

NATIONAL LAW UNIVERSITY, DELHI

LL.M. (Professional), Semester-II (Batch of 2020)

End Semester Examinations, July-2021

Paper: Securities and Investment Law

Total Marks: 100

Instructions:

1. Answer **any five questions** from the followings.
 2. No clarification shall be sought on the question paper.
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Q.1) ABC Pvt Co. Ltd got incorporated in 2011 in New Delhi. Mr. A and Mr. B are the Promoters of the company. In order to expand its reach nationwide and raise more capital for a given project, it wants to go for an Initial Public Offer (IPO). The company wants to place a fresh issue of 10,00,000 Equity shares of Rs 10 each. The company has a net tangible asset of 2 crore rupees, average operating profit of 10 crore rupees, and net worth of 80 thousand rupees in each of the preceding last three financial years. In the light of these details, answer the following questions:

i) Whether and how ABC Pvt Co. Ltd can issue an IPO?

ii) If yes, what is the role and contribution of the promoters in the entire process?

iii) Are there any safety mechanisms to ensure that the IPO does not fail?

iv) Critically analyse SEBI's efforts for streamlining the process of issuing different kinds of offers by the companies in the securities market. **(Marks 20)(approx. 2000-2200 words)**

Q.2) Write a critical note about the role of SEBI in achieving the objectives laid down under the SEBI Act 1992. **(Marks 20) (Approx. 2000-2200 words)**

Q.3) Answer the following questions:

i) XYZ Co. Ltd is a public company with its shares listed on BSE and NSE. The company was incorporated in 2010 as a private company and became a public listed company in 2018. The company issued an IPO in 2018. The promoters of the company now intend to delist the equity shares of the company from both the stock exchanges. Whether and how the shares can be delisted? The promoters of the company together with the merchant banker offered a price of Rs 280 per share in the delisting offer. However, the shareholders of the company are unhappy as they feel that the offer price is much below the intrinsic value of the shares. In such a situation, what are the rights of the shareholders? Discuss.

(Marks 10)(Approx 1200 words)

ii) "There needs to be a balance between preventing the insider trading practices in the market and the need to allow and fulfil trading desires of the insiders." Critically analyse in the light of the relevant SEBI regulations. **(Marks 10) (Approx 1200 words)**

Q.4) In a bid to attract foreign investment, particularly in its tourism sector, the State of Sandaron embarked on an ambitious infrastructural development plan. Sandaron is located in South America and known for its pristine beaches and marine life. The country however has for long been under-developed lacking the necessary resources to unlock its potential. As part of its development plan, Sandaron enacted important foreign investment legislations that, among others, introduced important amendments in other relevant laws, including easing of

restriction on the inflow of capital and waiver of tax liability for any investment made with a lock-in period of 10 years. An aggressive social media campaign was also launched by the Government of Sandaron inviting foreign investors to invest in various sectors of the economy. The President of Sandaron announced on the sidelines of a UN summit on environment, that “..while protection of environment is necessary, it cannot override the goal of human survival and development. [...] Foreign investment plays a crucial role in human development, and there is a need to ensure that investments are not unnecessarily burdened with what are otherwise state obligations.” Deutsch Hotels Inc. (DHI), a leading hotel chain based in Germany, applied for grant of license for setting up a five-star hotel on one the largest beaches in Sandaron, located in the province of Nagyaki. While the license by the State of Sandaron (including grant of land) was made within 2 weeks, two specific conditions contained therein required – (i) obtaining of additional clearances from the provincial government, and (ii) completion of construction activities within one year of grant of license. Based on the approvals received, DHI commenced construction on the approved site. Two months post the commencement, DHI received a notice from the Nagyaki environment ministry seeking immediate halt to all construction activities, since the land allotted was located in an area that had been earlier in the year identified as habitat of the ‘Hawksbill Sea Turtle’ which had been listed as critically endangered by the International Union for Conservation of Nature (IUCN). In the meantime, local protest against the construction intensified to a level that no construction remained possible. Representatives of DHI met with central and provincial leaders to diffuse the situation and find an amicable solution. Such efforts failed to bear fruit, and one year post commencement of the construction, DHI’s license was cancelled for failing to adhere to license grant conditions. DHI representations before Courts of Sandaron failed to bear any result. From the facts above, ascertain whether actions of Sandaron violates the fair and equitable treatment protection in the Germany-Sandaron BIT. (Note: Germany-Sandaron BIT utilises the same formulations as India - Australia (Terminated) BIT)

(Marks 20; 2000-2200 words)

Q.5) American Metals Inc., incorporated in US, is the leading manufacturers of agricultural products including heavy machinery, tools and planting materials. Its subsidiary Pacific Metal Inc., incorporated in Bangladesh is an integrated road engineering, procurement and construction (“EPC”) company with experience in design and construction of various road/highway projects. Both companies want to jointly invest in India, not only in their areas of expertise but also expand into real estate development, commercial project construction, railway infrastructure development projects, broadcasting content services and manufacturing of tobacco products. Advise:

- a) Can it invest in the noted sectors?
- b) Extent of investment permitted?
- c) Applicable routes of investments for the listed sectors?
- d) Requirements to be fulfilled to ensure that its investment is classified as foreign direct investment.

(20 Marks, 2000-2200 words)

Q.6) Write short note on any two:

(2x10 Marks, 1000-1200 words each)

- a) Most Favoured Nation Protection and National Treatment
- b) Understanding of ‘Investor’ and ‘Investment’
- c) Foreign Direct Investment and Foreign Portfolio Investment
- d) International Investment Arbitration