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CHARTERED SECRETARY

THE JOURNAL FOR CORPORATE PROFESSIONALS

**“I am a member of ICSI;
Only I do what I do.”**

... A Company Secretary

Focus on

Transitioning from Company
Secretary to Corporate
Governance Professional



**THE INSTITUTE OF
Company Secretaries of India**

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament



At a Glance

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Management of Conflict of Interest

» P-1318

K N Vaidyanathan and Uday Sathe

The concept 'conflict of interest' is wide-ranging. Anything that is likely to prejudice a decision-maker's judgment can be treated as the factor influencing the 'conflict of interest'. The key in handling 'conflict of interest' is to have an open and transparent system. The real challenge would be to build a comprehensive framework for managing 'Conflicts of Interest' by nurturing a workplace culture which would encourage and promote the identification, disclosure and resolution of 'Conflict of Interest' in a crystal clear, responsible and timely manner. Corporations, like other creations of mankind, are fraught with potential conflicts of interest. The challenge is to minimize and eliminate the probability of that potential becoming real.

Risks and Liabilities of a Professional Enhanced Role for CS / PCS under the new Companies Act

» P-1325

Dr. S.D.Israni

Over the years the role of a Company Secretary has evolved a great deal from the time when he was supposed to perform ministerial duties to today where he is a part of the top corporate management team called 'Key Managerial Personnel'. It is imperative for a company secretary to be conscious of the fact that his position is a highly responsible one and he needs to be alert and updated at all times. Any failure on the part of the company secretary that has the effect of breaching any of the provisions of the Act would invite penal consequences. Similarly, a PCS will have to ensure that he develops proficiency in various enactments applicable to a company on which he has to give his opinion. An important point that every PCS should keep in view while giving the secretarial audit report is that, if so warranted by the circumstances, the PCS should make a qualification or observation or other remarks as may be deemed necessary. Every company secretary, whether in employment or practice, should adhere to the highest principles of integrity and professional competence and always remember that every company secretary is an ambassador of the profession and should conduct oneself accordingly.

Transitioning The Evolving and Complex Role of Company Secretaries

» P-1331

R Sriranjani

The growing importance placed on Corporate Governance and the new Companies Act 2013, has enhanced the role of the Company Secretary. The holder of the post is now seen in many respects as the guardian of a Company's Governance and an Independent Adviser to the Board. Governance and Leadership are the yin and the yang of successful organisations. If you have leadership without governance you risk tyranny, fraud and personal fiefdoms. If you have Governance without leadership you risk atrophy, bureaucracy and indifference. With Corporate Governance under ever-increasing scrutiny, the Company Secretary has little time to waste when it comes to ensuring that the Company is following sound Governance practices. This article offers a guide for getting started in the evolution.

Company Secretary's transition to a Governance Professional: Restrained as a 'Caged parrot'

» P-1338

Delep Goswami

The Companies Act, 2013 has ushered in a new era in corporate governance and corporate regulations and the CS has been given significantly improved legal status and the expectation from the CS has increased tremendously. It goes beyond a mere compliance officer to that of conscience keeper and specialist governance professional, who can do a lot to prevent corporate fraud, mismanagement and protect the overall interests of all the stakeholders. Being the eyes and ears of the BOD of a company, he can ensure stricter compliance regime and take a pro-active role in corporate excellence to enable the company to embark on a global mission commensurate with best corporate practices.

Accountability in the Non Profit Sector

» P-1343

Chenthamarai V.

The non-profit sector is a fast growing sector in India. It has a long and interesting history. Its capacity to impact development is mind boggling. This sector is large enough to be referred to as the 'third sector', after the government and business sectors. Yet the regulation of this sector is at a nascent stage. Therefore governance and self-regulation assume vital importance to uphold the credibility of this sector. This article brings to focus one of the important aspects of governance, i.e. accountability. It attempts to examine how accountability may be driven, enforced and evaluated in the non-profit sector. It brings out the need for and tools for evaluation of accountability. It highlights the challenges faced by the sector in this process. Last but not the least it brings out the specific role a company secretary may play, as a governance professional, in making this sector accountable.

Ethics and Governance Another Opportunity for CS to be Designated as CXO

» P-1348

Narendra Singh and Arpita Banerjee

During last two decades, the importance of ethics and corporate governance has attracted a great deal of public interest because of its significance in the overall growth of corporates. Company Secretary, an officer entrusted with the responsibility of compliance management, has tremendous opportunity of implementing/sustaining sound governance practices and developing an ethical culture within the organization. In several countries, the concept of Chief Ethics/ Governance Officer has evolved to implement/sustain ethical/ governance practices. In India, it is still in nascent stage and had started gaining momentum. Ethics and Governance are two arenas which can provide immense opportunity in modifying the role of Company Secretaries. Through this article, the authors have strived to trace the arena which would transform the CS from being known as statutory/compliance officer to ethics/governance officer.

Governance in Companies Transforming Role of Company Secretary in Changing Scenario

» P-1352

Sunil Kumar Banerjee

The term 'governance' has now been the essence of all organizations including corporate sectors. This article covers wide spectra of governance in companies vis-a-vis transforming role of company secretary as governance professional. The objective of corporate governance is to utilize scarce economic resources of the organization in efficient manner while raising value of investment for stakeholders at large. Accountability coupled with transparency is integral part of governance norms. Company Secretary's role has undergone transition over the decades from compliance officer to governance professional in enhancing the ethical value of the organization. As trusted man of the board he is in a position to stress on the improved internal control for prevention of fraud and irregularities thereby promoting transparent corporate reporting with full



disclosures. Being fully conversant with the company law procedures, practicing company secretary can effectively function as independent director too in governance system to uplift the ethical value of and bring in highest level of transparency in the organization.

CS in Banks- Enhance your skills

» P-1358

G M Ramamurthy

Banking Law is a special subject, quite different from other laws normally applicable to business enterprise in general. With financial sector poised for growth and issue of banking license to new banks in private sector under consideration, professionals like Company Secretaries have considerable opportunities in the financial sector including banking. Company Secretaries who wish to pursue their career in banking companies should acclimatize with the provisions of the Banking Regulation Act and related banking legislations.

Chief Governance Officer Emerging Role for Company Secretaries

» P-1363

Dr. Joffy George

The size of a company and the operational capacity of its legal department are two significant factors to consider before employing a CGO. Inducting a CGO into a larger company whose in-house attorneys are occupied with other duties can offer strategic advantages. The CGO's position in the chain of command will help to define the authority of the office and prompt respect from others. Largecap and midcap companies are more likely to benefit from a CGO than smallcap and microcap companies.

Role of Company Secretary as Corporate Governance Professional

» P-1366

Naresh Kumar

In the era of globalization and liberalization, the thrust of corporate sector is on better governance for efficient management and sustainable growth. The corporate world is in search of leaders and professionals of high integrity, who listen to their inner voices for safeguarding stakeholders interests by preventing malpractices in management. The Company Secretary as key managerial personnel (KMP) under the Companies Act, 2013 is expected to play the role of conscious-keeper of the board of directors. In this context, an attempt is made in this article to analyze the basic concepts of profession and governance and suggest how best secretaries, can make significant contribution for excellence in corporate sector.

Sathyam Vada; Dharmam Chara;

» P-1372

Gopalakrishna Hegde

» Legal World (LW 121 - 131)

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► **LW:99.11.2013** Deficiencies noticed in the impugned order are procedural deficiencies and do not involve any fraudulent action on the part of the appellant.[Sat] ► **LW: 100.11.2013** In these circumstances SEBI is requested to review its investor grievances system, including ATR and communicational requirements and come out with a new system or modify the existing system, which is cost effective, saves unnecessary labour and also addresses investor's grievances effectively in a meaningful manner, within fixed time framework. [SAT] ► **LW:101.11.2013** CLB directs the

company to issue duplicate share certificates to the shareholder. [CLB]

► **LW:102.11.2013** It is clear that arbitration clause is there to deal with any dispute that arose in relation to subscription and shareholders Agreement clauses but as to mismanagement of the company is concerned, in case any such allegation is there, indicating mismanagement, this Tribunal will get jurisdiction to deal with that issue as well as the issue connected with the arbitration clause.[CLB] ► **LW:103.11.2013** The impugned conduct of ACI in not allowing ACI Banks to choose a service provider of their choice; directing the ACI Banks not to avail the integration services of FSS, using its dominance in the upstream market of software for electronic payment systems to gain entry in the downstream market of provision for services of customization and modification in respect of software for electronic payment systems *prima facie* seem to be abuse of dominance.[CCI] ► **LW:104.11.2013** While assessing AAEC the alleged clauses of the agreement could hardly be said to create barriers to new entrants in the market or were likely to drive the existing competitors out of the market or had the potential to foreclose the competition by hindering entry into the market. [CCI] ► **LW:105.11.2013** Every enterprise is free to undertake such prudent and sound commercial decisions to survive in a dynamic business environment and such changes *prima facie* do not raise competitive concerns.[CCI] ► **LW:106.11.2013** When the sale is on ex- factory basis, the transportation charges are not required to be added in the assessable value, irrespective of the fact that whether the same are on equalized or on actual basis. [CESTAT] ► **LW:107.11.2013** The appellant does not deserve any leniency who has committed fraud against Revenue by his ill design. [CESTAT] ► **LW:108.11.2013** For issuing fake invoices penalty is impossible on the company and its directors.[CESTAT]

» From the Government (GN 225 - 243)

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► Notification regarding establishment of Local Office of the Board at Ranchi. ► Securities and Exchange Board of India (Listing of Specified Securities on Institutional Trading Platform) Regulations, 2013 ► Know Your Client Requirements. ► Facilitating transaction in Mutual Fund schemes through the Stock Exchange Infrastructure. ► Amendment to bye-laws of recognised stock exchanges with respect to non-compliance of certain listing conditions and adopting Standard Operating Procedure for suspension and revocation of trading of shares of listed entities for such non compliances. ► Simplification of registration requirements for Stock Brokers. ► Securities And Exchange Board Of India (Stock Brokers And Sub-Brokers) (Second Amendment) Regulations, 2013 ► Investor Grievance Redressal Mechanism. ► Arbitration Mechanism in Stock Exchanges. ► Establishment of Connectivity with both depositories NSDL and CDSL – Companies eligible for shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement

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