

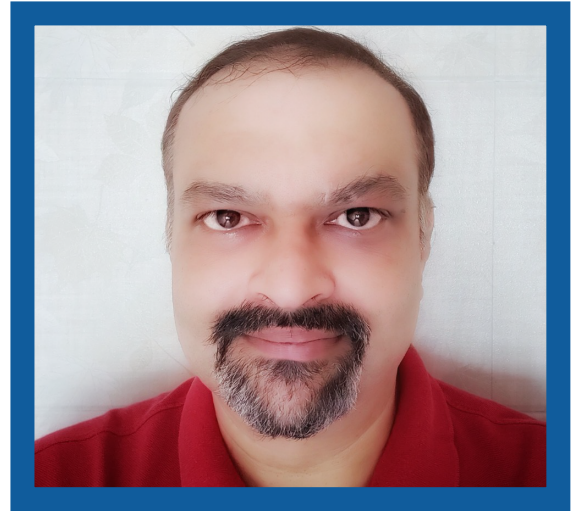


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26TH
JANUARY | **Happy
Republic
Day**



Rajeev Mamidanna
Chairman



Dear Fellow ISODA Colleagues

Here is our beloved and most looked-forward to InterConnect. This comes to you all along with wishes for Republic Day and a Happy 2021. May your businesses be able to sustain, thrive and grow exponentially this year.

This was the first time ISODA experienced an Online AGM. And this was the first time in many years when the Regional Secretaries were elected rather than selected. We have brought in a great amount of structure to all our Management Committee meetings and each member has an important role to play. The Pandemic had set us back a little in terms of timelines for the InterConnect. But we are happy to tell you that this will be regularized from this edition and we can all enjoy our value-added reading every month.

As the Chairman of the Association, I urge all of you to read this InterConnect thoroughly. One of the biggest value that partners have realized being part of ISODA is the Legal and Tax advisors who are on our retainerhip and always ready to help us immensely. Their details are mentioned below my address for you to take advantage. They have been helping draft MoUs, validating contracts, structuring advice when needed, advising on taxation and accounting. I have personally only heard good things about their response, and I have personally also experienced it first-hand. Please reach out to them for any help.

It is at this time that Collaboration is the most important amongst members. Let's work together and grow together. Prosperity will follow.

Cheers
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Functioning in the new normal!

Prashant Jain

JNR Management Resources Pvt Ltd



This generation has seen coining of the phrase “...the NEW NORMAL”. This basically means that disruption caused by the pandemic will have to take everyone adapt to upheavals of regulations, social, economical & technological challenges. Irrespective of the size of businesses everyone has to find ways and means to “functioning in the new normal”. But looking at the bright side of it, this also means business models will have to adapt and evolve to embrace this new normal for not only survival but growth as well. We need to think and go beyond WFH conditions. We need to transform our solution offerings to introduce solutions which can help customers to actually do business. WFH will just not be enough if day to day operations of invoicing, payments, deliveries, payment of taxes, filing of regulatory returns cannot happen. Public Key Infrastructure plays a key role in this digital transformation. PKI enables business continuity for businesses of all sizes, help their customers, segments cutting across all geographies and all verticals and help them innovate/customize their products/services as per needs.

As remote work trend remains strong, PKI solutions can help keep companies secure.

1. You can protect customers by implementing technologies such as Secure Online Applications, Secure/Multipurpose Internet Mail Extensions (SSL & S/MIME). This guarantees your customers will see a significant reduction in phishing attacks. It will also increase their confidence in your company for helping to keep their business secure.
2. Working remotely will be around for a while. Digital signatures confirm that signers are, in fact, who they say they are, and they prevent retrospective changes to signed documents. Additionally, digital signatures allow for a quick turnaround without the need to meet in person or send via snail mail. Finally, they are legally admissible and equivalent to ink signatures – something electronic signatures don’t offer.
3. Lot growth. while the growth is phenomenal, the reality is IoT devices can be very hackable. That’s because until the recent past, these devices were simply given bolt-on approaches to keep them secure. And PKI is the de-facto technology that many in security agree.
4. Build a robust & secure infrastructure meeting all regulatory compliances.
5. Increasing move toward automation. While some companies aren’t ready for automation, you should be. The big technology providers like Microsoft, Apple and Google want you to move in this direction sooner rather than later.

PKI offers organisations the flexibility to create security models, however defining, maintaining and securing PKI is a major risk to enterprises. Key theft, weak controls on keys, and impact on business agility as new applications are on-boarded without due care, are some of the challenges faced by enterprises.

Whatever you do to boost your business, be sure you work with a vendor that allows you to expand your business, and that you’ll have access to all the tools and resources needed to provide the best value possible to your customers. In the end, this helps promote a safer and secure digital world for everyone.

For those looking to grow and expand customer offerings within the encryption market, one segment to consider now is public key infrastructure (PKI). After all, it is a partner’s local expertise, resources and commitment that helps customers implement a solid identity and security foundation.

JNR Management has been extremely successful in partnering with many ISODA members in introduction of PKI within their own organisations and provide a platform to kickstart to upsell to their existing customer base. Our authentication, encryption & digital signing offerings were largely unaffected during the lockdown and beyond.

Prashant Jain

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Regional Secretaries and their priorities

Ajay C Bhayani

Regional Secretary – West



Focus on increasing collaboration among the regional members & develop newer chapters in Pune & Central India.

Ajay C Bhayani

Regional Secretary – West

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Raju Warriar

Regional Secretary – Gujarat

I will work towards expanding ISODA membership base in the Gujarat region by adding another 10 members in 2021. I will also focus on organizing sessions / talks on various aspects of managing business , Life, wellbeing etc. for the benefit of the community

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Regional Secretary – Gujarat

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Regional Secretaries and their priorities

Ravikumar

Regional Secretary – South



Going forward to the new year, I look forward to bringing in new members into our association who can add value to our members and themselves. I also plan on increasing the number of regional meets, bringing in subject matter experts and also have some fun while doing it. I look forward to the support and cooperation of our members and the association to make this a rocking year 2021.

Ravikumar

Regional Secretary – South

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Alok Gupta

Regional Secretary – North

I intend to increase the members strength from 30 to 40 in next 9 months. We will plan for sessions every month to increase the interaction and collaboration among the members. These can be Gyan sessions, 1 per month for members, on latest technology, trends and Educating the members to complement each other in business. We also intend to get the Family members of ISODA partners to be involved in some of our activities.

Alok Gupta

Regional Secretary – North

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Regional Secretaries and their priorities

Vision is to work hard for my Region and grow our region with member count increasing from 12 to 30. To ensure we maintain renewal for old members and do not let go of people for whatever reasons.

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Regional Secretary – Rajasthan

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Lalit Choudhary

Regional Secretary – Rajasthan



I will focus on increasing Membership and retention of old members. I wish to increase collaboration for business between all ISODA EAST members and to ensure everyone stays connected on a regular basis.

Dhirendra Khandelwal

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Dhirendra Khandelwal

Regional Secretary – East

At present we have 3 members. My target is to achieve 6 memberships during my tenure.

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Regional Secretary – North East

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Tapan Ghoshal

Regional Secretary – North East

Some highlights of Management Committee Meetings

- ★ We plan to involve ISODA members and their families every alternate month with activities that are interesting and engaging
- ★ We also intend to do at least 1 interactive event for all members every Month where we can all learn and collaborate
- ★ We are deciding the time frame of TechSummit 11 and will be communicating the plan of action shortly
- ★ We intend to grow membership from 203 currently to 250 by the next AGM.

Clawback Provision in Employment contracts

A clawback is a contractual provision whereby money already paid to an employee must be returned to an employer or benefactor, sometimes with a penalty. Many companies use clawback policies in employee contracts for incentive-based pay like bonuses. Most clawback provisions are non-negotiable. Clawbacks are typically used in response to misconduct, scandals, poor performance, or a drop in company profits.

Clawbacks are written into employee contracts so employers can control bonuses and other incentive-based payments. The clawback acts as a form of insurance in case the company needs to respond to a crisis such as fraud or misconduct, or if the company sees a drop in profits. The employee must also pay back monies if the employer feels his or her performance has been poor. Clawbacks are different from other refunds or repayments because they often come with a penalty. In other words, an employee must pay additional funds to the employer in case the clawback is put into effect.

The objective of keeping or embedding such clauses in employment agreements is that the employers need to strike the right balance between protecting the company's interests, adhering to regulatory requirements, attracting the best people and retaining their services and also to keep its employees stay focused in their obligation in a fair manner. But still there are certain objectives:

Completion or Non-Completion of the targeted work by the employee.

1. If the employee leaves during the period of probation or training before getting recruited by the company so as to repay all those expenses which the company has levied from his pocket to train him during probation period (Secure Recruitment). (it is almost similar to a bond agreement in that sense)
2. In a case of termination of employment on the basis of misconduct, poor individual or business performance, low calibre, etc.
3. Failure of the condition precedent to the employer's obligation to pay or a pre-vesting claw-back clause.
4. Helps in binding up a healthy relationship between the employer and the employee for an efficient working in the course of an employment period.

Legal Corner Continue

5. To return the monetary value of the incentives plus a penalty in case of any monetary loss to the company by the employee.
6. To reimburse the company for any gains from exercising options by the employee.
7. To reclaim a portion of any bonus if an investment worsens.
8. To encourage loyalty.
9. To incentivise in relation to future performance.
10. To reward past performance.

The employees' bonuses are, in a claw-back scheme, tied specifically to the performance (or lack thereof) of their work the individual(s) may have created as part of his or her job expecting a high profit. If the work/job executed does indeed do well over a long period of time, and permanently improves the nature of the firm, the bonuses paid to the individual are allowed to be retained by the individual. However, if the work fails, then the firm has the inherent right to revoke, reclaim, or otherwise repossess some or all of the bonus amount(s). Also, it is seen that investors have greater confidence in a firm's financial statements after claw-back adoption, and that boards of director's place greater weight on accounting numbers in executive bonuses after a claw-back is in place (i.e., pay for performance sensitivity increases).

But claw back of paid or vested amount would normally be difficult to implement because once a right has accrued and been paid, it is difficult to claim it back under Indian law. In addition to the difficulty of recovering such benefits from employees, there will also be difficulties from a tax regulation perspective since an employee will not be able to recover paid income tax from the government directly. Further, for employees earning less than INR 10,000 the provisions of the Payment of Wages Act would be applicable which permits deductions in only certain limited circumstances.

The clause should also include a pro rata repayment structure – the amount to be repaid in what form and manner and to what an extent, i.e.,

- (i) The basis for which the bonus has been awarded,
- (ii) The circumstances in which it must be repaid, and
- (iii) The manner in which it must be repaid.

Otherwise, the repayment provision will be unenforceable for lack of certainty.

Legal Corner Continue

The validity of such a clause would only prevail when there was a written agreement with the employee providing that if he or she left the company within a certain period of time, he or she would have to repay the money to the company. Generally, employers do have a written agreement in place with the employee, and the agreement may have a provision that only provides for a clawback if the employee leaves the company voluntarily. The written agreement may also have a provision regarding how the bonus will be paid back. Having the agreement in writing is helpful as proof that the employee received and agreed to pay the bonus back.

In India, currently, there is no law that specifically governs or prohibits inclusion of clawback provisions. The Reserve Bank of India, in 2012[1] and 2019[2], issued guidelines that provided inclusion of clawback clauses in relation to variable and deferred remuneration of whole-time directors, chief executive officers (“CEO”) and other risk takers. However, these guidelines apply only to private-sector and foreign banks.

Given the absence of any express governing law, enforcement of clawback clauses can be a hindrance if there is no time period for claiming such clawback or the time period defined is unreasonable. There is also uncertainty as to whether clawback can only be claimed from the variable component of salary or whether it can be expanded to include amounts of the fixed or the guaranteed components of salary. Moreover, many companies provide a large portion of variable compensation in company stock or stock options, which have uncertain valuation. It is, therefore, essential that clawback clauses are defined in crystal clear terms, along with spelling out the circumstances under which such clawback can be enforced. We should expect to see significant evolution of law on this subject in the coming years.

1. *Compensation of Whole Time Directors/Chief Executive Officers/ Risk takers and Control function staff, issued by the Reserve Bank of India, dated January 13, 2012*
2. *Compensation of Whole Time Directors/Chief Executive Officers/ Risk takers and Control function staff, issued by the Reserve Bank of India, dated November 04, 2019*

References:

Various articles and blogs

Importance of New Tax Reforms

A slew of new reforms have been introduced by the Modi government among which include significant reforms in the labor market and a controversial agriculture in the form which was decades in the making aims to eradicate the power of APMCs. Coupled with the recent restructuring of the income tax Department by making all the procedures faceless, the government is indicating the end of the inspector Raj is ushering a new regime wherein human discretion is a thing of the past and the system will be the ultimate decision maker.

One cannot undermine the importance of these reforms especially in the income tax Department which since the past approximately 50 years has been relying on human intervention in human decision-making to come up with assessment orders which effect all taxpayers. The new set of reforms aim to take away the power from the bureaucrats and make the process transparent and unbiased. The jury is still out on the fact whether India will be able to keep up with the new electronic processes which are being introduced. But the intent of the government is clear, it aims to democratize all processes and make sure that the level of service and discretion which is being given to a person sitting in an urban center like Delhi is similar to the services and the discretion being given to a person living in rural India.

The recent consolidation and amendment in the labor law and the Social Security landscape of India is another step in that direction. Similar to what was done in the goods and services tax there will be a central overarching regulation however states will be free to make their own rules as they deem fit and set their own thresholds as they deem fit. The days of the inspector Raj over where in regular inspections are being replaced with faceless compliance and faceless inspections through electronic means so as to allow industry and businesses to emerge from the shackles of the earlier Labor Code and scale up and generate employment which is the need of the hour especially now in these challenging times.

As is the case with the introduction of any law the implementation remains key, but the vision and the intent are clear.