

Roll No.

Total No. of Questions—9]

[Total No. of Printed Pages—8

Time Allowed—3 Hours

Maximum Marks—100

FLM

Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi medium. If a candidate who has not opted for Hindi medium, answers in Hindi, his answers in Hindi will not be valued.

Question Nos. 1, 2 and 3 are compulsory.

Answer any **four** from the rest of the questions.

Marks

1. Answer any **two** of the following :

(a) Primus Group of Companies has three Companies, viz., Primus Rolling Mills Ltd., Primus Steel Pipe Manufacturers Ltd. and Primus Marketing Company Ltd. All the three Companies want to appoint Mr. Prem as their Managing Director. You are required to state with reference to the provisions of the Companies Act, 1956 whether such appointments are permissible. ✓

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(b) Working of City Stock Exchange Association Ltd. is not being carried on by its Governing Board in public interest. On receipt of representations from various investors and Investors' Association, the Central Government is thinking to withdraw the recognition granted to the said Stock Exchange. You are required to state the circumstances and procedure for withdrawal of such recognition as per the provisions of Securities Contracts (Regulation) Act, 1956 in this regard. Also state the effect of such withdrawal on the contracts outstanding on the date of withdrawal. ✓

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(c) The governing body of City Stock Exchange Association Ltd. is desirous of putting various restriction on voting rights of its members to be exercised in a meeting and on their right to appoint a proxy. You are required to state whether the same is permissible. Also state the role of Central Government in this respect. ✓

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2. Answer any **two** of the following :

(a) TKM Exporter of New Delhi are engaged in Export Business. It made certain exports but failed to realise and repatriate to India the foreign exchange due on its exports. The Adjudicating Authority imposed a penalty under the provisions of Foreign Exchange Management Act, 1999 (FEMA). Being aggrieved by this penalty, the said exporter seeks your advice as to the authority to which appeal can be made and the time limit for making such appeals. You are required to advise on the matter. ✓

(b) Mr. Kale, 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 tour of a cultural troupe to U.S.A. ✓
- (iii) US Dollar 50,000 for meeting the expenses of his business tour to Europe. ✓

Advise him, if he can get the Foreign Exchange and under what conditions :

(c) (i) In a proceeding before the Competition Commission of India involving two Pharmaceutical companies, the plaintiff requested the presiding officer to call upon the services of experts from the pharmaceutical sector to determine the truth of the allegations levelled by it against the respondent. The respondent opposed the request on the ground that such action can not be taken by the Competition Commission. You are required to state with reference to the provisions of the Competition Act, 2002, whether the contention of the respondent is tenable.

(ii) The Central Government has formed an opinion that Mr. CBM (a member of the Competition Commission of India) has acquired such financial interest that it may affect prejudicially his functions as a member of the Competition Commission and it wants to remove him from his office. You are required to state with reference to the provisions of the Competition Act, 2002, whether the Central Government can do so and if yes, how ?

3. Answer any **two** of the following :

(a) (i) What do you understand by the term "Price Sensitive Information" as contemplated in the Securities and Exchange Board of India Act, 1992 ? What are the information which can be deemed to be "Price Sensitive Information" ✓

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(ii) MGR Ltd. wants to issue certain shares on preferential basis and has sought your advice in respect of pricing the shares for such issue. You are required to state the Guidelines issued by Securities and Exchange Board of India in respect of pricing of the issue of shares on a preferential basis.

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(b) Excel Ltd., a Public Limited Company listed with the Stock Exchange, Mumbai, wants to make issue of equity shares on preferential basis pursuant to a scheme approved under Corporate Debt Restructuring framework specified by Reserve Bank of India to various persons as may be selected by the Board of Directors of the Company. Following information relevant to the preferential issue is available.

(i) Total No. of equity shares to be issued : 50 lac equity shares of Rs. 10 each out of which 30 lac equity shares will be allotted on 30th June, 2008 as fully paid up and balance 20 lac equity shares shall be allotted on the same date but paid up to Rs. 5 each and balance Rs. 5 shall be called upon at a later date and shall be paid up on 30th November, 2008.

(ii) Out of the proposed allottees some persons are holding their shares in Excel Ltd. in physical form and not in dematerialized form and some persons had sold their entire shareholding in Excel Ltd. in January, 2008.

(iii) The meeting of general body of shareholders for approving the preferential issue was held on 15th March, 2008.

Based on the above information you are required to answer the following queries with reference to the SEBI (Disclosure and Investor Protection) Guidelines, 2000 :

(i) What would be the lock-in period for the shares allotted on preferential basis ?

(ii) Who are the persons not entitled for allotment of shares on preferential basis ?

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(c) (i) Explain the rules relating to interpretation of statutes when the terms "notwithstanding" and "Subject to" are used in any provision of an Act.

- (ii) State the effect of the words "notwithstanding anything contained in this Act" used in Section 408 of the Companies Act, 1956 which vests certain powers in the Central Government to prevent oppression or mismanagement. 3
4. (a) Mr. Raj is director in 14 public limited companies as on 30th July, 2007 and continues to be so till 26th September, 2007. The following companies appoints Mr. Raj as a director at their respective Annual General Meetings held on dates mentioned against their names : 8
- (1) MLP Ltd. (AGM held on 27th September, 2007) ✓ ✓
 - (2) PAT Private Ltd. (AGM held on 25th September, 2007) ✓ N
 - (3) Retail Traders Association (a company registered under Section 25 of the Companies Act, 1956 (AGM held on 26th September, 2007) ✓ ↑
 - (4) KMC Ltd. (AGM held on 29th September, 2007) ✓ ✓
- You are required to state with reference to the relevant provisions of the Companies Act, 1956 the options available to Mr. Raj in respect of accepting or not accepting the appointment of the above companies.
- (b) What do you understand by the term "Director Identification Number" (DIN) ? Describe the procedure to obtain the same as enumerated under the Companies Act, 1956 read with the relevant Rules. 7
5. (a) A group of shareholders has approached you for advice regarding the affairs of LPM Paper Mills Ltd. according to them, the management of the company is not carrying out its functions in accordance with the prudent commercial practice and if the affairs of the company are allowed to run in future in the same manner, the company's solvency would be in danger. They want that a Special Audit be conducted to find out the actual nature of the transactions. 8
- (i) You are required to state with reference to the provisions of the Companies Act, 1956, as to when a special audit can be directed and by whom ? ✓ 237
 - (ii) Draft an application to be submitted to the appropriate authority in this respect. ✓

- (b) Big Ball Ltd., a reputed Public Company, over the years, has performed excellently and its General Reserve is many times more than the paid up capital of the Company. The Chairman of the company came to know that a group of unscrupulous persons is cornering the shares of the company and may lodge them for transfer in their names. It is apprehended that such transfer may lead to change in the composition of Board of Directors which may be prejudicial to the Public interest.

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You are required to state with reference to the provisions of the Companies Act, 1956 as to how Big Ball Ltd. can block the above stated transfer of shares.

6. (a) (i) An inter-state co-operative society has been incorporated on 1st May, 2008 as a Producer Company under the provisions of the Companies Act, 1956. Give your comments on its proposal to have 18 directors on its Board after incorporation as a Producer Company.
- (ii) Mr. Zameen, a member of a Producer Company, wants to transfer his shares. You are required to state as to how he can transfer his shares under the provisions of the Companies Act, 1956.
- (iii) A Producer Company wants to issue bonus shares. You are required to state the relevant provisions of the Companies Act, 1956 in this regard.
- (iv) What are the modes of investment, from and out of its general reserves, available to a Producer Company formed and registered under Section 581C of the Companies Act, 1956 ?

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- (b) Amar Textiles Ltd. is a company engaged in manufacture of fabrics. The Company has investments in shares of other bodies corporate including 70% shares in Amar Cotton Co. Ltd. and it has also advanced loans to other bodies corporate. The aggregate of all the investments made and loans granted by Amar Textiles Ltd. exceeds 60% of its paid up share capital and free reserves and also exceeds 100% of its free reserves. In course of its business requirements, Amar Textiles Ltd. has obtained a term loan from Industrial Development Bank of India and is still subsisting. Now the Company wants to increase its holding from 70% to 80% of the equity share capital in Amar Cotton Co. Ltd. by purchase of additional 10% shares from other existing shareholders.

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State the legal requirements to be complied with by Amar Textiles Ltd. under the provisions of the Companies Act, 1956 to give effect to the above proposal.

Will answer be different in Amar Textiles Ltd. would have defaulted in payment of matured fixed deposits accepted by it from the public ?

7. (a) The last three years' Balance Sheet of PTL Ltd., contains the following information and figures :

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	As at 31.3.2006 Rs.	As at 31.3.2007 Rs.	As at 31.3.2008 Rs.
Paid up capital	50,00,000	50,00,000	75,00,000
General Reserve	40,00,000	42,50,000	50,00,000
Credit Balance in			
Profit & Loss Account	5,00,000	7,50,000	10,00,000
Debenture Redemption Reserve	15,00,000	20,00,000	25,00,000
Secured Loans	10,00,000	15,00,000	30,00,000

On going through other records of the Company, the following is also determined :

Net Profit for the year

(as calculated in accordance -

with the provisions of

Section 349 & 350 of

the Companies Act, 1956

12,50,000	19,00,000	34,50,000
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In the ensuing Board Meeting scheduled to be held on 5th May, 2008, among other items of agenda, following items are also appearing :

- (i) To decide about borrowing from financial institutions on long term basis.
- (ii) To decide about contributions to be made to charitable funds.

Based on above information, you are required to find out as per the provisions of the Companies Act, 1956, the amount upto which the Board can borrow from financial institution and the amount upto which the Board of Directors can contribute to charitable funds during the Financial Year 2008-09 without seeking the approval in general meeting.

- (b) OGC Ltd. was a supplier of Raw Materials to SAM Ltd., which could not make payment to OGC Ltd. owing to huge losses and financial constraints. Ultimately, SAM Ltd., went into liquidation and Official Liquidator was appointed. OGC Ltd. filed a suit for recovery of its dues. The Court awarded a decree in favour of OGC Ltd. Armed with the Court's decree, OGC Ltd. approached the Official Liquidator to pay the amount to it in preference over dues of the workmen. The workmen protested the demand of OGC Ltd. and contended that their dues rank *pari passu* with the Secured Creditors and will override all other claims of other creditors even where a decree has been passed.

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You are required to ascertain the validity of the argument of the workmen in the light of the provisions of the Companies Act, 1956 and the decided cases on the subject.

8. (a) HPC Ltd. for a number of years was in various types of business. In order to exit from its non-core business, its management decided to hive off the business of food processing by demerging the said business with an associate company, namely BCD Ltd. You are required to advise briefly, with reference to the provisions of the Companies Act, 1956, the steps the management should take to give effect to the proposed demerger.

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- (b) (i) Whether guarantee commission paid to a Director is remuneration to director requiring Central Government's permission when the amount of such commission exceeds the limit prescribed in Section 309 of the Companies Act, 1956.

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- (ii) BHP Ltd. wants to make the liability of its directors unlimited. You are required to state with reference to the provisions of the Companies Act, 1956 whether this can be done.

- (iii) Mr. John is a director of MNC Ltd., which had accepted deposits from public. The Financial position of MNC Ltd. turned very bad and it failed to repay the deposits which fell due for payment on 10th April, 2007 and such repayment has not been made till 5th May, 2008. Another company JKL Ltd. wants to appoint the said Mr. John as its director at its annual general meeting to be held on 6th May, 2008. You are required to state with reference to the provisions of the Companies Act, 1956 whether Mr. John can be appointed as a director of JKL Ltd.

9. (a) LMB Ltd., Kolkata is a multiproduct manufacturing company having paid up capital of Rs. 5.00 Crores. In order to increase the product portfolio, the said company intends to procure certain machines and equipments worth Rs. 1.00 crore from a partnership firm, namely, M/s. MLPK, in which the son of managing director of LMB Ltd. is a partner. The contract for purchase of said machines and equipments is to be placed before the board of directors of the company for its consideration. 8

In view of above facts, you are required to explain briefly the procedure under the provisions of the Companies Act, 1956 to be followed by the LMB Ltd. to enter into the said contract :

- (b) Answer any **one** of the following : 3
- (i) Board of Directors of DBM Limited held a board meeting on 2nd May, 2008 at its registered office. You are required to state the salient points to be taken into account while drafting the minutes of the said board meeting.
 - (ii) Draft a board resolution for appointment of Mr. Paul as the managing director for 5 years with effect from 1st June, 2008 of DBM Limited passed in the above stated board meeting.
- (c) Annual General Meeting of a Company has been concluded on 30th April, 2008. Now, the company is required to submit/file its Annual Return and Annual Accounts with Register of Companies. You are required to state the procedure for such submission/filing. 4