



The Institute of Chartered Accountants of India

Code: FN4CE566609
 Subject: Corporate and Economic Laws

Total Marks: 70
 Marks Obtained: 40.5

Number of Answer Books used : Main + additional sheets

For use by ICAI only

566609



27 NOV 2020

ICAI

Q.No.	To be ticked (✓) by the candidate against the Questions answered	Marks Awarded (To be filled by Examiner)					Total
		a	b	c	d	e	
1	✓						
2	✓						
3	✓						
4	✓						
5							
6	✓						
7							
8							
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10							
11							
12							
13							
14							
Total							

Use only Blue / Black Ball Point Pen to write and shade the circles.
AVOID RED PEN.
 Write the marks in the boxes before shading the respective circles.

Total Marks awarded

0	0
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9

Total Marks awarded (in words)

Examiner's Signature



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INSTRUCTIONS TO THE CANDIDATE



Answers are not to be written on this page

- Answers should be written in figures and words in the allotted space at the right hand corner of the answer book and nowhere else including additional answer book/s and graph paper.
- Roll number should be written in the box in numbers and darken the appropriate circles of the OMR bubbles provided in the right hand corner of the cover page with **Black / Blue** ball point pen.
- Write all particulars such as name of Examination, Group No., Paper No. and subject at the appropriate space at the left hand upper corner.
- Remove the Bar Code sticker of the particular paper from the Attendance sheet and affix the same on the box provided in the right hand corner of the cover page.
 - Since a machine will read the Roll no., please check and ensure that Roll number written in numbers, words and circles darkened are correct. In case any candidate fills this information wrongly, Institute will not take any responsibility for rectifying the mistake.
 - The answers should be written neatly and legibly
 - The answer to each question must be commenced on a fresh page and question number prominently written at the top of each answer. Alternatively, the question number should be distinctly written in the margin.
 - The answer to each question in all parts should be fully completed in one page or in a consecutive set of pages, before the next question is taken up.
 - Writing of Roll number in place/s other than the space provided for the purpose or writing distinguishing mark, symbols like "OM", "Sri", "Jesus", "786", etc., will tantamount to adoption of "unfair means"
 - Before submission of answer book to the invigilator take care to score out (X) blank pages, if any, that you might have left.



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Q. 4

a).

SEBI (Listing Obligations and Disclosure Requirements), 2015.

Audit Committee, Regulation 18.

As per SEBI LODR, an Listed Entity shall constitute an Audit Committee the composition of which shall be as follows:

- i) Minimum 3 directors with not less than $\frac{2}{3}$ rd Directors as Independent directors.
- ii) Chairperson of the Audit Committee shall be an Independent director and shall attend the general meeting to answer the shareholders.
- iii) All of the members of Audit Committee shall be persons



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with ability to read and understand financial statements and at least 1 of them shall have accounting or related financial management expertise.

(They can be said to have accounting or FM expertise when they have requisite and related professional qualification or expertise).

1.5 4aStep1

Present case:

- i) None of the Directors namely (Mr X, Y and Z) are independent directors which is not in line with the requirements.
- ii) Chairperson (Mr Y) is ~~not~~ also not an independent director and hence, this is not in compliance as well.
- iii) None of them have accounting or financial related expertise nor



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all of them have ability to read and understand financial statements.

Hence, the present committee constituted with Mr Y as Chairman and Mr X and Mrs Z as the members is not as per the requirements of SEBI (LODR) and hence, M/s Apex Ltd will have to reform the Audit Committee on it getting listed.

1.5 4aStep2

3 4a



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Q. A b).

Securities Contracts (Regulation)
Act, 1956.

i) The recognised Stock Exchange namely CSE can delist any of the securities listed on such RSE. Any person aggrieved with the order of the RSE can file an appeal with the Appellate tribunal within 15 days.

ii) The grounds for delisting the securities by Stock Exchange are:

a) The company is incurring losses in past 3 continuous years and its ~~net~~ net worth has turned negative.

b) The dealing in securities has been suspended for a period of 6 months or more.

c) The securities are infrequently

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traded for past 1 year.

d) The directors or other officers of the company have been convicted with imprisonment of not less than 1 year or fine not less than 1 crore.


e) The address of the company or the directors provided at the time of application is incorrect.

2 4bStep2

Here as MNK ltd has incurred losses for continuous 3 financial years and the trading in securities is suspended for more than 6 months, it shall be delisted from CSE.

1 4bStep1

3 4b





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c).

Foreign Contribution (Regulation) Act, 2010.

As per section 3, the following person is prohibited from acceptance of any foreign contribution:

- i) Any person who is editor/journalist, of any association or company engaged in publication and broadcasting of public news.

However as per section 4, even the persons prohibited to accept the foreign contribution as per section 3, can accept foreign contribution for the following purpose namely:

- i) Any payment by way of salary, wages or like remuneration to him or group of person working under him or any payment in the ordinary course of trade made to him.

1.5

4cStep1



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1 4cStep2

2.5 4c

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Hence, even if Mr. Soumak is a person who is otherwise prohibited to receive foreign contribution, he can accept such salary from Mr. B as it is in the nature of salary paid to him.

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		10	
Q. 4			
	d).		
			Arbitration and Conciliation Act, 1996.
	i)		Any principal contract, whether in writing or electronic mode, may contain specific provision for arbitration of any subsequent disputes arising between the parties.
	ii)		However, the principal contract should expressly and clearly state the clause for arbitration as it cannot be assumed from the contracts.
1	4dStep1		In the given case, though Shyam and Naveesh contracted through email most of the times, no provision for arbitration was expressly specified in the contract.
0.5	4dStep2		Hence contention of Shyam is invalid as it can be presumed from the terms of the contract whether
1.5	4d		parties will resolve diff. through arbitration.
10	Q4		



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Q. 3 a).

Sec 248, 249 and 250 of the Companies Act, 2013.

The Registrar may, by an order suo-moto or on an application by the company, pass an order for the removal of the name of the company from the register of the companies.

The application can be made by the company after discharging its liabilities.

In this regard,

i) The RoC may remove a company from the register of companies after making specific provision for realisation of assets and discharging of liabilities.

However, no removal shall affect the realisation of assets or discharging of liabilities and the company shall deem to be in function for only these two purposes.

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Hence, even after the removal the company can realise the assets and discharge the liabilities.

0.5 3aStep1

ii) Any person aggrieved by the order of registrar may prefer an appeal with the Tribunal within a period of 3 years from the date of the order of the removal by registrar. This appeal is filed for the purpose of restoring the company and the Tribunal shall, after giving parties reasonable opportunity of being heard pass an order for the same.

1.5 3aStep2

iii) The registrar may suo moto within 3 years from the date of its order file an application for the restoration of the company if it is of the view that order passed earlier was

- on the basis of incorrect information in his possession.
- Incorrect information filed by the company or its officer.

1 3aStep3

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DO NOT WRITE ANYTHING HERE	iv) If the member, creditor or employee, workere of the company are aggrieved by an order passed by the registrar, they may make an application within <u>20 years</u> from the date of order of the registrar for the purpose of restoring the name of the company. The Tribunal may, on or after giving the parties reasonable opportunity of being heard, pass an order for the same.
1 3aStep4 DO NOT WRITE ANYTHING HERE	v) There is no separate condition that this chapter shall not apply to sec 8 companies and hence even section 8 companies can be removed from the register of the companies.
0 3aStep5	
4 3a DO NOT WRITE ANYTHING HERE	



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Q. 3

b).

i) Under Prevention of Money Laundering Act, 2002.
Beneficial owner means any person who enjoys the possession of the property or is actually interested in the property concerned.

3bStep1

ii) Financial Institution under PMLA, 2002 are Banks, Insurances or other financial service providers.
Hence, Company A and C can be validly constituted as financial institutions.

0.5 3bStep2

iii) Financial institution shall maintain such records as:

a) such it may enable it to identify transactions which are to be reported to the directors.

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- b). Transactions of such nature and value which are to be reported.
- c). Records for identify the trustee owners and dealings with them.

Records of category 'a' shall be maintained for a period of 5 years from the date of transaction.

Records of category 'c' shall be maintained for a period of 5 years from the last dealing or close of business relation with the client, which ever is later.

- iv). No suit or proceeding shall be entered or proceeded with in respect of any such matter that the Appellate Tribunal is empowered.

v). No court or any authority shall grant any injunction or stay in respect of any matter where action has been taken by appellate Tribunal as appellate tribunal is itself vested with the powers of civil courts.

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1.5

3bStep3

1

3bStep4

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3bStep5

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3b

8

Q3



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AT 16



Q. 1



a)

Sec 197 of the Companies Act,
2013.

The maximum managerial remuneration payable to all directors, including MD and WTD shall not exceed 11% of the Net profits of the company, as computed under sec 198.

The remuneration may be paid monthly or as a percentage of net profits or lump sum amount,

i) As per sec 197, the remuneration payable to the directors shall be authorized by the ordinary or special resolution as required by the articles of the company and shall include any remuneration paid to them in any

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other capacity except when two conditions are satisfied:

- i) the director has requisite professional qualification and experience.
- ii) the Nomination and remuneration committee has approved such payment to the director as payable to him in his professional capacity.

In such, such amount payable shall not be included in the remuneration.

In the present case, Mr. Y has rendered valuation where he possess graduate level qualification and has the requisite experience and qualification for the purpose of such valuation services.

Hence, the remuneration payable to Mr. Y shall not be treated to be included in the payment paid made to him as a director and hence, ₹100,000 shall not be treated as managerial remuneration.



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ii) AS per sec 197, the premium paid or payable to the insurance companies in respect of any policies taken for the officer or directors liability shall not be included in the remuneration paid to such director.

However, where any claim is lodged on account of misfeasance or negligence as the director, the same shall be treated to be included in his remuneration.

Hence, ₹100,000 so much of the amount of the claim as is lodged on account of negligence of Mr. X shall be included in the overall remuneration paid to him.

1.5 1aStep2

Hence the Total remuneration made by the company are:

Mr. X	Monthly remuneration.	18,00,000
	Commission.	1,50,000
	Premium paid.	100,000.

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Mr. Y. Commission at the rate of 1% of net profits.

2.5 1aStep1

iii) The Nomination and remuneration Committee constituted by the Board under sec 178 shall be the recommending authority.

Such remuneration shall be approved by the company in the general meeting.

0.5 1aStep3

4.5 1a

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Q. 1

b).

AS per sec 173 and the Meeting of the Boards Rules made under the Companies Act, 2013.

i) The venue of the Board Meeting through video conferencing or other audio visual means shall be place where such meeting is held by the company (whether or not that place is the registered office of the company) and all proceedings and records of such meeting shall deem to have been made at such place.

ii) Every director attending through video conferencing shall be required to participate concurrently in the meeting and the registers so made by the company shall

1bStep1

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0.5 1bStep2

deem to have his consent after the same has been read out at the meeting.

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iii) Directors can participate in the meeting through either physical presence or ~~and~~ video conferencing or other audio visual means.

DO NOT WRITE ANYTHING HERE

other audio visual means are defined as any electronic communication facility which enables the directors to participate concurrently in the meeting and communicate effectively without any intermediacy.

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1.5 1bStep3

3 1b

7.5 Q1

Hence it is clearly stated that such means shall be audio visual meaning video as well as audio and hence, audio means or teleconferencing shall not be a permissible medium for conducting Board meetings.



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Q. 6
a)

i) The vacancy in the office of women director shall be filled as per sec 149 of the companies Act, 2013, which shall be

3 months from the date of such vacancy or immediate next Board meeting, whichever is later.

In the present case, Ms. Rachna resigned on 31/5/2020 and hence 3 months from the date of such vacancy expire on, 31/8/2020 or Immediate next Board meeting, i.e. 31/7/2020, whichever is later.

Hence as Ms Nisha is appointed well after 3 months on 10/10/2020, the appointment of Ms Nisha is valid as the provision require

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1

6aStep1

appointment at the later date and not earlier.

ii). ~~As~~

As per 161(1) an additional director appointed by the Board shall hold office upto the last next annual general meeting or last date on which such AGM should have been held.

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Directors may be in a position to extend their term by delaying the AGM and hence should vacate on the last day the AGM should have been held.

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Hence, Mr Sawesh should have vacated his office on 30th Sept, 2020 and is in no terms allowed to hold office longer than the last date of the AGM should have been held.

1.5

6aStep2

Hence Mr Sawesh cannot hold office till 15th Oct, 2020.

2.5

6a



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Q. 6
b)

As per Sec 151 of the Companies Act, 2013,

- a) every listed company may have a small shareholder director (SSD) who shall be appointed by such small shareholders.
- b) Small shareholders mean shareholders holding shares of nominal value not exceeding ₹ 20,000.
- c) The SSD shall be elected by 1000 small shareholders or $\frac{1}{10}$ of the total number of such small holders whichever ever is lower.
- d) They shall leave the notice of their intention atleast 14 days prior to the meeting in which such

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SSD shall be appointed along with the recommendation of the name of the person proposed to be appointed as small shareholders directors.

2.5 6bStep1

In the present case,
800 of such small shareholders are present in the company and 82 shareholders have assented for the appointment of Mr. Babulal and hence,
as the ~~members~~ small shareholders appointing him are greater than $\frac{1}{10}$ of such small shareholders.
($\frac{1}{10}$ of 800 = 80),

Mr. Babulal can be appointed as small shareholders directors and shall hold office upto 3 years from the date of his appointment.

1 6bStep2

3.5 6b



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Q. 6
c)

Any order person or director aggrieved by the order passed by the adjudicating authority under sec 8(3) shall file an appeal with the appellate Tribunal with the period of 45 days from the date of the communication of order to him.

Any delay can be condone by the appellate authority if there is sufficient cause shown to it.

There is no such condition that an adjudged insolvent cannot file an appeal to the appellate Tribunal.

0.5 6cStep1

Hence Mr. Rana can file an appeal to appellate Tribunal with the period of 45 days from the date of such order.

0 6cStep2

0.5 6c

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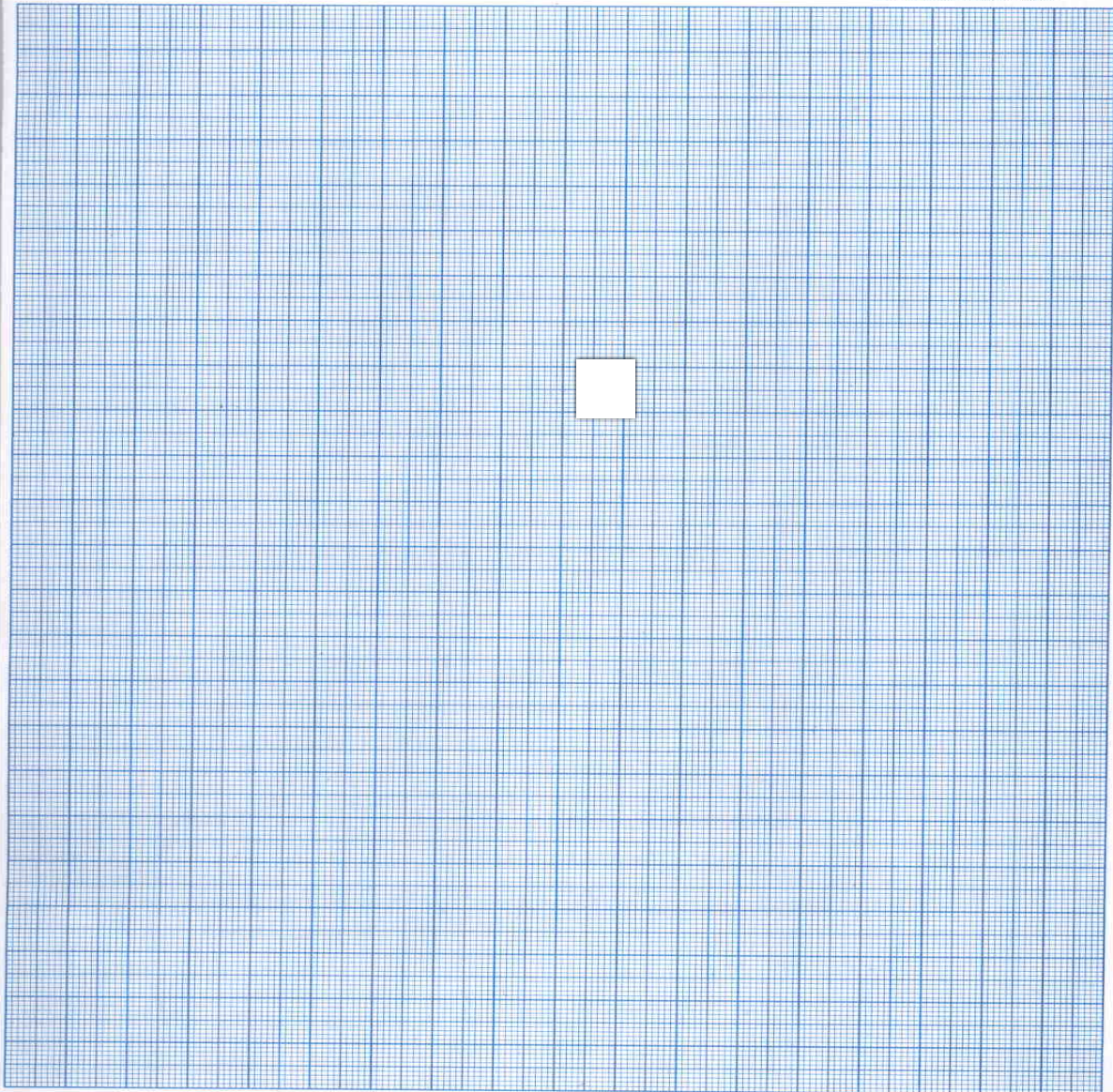


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Q. 6

d).

i) As per IBC, 2016,

Moratorium period is a period of calm period for 180 days from the commencement date. In which all suit and proceedings pending against the company shall be held in abeyance.

As the commencement date is 15/3/2020,

the moratorium shall expire on 11th September, 2020.

(180 days unless extended by CoC)

1.5

6dStep1

2). During the moratorium period, supply of goods or services treated as essential for the function of the company corporate debtor shall not be stopped. As the operations came to halt, this is an essential service, Hence Resolution professional will succeed in his claim.

0.5

6dStep2

2

6d

8.5


Q6



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ADDL. BOOK

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Q.2

a) -

As per Sec 233 of the Companies Act, 2013,

a company may enter into any compromise or arrangement with its creditors or class of them or members or class of them.

Such compromise shall be approved by the meeting of the creditors conducted for this purpose, and the requisite approval is

$\frac{3}{4}$ th of the creditors represented by majority of them in numbers.



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However, any person creditors or class of them dissenting from such scheme may file an appeal to Tribunal, namely,

creditors holding 5% of the outstanding debt of the company.

Also, the Tribunal may dispense any meeting of such creditors, if 90% or more creditors in value agree to the scheme of compromise or arrangement.

Hence, in the present case, the company can opt for a having such terms of compromise that atleast 90% of the creditors in value agree to the scheme.

By this such scheme or arrangement shall be binding on all the creditors.

1 2aStep2

0 2aStep1

1 2a

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Q.6

b)

Q.N.-2b

As per ~~section~~ Companies, Act, 2013,

any payment to the minority shareholders by the acquirer shall be made in accordance with the Section 235 of the Companies Act, 2013.

The acquirer shall first send the notice for acquisition of the minority interest to the company and the company shall forward the same to the minority holders.

0 2bStep1

In the present case, the acquirer (Haresha Ltd) has paid an amount directly to Mr. Raju (who is a minority shareholder). This is not in accordance with the sections of Companies Act and hence the claim of other minority shareholders is valid.

0.5 2bStep2

0.5 2b

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Q. 2

c)

Current account transactions are those transactions that are not capital account transactions.

Capital account transactions are those that create asset, liability or contingent liability located outside India of a person resident in India.

i) Mr S is purchasing machinery for installing from a buyer located in UK. This does not create any asset or liability outside India. Hence it is a current account transaction.

ii) An Indian resident imports machinery from US but on credit terms. This creates his liability outside India. Hence it is a capital account transaction.



2cStep1



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Addl. Book No. 2

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NOVEMBER, 2020. ADDL. BOOK

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0.5 2cStep2

However as the time limit for payment on import is 6 months, this does not constitute as a Capital Acc. transaction and hence is current account transaction.

iii)

Any gift under FEMA is always classified as ~~to~~ current account transaction as it does not create any liability or asset outside India.

1 2cStep3

Hence this gift even if in non repatriation nature, is a current account transaction.

2.5 2c



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Q. 2

d).

SARFAESI Act, 2002.

As per section 13, an secured creditor may after serving a notice of not less than 60 days in writing ~~or~~ requiring a borrower, which has been classified as NPA in his books, to render the payment failing which the secured creditor will enforce the security interest.

i) Hence flow Brought, if it has been classified as an NPA in the Books of Bank has to make the payment with the period of 60 days of the receipt of the notice.

1 2dStep1

ii). If flow Brought fails to pay the outstanding dues with such time of 60 days, Bank can take any measures for the purpose of enforcing its security interest. ∴

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- DO NOT WRITE ANYTHING HERE
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- i) Takeover the possession of secured asset.
 - ii) Takeover the management of the Business of Borrower.
 - iii) ~~Appoint~~ Appoint any person to handle the affairs or at Board of directors of the Borrower.
 - iv) Require any person who has acquired secured asset from the borrower to discharge such amount as is necessary for the fulfillment of the claim of secured asset.

1.5

2dStep2

2.5

2d

6.5

Q2




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Result Overview

Awarded Marks: 40.5

Max Marks:70

NA Not Attempted

O Optional

M Marked

Q1 Compulsory (Score: 7.5/14)

Question No	Awarded Marks	Maximum Marks	Status
Q1	7.5	14	M
1a	4.5	8	M
1b	3	6	M

Q2_Q6 (Score: 33/56)

Question No	Awarded Marks	Maximum Marks	Status
Q2	6.5	14	M
2a	1	4	M
2b	0.5	4	M
2c	2.5	3	M
2d	2.5	3	M
Q3	8	14	M
3a	4	8	M
3b	4	6	M
Q4	10	14	M
4a	3	4	M
4b	3	4	M
4c	2.5	3	M
4d	1.5	3	M
Q5	0	14	O
5a	0	4	O
5b	0	4	O
5c	0	6	O

Q6	8.5	14	M
6a	2.5	4	M
6b	3.5	4	M
6c	0.5	3	M
6d	2	3	M

OMR ANSWER SHEET

Use Only H.B Pencil to darken the appropriate Circle.

Use Black Ball point pen to write in the Boxes

Roll Number

2	5	1	9	5	3
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9
0	0	0	0	0	0

Paper No. (See Reverse)

4
2
3
4
6
7
8

Paper Code

M	A	S	1
A	A	A	A
B	B	B	B
C	C	C	C
D	D	D	D
E	E	E	E
F	F	F	F
G	G	G	G
H	H	H	H
I	I	I	I
J	J	J	J
K	K	K	K
L	L	L	L
M	M	M	M
N	N	N	N
O	O	O	O
P	P	P	P
Q	Q	Q	Q
R	R	R	R
S	S	S	S
T	T	T	T
U	U	U	U
V	V	V	V
W	W	W	W
X	X	X	X
Y	Y	Y	Y
Z	Z	Z	Z

OMR Sheet No.



7068462

409844

MCQ Booklet Serial No.

4	1	2	8	7	1	0
1	1	1	1	1	1	1
2	2	2	2	2	2	2
3	3	3	3	3	3	3
4	4	4	4	4	4	4
5	5	5	5	5	5	5
6	6	6	6	6	6	6
7	7	7	7	7	7	7
8	8	8	8	8	8	8
9	9	9	9	9	9	9
0	0	0	0	0	0	0

Level of Exam

Final
INTERMEDIATE <input type="radio"/>
FINAL <input checked="" type="radio"/>

Stream

New
OLD <input type="radio"/>
NEW <input checked="" type="radio"/>

Signature of Candidate with Pen

Anah

Signature of Invigilator with Pen

Suresh

SPACE FOR ICAI STAMP

DATE OF EXAM → 27 NOV 2020

1	A	B	C	D	16	A	B	C	D
2	A	B	C	D	17	A	B	C	D
3	A	B	C	D	18	A	B	C	D
4	A	B	C	D	19	A	B	C	D
5	A	B	C	D	20	A	B	C	D
6	A	B	C	D	21	A	B	C	D
7	A	B	C	D	22	A	B	C	D
8	A	B	C	D	23	A	B	C	D
9	A	B	C	D	24	A	B	C	D
10	A	B	C	D	25	A	B	C	D
11	A	B	C	D	26	A	B	C	D
12	A	B	C	D	27	A	B	C	D
13	A	B	C	D	28	A	B	C	D
14	A	B	C	D	29	A	B	C	D
15	A	B	C	D	30	A	B	C	D

J0305