

FUNCTIONS OF COMPANY SECRETARY

Company Secretaries appointed as:

- Company Secretary has been **recognized as Key Managerial Personnel** along with the Chief Executive Officer/managing director/manager, whole-time director and Chief Financial Officer. (section 203)
- Being **Key Managerial Personnel**, Company Secretary is required to be mandatorily **appointed in every company** belonging to such class or classes of companies as may be prescribed.
- Also as per Rule 8A, i.e. Appointment of Company Secretaries in companies.
- Act as a secretarial auditor as per sec 204 of company act 2013.
- Act as a internal auditor as per sec 138 of the company act 2013.

The Company Secretary

- Is a vital link between the company and its Board of Directors, shareholders, government and regulatory authorities.
- Ensures that Board procedures are both followed and regularly reviewed and provides guidance to Chairman and the Directors on their responsibilities under various laws.
- Commands high position in the value chain and acts as conscience seeker of the company.

A Company Secretary being multidisciplinary professional renders services in following areas:

CORPORATE GOVERNANCE AND SECRETARIAL SERVICES

Corporate Governance Services

- Advising on good governance practices and compliance of Corporate Governance norms as prescribed under various Corporate, Securities and Other Business Laws and regulations and guidelines made thereunder.

Corporate Secretarial Services

- Promotion, formation and incorporation of companies and matters related therewith
- Filing, registering any document including forms, returns and applications by and on behalf of the company as an authorized representative
- Maintenance of secretarial records, statutory books and registers
- Arranging board/general meetings and preparing minutes thereof
- All work relating to shares and their transfer and transmission

CORPORATE LAWS ADVISORY AND REPRESENTATION SERVICES

Corporate Laws Advisory Services

Advising companies on Compliance of legal and procedural aspects, particularly under –

- SEBI Act, SCRA and rules and regulations made thereunder
- Foreign Exchange Management Act
- Consumer Protection Act
- Depositories Act
- Environment and Pollution Control Laws
- Labour and Industrial Laws
- Co-operative Societies Act
- Mergers and Amalgamations and Strategic Alliances
- Foreign Collaborations and Joint Ventures
- Setting up subsidiaries abroad
- Competition Policy and Anti Competitive Practices
- IPR Protection, Management, Valuation and Audit

- Drafting of Legal documents.

Representation Services

Representing on behalf of a company and other persons before-

- Company Law Board
- National Company Law Tribunal
- Competition Commission of India
- Securities Appellate Tribunal
- Registrar of Companies
- Consumer Forums
- Telecom Disputes Settlement and Appellate Tribunal
- Tax Authorities
- Other quasi-judicial bodies and Tribunals

Arbitration and Conciliation Services

- Advising on arbitration, negotiation and conciliation in commercial disputes between the parties
- Acting as arbitration/conciliator in domestic and international commercial disputes
- Drafting Arbitration/Conciliation Agreement/Clause

FINANCIAL MARKETS SERVICES

Public Issue, Listing and Securities Management

- Advisor/consultant in issue of shares and other securities
- Preparation of Projects Reports and Feasibility Studies
- Syndication of Loans from banks & financial institutions
- Drafting of prospectus/offer for sale/letter of offer/other documents related to issue of securities and obtaining various approvals in association with lead managers
- Loan Documentation, registration of charges, status and search reports
- Listing of securities/delisting of securities with recognized stock exchange
- Private placement of shares and other securities
- Buy-back of shares and other securities
- Raising of funds from international markets – ADR/GDR/ECB

Takeover Code and Insider Trading

- Ensuring compliance of the Takeover Regulations and any other laws or rules as may be applicable in this regard
- Acting as Compliance Officer and ensuring compliance with SEBI (Prohibition of insider Trading) Regulations, 1992 including maintenance of various documents.

Securities Compliance and Certification Services

Compliance with rules and regulations in the securities market particularly –

- Internal Audit of Depository Participants
- Certification under SEBI (DIP) Guidelines
- Audit in relation to Reconciliation of shares
- Certificate in respect of compliance of Private Limited and Unlisted Public Company (Buy Back Securities) Rules

FINANCE AND ACCOUNTING SERVICES

- Internal Audit
- Secretary to Audit Committee
- Working capital and liquidity management
- Determination of an appropriate capital structure
- Analysis of capital investment proposals
- Business valuations prior to mergers and/or acquisitions
- Loan syndication
- Budgetary controls
- Accounting and compilation of financial statements

TAXATION SERVICES

- Advisory services to companies on tax management and tax planning under Income Tax, Excise and Customs Laws
- Preparing/reviewing various returns and reports required for compliance with the tax laws and regulations
- Representing companies and other persons before the tax authorities and tribunals

INTERNATIONAL TRADE AND WTO SERVICES

- Advising on all matters related to IPRs and TRIPs Agreement of WTO
- Advising on matters relating to antidumping, subsidies and countervailing duties

- International Commercial Arbitration
- Advising on and issuing certificates on Exim Policy and Procedures
- Advising on Intellectual Property licensing and drafting of Agreement
- Acting as registered Trade Mark Agent

MANAGEMENT SERVICES

General/Strategic Management

- Advising on Legal Structure of the organization
- Business policy strategy and planning
- Formulation of the organizational structure
- Acting as management representative to obtain ISO Certification

Corporate Communications and Public Relations

- Communication with shareholders, stakeholders, Government and Regulators, Authorities, etc.
- Advisory services for Brand equity and image building

Human Resources Management

- Manpower planning and development
- Audit of the HR function
- Performance appraisal
- Motivation and remuneration strategies
- Industrial relations
- Office management, work studies and performance standards
- Advising on industrial and labour laws

Information Technology

- Compliance with cyber laws
- Conducting Board Meetings through video-conferencing and teleconferencing
- Advising on software copyright and licensing
- Development of management reports and controls
- Maintenance of statutory records in electronic form
- Sending notices to shareholders by electronic mode
- Filing of forms/documents in electronic form with Registrar of Companies and other statutory authorities

(1) Secretarial functions:

- To ensure compliance of the provisions of Companies Law and rules made there-under and other statutes and bye-laws of the company.
- To ensure that business of the company is conducted in accordance with its objects as contained in its memorandum of association.
- To ensure that affairs of the company are managed in accordance with its objects contained in the articles of association and the provisions of the Companies Law.
- To prepare the agenda in consultation with the Chairman and the other documents for all the meetings of the board of directors.
- To arrange with and to call and hold meetings of the board and to prepare a correct record of proceedings.
- To attend the board meetings in order to ensure that the legal requirements are fulfilled, and provide such information as are necessary.
- To prepare, in consultation with the chairman, the agenda and other documents for the general meetings.
- To arrange with the consultation of chairman the annual and extraordinary general meetings of the company and to attend such meetings in order to ensure compliance with the legal requirements and to make correct record thereof.
- To carry out all matters concerned with the allotment of shares, and issuance of share certificates including maintenance of statutory Share Register and conducting the appropriate activities connected with share transfers.
- To prepare, approve, sign and seal agreements leases, legal forms, and other official documents on the company's behalf, when authorised by the board of the directors or the executive responsible.
- To advise, in conjunctions with the company's solicitors, the chief executive or other executive, in respect of the legal matters, as required.
- To engage legal advisors and defend the rights of the company in Courts of Law.
- To have custody of the seal of the company.

(2) Legal obligations of secretary:

- Filling of various documents/returns as required under the provisions of the Companies Law.
- Proper maintenance of books and registers of the company as required under the provisions of the Companies Law.
- To see whether legal requirements of the allotment, issuance and transfer of share certificates, mortgages and charges, have been complied with.
- To convene/arrange the meetings of directors, on their advise.
- To issue notice and agenda of board meetings to every director of the company.
- To carry on correspondence with the directors of the company on various matters.
- To record the minutes of the proceedings of the meetings of the directors.
- To implement the policies formulated by the directors.
- To deal with all correspondence between the company and the shareholders.
- To issues notice and agenda of the general meetings to the shareholders.
- To keep the record of the proceedings of all general meetings.
- To make arrangement for the payment of the dividend within prescribed period as provided under the provisions of the Companies Law.

(3) To maintain the following statutory books:

- the register of transfer of shares;
- the register of buy-backed shares by a company;
- the register of mortgages, charges etc.;
- the register of members and index thereof;
- the register of debenture-holders;
- the register of directors and other officers;
- the register of contracts;
- the register of directors' shareholdings and debentures;

- the register of local members, directors and officers, in case of a foreign company;
- Minute books;
- Proxy register;
- Register of beneficial ownership;
- Register of deposits;
- Register of director's share holding; and
- Register of contracts, arrangements and appointments in which directors etc are interested.

(4) Other duties:

The company secretary usually undertakes the following duties:

- (a) Ensuring that statutory forms are filed promptly.
 - (b) Providing members and auditors with notice of meeting.
 - (c) Filing of copy of special resolutions on prescribed form within the specified time period.
- (5) Supplying a copy of the accounts to every member of the company, every debenture holder and every person who is entitled to receive notice of general meetings. You must send annual audited accounts.
- (6) Keeping or arranging for the having of minutes of directors' meetings and general meetings. Apart from monitoring the Directors and Members minutes books, copies of the minutes of board meetings should also be provided to every director.
- (7) Ensuring that people entitled to do so, can inspect company records. For example, members of the company are entitled to a copy of the company's register of members, and to inspect the minutes of its general meetings and to have copies of these minutes.
- (8) Custody and use of the common seal. Companies are required to have a common seal and the secretary is usually responsible for its custody and use.

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