wholly owned subsidiary abroad'. State the basic legal enactments to be followed by an Indian company for the establishment of such subsidiary company abroad.

(5 marks)

- (c) Prompt Finance Ltd. which has issued 1,00,000 non-convertible debentures of ₹100 each is facing financial difficulties and the debentures are due for redemption on 31st March, 2012. The management of the company is contemplating whether the debentures can be rolled over and seeks your advice. As a Practising Company Secretary, advise the management in this regard.

(6 marks)

5. (a) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :

- (i) Issue related expenses should not exceed _____ in case of GDRs listed on U.S. stock exchange.
- (ii) No approval shall be necessary from _____ for a foreign company to establish a branch/unit in special economic zone to undertake manufacturing and service activities subject to specified conditions.
- (iii) All securities which are subject to lock-in period should carry _____ on the face of the certificate.
- (iv) In the case of takeover of a target company, the offer to acquire should remain open for a period of minimum _____ days.
- (v) A company is required to obtain _____ approval for listing from the stock exchanges having nationwide trading terminals where it is listed, before issuing further shares or securities.
- (vi) For issue of sweat equity shares, at least _____ should elapse since the date on which the company was entitled to commence business.

(1 mark each)

: 5 :

(b) With a view to ensure that Practising Company Secretary (PCS) shows utmost integrity and independence of judgment in the performance of duties, certain persons have been disqualified for appointment as PCS for giving compliance certificate to a company. Explain the category of persons who have been disqualified to act as such.

(5 marks)

(c) Describe the role of depository participants under the Depositories Act, 1996.

(5 marks)

6. (a) The balance sheet of Chintoo Gold Finance Ltd., a listed company, as on 31st March, 2011 disclosed the following position :

<i>Liabilities</i>	<i>₹ in Lakhs</i>
Equity share capital (fully paid-up shares of ₹10 per share)	3,600
General reserve	1,000
Profit and loss account	900
Securities premium	540
12% Debentures	2,500
Unsecured loans	1,500
Current liabilities	2,650
	<u>12,690</u>
 <i>Assets</i>	
Fixed assets	6,130
Investments	1,800
Current assets	4,560
Goodwill	150
Miscellaneous expenditure	50
	<u>12,690</u>

The company is contemplating to buy-back its equity shares in the beginning of the current financial year 2011-12 to the maximum extent as permissible under the law.

377

: 6 :

The following information has also been furnished to you :

- Investments of ₹1,800 lakh were sold for ₹1,300 lakh.
- The income-tax authorities imposed an additional tax liability of ₹500 lakh for the year 2011.

You are required to —

- (i) Prepare a note commenting on the decision of the Board of directors and to compute the maximum amount of equity shares that can be purchased by the company.
- (ii) Test the debt-equity ratio after buy-back of shares.

(10 marks)

- (b) State the legal provisions contained in the Companies Act, 1956 for registration of charges. Also state the consequences of non-filing of charges.

(6 marks)

7. (a) Explain the compliances required with regard to **any two** of the following :

- (i) The company has defaulted in the matter of repayment of deposits to small depositors.
- (ii) Payment of remuneration to directors.
- (iii) Abridged prospectus and application forms.

(4 marks each)

- (b) Write notes on **any two** of the following :

- (i) Annual general meeting and book closure.
- (ii) Remedial actions to overcome hurdles in carrying out a due diligence.
- (iii) Takeover defenses by the target company in the case of hostile takeover bid.

(4 marks each)

: 7 :

8. Critically examine and comment on *any four* of the following :

- (i) Compliance with the requirements of law through a compliance management programme can produce positive results at several levels.
- (ii) The Depositories Act, 1996 provides for the establishment of depositories in securities with the objective of ensuring free transferability of securities with speed, accuracy and security.
- (iii) The penal provisions for non-compliance of the conditions of the listing agreement are governed by section 23(2) and section 23E of the Securities Contracts (Regulation) Act, 1956.
- (iv) The concept of data room and its need in due diligence.
- (v) 'Promoter group' under SEBI takeover code.

(4 marks each)

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