Solved Scanner Appendix

CS Professional Programme Module-IV (Old Syllabus)
(Solution of December - 2014)

Paper - 8: Governance, Business Ethics and Sustainability

Chapter - 2: Issue and Challenges of an Effective Board
2014 - Dec [1] (a)
Section 149 (8) of the Act prescribes that the company and independent directors shall abide by the provisions specified in Schedule IV regarding code for independent directors. It is a guide to professional conduct for independent directors. Adherence to these standards by independent directors and fulfilment of their responsibilities in a professional and faithful manner will promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of independent directors.

1. Code of Conduct includes,
2. Guidelines of professional conduct,
3. Role and functions, duties,
4. Manner of appointment, re-appointment,
5. Resignation or removal,
6. Separate meetings,
7. Evaluation mechanism.

Role and functions:
The independent directors shall:
(1) help in bringing an independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments and standards of conduct;
(2) bring an objective view in the evaluation of the performance of board and management;

(3) scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
(4) satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible;
(5) safeguard the interests of all stakeholders, particularly the minority shareholders;
(6) balance the conflicting interest of the stakeholders;
(7) determine appropriate levels of remuneration of executive directors, key managerial personnel and senior management and have a prime role in appointing and where necessary recommend removal of executive directors, key managerial personnel and senior management;
(8) moderate and arbitrate in the interest of the company as a whole, in situations of conflict between management and shareholder's interest.

2014 - Dec [2] (a) (v)

Woman Director

Every Listed Company /Public Company with paid up capital of ₹ 100 Crores or more / Public Company with turnover of ₹ 300 Crores or more shall have at least one Woman Director.

2014 - Dec [4] (a) (iii)

Senior Independent Directors

The board should appoint one of the independent non-executive directors to be the senior independent director to provide a representing board for the chairman and to serve as an intermediary for the other directors when necessary. The senior independent director should be available to shareholders if they have concerns which contact through the normal channels of chairman, chief executive or other executive directors has failed to resolve or for which such contact is inappropriate. The senior independent director is also expected to attend sufficient meetings with a range of major shareholders to listen to their views in order to help develop a balanced understanding of the issues and concerns of major shareholders.

Chapter - 3: Committees of the Board

2014 - Dec [2] (a) (iv)

Corporate Governance Committee

A company may constitute this committee to develop and recommend the board a set of corporate governance guidelines applicable to the company, implement policies and processes relating to corporate governance principles, to review, periodically, the corporate governance guidelines of the company. Many companies give the mandate of corporate governance to nomination committee and is given the nomenclature Nomination and Corporate Governance Committee. Typically, the committee is responsible for considering matters relating to corporate governance including the composition of board, appointment of new directors, review of strategic human resource decisions, succession planning for the chairman and other key board and executive positions, performance evaluation of the board and its committees and individual directors.

Chapter - 4: Internal Control Systems, Risk Management, Transparency and Disclosure

2014 - Dec [4] (b)

RISK MANAGEMENT PROCESS

Risk management is a structured, consistent and continuous process, applied across the organisation for the identification and assessment of risks, control assessment and exposure monitoring. The objectives of the Company's risk management framework comprise the following:

1. To identify, assess, prioritise and manage existing as well as new risks in a planned and coordinated manner.
2. To increase the effectiveness of internal and external reporting structure.
3. To develop a risk culture that encourages employees to identify risks and associated opportunities and respond to them with appropriate actions.

ADVANTAGES OF RISK MANAGEMENT

Properly implemented risk management has many potential advantages to an organization in the form of:

1. Better informed decision making - for example in assessing new opportunities;
2. Less chance of major problems in new and ongoing activities; and
3. Increased likelihood of achieving corporate objectives.

Chapter - 5: Legislative Framework of Corporate Governance in India

2014 - Dec [2] (a) (i), (ii)

(i) As per Clause 49 (II) (F) Whistle Blower Policy:

1. The company shall establish a vigil mechanism for directors and employees to report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy.
2. This mechanism should also provide for adequate safeguards against victimization of director(s) / employee(s) who avail of the mechanism and also provide for direct access to the Chairman of the Audit Committee in exceptional cases.
3. The details of establishment of such mechanism shall be disclosed by the company on its website and in the Board's report.

(ii) Diligence Report in Banks

The Reserve Bank of India recently has advised all the scheduled commercial Banks to obtain regular certification (Diligence Report) by a professional, preferably a Company Secretary, regarding compliance of various statutory prescriptions that are in vogue. The Diligence Report will not only act as an effective mechanism to ensure that the legal and procedural requirements under the respective legislations are duly complied with but also instill professional discipline in the working of the companies that have taken loan, besides building up the necessary confidence in the state of affairs of the companies.

2014 - Dec [2] (b)

Related Party Transactions Related Party [Section 188]

With reference to company, as per Section 2(76) read with rule 3 of Companies (Specification of Definitions Details) Rules, 2014, the term 'related party' means and includes the following:

– a director or his relative,
– KMP or their relative,
– a firm in which a director, manager or his relative is a partner,
– a private company in which a director or manager is a director or members,

- a public company in which a director or Manager is a director or holds along with his relatives more than 2% of its paid up share capital,
- a person on whose advice, directions or instruction (except given in professional capacity) a director or manager is a accustomed to act,
- a holding/ subsidiary or associate company, subsidiary 's subsidiary and such person as would be prescribed.

Nature of Transactions [Section 188(1)]

The scope of dealing with Related Party Transactions has been widened in Companies Act, 2013. The contracts or arrangements with related party which comes with respect to the following shall be covered under the scope of this provision:

(a) sale, purchase or supply of any goods or materials;
(b) selling or otherwise disposing of or buying, property of any kind;
(c) leasing of property of any kind;
(d) availing or rendering of any services;
(e) appointment of any agent for purchase or sale of goods, materials, services or property;
(f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and
(g) underwriting the subscription of any securities or derivatives thereof, of the company.

NOTE:

As per General Circular No. 30/2014, Government has received representation from stakeholders seeking certain clarifications on related party transactions covered under section 188 of the Companies Act, 2013. These representations have been examined and the following clarifications are given:

1. **Scope of second proviso to Section 188(1) :**

   Second proviso to sub-section (1) of Section 188 requires that no member of the company shall vote on a special resolution to approve the contract or arrangement (referred to in the first proviso), if such a member is a related party. It is clarified that 'related party' referred to in the second proviso has to be construed with reference only to the contract or arrangement for which the said special resolution is being passed. Thus, the term 'related party' in the above context refers only to such related party as may be a related party in the context of the contract or arrangement for which the said special resolution is being passed.

2. **Applicability of Section to corporate restructuring, amalgamations etc:**

It is clarified that transactions arising out of Compromises, Arrangements and Amalgamations dealt with under specific provisions of the Companies Act, 1956/ Companies Act, 2013, will not attract the requirements of Section 188 of the Companies Act, 2013.

Rule 15 (3) of Companies (Meeting of Board and its Power) Rules, 2014

For the purposes of first proviso to sub-section (1) of Section 188, except with the prior approval of the company by a special resolution, a company shall not enter into a transaction or transactions, where the transaction or transactions to be entered into:

(a) as contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of Section 188, with criteria as mentioned below:

(i) sale, purchase or supply of any goods or materials, directly or through appointment of agent, **exceeding ten percent of the turnover of the company or rupees one hundred crore, whichever is lower,** as mentioned in clause (a) and clause (e) respectively of sub-section (1) of Section 188;

(ii) selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent, **exceeding ten percent of net worth of the company or rupees one hundred crore, whichever is lower**, as mentioned in clause (b) and clause (e) respectively of sub-section (1) of Section 188;

(iii) leasing of property of any kind **exceeding ten percent of the net worth of the company or ten percent of turnover of the company or rupees one hundred crore, whichever is lower**, as mentioned in clause (c) of sub-section (1) of Section 188;

(iv) availing or rendering of any services, directly or through appointment of agent, **exceeding ten percent of the turnover of the company or rupees fifty crore, whichever is lower**, as mentioned in clause (d) and clause (e) respectively of sub-section (1) of Section 188.

Explanation: It is hereby clarified that the limits specified in sub-clauses (i) to (iv) shall apply for transaction or transactions to be entered into either individually or taken together with the previous transactions during a financial year.

(b) is for appointment to any office or place of profit in the company, its subsidiary company or associate company at a monthly remuneration **exceeding two and half lakh rupees** as mentioned in clause (f) of sub-section (1) of Section 188; or

(c) is for remuneration for underwriting the subscription of any securities or derivatives thereof, of the company exceeding one percent of the net worth as mentioned in clause (g) of sub-section (1) of Section 188.

Explanation:

(1) The Turnover or Net Worth referred in the above sub-rules shall be computed on the basis of the Audited Financial Statement of the preceding Financial Year.

(2) In case of a wholly owned subsidiary, the special resolution passed by the holding company shall be sufficient for the purpose of entering into the transactions between the wholly owned subsidiary and the holding company.

(3) The explanatory statement to be annexed to the notice of a general meeting convened pursuant to Section 101 shall contain the following particulars, namely :
   (a) Name of the related party ;
   (b) Name of the director or key managerial personnel who is related, if any;
   (c) Nature of relationship;
   (d) Nature, material terms, monetary value and particulars of the contract or arrangement;
   (e) Any other information relevant or important for the members to take a decision on the proposed resolution.

2014 - Dec [3] (a)

The Ministry of Heavy Industries and Public Enterprises, Department of Public Enterprises has issued Guidelines on Corporate Governance for Central Public Sector Enterprises which were revised by a Notification No. 18(8)/2005-GM dt. 14th May, 2010.The guidelines were evolved through a consultation process where the stakeholders have participated. These Guidelines keep in view the provisions in the relevant laws, rules and instructions.

The guidelines on Corporate Governance for listed and unlisted CPSEs are being dealt in the succeeding chapters under the following headings.

(a) Board of Directors
(b) Audit Committee
(c) Remuneration Committee
(d) Subsidiary Companies
(e) Disclosures
(f) Report, Compliance and Schedule of Implementation

Applicability:

For the purpose of the guidelines the public sector enterprises have been categorized in two groups; (a) listed entities and (b) Non-listed entities.

Composition of Board

The Board of Directors of the company shall have an optimum combination of Functional, Nominee and Independent Directors. The number of Functional Directors (including CMD/MD) should not exceed 50% of the actual strength of the Board. The number of Nominee Directors appointed by Government/other CPSEs shall be restricted to a maximum of two.

In case of a CPSE listed on the Stock Exchanges and whose Board of Directors is headed by an Executive Chairman, the number of Independent Directors shall be at least 50% of Board Members; and in case of all other CPSEs (i.e. listed on Stock Exchange but without an Executive Chairman, or not listed CPSEs), at least one-third of the Board Members should be Independent Directors.

The guidelines lays that the **Board shall meet** at least once in every three months and at least four such meetings shall be held every year. Further, the time gap between any two meetings should not be more than three months,

whereas, Clause 49 prescribes that the board shall meet at least four times a year, with a maximum time gap of four months between any two meetings.
The Board shall lay down a **code of conduct** for all Board members and senior management of the company. The code of conduct shall be circulated and also posted on the website of the company. All Board members and senior management personnel shall affirm compliance with the code on an annual basis. The Annual Report of the company shall contain a declaration to this effect signed by its Chief Executive.
It is important here to note that some aspects of Corporate Governance are controlled and regulated by different in authorities for a particular public sector enterprises such as (a) the Chairman, Managing Director and Directors are appointed independently through a prescribed procedure; (b) Statutory auditors are appointed independently by the C&AG; (c) Arbitrary actions, if any, of the Management can be challenged through writ petitions; (d) Remuneration of Directors, employees, etc. are determined on the basis of recommendations of Pay Committees constituted for this purpose; (e) Right to Information Act is applicable to all public sector enterprises.
There shall be a **separate section on Corporate Governance** in each Annual Report of company, with details of compliance on Corporate Governance.

Chapter - 6: Legislative Framework of Corporate Governance- An International Perspective

2014 - Dec [3] (c)

Australia's corporate governance framework contains a range of measures that promote accountability of management and transparency of financial and other information. On the regulatory framework of corporate governance, the Australian government has undertaken a set of reforms to improve disclosure norms of financial information and to update accounting rules. In the matter of corporate governance in Australia, the recommendation of Shann Turnbull, a very well-known Australian expert in corporate governance deserves mention. He has recommended that there should be a 'dual board structure' along with a 'corporate senate' to oversee the regular board functioning. The corporate senate will determine accounting policies, direct audit activities, arbitrate on board conflicts, advise AGM on directors' benefits. The senate will also nominate directors in the board and will act as

trustees for any Employees Stock Option Scheme (ESOP). The corporate senate will have maximum of 3 (three) members who will be elected on the basis of ‘one vote per shareholder’ instead of ‘one vote per share’ principle. The corporate senate should have no proactive power of any kind. However, it will have the ‘veto’ power over any activity in which the board has a conflict of interests and even that can be overridden by a vote.

Accountability

In the area of accountability, there are certain minimum obligations and responsibilities directors must fulfil including duties to:

1. act in good faith;
2. act in the best interests of the company;
3. exercise their powers with appropriate care and diligence that is reasonable in all of the circumstances;
4. not to make inappropriate use of inside information;
5. not misuse their position for their own or a third party’s possible advantage (or to the possible detriment of the company);
6. avoid inappropriate related party transactions; and
7. avoid insolvent trading.

Transparency and Disclosure

The principal objective of Australia’s corporate regulatory framework is to enhance disclosure and ensure transparency of corporate information as a means of promoting proper conduct of directors and senior management. Among the areas covered by the Corporations Act are:

1. the formulation of Australian Accounting Standards to ensure company financial statements can be relied on to by all stakeholders;
2. timely disclosure to the market of events that may affect the price of the company’s shares;
3. information about shareholdings and beneficial ownership of shares;
4. the entitlement of shareholders to information about the timing of general meetings and their purpose;
5. the entitlement of shareholders to ask questions about or comment on the company’s management;
6. the provision of information to shareholders in relation to related party transactions;

7. notification to ASIC of information relating to directors and company officers including CEO's and company secretaries;
8. the maintenance by companies of registers of members, option holders and debenture holders; and
9. exposure of director's remuneration and the number of meetings directors have attended.

Chapter - 7: Corporate Social Responsibility

2014 - Dec [3] (b)

Section 135 seeks to provide that every company having specified net worth or turnover or net profit during any financial year shall constitute the Corporate Social Responsibility Committee of the Board. The composition of the committee shall be included in the Board's Report. The Committee shall formulate policy including the activities specified in Schedule VII. The Board shall disclose the content of policy in its report and place on website, if any of the company. The section further provides that the Board shall ensure that at least two percent of average net profits of the company made during three immediately preceding financial years shall be spent on such policy every year. If the company fails to spend such amount the Board shall give in its report the reasons for not spending. There was no corresponding provision in the Companies Act, 1956 but Ministry of Corporate Affairs, Government of India had brought 'Corporate Social Responsibility Voluntary Guidelines, 2009' in December, 2009. According to these guidelines, each business entity should formulate a CSR policy to guide its strategic planning and provide a roadmap for its CSR initiatives, which should be an integral part of overall business policy and aligned with its business goals. The policy should be framed with the participation of various level executives and should be approved by the Board.

Voluntary Guidelines on Corporate Social Responsibility, 2009 provide that Companies should allocate specific amount in their budgets for CSR activities. This amount may be related to profits after tax, cost of planned CSR activities or any other suitable parameter.

The CSR Policy is expected to normally cover following core elements:

(a) Care for all stakeholders
(b) Ethical functioning
(c) Respect for workers' rights and welfare

(d) Respect for human rights
(e) Respect for environment
(f) Activities for social and inclusive development

CSR has many interpretations but can be understood to be a concept imposing a liability on the Company to contribute to the society (whether towards environmental causes, educational promotion, social causes etc.) along with the reinforced duty to conduct the business in an ethical manner.

The benefits of CSR could be listed as follows:

1. Strengthened brand positioning
2. Enhanced corporate image and reputation
3. Satisfaction of economic and social contribution to society
4. Contribution to the surrounding society
5. Increased ability to attract, motivate and retain employees
6. Enhanced sales and market share
7. Increased appeals to investors and financial analysts
8. Local economy gains in all dimensions

But as per the amendment under Income Tax

1. It is proposed to add Explanation 2 to Section 37(1) to disallow any expenditure incurred on any activities related to CSR as referred under section 135 of the Companies Act, 2013, while computing taxable income, as it shall not be deemed to be expenditure incurred for the purpose of business or profession.
2. However, CSR expenditure of the nature described in Section 30 to Section 36 of the Act shall be allowed under those sections subject to fulfillment of the prescribed conditions, if any, specified therein. **(w.e.f. 01/04/2015)**

Hence, as per the above said matter, the statement i.e. "Fund allocation for Corporate Social Responsibility (CSR) activities acts as a catalyst for the development of the organization as the spending on CSR is not a expenditure but an investment for future sustainability". is overall correct.

2014 - Dec [4] (a) (iv)

Philanthropy means the act of donating money, goods, time or effort to support a charitable cause in regard to a defined objective. Philanthropy can be equated with benevolence and charity for the poor and needy. Philanthropy can be any selfless giving towards any kind of social need that is not served, underserved or perceived as unserved or underserved. Philanthropy can be done by an individual or by a corporate.

Chapter - 8: Corporate Communication, Investor Relations and Investor Protection and Shareholder Activism and Role of Institutional Investors

2014 - Dec [2] (a) (iii)

Insider Trading

Rafael La Porta et al (1999) points out the insiders may steal the fund or siphon off investor's funds in the following ways. (a) Insider may simply steal the earnings (b) Sell the output or assets of the firm they control which the outside investors have financed, to another entity at below market price. Such transfer pricing is equivalent to stealing. (c) Employing under qualified family members on excessive pay in managerial positions. (d) Selling the securities to other firm i.e. the insider control at a lower price.

The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, say, "Insider" is any person, who is or was connected with the company and who is reasonably expected to have access to unpublished price sensitive information about the stock of that particular company or who has access to such unpublished price sensitive information.

Information that could be price sensitive includes:

⇒ Periodical financial results of a company,

⇒ Intended declaration of dividend,

⇒ Issue or buyback of securities,

⇒ any major expansion plans or execution of new projects, amalgamation, merger, takeovers, disposal of the whole or substantial part of the undertaking and any other significant changes in policies, plans or operations of the company.

2014 - Dec [4] (a) (i), (ii)

(i) Corporate communication means the corporation's voice and the images it projects of itself to the various stakeholders.

"Corporate Communication is all about managing perceptions and ensuring effective and timely dissemination of information, positive corporate image, smooth and affirmative relationship with all stakeholders".

(ii) When an investor has a grievance and has a complaint, he has to approach the company concerned, Mutual Fund (MF) or Depository Participant (DP) as the case may be. If he is not satisfied, he can approach SEBI's Investor Grievance and guidance division for redressal of following complaints:

(a) Issues related to non-receipt of refund order, allotment advice;
(b) Issues related to non-receipt of share certificates;
(c) Issues related to non-receipt of dividends;
(d) Debenture related complaints etc;
(e) Mutual fund related complaints;
(f) Complaints related to Dematerialization or DP;
(g) Disclosures in Prospectus; and
(h) Misleading advertisements etc.

A committee under the Chairmanship of a non-executive director and such other members as may be decided by the Board of the company shall be formed to specifically look into the redressal of grievances of shareholders, debenture holders and other security holders. This Committee shall be designated as 'Stakeholders Relationship Committee' and shall consider and resolve the grievances of the security holders of the company including complaints related to transfer of shares, non-receipt of balance sheet, non-receipt of declared dividends. The Board of Directors of a company which consists of more than one thousand shareholders, debenture-holders, deposit holders and any other security holders at any time during a financial year shall constitute a Stakeholders Relationship Committee consisting of a chairperson who shall be a non-executive director and such other members as may be decided by the Board. The SRC shall consider and resolve the grievances of security holders of the company [Section 178(5)].

Chapter - 10: Business Ethics - Genesis, Significance and Scope

2014 - Dec [5] (a) (i)

Teleological Ethics, (derived from the Greek word 'telos' meaning end, purpose) is an ethical theory that holds that the ends or consequences of an act determine whether an act is good or evil. Rightness of actions is determined solely by the good consequences. It is also known as consequential ethics.

Businessmen commonly think in terms of purposeful action as in, for example, management by objectives. Teleological analysis of business ethics leads to consideration of the full range of stakeholders in any business decision, including the management, the staff, the customers, the shareholders, the country, humanity and the environment.

2014 - Dec [5] (b)

Business ethics is a form of applied ethics. In broad sense ethics in business is simply the application moral or ethical norms to business. The term ethics has its origin from the Greek word “ethos”, which means character or custom – the distinguishing character, sentiment, moral nature or guiding beliefs of a person, group or institution. The synonyms of ethics as per Collins Thesaurus are – conscience, moral code, morality, moral philosophy, moral values, principles, rules of conduct, standards.

ADVANTAGES OF BUSINESS ETHICS

1. **Attracting and retaining talent** - People aspire to join organizations that have high ethical values. Companies are able to attract the best talent and an ethical company that is dedicated to taking care of its employees will be rewarded with employees being equally dedicated in taking care of the organization. The ethical climate matter to the employees. Ethical organizations create an environment that is trustworthy, making employees willing to rely, take decisions and act on the decisions and actions of the co-employees.
2. **Investor Loyalty** - Investors are concerned about ethics, social responsibility and reputation of the company in which they invest. Investors are becoming more and more aware that an ethical climate provides a foundation for efficiency, productivity and profits. Relationship with any stakeholder, including investors, based on dependability, trust and commitment results in sustained loyalty.
3. **Customer satisfaction** - Customer satisfaction is a vital factor in successful business strategy. Repeat purchases/orders and enduring relationship of mutual respect is essential for the success of the company.

4. **Regulators** - Regulators eye companies functioning ethically as responsible citizens. The regulator need not always monitor the functioning of the ethically sound company. The company earns profits and reputational gains if it acts within the confines of business ethics.

2014 - Dec [7] (b)

Ethics in Human Resources

Human Resource Management (HRM) plays a decisive role in introducing and implementing ethics. Ethics should be a pivotal issue for HR specialists. The ethics of HRM covers those ethical issues arising around the employer-employee relationship such as the rights and duties owed between employer and employee. The issues of ethics faced by HRM include:

1. Discrimination issues i.e. discrimination on the basis of age, gender, race, religion, disabilities, weight etc.
2. Sexual harassment
3. Affirmative action
4. Issues surrounding the representation of employees and the democratization of the work place, trade unionization.
5. Issues affecting the privacy of the employer; whistle blowing.
6. Issues relating to the fairness of the employment contract and the balance of power between employer and employee.
7. Occupational safety and health.

Chapter - 11: Ethical Principles in Business

2014 - Dec [5] (a) (iii), (iv)

(iii) Role of Leadership

Top managers provide the blueprint for what a firm's corporate culture should be. If the leaders fail to express desired behaviours and goals, a corporate culture will evolve on its own which may not reflect the goals and values of the company. Leaders are key to influencing organization's corporate culture and ethical climate.

An effective leader is required to balance profit motivated entrepreneurial skills and corporate citizenship. Leaders have two jobs. One is to stimulate and drive the organisation they lead so that it survives, prospers and achieve its goals. The other is to create the climate, the culture and the conditions that enable people, in present and in the future to contribute effectively to that performance.

(iv) It is the belief of Johnson & Johnson that it is its credo which has led to the company's growth. The credo depicts company's ethical and socially responsible approach of conducting business. **The credo epitomizes the company's responsibility to the people who uses its products and services- to its employees to the community and environment and to its shareholders.** Johnson & Johnson's subsidiary, McNeil Consumer Products had an analgesic called Tylenol which was the absolute leader in the market for pain-killers in 1982. Seven persons had died mysteriously after taking cyanide laced capsules of Extra-Strength Tylenol. The deaths were broadly reported in the media and became the cause of a massive nationwide panic.

2014 - Dec [6] (a), (b), (c)

(a) Social and ethical accounting has no standardized model. There is no standardized balance sheet or unit of currency. The issues are defined by the company's values and aims by the interests and expectations of its stakeholders and by societal norms and regulations. With the focus on the concerns of society, the social and ethical accounting framework implicitly concerns itself with issues such as economic performance, working conditions, environmental and animal protection, human rights, fair trade and ethical trade, human resource management and community development and hence with the sustainability of a company's activities.

Principles of social and ethical accounting

1. **Planning:** The company commits to the process of social and ethical accounting, auditing and reporting and defines and reviews its values and social and ethical objectives and targets.
2. **Accounting:** The scope of the process is defined, information is collated and analysed and performance targets and improvement plans are developed.
3. **Reporting:** A report on the company's systems and performance is prepared.
4. **Auditing:** The process of preparing the report and the report itself are externally audited and the report is made accessible to stakeholders in order to obtain feedback from them.

5. **Embedding:** To support each of the stages, structures and systems are developed to strengthen the process and to integrate it into the company's activities.
6. **Stakeholder engagement:** The concerns of stakeholders are addressed at each stage of the process through regular involvement.

(b) The Board of Directors hold the ultimate responsibility for their firm's success or failure, as well as for ethics of their actions. As has been stated earlier the ethical tone of an organization is set at the top, the actions and attitudes of the board greatly influence the ethical climate of an organization. The directors on a company's board assume legal responsibility for the firm's resources and decisions. Board members have a fiduciary duty, i.e. a position of trust and confidence. Due to globalization, the role of the media, technology revolutionizing the nature and speed of communication, directors are feeling greater demands for accountability and transparency. This calls for ethical decision making and providing an ethical decision making framework. The perspective and independent judgement of independent directors can be helpful in determining a company's approach towards ethical issues and stakeholder interests. Independent directors are in a position to challenge current practices and also contribute knowledge and experience of good practices.

(c) When violations occur, the ethics committee should have ways to identify why they occurred. It is also important that lessons learned from prior violations are systematically applied to reduce the chance that similar violations takes place in future.

2014 - Dec [7] (c)

Ethics training and communication

A major step in developing an effective ethics programme is implementing a training programme and communication system to communicate and educate employees about the firm's ethical standards.

Training can educate employees about the firm's policies and expectations, as well as relevant laws and regulations and general social standards.

If ethics training is to be effective, it must start with a foundation, a code of ethics, a procedure for airing ethical concerns, line and staff involvements, and executive priorities on ethics that are communicated to employees. Managers from every department must be involved in the development of an ethics training programme.

To be successful, business ethics programs should educate employees about formal ethical frameworks and more for analyzing business ethics issue. Then employees can base ethical decisions on their knowledge of choices rather than on emotions.

Chapter - 12: Concept of Stakeholders Organization and Managing Ethics

2014 - Dec [5] (a) (ii)

THESIS IN STAKEHOLDER THEORY

There are four thesis viewing stakeholder theory as:

1. **Descriptive** - The theory is used to describe specific corporate characteristics such as nature of the firm, the way managers think about managing, how corporations are managed or how the board members think about the interests of constituencies.
2. **Instrumental** - Instrumental stakeholders are defined by the need of the management to take them into account when trying to achieve their goals.
3. **Normative** - This approach is categorical in effect it says— 'Do (don't do) this because it is the right (wrong) thing to do'.
4. **Broadly managerial** - It recommends attitudes, structures and practices that taken together constitute stakeholder management.

2014 - Dec [7] (a)

STAKEHOLDER CONCEPT

In a business context, customers, investors and shareholders, employees, suppliers, government agencies, communities and many others who have a "stake" or claim in some aspect of a company's products, operations, markets, industry and outcomes are known as stakeholders. These groups are influenced by business, but they also have the ability to affect businesses.

Stakeholders provide resources that are more or less critical to a firm's long-term success. These resources may be both tangible and intangible. Shareholders, for example, supply capital; suppliers offer material resources or intangible knowledge; employees and managers grant expertise, leadership and commitment; customers generate revenue and provide infrastructure and the media transmits positive corporate images.

RECOGNITION OF STAKEHOLDER CONCEPT IN LAW

The stakeholder concept has been reflected in the laws governing the corporate for a long period. The labour laws seeks to ensure fair and equitable treatment to employees, the environment protection laws seeks ensure adoption of measures which will minimize the negative impact on environment. Tax laws give incentives in the form of tax holidays for development of backward areas. Tax benefits in the form of exemptions for donations made to recognized funds and organizations etc.

Chapter - 13: Corporate Sustainability - Genesis, Meaning, Scope and Significance

2014 - Dec [8] (i)

The word sustainable is derived from sustain or sustained. The synonyms of the word sustained as per the Collins Thesaurus include perpetual, prolonged, steady. Two phrases, i.e. Sustainable development and Corporate sustainability are intermingled. If we consider first one as a universal set, Corporate sustainability is one of the significant sub-set of such universal set.

Sustainable development is a broad concept that balances the need for economic growth with environmental protection and social equity. It is a process of change in which the exploitation of resources, the direction of investments, the orientation of technological development and institutional change are all in harmony and enhance both current and future potential to meet human needs and aspirations. Sustainable development is a broad concept and it combines economics, social justice, environmental science and management, business management, politics and law.

It indicates development that meets the needs of the present generation without compromising the ability of the future generations to meet their needs. The principle behind it is to foster such development through technological and social activities which meets the needs of the current

generations but at the same time ensures that needs of the future generation are not impaired. For example, natural energy resources like Coal, Petroleum etc., should be prudently used and wastage should be avoided so that future generation can have these energy resources for their survival also.

Chapter - 14: Sustainability Reporting

2014 - Dec [8] (ii), (iv)

(ii) DOW-JONES SUSTAINABILITY INDEX

The Dow Jones Sustainability Indices are the first global indices tracking the financial performance of the leading sustainability-driven companies worldwide, it was launched in 1999. The Dow Jones Sustainability World Index (DJSI World) comprises more than 300 companies that represent the top 10% of the leading sustainability companies out of the biggest 2500 companies in the Dow Jones World Index.

Agenda 21

Agenda 21 – a blueprint for sustainable development into the 21st Century, was agreed during the "Earth Summit" at Rio in 1992 and signed by 179 Heads of State and Government. Agenda 21 is a guide for individuals, businesses and governments in making choices for development that help society and the environment.

(iv) The Sustainability Reporting Guidelines or G3 Guidelines are the cornerstone of the GRI Sustainability Reporting Framework. GRI recommends that every organization uses the Guidelines as the basis for their sustainability report. The Guidelines outline core content for reporting and are relevant to all organizations regardless of size, sector or location. The G3 Guidelines outline a disclosure framework that organizations can voluntarily, flexibly and incrementally adopt. The flexibility of the G3 format allows organizations to plot a path for continual improvement of their sustainability reporting practices. The G3 Guidelines are divided into two parts:

(A) Reporting Principles and Reporting Guidance and

(B) Standard Disclosures (including performance indicators).

Chapter - 16: Principle of Absolute Liability and Case Studies

2014 - Dec [8] (iii), (v)

(iii) Subsequently in *M.C. Mehta v. Union of India***,** the Supreme Court sought to make a departure from the accepted legal position in *Rylands v. Fletcher* stating that an enterprise which is engaged in a hazardous or inherently dangerous activity that poses a potential threat to the health and safety of persons and owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone. The principle of absolute liability is operative without any exceptions. It does not admit of the defences of reasonable and due care, unlike strict liability. Thus, when an enterprise is engaged in hazardous activity and harm result, it is absolutely liable, effectively tightening up the law.

Speaking on strict and absolute liability, the Apex Court (Hon'ble Chief Justice Bhagwati) stated:

"We cannot allow our judicial thinking to be constricted by reference to the law as it prevails in England or for the matter of that in any other foreign country. We no longer need the crutches of a foreign legal order. We are certainly prepared to receive light from whatever source it comes but we have to build up our own jurisprudence and we cannot countenance an argument that merely because the new law does not recognise the rule of strict and absolute liability in cases of hazardous or dangerous liability or the rule as laid down in *Rylands v. Fletcher* as is developed in England recognises certain limitations and responsibilities".

(v) The given statement is based on the judgement of the Supreme Court of India pronounced in the case of *M.C. Mehta V. Union of India, AIR 1987* commonly called Petroleum gas leak case. The Supreme Court in this case struck the realistic note by giving its opinion to the effect. That there was a need to strike a balance between progress and development and hazard or risk to the community. The court said that: When science and technology are increasingly employed in producing goods and services calculated to improve the quality of life. There is certain element of hazard or risk inherent in the very use of science of technology and it is not possible to totally eliminate such hazard or

risk altogether. The court said that it is not possible to adopt a policy of not having any chemical or hazardous industries merely because they pose hazard or risk of the community. If such a policy were adopted, it would mean the end of all progress and development. Such industries even if hazardous have to be set up since they are essential for the economic development and advancement of well being of the people. We can only hope to reduce the element of hazard or risk to the community by taking all necessary steps for locating such industries in a manner which would pose least risk or danger to the community and maximising safety requirements in such industries.

The judgement is based on maintaining balance between development of economy and maintaining quality of life.

Chapter - 17: Objective Questions

2014 - Dec [1] (b) (i), (ii), (iii), (iv), (v)

(i) The Statement is true

The alternative board model to unitary board is the two-tier board, which was developed in its present form in Germany. A two-tier board fulfils the same basic functions as a unitary board, but it does so through a clear separation between the tasks of monitoring and that of management. The supervisory board (Asfusichtsrat) oversees the direction of the business and the management board (Vorstand) is responsible for the running of the company. The supervisory board controls the management board through appointing its members and through its statutory right to have the final say in major decisions affecting the company.

(ii) The Statement is false

A director who is engaged in the company whole time is treated as executive director and if he is not engaged whole time but participating in the board meeting and other committee meeting for decision making, then he is treated as non-executive director. All promoters may or may not be the executive director but they all are dependent director (not an independent director).

Read more at:

http://www.caclubindia.com/forum/executive-v-s-non-executive-18531.asp

(iii) The Statement is true

ISO 31000 published as a standard on the 13th of November 2009, provides a standard on the implementation of risk management. The purpose of ISO 31000:2009 is to be applicable and adaptable for “any public, private or community enterprise, association, group or individual”. ISO 31000:2009 provides generic guidelines for the design, implementation and maintenance of risk management processes throughout an organization.

(iv) The Statement is true

Institutional investors are organizations which pool large sums of money and invest those sums in companies. Their role in the economy is to act as highly specialized investors on behalf of others. In India, all mutual funds and including UTI are institutional investors.

(v) The Statement is false

The company having net worth of rupees five hundred crore or more or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director is an independent director.

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