

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination November— 2023

Semester: LL.M-I Semester (Corporate Law Honours)

Subject: Corporate Governance

Time: Three Hours

Marks:100

Instructions:

1. Attempt any four questions
2. The number of pages of question paper is three

Q1). Write notes on the following:

- a) *“Corporate social responsibility, despite a subset of corporate governance, not every company is obligated to undertake the responsibility.”* Comment.
- b) Give a succinct explanation of the major corporate governance theories.

(Marks 12.5+12.5=25)

Q2). "The fall of Enron and Worldcom in the United States spurred a slew of new legislation aimed at protecting investors. Maxwell and BCCI in the United Kingdom pushed the governance issue to the forefront, resulting in a succession of committees. Despite their basic differences, the US and UK approaches appear to converge in several key areas." Elaborate on the areas where the US and UK corporate governance models converge.

(Marks 25)

Q3). TMC Ltd. and KYL Ltd. are two companies that were both founded in 1990 as public limited companies under the Companies Act, of 1956. Mr. Direc is a director on the board of TMC Ltd which has a total number of thirteen directors on the board. The company never went public and its shares were never listed, despite accepting deposits from the public. TMC Ltd although an unlisted public company have a paid-up share capital of ₹20 Cr. as of 31st March 2022 and a turnover of ₹ 150 Cr. during the financial year ended 31st 2023, while KYL Ltd., a thriving company with operations around the world, went on to become a publicly listed company in 2002. Since 2019 the financial position of TMC Ltd. took a southward turn and became bad to worse and ultimately, it failed to repay the deposits which fell due for payment on 10 April 2022 and such repayment has not been made till the last financial year. Nevertheless, at its general meeting scheduled for

November 6, 2023, KYL Ltd. wishes to appoint the aforementioned Mr. Direc as a director.

Taking into account the factual matrix above, respond as follows, citing the pertinent laws and explicating your legal reasoning:

- a) What should be the minimum number of independent directors that TMC Ltd should have and why?
- b) Can Mr.Direct be appointed as a director of KYL Ltd?

(Marks 12.5+12.5= 25)

Q4). Insider Technologies Ltd. was founded by eight engineers in Pune, Maharashtra, Its initial capital was \$250 million. It was registered as Insider Consultants Private Limited on 2 July 1981. In 1983, it relocated to Bangalore, Karnataka. The company changed its name to Insider Technologies Private Limited in April 1992 and Insider Technologies Limited when it became a public limited company in June 1992. An initial public offering (IPO) was floated in February 1993 with an offer price of ₹95 (equivalent to ₹580 or US\$7.30 in 2020) per share against a book value of ₹20 (equivalent to ₹120 or US\$1.50 in 2020) per share. The IPO was undersubscribed but it was "bailed out" by investment bank 'Edelweiss Financial Service Limited', which picked up a 25% equity stake at the offer price. Its shares were listed in March 1993 on the National Stock Exchange and Bombay Stock Exchange with a trading opening at ₹145 (equivalent to ₹890 or US\$11 in 2020) per share. Insider shares were listed on the Nasdaq stock exchange in 1999 as American depository receipts (ADR). It became the first Indian company to be listed on Nasdaq. The share price surged to ₹8,100 (equivalent to ₹30,000 or US\$370 in 2020) by 1999, making it the costliest share on the market at the time. Insider technology has become among the 20 biggest companies by market capitalization on the Nasdaq at present. On June 12, 2023, Insider Technology Ltd. acquired a 23% equity stake in Titas Pvt Ltd. through a private placement. Titas Pvt Ltd decided to go public on December 2023, and the board of directors of Titas Pvt Ltd hired Edelweiss Financial Service Limited as an underwriter with a subscription value of more than 2% of its net worth without the approval of its shareholders.

Given the aforementioned factual matrix, do you think the Titas Ltd. board of directors' activities have violated any legal prohibitions? If yes/no, what would be the fate of the transaction? Comment, citing the relevant provisions.

(Marks 25)

Q5). Real Industries Ltd., a business established in 2013 and registered under the Companies Act, has Mr. Real on its executive board. The company's shares are traded on both the National Stock Exchange and the Bombay Stock Exchange. AL Ltd. is a Dubai-based company with operations across multiple nations. By acquiring a majority stake in Real Industries Ltd. through its Indian subsidiary in September 2023, AL Ltd. gained control over the company. Mr. Abaz, the brother-in-law of Mr. Real, purchased a sizeable number of shares of Real Industries Ltd. on August 12, 2023, and later sold the shares to Mrs. Outside at a sizable profit.

Determine whether Mr. Abaz is an insider and evaluate the legal issue in light of any relevant legislation and precedents. Also, provides an alternative for an insider to trade on the company's securities without breaching the appropriate laws.

(Marks 25)

Q6). Bir Industries Ltd. hereinafter referred to as (BIL) is a multinational conglomerate company founded by Birla (Promoter) in the year 1985 and headquartered in Mumbai. It has diverse businesses including energy, petrochemicals, natural gas and textiles through its various subsidiaries A, B, C and D Pvt Ltd. each having a net tangible asset of 200cr. BIL is one of the most profitable companies in India, and the largest publicly traded company and has a market capitalisation of US\$205 billion and a revenue of \$99 billion with a \$8.5 billion net profit in 2022. The number of shares of BIL is approx. 644.51 crore (6.44 billion). Apart from his exclusive holding of 20% of the company's shares as a promoter, Birla also holds a sizeable portion of the company's shares jointly with his family through a variety of channels, including a trust and HUDF, which together account for 50% of the company's paid-up share capital. Whereas the remaining 50.00% of the shares are held by public shareholders, including FII. The eldest son of Mr Birla's family, Mr Vishwas, is currently being held in Tihar jail and is the main suspect in a money laundering case involving ₹200 crores. He is suspected of defrauding many industrialists' wives. The money trail of the case's proceeds is being probed by the Enforcement Directorate. In the midst of all of this, there is a discussion about one of the subsidiaries of BIL "D Pvt Ltd," which was established in 2000 and engaged in the textile business, decides to enter into a raw material supplier agreement with Khadi Co. Ltd., a publicly traded company in which Mr. Vishwas hold 10% of the equity paid-up share capital.

Determine the legal issues and decide the viability of the desired transaction in light of the aforementioned fact by citing pertinent provisions.

(Marks 25)