GUIDANCE NOTE
ON GENERAL MEETINGS

The "Secretarial Standard on General Meetings (SS-2)", formulated by the Secretarial Standards Board (SSB) of the Institute of Company Secretaries of India (ICSI) and issued by the Council of the ICSI, has been approved by the Central Government. Adherence to this Secretarial Standard is mandatory in accordance with Section 118(10) of the Companies Act, 2013 (the Act) read with ICSI Notification No. 1 (SS) of 2015 dated 23rd April, 2015 published in the Gazette of India Extraordinary Part III - Section 4. SS-2 applies to all types of General Meetings, in respect of which Notices are issued on or after 1st July, 2015.

SS-2 prescribes a set of principles for convening and conducting General Meetings and matters related thereto.

This Guidance Note sets out the explanations, procedures and practical aspects in respect of the provisions contained in SS-2 to facilitate compliance thereof by the stakeholders.

BACKGROUND

The Act mandates holding of Meetings at specified intervals and also prescribes related procedural rules for the same. Such mandate is in recognition of the fact that Meetings play a vital role in the functioning and governance of a company. The primary purpose of a Meeting is to ensure that a company gives reasonable and fair opportunity to those entitled to participate in the Meeting to take decisions as per the prescribed procedures. A company, being an artificial person, can, in respect of matters to be decided at General Meeting, take such decisions through its Members by way of Resolutions passed at validly held Meetings. Meetings of Members are known as General Meetings and determining what constitutes such validly held Meeting is of utmost importance.

General Meetings can be broadly categorised as follows:

(i) Annual General Meeting - Every company is required to hold, during every Calendar Year, a Meeting of its Members called the Annual General Meeting. The importance of the Annual General Meeting arises out of the nature of business transacted at this Meeting. Broadly there are two types of business that are transacted at an Annual General Meeting – Ordinary Business and

Special Business. At an Annual General Meeting, consideration of financial statements & consolidated financial statements and reports of the Board of Directors and the auditors, declaration of dividend, appointment of Directors in place of those retiring and approval or ratification of appointment of the Auditors and fixing their remuneration are Ordinary Business. Any other item of business is referred to as Special Business and may also be transacted at an Annual General Meeting.

Annual General Meetings provide Members with an opportunity to collectively discuss the affairs of the company and to exercise their ultimate control over the management of the company. If a company defaults in any year in holding its Annual General Meeting, any Member of the company has a statutory right to approach the Company Law Board (CLB)/National Company Law Tribunal (Tribunal) to call or direct the company to call an Annual General Meeting.

(ii) *Extra-Ordinary General Meeting* - A company may also hold any other Meeting of its Members called an Extra-Ordinary General Meeting, as and when required or at the requisition of the Members. An Extra-Ordinary General Meeting is convened for transacting Special or Urgent business that may arise in between two Annual General Meetings. All business transacted at an Extra-Ordinary General Meeting are called Special Business.

(iii) *Meeting of a Class of Members* - Such Meetings are held to pass Resolutions which only bind the Members of the concerned class. Only Members of that class can attend such Meetings and speak as well as vote thereat, e.g. Meetings of holders of preference shares. Such Meetings are required to be convened when it is proposed to vary the rights of the holders of a particular class of shares. Provisions which govern General Meetings are *mutatis mutandis* applicable to such Meetings.

(iv) *Meetings of Debenture Holders, Creditors etc.* - Such Meetings are held to pass Resolutions which bind the debenture holders or creditors, as the case may be, of the company. The debenture holders or creditors, as the case may be, can attend such Meetings and speak as well as vote thereat. Provisions which govern General Meetings are *mutatis mutandis* applicable to such Meetings.

(v) *Other Meetings* - In addition to the abovementioned Meetings, a company may also hold Meetings of its Members, debenture holders or creditors under the directions of the Court or the CLB/Tribunal or any other authority.

Members of a company can exercise their powers and can bind the company when they act as a body at a validly convened and held Meeting. They should act collectively and not individually. A Member or shareholder, irrespective of his shareholding, cannot bind a company by his individual act.

INTRODUCTION

The fundamental principles with respect to General Meetings are laid down in the Act. SS-2 facilitates compliance with these principles by endeavouring to provide further clarity where there is ambiguity or establishing benchmark standards to harmonise prevalent diverse practices. Complying with SS-2 ensures robust procedures and systems which protect the interests of the company and its stakeholders. Incidentally, it has been observed that the quantum and propensity for litigations or risk thereof is directly proportional to the degree of non adherence of proper procedures and the non-availability of proper records, especially in the case of small and private companies. The objective of SS-2 is to address such issues.

SS-2 requires the Company Secretary(ies) to over-see the vital process of facilitating and recording the decision making process in a company besides maintaining the integrity of the Meetings. Where there is no Company Secretary in the company or in absence of the Company Secretary, any Director or other Key Managerial Personnel (KMP) or any other person authorised by the Board for this purpose may discharge such of the functions of the Company Secretary as given in SS-2.

SS-2 does not seek to substitute or supplant any existing laws. It strives to supplement such laws for promoting better corporate governance.

Therefore, in addition to SS-2, the requirements laid down under any other applicable laws, rules and regulations, need to be complied with. However, in case of variations in any provision of the applicable laws and SS-2, the stricter provisions need to be complied with.

APPLICABILITY OF SS-2

In terms of sub-section (10) of Section 118 of the Act, every company is required to observe SS-2.

SS-2 is thus applicable to the General Meetings of all companies incorporated under the Act including private and small companies, except One Person Company (OPC) and such other class or classes of companies which are exempted by the Central Government through Notification.

Applicability to companies governed under Special Acts

SS-2 is also applicable to Banking Companies, Insurance Companies, Companies engaged in generation or supply of electricity, Companies governed by any Special Acts, if incorporated under the Act. However, if the provisions of these Special Acts such as the Banking Regulation Act, 1949, the Insurance Act,

1938, etc. applicable to these companies are inconsistent with SS-2, then the provisions of such Special Acts shall prevail.

Applicability to the Meetings of class of Members, debenture holders and creditors

The principles enunciated in SS-2 for General Meetings of Members are applicable *mutatis mutandis* to Meetings of class of Members, debentureholders and creditors.

A Meeting of Members or class of Members or debenture holders or creditors of a company under the directions of the Court or the CLB / Tribunal or any other prescribed authority shall be governed by SS-2 without prejudice to any rules, regulations and directions prescribed for and orders of, such courts, judicial forums and other authorities with respect to the conduct of such Meetings.

Effect of subsequent changes in the Act

SS-2 is in conformity with the provisions of the Act. However, if due to subsequent changes in the Act, a particular Standard or any part thereof becomes inconsistent with the Act, the provisions of the Act shall prevail over the Secretarial Standards. Moreover, if any stipulation contained in SS-2 is derived from any provision of law and if such provision is declared inapplicable to any class of companies, such stipulation shall not apply to such class of companies.

The Ministry of Corporate Affairs (MCA), Government of India, in exercise of its powers conferred by clauses (a) and (b) of sub–section (1) of Section 462 and in pursuance to sub-section (2) of the said section of the Act, vide Notifications No. G.S.R. 463(E), G.S.R. 464(E), G.S.R. 465(E) and G.S.R. 466(E) [(hereinafter referred to as MCA Notification(s)] dated 5th June, 2015, directed that certain provisions of the Act shall not apply or shall apply with such exceptions, modifications and adaptations as specified in the MCA Notification (s) to Government Companies, Private Companies, Nidhis and Companies incorporated under Section 8 of the Companies Act, 2013 (corresponding to Section 25 of the Companies Act, 1956) respectively.

Accordingly, if due to the MCA Notification(s) referred to herein above or Notifications that may be issued in future, the provisions of the Standards or any part thereof become inconsistent with any of the provisions of the Act, such corresponding provisions of the Act read with the MCA Notification (s) shall prevail.

MCA Notification No. G.S.R. 466(E) dated 5th June, 2015 exempts Companies incorporated under Section 8 of the Companies Act, 2013 (corresponding to Section 25 of the Companies Act, 1956) from the applicability of Section 118 of

the Act as a whole except that minutes of Meetings of such a company may be recorded within thirty days of the conclusion of every Meeting in case of companies where the Articles of Association provide for confirmation of minutes by circulation. Consequently, SS-2 is not applicable to companies incorporated under Section 8 of the Companies Act, 2013. However, such companies may voluntarily comply with SS-2.

SCOPE OF THE GUIDANCE NOTE

This Guidance Note should be read in the context of SS-2.

It elucidates, wherever necessary, the basis for setting a particular Standard, explains the procedural and practical aspects and gives illustrations. It also integrates the replies to various queries raised by the stakeholders on the particular Standard after the issuance of SS-2.

In this Guidance Note:

- Paragraphs numbers (including sub-paragraph numbers and their further sub-divisions) refer to the corresponding paragraphs under SS-2
- Extracts from the SS-2 have been set in Bold and Normal font type as appearing in the SS-2 respectively.
- The Guidance text and analysis is set in *italics*.

This Guidance Note is prepared on the basis of the relevant provisions of the Act as amended up to 30th November, 2015 and the rules, circulars, clarifications etc. issued by the MCA until 30th November, 2015.

DEFINITIONS

The following terms are used in this Guidance Note with the meaning specified:

"Act" means the Companies Act, 2013 (Act No. 18 of 2013) or any previous enactment thereof, or any statutory modification thereto or re-enactment thereof and includes any Rules and Regulations framed thereunder.

"Agency" means agency approved or recognised by the Ministry of Corporate Affairs and appointed by the Board for providing and supervising electronic platform for voting.

"Articles" means the Articles of Association of a company, as originally framed or as altered from time to time, or applied in pursuance of any previous company law or the Companies Act, 2013.

"Calendar Year" means calendar year as per Gregorian calendar i.e. a period of one year which begins on January 1st and ends on 31st December.

"Chairman" means the Chairman of the Board or the Chairman appointed or elected for a Meeting.

"Maintenance" means keeping registers and records either in physical or electronic form, as may be permitted under any law for the time being in force, and includes the making of necessary entries therein, the authentication of such entries and the preservation of such physical or electronic records.

"Meeting" or "General Meeting" or "Annual General Meeting" or "Extra-Ordinary General Meeting" means a duly convened, held and conducted Meeting of Members.

"Minutes" means a formal written record, in physical or electronic form, of the proceedings of a Meeting.

"Minutes Book" means a Book maintained in physical or in electronic form for the purpose of recording of Minutes.

"National Holiday" includes Republic Day, i.e., 26th January, Independence Day, i.e., 15th August, Gandhi Jayanti, i.e., 2nd October and such other day as may be declared as National Holiday by the Central Government.

"Ordinary Business" means business to be transacted at an Annual General Meeting relating to (i) the consideration of financial statements, consolidated financial statements, if any, and the reports of the Board of Directors and Auditors; (ii) the declaration of any dividend; (iii) the appointment of Directors in the place of those retiring; and (iv) the appointment or ratification thereof and fixing of remuneration of the Auditors.

Note: Annual Ratification is contemplated in law for 'continuation of appointment' of Auditors under Section 139(1) of the Act read with Rule 3(7) of the Companies (Audit and Auditors) Rules, 2014. It falls within the scope of 'appointment' and hence is an item of 'ordinary business' to be transacted at the Annual General Meeting.

'Ratification of appointment of auditor' is therefore logically included in the definition of the term 'ordinary business' herein.

"Proxy" means an instrument in writing signed by a Member, authorising another person, whether a Member or not, to attend and vote on his behalf at a Meeting and also where the context so requires, the person so appointed by a Member.

"Quorum" means the minimum number of Members whose presence is necessary for holding of a Meeting.

"Remote e-voting" means the facility of casting votes by a member using an electronic voting system from a place other than venue of a general Meeting.

"Secretarial Auditor" means a Company Secretary in Practice appointed in pursuance of the Act to conduct the secretarial audit of the company.

"Secured Computer System" means computer hardware, software, and procedure that –

(a) are reasonably secure from unauthorised access and misuse;

(b) provide a reasonable level of reliability and correct operation;

(c) are reasonably suited to performing the intended functions; and

(d) adhere to generally accepted security procedures.

"Special Business" means business other than the Ordinary Business to be transacted at an Annual General Meeting and all business to be transacted at any other General Meeting.

"Timestamp" means the current time of an event that is recorded by a Secured Computer System and is used to describe the time that is printed to a file or other location to help keep track of when data is added, removed, sent or received.

"Voting by electronic means", includes 'remote e-voting' and voting at the general Meeting through an electronic voting system which may be the same as used for remote e-voting.

"Voting by postal ballot" means voting by ballot, by post or by electronic means.

"Voting Right" means the right of a Member to vote on any matter at a Meeting of Members or by means of e-voting or postal or physical ballot.

Words and expressions used and not defined herein shall have the meaning respectively assigned to them under the Act.

References herein to Sections and Regulations relate respectively to Sections of the Act and Regulations of Table F of Schedule I to the Act, unless otherwise stated.

Words imparting the singular include the plural and words imparting any gender include every gender.

Meanings of some of the terms used in this Guidance Note are placed at the end of this Guidance Note under the heading "Glossary".

GUIDANCE ON THE PROVISIONS OF SS -2

1. Convening a Meeting

1.1 Authority

A General Meeting shall be convened by or on the authority of the Board.

The authority to convene a General Meeting of the company shall either be with the Board itself or with a Director, Company Secretary, Manager or any other officer of the company under the authority of the Board.

A Director, Company Secretary, Manager or any other officer of the company shall not have the power to convene a General Meeting on his own.

In order to be a valid Meeting, the Notice of the Meeting should be given by a person duly authorised by the Board.

Notice of a General Meeting given by the Secretary without the sanction of the Directors or other proper authority is invalid, but such a Notice may be ratified by the Board of Directors before the Meeting [Hooper v. Kerr, Stuart & Co. (1900) 83 LT 729].

It may be noted that this proposition holds good as the approval of the Board is necessary for the issuance of the Notice including - the items of business to be transacted, text of Resolutions and explanatory statement contained in the Notice.

Necessity of properly constituted Board for calling a General Meeting

Unless the minimum number of Directors prescribed by the Act or the Articles, as the case may be, has been appointed, the Board is not considered to be fully constituted.

If a Board, not properly constituted in accordance with law, convenes a Meeting, such Meeting shall be irregular and the Resolutions passed thereat shall be invalid.

The continuing Directors may act notwithstanding any vacancy in the Board; but, if and so long as their number is reduced below the quorum fixed by the Act for a meeting of the Board, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that fixed for the quorum, or of summoning a general meeting of the company, but for no other purpose [Regulation 69 of Table F of Schedule I to the Act].

The Board shall, every year, convene or authorise convening of a Meeting of its Members called the Annual General Meeting to transact items of Ordinary Business specifically required to be transacted at an Annual General Meeting

as well as Special Business, if any. If the Board fails to convene its Annual General Meeting in any year, any Member of the company may approach the prescribed authority, which may then direct the calling of the Annual General Meeting of the company.

Section 96 of the Act requires that the Annual General Meeting should be held in each year. The term "Year" is not defined in the Act. Thus, the definition has to be construed as per the General Clauses Act, 1897. Accordingly, the 'Year' should be considered as Calendar Year.

In case of any default in holding the Annual General Meeting in any year, any Member of the company may approach the CLB/Tribunal for suitable directions.

The Board may also, whenever it deems fit, call an Extra-ordinary General Meeting of the company.

Every General Meeting other than an Annual General Meeting shall be called Extra-ordinary General Meeting.

If at any time the number of Directors required to form a Quorum are not within India, any Director or any two Members of the company may call an Extra-Ordinary General Meeting in the same manner, as nearly as possible, as that in which such a Meeting may be called by the Board [Regulation 43(ii) of Table F of Schedule I to the Act].

The Board shall, on the requisition of Members who hold, as on the date of the receipt of a valid requisition,

(a) in the case of company having a share capital, not less than one-tenth of the paid-up share capital carrying Voting Rights or

(b) in the case of a company not having share capital, not less than one-tenth of total voting power of the company,

call an Extra-ordinary General Meeting of the company.

This applies only with respect to calling an Extra-ordinary General Meeting.

It may be noted that the phrase 'one-tenth of the paid-up share capital', implies that the total amount paid-up on shares held by requisitionists should not be less than one-tenth of the total amount paid-up on all the shares of the company which carry the right to vote.

A single shareholder may also file the requisition for convening the Meeting provided that he has the requisite voting rights or voting power as per Section 100 of the Act.

As the reference in Section 100 of the Act is to shares which carry voting rights,

holders of preference shares cannot join in requisitioning an Extra-Ordinary General Meeting, except for those matters in respect of which they are entitled to vote.

Section 100 does not distinguish between a requisitionist being a natural or an artificial person. Therefore, an artificial person may also submit the requisition with the company. Thus, in case a body corporate is a Member of another company, it can file the requisition for convening a Meeting if it holds the required voting rights or voting power.

Every Member of a company has a right to requisition an Extra-Ordinary General Meeting in accordance with the provisions of the Act. He cannot be restrained from requisitioning an Extra-Ordinary General Meeting and he is not bound to disclose the reasons for the Resolutions proposed to be moved at the Meeting [Life Insurance Corporation of India v. Escorts Ltd. and Others (1986) 59 Comp. Cas. 548 (SC)].

The requisition to call an Extra-Ordinary General Meeting should be in writing or through electronic means [Rule 17(1) of the Companies (Management and Administration) Rules, 2014].

The Board cannot reject a requisition as invalid, except when the requisitionists do not fulfill the eligibility criteria stipulated under Section 100 of the Act.

However, it has been held that the Board is within its rights to refuse to call and hold an Extra-Ordinary General Meeting on the requisition of Members where an order of injunction restraining the company from holding any Meeting is in force [A.D. Chaudhary v. Mysore Paper Mills Ltd. (1976) 46 Comp. Cas. 639(Kar)].

If, on receipt of a valid requisition having been made in this behalf, the Board, within twenty-one days from the date of such receipt, fails to call a Meeting on any day within forty-five days from the date of receipt of such requisition, the requisitionists may themselves call and hold the Meeting within three months from the date of requisition, in the same manner in which the Board should have called and held the Meeting.

The Board should, within twenty-one days from the date of receipt of a valid requisition, call a Meeting on any day within forty-five days from the date of receipt of such requisition. In case the Board fails to call the General Meeting requisitioned by the Members, it can be called and convened by the requisitionists.

Rule 17(7) of the Companies (Management and Administration) Rules, 2014 provides that if the Meeting is not convened, the requistionists shall have a right to receive list of members together with their registered address and number of shares held and the company concerned is bound to give a list of

members together with their registered address made as on twenty first day from the date of receipt of valid requisition together with such changes, if any, before the expiry of the forty-five days from the date of receipt of a valid requisition.

Where the Board has failed to convene the requisitioned Extra-Ordinary General Meeting and the requisitionists convene the Meeting, then it becomes the duty of the Board to provide the requisitionists with all the relevant information viz. registered email addresses of members, number of shares held by them etc. from the Register of Members.

Explanatory statement need not be annexed to the Notice of an Extra-ordinary General Meeting convened by the requisitionists and the requisitionists may disclose the reasons for the Resolution(s) which they propose to move at the Meeting.

There is, however, no bar on the addition of an Explanatory Note by the Board in order to elucidate its position, in any manner, with respect to the proposals contained in the requisition.

Such requisition shall not pertain to any item of business that is required to be transacted mandatorily through postal ballot.

1.2 Notice

1.2.1. Notice in writing of every Meeting shall be given to every Member of the company. Such Notice shall also be given to the Directors and Auditors of the company, to the Secretarial Auditor, to Debenture Trustees, if any, and, wherever applicable or so required, to other specified persons.

Notice for convening the Meeting should be given in writing to every person entitled to such Notice.

Form of Notice

The Notice should be in writing, though no form has been prescribed for this purpose. Oral intimation that it is proposed to have a general meeting is not a Notice at all and consequently if any Meeting is held, it will be invalid.

Persons entitled to Notice

In terms of sub-section (3) of Section 101 of the Act, Notice of every Meeting of the company should be given to –

(a) every Member of the company, legal representative of any deceased Member or the assignee of an insolvent Member;

(b) the Auditor or Auditors of the company; and

(c) every Director of the company.

In terms of sub-section (55) of Section 2 of the Act, Member includes the holder of both equity and preference shares whose name is entered as a beneficial owner in the records of a depository. Accordingly, holders of equity shares as well as holders of preference shares are entitled to receive Notices of General Meetings and to attend the Meetings. Further, Section 101 of the Act does not qualify the term "Member" by a restrictive expression "entitled to vote". Accordingly, preference shareholders are entitled to receive Notices of, and to attend, General Meetings, even if they are not entitled to participate in the discussion or vote on any Resolution placed before the Meeting.

Further, the term Director includes all types of Directors in the company at the time of dispatching of Notices i.e. Whole Time Director, Independent Director, Nominee Director, Additional Director, Alternate Director, Woman Director etc.

In addition to the above, paragraph 1.2.1 of SS-2 requires Notice to be given to the following:

(i) Secretarial Auditor

In terms of paragraph 4.3 of SS-2, the Secretarial Auditor or his authorised representative is required to attend the AGM. In case of other General Meetings, Explanation to paragraph 4.3 states that the Chairman may invite the Secretarial Auditor or his authorised representative to attend, if he considers it necessary.

Notice of the General Meetings should therefore be sent to the Secretarial Auditors, as an invitation to attend or for information, as the case may be.

(ii) Debenture Trustees

Debenture Trustees have a fiduciary responsibility towards the debenture holders and in order to protect the interest of such debenture holders, the Debenture Trustees should be made aware about the developments in the company, by serving to them the Notice of the General Meeting, Notice of postal ballot and their accompanying documents.

The expression "Auditors" used in paragraph 1.2.1 of SS-2 includes auditors appointed for conducting cost audit pursuant to Section 148 of the Act.

It is also advisable to give notice to the Auditor(s) whose appointment is proposed at the General Meeting.

In case of buyback/delisting etc., the notice of General Meeting should also be served on such shareholders who have offered their shares to the company

and whose shares are in escrow account, till the same is accepted by the company.

The other recipients of the Notice may include–

(i) in the case of a listed company, the stock exchanges on which the shares or other securities of the company are listed;

(ii) financial institutions, pursuant to a covenant in the agreement entered into with them for availing financial assistance;

(iii) foreign collaborator/s, if the agreement with them provides for sending of such Notices;

(iv) holders of Stock Options of the company; and

(v) any other recipient to whom the company has agreed to give Notice (say, as per the terms of an agreement with any party).

In addition, a Court may direct issuance of Notice to some other persons such as Court-appointed Chairman or observers. In such case the Notice should be given accordingly.

In the case of Members, Notice shall be given at the address registered with the company or depository. In the case of shares or other securities held jointly by two or more persons, the Notice shall be given to the person whose name appears first as per records of the company or the depository, as the case may be. In the case of any other person who is entitled to receive Notice, the same shall be given to such person at the address provided by him.

Notice to Member which is a body corporate

Sub–section (1) of Section 20 of the Act provides that a document may be served on a company at its Registered Office. Thus, Notice to a Member, which is a body corporate should be given at its Registered Office.

Notice to representatives and assignees

Where the company has received intimation of death of a Member, the Notice of Meeting shall be sent as under:

(a) where securities are held singly, to the Nominee of the single holder;

(b) where securities are held by more than one person jointly and any joint holder dies, to the surviving first joint holder;

(c) where securities are held by more than one person jointly and all the

joint holders die, to the Nominee appointed by all the joint holders.

In the absence of a Nominee, the Notice shall be sent to the legal representative *of the deceased Member.*

Shares of a deceased shareholder come under the authority of the legal representative. When the name of the person to whom shares of the deceased shareholder are transmitted gets entered in the Register of Members, the membership of the deceased shareholder stands terminated.

Where the joint shareholders have not appointed a nominee and where the legal representatives of each of the joint shareholders are different, the notice is to be forwarded to the legal representative of the first named shareholder.

In case of insolvency of a Member, the Notice shall be sent to the assignee of the insolvent Member.

In case the Member is a company or body corporate which is being wound up, notice shall be sent to the liquidator.

Notice when Meeting is adjourned

When the Meeting is adjourned for thirty days or more, fresh Notice of the adjourned Meeting should be given in the manner specified. (This matter is discussed at length under the heading "Adjournment of Meetings").

Irregular Notice

Some instances of irregular Notice are as under:

(1) When the Notice of General Meeting is issued without authorisation by the Board

(2) When the Notice is issued by an invalidly constituted Board

(3) When the Appointment of a Director who has signed the Notice is void and the Notice gets issued even after discovery of invalidity

(4) When the Notice is not in accordance with the Act.

A Meeting called and held without adequate notice and Resolutions passed at such Meetings will be invalid [Parmeshwari Prasad Gupta v the Union of India 1973 AIR 2389].

In situations where the company is unable to send Notice to a Member whose registered address is situated in enemy territory, on grounds of force majeure, there is no violation of the requirement relating to Notice. Further, if the right of some Members to receive Notice is suspended by operation of law, the

company can carry on its business without serving Notice on such Members [Re. Anglo International Bank (1943) Ch. 233 CA; (1943) 2 All ER 88].

Great care should be taken to ensure that notice of the Meeting is served on all the persons entitled to receive it. If non-receipt of notice by persons entitled to receive such notice is proved and the same is due to some default of the company, the proceedings of such General Meeting may be held invalid.

Challenge to the validity of a Notice

Those who seek to challenge the validity of a Notice should act promptly.

Effect of MCA Notifications

In case of a private company, the Articles may contain a provision as to the persons to whom the Notice shall be sent. In such a case, notwithstanding anything stated above, the Notice of General Meetings should be sent to such persons as specified in the Articles [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

In the case of a Nidhi, the document may be served only on Members who hold shares of more than one thousand rupees in face value or more than one percent of the total paid-up share capital of the Nidhi, whichever is less. For other shareholders, document may be served by a public notice in a newspaper having vide circulation in the district where the Registered Office of the company is situated and publication of the same on the notice board of the company [In line with MCA Notification No. G.S.R. 465(E) dated June 5, 2015].

1.2.2 Notice shall be sent by hand or by ordinary post or by speed post or by registered post or by courier or by facsimile or by e-mail or by any other electronic means. 'Electronic means' means any communication sent by a company through its authorised and secured computer programme which is capable of producing confirmation and keeping record of such communication addressed to the person entitled to receive such communication at the last electronic mail address provided by the Member.

Mode of Issuing Notice:

Notice may be served by various modes, such as hand delivery, post, facsimile, e-mail or any other electronic means. Notice may even be sent through courier. However, if the Articles of the company prescribe the mode by which Notice has to be given, it should be given accordingly. Similarly, if any agreement to which the company is a party requires the company to deliver the Notice to any person including Joint Venture Partner/Investor in a specific manner, it should be given accordingly.

Notice may be sent through e-mail as a text or as an attachment to an email or as a notification providing electronic link or Uniform Resource Locator (URL) for accessing such notice.

Further, where Notice is sent through e-mail, the subject line in such e-mail should state the name of the company, Notice of the type of Meeting, place and the date on which the Meeting is scheduled [Rule 18(3)(ii) of the Companies (Management and Administration) Rules, 2014].

If Notice is sent in the form of a non-editable attachment to e-mail, such attachment should be in the Portable Document Format (PDF) or in a non-editable format together with a 'link or instructions' for recipient for downloading relevant version of the software [Rule 18(3)(iii) of the Companies (Management and Administration) Rules, 2014].

The company shall ensure that it uses a system which produces confirmation of the total number of recipients e-mailed and a record of each recipient to whom the Notice has been sent and copy of such record and any Notices of any failed transmissions and subsequent re-sending shall be retained by or on behalf of the company as "proof of sending".

In cases where the Notice is sent by e-mail or any other electronic means, the proof of sending of the Notice is required to be maintained by the company.

Proof of sending of the Notice should be preserved for such period, as may be decided by the Board. In case any legal proceedings in connection with the same are pending, this proof should be maintained till complete disposal of the proceedings, including accounting for limitation period for any appeals. The proof may be maintained in soft form.

Notice shall be sent to Members by registered post or speed post or courier or e-mail and not by ordinary post in the following cases:

(a) if the company provides the facility of e-voting;

(b) if the item of business is being transacted through postal ballot.

If a Member requests for delivery of Notice through a particular mode, other than one of those listed above, he shall pay such fees as may be determined by the company in its Annual General Meeting and the Notice shall be sent to him in such mode.

Where a Member indicates to the company in advance that Notice shall be sent to him through a particular mode other than that prescribed above and as permitted under the Act, service of Notice would not be deemed to be effected unless the company serves the Notice in the manner specified by the Member. However, the Member should pay such fee for the particular

mode of delivery of notice, as may be determined by the company in its Annual General Meeting.

Notice shall be sent to Members by registered post or speed post or e-mail if the Meeting is called by the requisitionists themselves and where the Board had not proceeded to call the Meeting.

In terms of clause (8) of Rule 17 of the Companies (Management and Administration Rules), 2014, the Notice of the Meeting called by requisitionists should be given by speed post or registered post or through electronic means.

Addresses for sending Notice by electronic means

In case the Notice and accompanying documents are given by e-mail, these shall be sent at the Members' e-mail addresses, registered with the company or provided by the depository, in the manner prescribed under the Act.

A company is required to provide an advance opportunity at least once in a financial year, to the Member to register his email address or to update a fresh email id with the company or get such details updated with the depository [Rule 18(3)(i) of the Companies (Management and Administration) Rules, 2014].

Notice of the General Meeting should contain a Note in this regard.

If a Member does not provide an updated e–mail address, the company shall not be in default for non-receipt of such Notice by the Member.

In case of the Directors, Auditors, Secretarial Auditors and others, if any, the Notice and accompanying documents shall be sent at the e-mail addresses provided by them to the company, if being sent by electronic means.

Effect of MCA Notification

In case of a private company, the Articles may contain a provision as to the mode of sending Notice of General Meetings. In such a case, notwithstanding anything stated above, the Notice of General Meetings should be sent through such mode as specified in the Articles [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

1.2.3 In case of companies having a website, the Notice shall be hosted on the website.

The Notice of the General Meeting of the company should be simultaneously placed on the website, if any, of the company and on the website as may be notified by the Central Government [Rule 18(3)(ix) of the Companies (Management and Administration) Rules, 2014].

Thus, if the company has a website, Notice is required to be hosted on the website.

Such Notice should remain on the website till the date of General Meeting.

1.2.4 Notice shall specify the day, date, time and full address of the venue of the Meeting.

Day/date and Time

The Notice should state explicitly the day,date, time and venue of the Meeting. In the absence of any of these particulars, the Meeting would be invalid. In a Notice where the day of the Meeting is incorrectly stated, i.e. where the day of the week does not match the date and month given, that Notice is bad in law.

Meetings shall be called during business hours, i.e., between 9 a.m. and 6 p.m., on a day that is not a National Holiday. A Meeting called by the requisitionists shall be convened only on a working day.

A General Meeting can be held on any day, including a public holiday or on a Sunday, unless such day is a National Holiday.

Sub-section (2) of Section 96 of the Act requires the Annual General Meetings to be held during business hours on a day that is not a National Holiday. Explanation to Rule 17(2) of Companies (Management and Administration) Rules, 2014 prescribes that a Meeting called by the requisitionists should be convened only on a working day. Harmonising the two provisions above and for the convenience of Members, SS-2 requires that all General Meetings, including Extra-Ordinary General Meetings, should be held during business hours and on a day that is not a National Holiday.

Every Notice of a Meeting should state a specific time at which the Meeting is to commence, for example, 11:00 a.m.

Where the Notice of a General Meeting did not specify the hour of the Meeting, the Notice was invalid and any Resolution passed at such Meeting was also invalid [Prachi Insurance Co. Ltd. v. Chaudhary Madhusudan Das, (1964) 2 Comp L J 157 (Orissa)].

The time mentioned in the Notice is the time for commencement of the Meeting. MCA has clarified that 'time' indicates only the hour of commencement of the Meeting [Letter of the then Department of Company Affairs, No.8/16(1)/61-PR dated 9-5-1961].

The company should start its Meeting during the business hours but it is not

necessary that the Meeting ends within the business hours; the Meeting may end even after the business hours.

Place

Notice shall contain complete particulars of the venue of the Meeting including route map and prominent land mark for easy location. In case of companies having a website, the route map shall be hosted along with the Notice on the website.

Every Notice of a Meeting should specify the place of the Meeting. The expression 'place' means the exact location or full postal address where the Meeting is to be held, so as to enable a person to locate the venue of the Meeting without any difficulty.

The company cannot fix a place for a Meeting which is prohibited by the Articles of the company [Re: Aidqua Holdings (Mauritius) Inc v. Tamil Nadu Water Investment Co. Limited (2008) 142 com cases 497: (2008) 83 SCL 434 (CLB)].

Giving the route-map and prominent landmark in the Notice is a good practice benefitting the Members. Though e-voting is mandatory in case of certain companies, many Members may still prefer to attend the Meeting physically. Most of the times, it is observed that there is no fixed venue for General Meetings. The registered office of companies is also sometimes located in remote areas.

Providing a route map and prominent landmark would enable easy location of the venue by those who wish to attend the Meeting. The objective is to ensure that they are able to reach the venue at the appointed time without much difficulty.

Since the spirit of the Standard is to enable easy location, the route-map and prominent landmark may not be required, if the venue of the Meeting is generally known to its Members.

Illustration

Mr. X, Ms. Y (wife of Mr. X) and Mr. C (son of X & Y) are the Directors of XYZ Ltd. They are also the Members of XYZ Ltd. alongwith 4 other persons who are brothers and sisters of Mr. X. XYZ Ltd. proposes to hold the General Meeting at the residence of Mr. X.

In this case, since the residence of Mr. X is generally known to all Members of XYZ Ltd. and can be easily located, the route-map and prominent landmark may not be provided in the Notice.

Annual General Meetings shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situated, whereas other General Meetings may be held at any place within India. A Meeting called by the requisitionists shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situated.

Meetings can be held at any place within the postal limits or local limits of the city, town or village in which the Registered Office of the company is situated and where these two limits do not coincide, within the wider of the two limits [Circular of the then Department of Company Affairs - No.1/1/80-CL-V, dt. 16/02/81].

Explanation to Rule 18 of the Companies (Management and Administration) Rules, 2014, prescribes that the Extra-Ordinary General Meeting should be held at a place within India. Thus, an Extra-Ordinary General Meeting should be held only in India though not necessarily within the city, town or village in which the Registered Office of the company is situated.

Notice of a company which has a share capital or the Articles of which provide for voting at a Meeting by Proxy, shall prominently contain a statement that a Member entitled to attend and vote is entitled to appoint a Proxy, or where that is allowed, one or more proxies, to attend and vote instead of himself and that a Proxy need not be a Member. In case of companies where Proxy shall be a Member under the Act, a statement to that effect shall appear in the Notice prominently.

Where a Member cannot attend the Meeting in person, he is entitled to appoint a Proxy to attend on his behalf. Every Notice calling a Meeting should state that any Member entitled to attend and vote is entitled to appoint another person as a Proxy [Sub-section (1) of Section 105 of the Act].

Effect of MCA Notification

A government company may convene its Annual General Meeting at its registered office or some other place within the city, town or village in which the registered office of the company is situated or such other place as the Central Government may approve in this behalf [In line with MCA Notification No. G.S.R. 463(E) dated June 5, 2015].

In case of companies incorporated under Section 8 of the Companies Act, 2013 (corresponding to Section 25 of the Companies Act, 1956), the time, date and place of each Annual General Meeting may be decided upon before-hand by the Board of Directors having regard to the directions, if any, given in this

regard by the company in its General Meeting [In line with MCA Notification No. G.S.R. 466(E) dated June 5, 2015].

In case of a private company, the Articles may contain a provision as to matters which shall be contained in the Notice of General Meetings. In such a case, notwithstanding anything stated above, the Notice of General Meetings should contain matters in accordance with the Articles [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

1.2.5 Notice shall clearly specify the nature of the Meeting and the business to be transacted thereat. In respect of items of Special Business, each such item shall be in the form of a Resolution and shall be accompanied by an explanatory statement which shall set out all such facts as would enable a Member to understand the meaning, scope and implications of the item of business and to take a decision thereon. In respect of items of Ordinary Business, Resolutions are not required to be stated in the Notice except where the Auditors or Directors to be appointed are other than the retiring Auditors or Directors, as the case may be.

A Notice, in order to be valid, should clearly state the nature or type of Meeting i.e. Annual General Meeting or Extra-Ordinary General Meeting and the business to be transacted at such Meeting, and should give all material information so as to enable such items of business to be fully understood by the Members.

In the case of an Annual General Meeting which is convened within the extended period as granted by the Registrar of Companies under the third proviso to sub-section (1) of Section 96 of the Act, the Notice convening such Annual General Meeting should include the following information:

(a) the fact that such an extension of time has been sought and the reasons therefor;

(b) whether the Meeting is being convened within the extended time;

(c) any other relevant information.

Nature of business to be transacted at a Meeting and types of Resolution

In the case of an Annual General Meeting, the business to be transacted at the Meeting should be divided into two parts – Ordinary Business and Special Business. All business other than Ordinary Business shall be Special Business. However, in case of an Extra-Ordinary General Meeting, all business shall be Special Business.

Each item of Special Business should be in the form of Resolution. The Resolutions are broadly of two types: Ordinary Resolutions and Special

Resolutions. Ordinary and Special Resolutions have been defined under Section 114 of the Act. Broadly, Ordinary Resolutions are required to be passed by simple majority, whereas Special Resolutions are required to be passed by three–fourth (3/4th) majority. In case of a Special Resolution, the Notice of the Meeting should state that a particular Resolution is proposed to be passed as a Special Resolution [Clause (a) of sub-section (2) of Section 114 of the Act].

Explanatory statement

The detailed particulars in respect of Ordinary Business may be given in the Notice itself or may be given in the Board's Report. In such cases, explanatory statement need not be given. For example, the item of business in relation to dividend may be stated in the Notice merely as "To declare a dividend", in which case, in the Board's Report, full details should be given regarding the rate/amount of dividend recommended by the Board of Directors.

In respect of Special Business, an explanatory statement should be annexed to the Notice of the Meeting [Sub-section (1) of Section 102 of the Act].

Such explanatory statement should be issued by the same person who has been authorised to issue the Notice and in the same manner in which he has issued the Notice.

The underlying objective behind Section 173 of the Companies Act, 1956 (corresponding to Section 102 of the Act) is that the shareholders may have before them all material facts so as to enable them to form a judgment on the item of business before them. Any fact which would influence their decision, one way or the other, would be a material fact under the Act and has to be set out in the explanatory statement attached to the Notice of the Meeting [Firestone Tyre and Rubber Co. v. Synthetics and Chemicals Ltd. (1971) 41 Comp Cas 377 (Bom)].

Material facts generally include the present facts which are necessary for the shareholders to know and which may affect the decision of the shareholders but do not include the reasons for which the company entered into the contract with such party [In Re. Laljibhai C. Kapadia v. Lalji B. Desai [1973] 43 Comp Cas 17 (Bom)].

Material facts have to be given, but not detailed explanations [East India Commercial Co. Pvt. Ltd. V. Raymon Engineering Works Limited AIR 1966 Cal 232].

In relation to a General Meeting called on the basis of a valid requisition, there is no duty on the part of the Board of Directors to furnish an explanatory statement even though any item of business proposed to be transacted at any such

General Meeting will be deemed to be a Special Business.

When the requisitionists are calling the Meeting, it is not necessary for them to annex the explanatory statement along with the Notice. It is not duty of the requisitionists to provide the explanatory statement also [LIC of India v. Escorts Ltd. [1986] 59 Comp. Cas 548 (SC)].

A Notice issued and explanatory statement attached to it can be condemned as tricky, if the same is likely to mislead shareholders or if there is an omission to state the facts which would enable shareholders to decide if they would attend Meeting or not [M. R. Goyal v. Usha Internationals Ltd. (1998) 93 Comp Cas 634 (Del)].

It is a duty cast on the management to disclose, in an explanatory note, all material facts relating to the Resolution coming up before the General Meeting so as to enable the shareholders to form a judgment on the business before them [Life Insurance Corporation of India v. Escorts Ltd. and others (1986) 59 Comp. Cas. 548 (SC)].

The explanatory statement accompanying the Notice is not to be read in isolation and has to be read along with the item included in the agenda of business to be transacted at the Meeting [Rajiv Nag v. Quality Assurance Institute (India) Ltd. (2002) 37 SCL 25 (Del)].

Where the notice is published in a newspaper by the company, such explanatory statement need not be published in the newspaper. It should be mentioned in the newspaper that the notice along with explanatory statement has been sent to the Members.

Matters to be contained in the explanatory statement

The nature of the concern or interest (financial or otherwise), if any, of the following persons, in any special item of business or in a proposed Resolution, shall be disclosed in the explanatory statement:

(a) Directors and Manager,

(b) Other Key Managerial Personnel; and

(c) Relatives of the persons mentioned above.

Material facts, including the nature of interest or concern of a Director, are questions of facts, and therefore, while preparing the explanatory statement, not only the information derived from records be stated but also sufficient enquiry should be made to understand the nature of such interest or concern of any Director and of any Key Managerial Personnel.

In case any item of Special Business to be transacted at a Meeting of the company relates to or affects any other company, the extent of shareholding interest in that other company of every Promoter, Director, Manager, and of every other Key Managerial Personnel of the first mentioned company shall, if the extent of such shareholding is not less than two percent of the paid-up share capital of that company, also be stated in the explanatory statement.

If the shareholding in that other company, of the persons specified in this paragraph of SS-2, individually or collectively, exceeds or is equal to two percent, the extent of such shareholding should be disclosed in the explanatory statement.

Illustration

XYZ Ltd. proposes to enter into a contract with PQR Ltd. Mr. X and Mr. Y, who are promoters of XYZ Ltd. hold 1.5 % and 0.5% of the total paid-up share capital of PQR Ltd. respectively. In this case, the shareholding of both, Mr. X and Mr. Y should be disclosed in the explanatory statement of the Notice of General Meeting of XYZ Ltd., since the extent of their shareholding collectively is not less than two percent of the paid-up share capital of PQR Ltd.

For this purpose, the shareholding includes preference shares and shares with differential voting rights, if any.

Where reference is made to any document, contract, agreement, the Memorandum of Association or Articles of Association, the relevant explanatory statement shall state that such documents are available for inspection and such documents shall be so made available for inspection in physical or in electronic form during specified business hours at the Registered Office of the company and copies thereof shall also be made available for inspection in physical or electronic form at the Head Office as well as Corporate Office of the company, if any, if such office is situated elsewhere, and also at the Meeting.

This has been incorporated with the intent of wider coverage and for convenience of Members who visit such offices, and would also enhance disclosures on the part of the company.

Sometimes, the company may have a separate Head Office or Corporate Office located elsewhere than the Registered Office. In such cases, copies of the aforesaid documents, contracts, agreements, the Memorandum of Association or Articles of Association should also be made available for inspection at the Head Office and the Corporate Office for the benefit of those Members who may find it more convenient to visit these offices.

In such a case, the time during which and the place at which Members can inspect such documents should be mentioned in the explanatory statement. Such documents should be made available for inspection for not less than two hours during business hours.

The requirement of furnishing an explanatory statement cannot be dispensed with merely by giving an opportunity to Members to inspect the material documents at the registered office of the company [Circular of the then Department of Company Affairs-No. F12(59)-Cl-VI/63, dated 17 October, 1963].

In all cases relating to the appointment or re-appointment and/or fixation of remuneration of Directors including Managing Director or Executive Director or Whole-time Director or of Manager or variation of the terms of remuneration, details of each such Director or Manager, including age, qualifications, experience, terms and conditions of appointment or re-appointment along with details of remuneration sought to be paid and the remuneration last drawn by such person, if applicable, date of first appointment on the Board, shareholding in the company, relationship with other Directors, Manager and other Key Managerial Personnel of the company, the number of Meetings of the Board attended during the year and other Directorships, Membership/ Chairmanship of Committees of other Boards shall be given in the explanatory statement.

If a Director, who retires by rotation, is not proposed to be re-appointed or is not interested in being re-appointed, such fact should be clearly stated in the Notice. Further, the Notice should also specify whether the company has decided to fill up the said vacancy or not. If the company has decided to fill up the vacancy, the person who is proposed to be appointed as a Director in the said vacancy should also be specified in the Notice.

In case of appointment of Independent Directors, the justification for choosing the appointees for appointment as Independent Directors shall be disclosed and in case of re-appointment of Independent Directors, performance evaluation report of such Director or summary thereof shall be included in the explanatory statement.

Schedule IV to the Act provides that, on the basis of the report of performance evaluation, it should be determined whether to extend or continue the term of appointment of the Independent Director.

Re-appointment of the independent Director would be recommended by the Board only when there is a positive evaluation by the Board. Therefore, performance evaluation report of Independent Director is important and the same or a summary thereof should be included in the explanatory statement.

Further, in the case of listed companies-detailed resume and particulars of

Directors proposed to be appointed /re-appointed at the General Meeting have to be given. The most appropriate place for giving such information is the explanatory statement.

In case major amendments are proposed in the Articles, the details thereof should be given in the explanatory statement.

All Resolutions and the explanatory statement should be framed in simple and intelligible language so as to enable Members to understand the meaning, scope and implications of the proposed items of business.

Where Notice is accompanied by the Annual Report and if the details required under this paragraph of SS-2 are given in the Annual Report, it would be sufficient if appropriate reference is drawn in the explanatory statement to the particular portion of the Annual Report.

Validity of a Meeting held without explanatory statement

Wherever the Act requires certain specific items to be considered by the company and to explain these in the explanatory statement, the same should be included, failing which the Notice shall be invalid.

Moreover, non furnishing of an explanatory statement or furnishing of an inadequate explanatory statement may be fatal to the validity of the very Resolution passed, even though the Meeting might have otherwise been validly called and held.

In the interest of shareholders, all material facts concerning the transaction need to be placed before them so that they may, of their own capacity, arrive at a judgment without the influence of the management and therefore any contravention in this regard should lead to a nullification of proceedings [Sheth Mohanlal Ganpatram v. Shri Sayaji Jubilee Cotton and Jute Mills Co. Ltd. (1974) 34 Comp Cas 777 (Guj)].

A minor defect arising out of absence of strict conformity with the provisions of Section 173 of the Companies Act, 1956 (corresponding to Section 102 of the Act) may, however, not render the Resolution null and void [Joseph Michael v. Travancore Rubber and Tea Co. Limited (1986) 59 Comp. Cas. 898].

Effect of MCA Notification

In case of a private company, the Articles may contain a provision as to the matters which shall be contained in the Notice of General Meetings. In such a case, notwithstanding anything stated above, the notice of General Meetings should contain such matters as provided in the Articles [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

1.2.6 Notice and accompanying documents shall be given at least twenty-one clear days in advance of the Meeting.

A General Meeting should be called by giving at least twenty-one clear days' Notice of the Meeting.

Manner of computation of twenty-one clear days

For the purpose of reckoning twenty-one days clear Notice, the day of sending the Notice and the day of Meeting shall not be counted.

The expression "twenty-one clear days", means that the date of service of Notice and the date of the Meeting are to be excluded when calculating the period of twenty-one days [N.V.R. Naggappa Chettair v. Madras Race Club (1949) 19 Comp Cas 175 (Mad)].

Further, fractions of days are not to be taken into account i.e. part of the day after the hour at which the Notice is posted cannot be combined with the part of the day before the Meeting commences, to form one day. In actual practice, the Notice period will amount to twenty-three days Notice. Each of these days should be a full or calendar day [Bharat Kumar Dilwali v. Bharat Carbon & Ribbon Mfg. Co. Ltd. (1973) 43 Comp. Cas. 197 (Del)].

Intervening holidays are counted within the period of Notice.

> ***Illustration***
>
> *If a Meeting is to be held on the 25th of a month, Notice should be given on or before 3rd of the same month i.e. at least twenty three days before the date of the Meeting.*

Addition of two days for Notice Posted

Further in case the company sends the Notice by post or courier, an additional two days shall be provided for the service of Notice.

Addition of two days in case the company sends the Notice by post or courier is in line with Rule 35(6) of the Companies (Incorporation) Rules, 2014 which provides that in case of delivery by post, such service shall be deemed to have been effected in the case of a notice of a Meeting, at the expiration of forty eight hours after the letter containing the same is posted.

> ***Illustration***
>
> *If a Meeting is to be held on the 25th of a month, Notice should be posted on or before 1st of the same month i.e. at least twenty five days before the date of the Meeting.*

"Posted" is taken to mean the delivery of the envelope to an authorised official of a post office or a courier agency, which need not necessarily be the post box or the post office or the courier agency office situated within the city where the Registered Office of the company is situated. When mail is posted in bulk for franking by the post office or the courier agency, it is not sufficient to rely merely on the date indicated on the seal impressed on the envelope; a certificate should be obtained.

Where Notices are posted on time, the fact that some Members received them late will not affect the validity of the Notice or the Meeting [Calcutta Chemicals Co. Ltd. v. Dhiresh Chandra Roy (1985) 58 Com. Case 276 (Cal) and Maharaja Exports and Another v. Apparels Exports Promotion Council (1986) 60 Comp. Cas. 353].

The fact that Notice of a Meeting of shareholders to be held under directions of the Court for consideration of a scheme of amalgamation was delivered late to a shareholder owing to postal delay or omissions on the part of postal authorities would not invalidate the Meeting [Maknam Investments Ltd., In Re. (1996) 87 Comp. Cas. 689 (Cal.)], nor would the company be responsible for a necessary dependence on a third party agency for due services of notice [Somalingappa Shiva Putrappa Mugabasav v. Shree Renuka Sugars Ltd. (2002) 110 Comp. Cas. 371].

Though a Notice shall be deemed to be given at the expiry of forty-eight hours after the envelope containing the Notice was posted, in some circumstances (such as civil disturbance, curfew etc.), where the senders of the Notice know that the envelope has not been "received" by the post, this deeming provision is inoperative and not to be relied upon [Re. Thundercrest Ltd. (1995) 1 BCLC 117 (Ch D) and Bradman v. Trinity Estate Plc (1989) BCLC 33].

Serving of Notice through advertisement

Where the Notice is also published in a newspaper, twenty-one clear days should be reckoned from the date on which such advertisement appears.

Such advertisement may also contain information regarding the days during which the Register of Members would remain closed or the date fixed as the record date, which is the last date by which changes in the status of Members are recorded by the company.

Notice Period in the Articles

The Articles of the company may provide for a longer notice period in which case the Articles should be complied with. A longer notice period will be beneficial for the shareholders as they will get sufficient time to take the decisions regarding the General Meeting of the company.

Effect of MCA Notification

A company incorporated under Section 8 of the Companies Act, 2013 (corresponding to Section 25 of the Companies Act, 1956) may call its General Meeting by giving not less than fourteen clear days' Notice [In line with MCA Notification No. G.S.R. 466(E) dated June 5, 2015].

In case of a private company, the Articles may contain a provision as to the Notice period of General Meetings. In such a case, notwithstanding anything stated above, the Notice of General Meetings should be issued in accordance with the Articles [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

In case of Nidhis, in respect of Members who do not individually or jointly hold shares of more than one thousand rupees in face value or more than one percent of the total paid-up share capital whichever is less, it shall be sufficient compliance with the provisions of Section 136, if an intimation is sent by public notice in newspaper circulated in the district in which the Registered Office of the Nidhi is situated stating –

(i) the date, time and venue of Annual General Meeting;

(ii) that the financial statement with its enclosures can be inspected at the registered office of the company;

(iii) that the financial statement with enclosures are affixed at the Notice Board of the company; and

(iv) a Member is entitled to vote either in person or through Proxy

[In line with MCA Notification No. G.S.R. 465(E) dated June 5, 2015].

Special Notice

In case a valid special notice under the Act has been received from Member(s), the company shall give Notice of the Resolution to all its Members at least seven days before the Meeting, exclusive of the day of dispatch of Notice and day of the Meeting, in the same manner as a Notice of any General Meeting is to be given.

A Special Notice may be received by the company, signed, either individually or collectively, by such number of Members holding not less than one percent of total voting power or holding shares on which aggregate sum of not less than five lakh rupees has been paid up on the date of the notice (Rule 23(1) of the Companies (Management and Administration) Rules, 2014). In such a case, the item proposed by a Member should be transacted at the Meeting, although such item does not form part of the Notice of the Meeting.

Notice for such item received, if any, should be given by the company to its Members individually at least seven clear days before the Meeting.

Where this is not practicable, the Notice shall be published in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and in an English newspaper in English language, both having a wide circulation in that district, at least seven days before the Meeting, exclusive of the day of publication of the Notice and day of the Meeting. In case of companies having a website, such Notice shall also be hosted on the website.

1.2.7 Notice and accompanying documents may be given at a shorter period of time if consent in writing is given thereto, by physical or electronic means, by not less than ninety-five per cent of the Members entitled to vote at such Meeting.

The request for consenting to shorter Notice and accompanying documents shall be sent together with the Notice and the Meeting shall be held only if the consent is received prior to the date fixed for the Meeting from not less than ninety five per cent of the Members entitled to vote at such Meeting.

Paragraph 1.2.7 of SS-2 and the explanation thereto should be read in conjunction. The consent, in writing, for shorter Notice and for sending the accompanying documents need not be taken from the Members prior to the sending of such Notice.

However, request for such consent should be sent together with such Notice and the requisite consent from the Members should be received before the date of the Meeting. Receiving the requisite consent from the Members is a good secretarial practice which would enable the company to make necessary arrangements. Only if such consent from the requisite majority is received, the General Meeting can be held at a shorter Notice.

A person holding a specific power of attorney may sign the consent of a Member entitled to receive notices, and such consent shall be deemed as the consent of Member concerned.

Consent of Members not attending the Meeting at shorter Notice cannot be implied.

Consent means 'consent of Members entitled to attend and vote' and not 'of Members entitled to vote and present' – it is not enough that the Members present at the Meeting indicated either expressly or impliedly that they consented to or acquiesced in shortening the period of Notice [N.V.R Nagappa Chettiar v. Madras Race Club [1949] 19 Comp. Cas. 175(Mad)].

The requirement is of consent by not less than 95% of the Members entitled to vote and not of the Members holding 95% of the share capital. i.e. If a company has 100 Members entitled to vote, consent should be obtained from 95 Members, irrespective of the shareholding of these Members.

Effect of MCA Notification

In case of a private company, the Articles may contain a provision as to the calling of General Meetings at a shorter Notice. In such a case, notwithstanding anything stated above, the shorter Notice of General Meetings should be issued in accordance with the Articles [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

1.2.8 No business shall be transacted at a Meeting if Notice in accordance with this Standard has not been given.

Where the Members assemble for a Meeting but the Notice of such Meeting does not comply with the requirements prescribed in the Standard, no business should be transacted at such Meeting.

However, any accidental omission to give Notice to, or the non-receipt of such Notice by any Member or other person who is entitled to such Notice for any Meeting shall not invalidate the proceedings of the Meeting.

Accidental omission to give Notice

"Accidental omission" means omission which is neither designed nor deliberate and implies absence of intention [Maharaja Exports and Another v. Apparels Exports Promotion Council (1986) 60 Comp. Cas. 353].

In the absence of malafide intention or negligence, the non-receipt of Notice by any Member will not affect the validity of the Meeting.

The onus is on the company to prove that the omission to give notice to the shareholder was accidental.

Non-accidental omission to give Notice

An omission which arises from an error as to legal position cannot be classified as accidental.

Failure to give Notice of a General Meeting to the unpaid vendors of shares (viz. those who have transferred the shares for a price but the price has not yet been paid), who remained on the Register of Members, on the erroneous belief of the Directors that the vendors were no longer Members is wrong in law and the resulting failure to give Notice is not "accidental" [Musselwhite v. C.H. Musselwhite & Son Limited (1962) 32 Comp. Cas. 804].

Where large blocks of shareholders were inadvertently omitted to be notified about the General Meeting, the advantage of the provisions of Section 172 of the Companies Act, 1956 (corresponding to Section 101 of the Act) could not be taken. The onus of proof lies on those who claim the omission was accidental [POW Services Ltd. v. Clare (1995) 2 BCLC 435 at 450].

If a Meeting is held without service of Notice to majority shareholders, the Meeting would be invalid [Martin Castelino v. Alpha Omega Shipmanagement (P) Ltd. (2001) 33 SCL 210].

1.2.9 No items of business other than those specified in the Notice and those specifically permitted under the Act shall be taken up at the Meeting.

Notice of the Meeting should contain a list of items of business to be transacted thereat together with Resolutions relating to Special Business so as to ensure that Members get proper time to form their judgment on whether to vote for or against the proposed Resolution. The transaction of an item of business which has not been properly notified or which is substantially different from that notified is invalid [Cf. Henderson v. Bank of Australasia (1890) 45 Ch D 330].

However, this will not invalidate the transaction of other items of business for which proper Notice has been given.

A Resolution shall be valid only if it is passed in respect of an item of business contained in the Notice convening the Meeting or it is specifically permitted under the Act.

Apart from the items of business contained in the Notice convening the Meeting, there are specific items permitted under the Act, which may be taken up for consideration at the Meeting.

Items specifically permitted under the Act which may be taken up for consideration at the Meeting are:

(a) Proposed Resolutions, the Notice of which has been given by Members;

(b) Resolutions requiring Special Notice, if received with the intention to move;

(c) Candidature for Directorship, if any such Notice has been received.

Where special notice is required of any Resolution and notice of the intention to move such Resolution is received by the company from the prescribed number of Members, such item of business shall be placed for consideration at the Meeting after giving Notice of the Resolution to Members in the manner prescribed under the Act.

Any amendment to the Notice, including the addition of any item of business, can be made provided the Notice of amendment is given to all persons entitled to receive the Notice of the Meeting at least twenty one clear days before the Meeting.

Amendment to the Notice, if any, including the addition of any item of business, should be made at least twenty-one clear days before the Meeting.

Any amendment to the Notice, including the addition of any item of business, may be made at a shorter notice only after complying with the provisions of paragraph 1.2.7 of SS-2.

However, where e-voting is provided, any such amendment to the Notice can be made only by issuing a fresh Notice at least twenty-one clear days in advance.

The Notice of any amendment, including the addition of any item of business, should be sent individually by any mode specified for sending Notice and not be given through advertisement.

Any printing or typographical errors or grammatical or clerical mistakes identified in the Notice or the accounts, reports and statements attached thereto, may be rectified and intimated to the Members in the form of an erratum. Such erratum may be circulated to Members at the General Meeting itself. However, if such errors are on the text of Resolutions proposed, it is necessary to notify the Members as soon as they are discovered and no corrections should be made to the text of the Resolutions after commencement of voting including e-voting.

When the Meeting is being called by the requisitionists and the agenda for such Meeting is made by the requisitionists themselves, the Directors may, if they deem fit, add to the items of agenda, any business to be discussed at such Meeting. The consent for inclusion of such additional item at a shorter notice should be obtained in the manner as specified in paragraph 1.2.7.

1.2.10 Notice shall be accompanied, by an attendance slip and a Proxy form with clear instructions for filling, stamping, signing and/or depositing the Proxy form.

*The Notice of the Meeting should be accompanied by an attendance slip. A specimen of the Attendance Slip is placed at **Annexure I**. In case, a company has the practice of maintaining an attendance register containing signatures of Members attending the General Meeting, the same would be sufficient compliance for the purpose of sending "attendance slip" in accordance with this paragraph.*

The Notice of the General Meeting should also be accompanied by a Proxy form, so as to enable the Member to appoint a Proxy. The Proxy form should indicate the time limit within which proxies are to be deposited, the procedural requirement of stamping and signing of proxies and should also specify clearly the instructions for filling up the Proxy form.

In case of companies incorporated under Section 8 of the Companies Act, 2013 (corresponding to Section 25 of the Companies Act, 1956), where Proxy should be a Member, a statement to that effect should appear in the Notice prominently.

Notes to Notice

Notes are an integral part of the Notice of General Meetings. Notes to the Notice should be given immediately after the information pertaining to the business to be transacted under the heads of Ordinary Business and Special Business. They may inter-alia contain the following information:

(a) Information to Members about their right to appoint Proxy and informing them to lodge proxies not less than forty-eight hours before the time fixed for the Meeting.

(b) Intimation that an explanatory statement pursuant to sub–section (1) of Section 102 of the Act is annexed to the Notice.

(c) Dates of closure of Register of Members and Share Transfer Books.

(d) Information about nomination facility available to Members.

(e) Intimation that dividend, if declared, would be paid within thirty days from the date of declaration to Members whose names appear as beneficial owners with depositories or in the Register of Members as on the date specified for the purpose.

(f) Request to Members to claim any dividend due to them but remaining unclaimed or unpaid.

(g) Request to Members to furnish details such as Bank Account No., name of the Bank, Branch, IFSC Code and Place with PIN Code No. where the account is maintained to prevent fraudulent encashment of dividend warrants.

(h) Details of ECS/NEFT/RTGS/other similar electronic transfer facility available, if any, for Members.

(i) Address of share transfer agents whom Members may contact in case of any change of address or queries relating to their shares.

(j) *Request to Members holding multiple folios to get their holdings consolidated.*

(k) *Intimation regarding the availability of statutory registers or other documents referred to in the Notice/explanatory statement for inspection by Members.*

(l) *Request to Members to bring to the Meeting the attendance slip along with their copy of the Annual Report, if sent in physical form.*

(m) *Request to Members holding shares in dematerialised form to bring their Client ID and DP ID numbers for easy identification for attendance at the Meeting.*

(n) *Instructions for Remote e-voting, period for Remote e-voting, the manner in which the company would provide voting facility at the Meeting, etc.*

(o) *In case of any Resolution to be passed through postal ballot, the details of the procedure of such postal ballot and the fact that the company is providing the e-voting facility to the shareholders.*

(p) *Request to Members to register/ update their e-mail IDs with the Company/ Depository, so that the notice and related documents can be served to Members on their e-mail IDs.*

An illustrative list of documents to be sent along with the Notice of General Meeting is given below:

1. *Explanatory statement to the Notice.*
2. *Proxy Form and instructions on e-voting, if any.*
3. *Attendance Slip.*
4. *Request for consenting to shorter Notice, if any.*
5. *Supporting documents (like Articles of Association) in connection with the agenda items in the Notice.*

Specimen Notices of Annual General Meeting and Extra-Ordinary General Meeting are placed at ***Annexure II and III*** *respectively.*

A specimen of Newspaper Advertisement of the Notice of a General Meeting is placed at ***Annexure IV.***

1.2.11 A Meeting convened upon due Notice shall not be postponed or cancelled.

Once a General Meeting has been convened upon due Notice, it should not be postponed or cancelled.

In construing the above stipulation, it is necessary to keep in mind the maxim Ex Non Cogit Impossibilia. In other words, law does not require anything which is impossible to be done. Much would depend upon the facts and circumstances of each case.

If, for reasons beyond the control of the Board, a Meeting cannot be held on the date originally fixed, the Board may reconvene the Meeting, to transact the same business as specified in the original Notice, after giving not less than three days intimation to the Members. The intimation shall be either sent individually in the manner stated in this Standard or published in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and in an English newspaper in English language, both having a wide circulation in that district.

No Meeting should be postponed merely for the reason that it would be inconvenient to hold the Meeting at the stated time and place. Postponement should be resorted to only if it is impossible to hold the Meeting, e.g. there is a curfew in the city or there is a threat to life and property. To cover such eventualities, the Board has the power to postpone the Meeting.

The fact of postponement should, as far as possible, be communicated to Members without any delay by newspaper advertisements and e-mails. Further, the company should also post the announcement on its website. Such intimation of postponement may also refer to the Members' right to appoint a Proxy.

Further, there should be someone at the venue, if possible, to inform the Members of the postponement, in case some Members do turn up at the venue without knowledge of the postponement of the Meeting.

Force majeure would also include destruction of the proposed venue. In such situations, the company may choose an alternative venue for the Meeting and inform the Members as early as possible, in writing and by newspaper advertisement. If any such event takes place on the day of the Meeting, the company may, with the consent of the Members who come to the venue, change the venue and time of the Meeting and enable them to reach the changed venue of the Meeting.

If, for any reason a General Meeting is postponed, it is not necessary to postpone the period for Remote e-voting. However, the result of Remote e-voting cannot be announced until such Meeting is actually held.

Specimens of Notice of Postponed Annual General Meeting and Notice in Newspapers of postponement of Annual General Meeting are placed at ***Annexure V and VI*** *respectively.*

2. Frequency of Meetings

2.1 Annual General Meeting

Every company shall, in each Calendar Year, hold a General Meeting called the Annual General Meeting.

Every company shall hold its first Annual General Meeting within nine months from the date of closing of the first financial year of the company and thereafter in each Calendar Year within six months of the close of the financial year, with an interval of not more than fifteen months between two successive Annual General Meetings. The aforesaid period of six months or interval of fifteen months may be extended by a period not exceeding three months with the prior approval of the Registrar of Companies, in case of any Annual General Meeting other than the first Annual General Meeting.

Sub-section (1) of Section 96 of the Act requires that the subsequent Annual General Meeting should be held on the earliest of the following dates:

(a) ffifteen months from the date of the last Annual General Meeting; or

(b) the last day of the calendar year; or

(c) six months from the close of the financial year.

If a statute enjoins that the Meeting is to be held within a specified period, it follows by necessary implication that it must be completed within the said period. If financial statements are not ready to be laid at the concerned Annual General Meeting, it shall be open to the company to adjourn the Annual General Meeting to a subsequent date when the financial statements would be ready for consideration. The adjourned Meeting must be held within the maximum time limit allowed under the Act [Bejoy Kumar Karnani and Another v. Assistant Registrar of Companies and Another (1985) 58 Comp. Cas. 293 (Cal)].

The fact that the company was not functioning [Madan Gopal Dey v. State of West Bengal AIR 1968 Cal 790] or that the management of the Company was taken over by the Government [Hindustan Co-operative Insurance Society Ltd. Re., (1961) 31 Com Cases 193] is no excuse for not holding the Annual General Meeting.

Hence, the company has to convene and hold a Meeting in each calendar year with a maximum gap of fifteen months between two Annual General Meetings.

If a company holds its first Annual General Meeting, as aforesaid, it shall not be necessary for the company to hold any Annual General Meeting in the Calendar Year of its incorporation.

Illustration

Say, a company was incorporated on 10th December 2014, "financial year" of that company would end on 31st March 2015 in view of sub-section (41) of Section 2 of the Act and therefore the last date for holding the first Annual General Meeting would be 31st December 2015 (9 months from 31st March 2015).

On the other hand, if a company was incorporated on 10th April 2015, its first financial year would end on 31st March 2016 only and therefore, the last date for holding the first Annual General Meeting will be 31st December 2016. In this manner, almost 21 months elapse between the date of incorporation and date of first Annual General Meeting. In this case, the company need not hold any Annual General Meeting in the year of its incorporation i.e. 2015.

The Notice of an Annual General Meeting should state that the Meeting is an 'Annual General Meeting'. An Annual General Meeting is held apart from and in addition to any other General Meeting that a company may hold.

An adjourned Meeting is a continuation of the original Meeting. Hence, where a Meeting called and held on a day in one year is adjourned to a date in the next year, and held on that date, such adjourned Meeting held on the latter date is not a different Meeting in so far as it relates to the next year. In other words, another Annual General Meeting has to be held in the next calendar year.

Where a Meeting called on 30th December was adjourned to 31st March in the next year, and the next Meeting was held on 28th January of the following year, Section 166 of the Companies Act, 1956 (corresponding to Section 96 of the Act) was not complied with, i.e. an Annual General Meeting was not held in 'each year' and the company was convicted of an offence [Sree Meenakshi Mills Co. Ltd. v. Assistant Registrar, Madurai (1938) 8 Comp. Cas. 175 (Mad)].

Power of the Registrar to extend time for holding Annual General Meeting

The Registrar of Companies may extend the time for holding an Annual General Meeting, other than the first Annual General Meeting, "for any special reason" by a period not exceeding three months, if it cannot be held within the prescribed time limit [Third proviso of sub-section (1) of Section 96 of the Act]. Therefore, if in any year a company cannot hold its Annual General Meeting within the period stipulated in Subsection (1) of Section 96 of the Act, it may hold the Meeting within the next three months with the permission of the Registrar of Companies. In such a case, the gap between two Annual General Meetings may be more than the period of fifteen months stipulated under sub-section (1)

of Section 96 of the Act. However, in such a case it should be ensured that the concerned Annual General Meeting is actually held on or before the extended time limit and the notice should specify the fact of extension of time for holding the Annual General Meeting.

No extension of time can be granted by the Registrar beyond three months.

Delay in completion of audit of the financial statements of the company does not ordinarily constitute a "special reason" justifying the extension of time for holding the Annual General Meeting.

Default in holding Annual General Meeting

If a company defaults in holding an Annual General Meeting, any Member may apply to the CLB/Tribunal which may notwithstanding anything contained in the Act or Articles of the Company, call or direct the calling of the Meeting and give such ancillary or consequential directions as it may consider expedient in relation to the calling, holding and conduct of the Meeting. The CLB/Tribunal may direct the convening of the Annual General Meeting only if it is convinced that the management has been unwilling to convene such a Meeting or it was not practicable for the management to do so [Section 97 of the Act].

The power of the CLB/Tribunal cannot be invoked unless there is, in the first place, a default on the part of the Board of Directors to call and hold the Annual General Meeting. To invoke such power, the last date by which the Notice should have been given by the Board ought to have expired. This right is available only to a Member of the company and the Company, by itself, cannot make such an application to the CLB/Tribunal.

In such cases, the CLB/Tribunal may direct that one Member present in person or by Proxy shall be deemed to constitute the Meeting. A Meeting held in pursuance of such order will be deemed to be an Annual General Meeting of the company. However, the CLB/Tribunal cannot issue directions or instructions in regard to an Annual General Meeting duly convened by the company. It can do so only in respect of Meetings convened on its orders [Shankar Sundaram v. Amalgamations Private Limited (2002) CLC 701]. If, at the time an Annual General Meeting is due to be held, there is only one Member [the other(s) having died], no offence is committed if the Annual General Meeting is not held because of the insufficiency of number of Members [State of Kerala v. West Coast Planter's Agencies Ltd. (1958) 28 Comp. Cas. 13].

2.2 Extra-Ordinary General Meeting

Items of business other than Ordinary Business may be considered at an Extra-Ordinary General Meeting or by means of a postal ballot, if thought fit by the Board.

General Meetings, other than an Annual General Meeting, are called Extra-Ordinary General Meetings. The company may provide for such Meetings in their Articles in order to deal with matters which have to be decided before the next Annual General Meeting.

The Board of Directors, if they deem fit, may pass any Resolution through postal ballot, instead of convening an Extra-Ordinary General Meeting, in accordance with the requirement of the Act.

Calling of an Extra-Ordinary General Meeting on Requisition

As already explained under paragraph 1.1, the Board should, within twenty-one days from the date of receipt of a valid Requisition in regard to any matter, proceed to call a Meeting for the consideration of those matters on a day not later than forty-five days from the date of receipt of such requisition. If the Board fails to do so, the Meeting may be called and held by the requisitionists themselves within three months from the date of deposit of such requisition.

*A specimen of Notice by requisitionists convening an Extra-Ordinary General Meeting is placed at **Annexure VII** and a specimen of the Notice to be given by a company to its Members on receipt of a requisition for a Meeting is placed at **Annexure VIII.** A specimen of board Resolution calling the Extra-Ordinary General Meeting as per the requisition is placed at **Annexure IX.***

Calling of Extra-Ordinary General Meeting by CLB/Tribunal

If, for any reason, it is impracticable to call a Meeting of the company other than an Annual General Meeting, the CLB/Tribunal may direct the calling of the Meeting on its own motion or on an application of any Director or on an application of any Member entitled to vote at the Meeting [Section 98 of the Act]. For this purpose, the CLB/Tribunal may give directions in respect of the place, date and manner in which the Meeting is to be held and conducted.

The term practicability is not defined in the Act, thus, the same shall vary in each case. However, it is construed that a case can be termed as impracticable only in the event that it is impossible to convene the Meeting by the company due to reasons which are beyond the control of the management.

3. Quorum

3.1 Quorum shall be present throughout the Meeting

In order that a Meeting may be properly constituted and the business be validly transacted, a Quorum of Members should be present.

Presence of a Quorum is very important for the purpose of conducting, convening and holding the Meeting in a proper manner.

Quorum shall be present not only at the time of commencement of the Meeting but also while transacting business.

A Quorum should be present when the questions brought before the Meeting are being decided. The mere presence of Quorum at the beginning of the Meeting is not sufficient.

Unless the Articles provide for a larger number, the Quorum for a General Meeting shall be:

(a) in case of a public company, –

(i) five Members personally present if the number of Members as on the date of Meeting is not more than one thousand;

(ii) fifteen Members personally present if the number of Members as on the date of Meeting is more than one thousand but up to five thousand;

(iii) thirty Members personally present if the number of Members as on the date of the Meeting exceeds five thousand;

(b) in the case of a private company, two Members personally present.

Where the Quorum provided in the Articles is higher than that provided under the Act, the Quorum shall conform to such higher requirement.

The Articles of a private company can provide for a higher Quorum but it cannot reduce the number of Members required to constiute the Quorum.

Personal presence necessary to constitute Quorum

Members need to be personally present at a Meeting to constitute the Quorum.

Only those Members who are present in person should be reckoned for ascertaining the Quorum.

Proxies shall be excluded for determining the Quorum.

A Proxy cannot be considered as a Member personally present and hence excluded for determining Quorum. However, the following persons attending a Meeting would be considered as Members personally present; and hence included to constitute Quorum:

(a) a representative appointed under Section 113 of the Act to attend a Meeting on behalf of a body corporate;

(b) a representative appointed under Section 112 of the Act to attend a Meeting on behalf of the President of India or Governor of a State.

(c) a donee of a Power-of-Attorney could be presumed to be personally present if the power-of-attorney authorises such donee to attend and vote at General Meetings of companies of which the donor of the power-of-attorney is a Member.

In no other case, a person attending a Meeting as a representative of a Member shall be regarded as a Member personally present.

Donee of a general power of attorney not deemed as Proxy

If any Member of a company has given a general power-of-attorney in favour of some other person to make investments on his behalf and to attend to all matters incidental and consequential thereto including attending General Meetings of companies in which investments are so made and if at General Meetings of such companies, the donee is present, then it would be deemed, by virtue of the provisions of Section 3 of the Powers-of-Attorney Act, 1882, that the donor is personally present and the donee will not be deemed to be a Proxy of the donor [Cf. Tata Iron & Steel Co. Ltd., In Re., AIR 1928 Bom. 80].

Reckoning of Preference Shareholders and Joint Shareholders for Quorum

If any business to be transacted at a General Meeting does not include any item or Resolution which directly affects the rights of the preference shareholders, their presence should not be taken into account for the purpose of determining the Quorum. Where a Resolution is put to vote at the General Meeting by which the rights of preference shareholders are directly affected, their presence should be taken into account for the purpose of the Quorum and voting on the Resolution.

All joint shareholders are entitled to attend the General Meetings. However, for the purpose of ascertaining Quorum and for voting purposes, joint holders will be counted only as one Member since only one of them is entitled to vote.

Consequences of Meeting without proper Quorum

A General Meeting at which less than the number of Members prescribed for a Quorum is present, is not a Meeting at all for want of the required Quorum.

The absence of a Quorum cannot be waived, and any business transacted at a Meeting where a Quorum is absent is deemed void.

However, if all the Members of the company are present in person, the proceedings will be valid even if the Quorum required by the Articles is more than the total number of Members.

> ***Illustration***
>
> *Consider a company where the number of Members was originally large, say 500, and the Quorum fixed by the Articles was 100 Members present. Subsequently, 450 Members sold their shares which were acquired by some of the remaining 50 Members. Here, proceedings will be valid if all Members are present in person. In the given case, if less than 50 Members are present, there shall be no Quorum.*

If within half an hour from the time fixed for holding the Meeting a Quorum is not present, the Meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Board may determine. If at the adjourned Meeting within half an hour from the time appointed for the Meeting the Quorum is not present, the Members present shall form a Quorum [Sub-section (2) and (3) of Section 103 of the Act]. From the use of the words 'Members present', and the fact that there cannot be a Meeting unless at least two persons are present, it follows that at least two Members should be present even at the adjourned Meeting. If a Meeting has been called on the requisition of Members and there is no Quorum for half an hour, the Meeting shall stand dissolved (These aspects of Quorum have been further dealt with under the heading 'Adjournment of Meetings').

The Act provides that the Quorum shall be present at the Meeting within half an hour. If the Members want to wait for the Quorum for more than half an hour, they can do so, as it is not prohibited in the Act. Waiting for a longer time does not destroy the essence of law. The time of half an hour is recommendatory in nature and not mandatory [Janaki Printers Private Limited v. Nadar Press Ltd. and Others (2001) 103 Comp Cas 546 (CLB)].

The requisite Quorum at the Meeting is required even if some Members have already cast their votes through e-voting facility.

One-Man Meeting

It has been clarified by the Department of Company Affairs [now Ministry of Corporate Affairs] that a single Member present cannot, by himself, constitute a Quorum [Circulars and Clarifications Co. Law & SEBI, P1 198 vide File No.8/16/(1)/61-PR]. Such general rule against a one-man Meeting has also been settled through judicial decisions.

There are, however, some exceptions to this general rule which permit a Meeting to be constituted of only one Member. These are:

- *Where a person holds all the shares of a class, that person may constitute a class Meeting.*
- *Where default is made in holding an Annual General Meeting in accordance with Section 96 of the Act, the CLB/Tribunal while ordering the convening of the Meeting, may direct that one Member present in person or by proxy will constitute the Quorum [Proviso to sub-section (1) of Section 97 of the Act].*
- *Where it is impracticable to call a Meeting in the manner prescribed by the Act or the Articles, the CLB/Tribunal may order a Meeting to be held and direct that one Member present in person or by Proxy shall be deemed to constitute a Meeting [Proviso to sub–section (1) of Section 98 of the Act].*

3.2 A duly authorised representative of a body corporate or the representative of the President of India or the Governor of a State is deemed to be a Member personally present and enjoys all the rights of a Member present in person.

One person can be an authorised representative of more than one body corporate. In such a case, he is treated as more than one Member for the purpose of Quorum.

A person who represents two different bodies is supposed to act in accordance with the instructions of his principals. Therefore, such representative theoretically carries with him two sets of opinions on the Resolutions.

If two or more bodies corporate, who are Members of a company, are represented by a single individual, each of the bodies corporate should be treated as personally present through that individual representing such bodies corporate. For instance, if a representative represents three bodies corporate, his presence should be counted as three Members being present in person for purpose of Quorum [Maclead (Neil) & Sons Ltd., Petitioners, 1967 Scottish Law Times 46].

However, to constitute a Meeting, at least two individuals shall be present in person. Thus, in case of a public company having not more than 1000 Members with a Quorum requirement of five Members, an authorised representative of five bodies corporate cannot form a Quorum by himself but can do so if at least one more Member is personally present.

Say, in case of a company, where the Quorum requirement is five Members, a single authorised representative of five bodies corporate cannot form Quorum by himself if no other individual is personally present at the Meeting. However, he can form a Quorum if at least one more Member is personally present at the Meeting.

This is so because a single Member present cannot by himself constitute a Meeting. There are a number of decisions by which it is now firmly settled that as a general rule a single person cannot constitute a Meeting. Few such cases include Sharp v. Dawes (1876) 2 QBD 26 (CA), Awadhoot v. State of Maharashtra AIR 1978 Bom 28 etc.

Members who have voted by Remote e-voting have the right to attend the General Meeting and accordingly their presence shall be, counted for the purpose of Quorum.

A Member who is not entitled to vote on any particular item of business being a related party, if present, shall be counted for the purpose of Quorum.

The stipulation regarding the presence of a Quorum does not apply with respect to items of business transacted through postal ballot.

4. Presence of Directors and Auditors

4.1 Directors

4.1.1 If any Director is unable to attend the Meeting, the Chairman shall explain such absence at the Meeting.

The Directors of the company act on behalf of the Members and therefore have fiduciary responsibilities towards them. They are individually as well as collectively responsible for the over-all management of the company. General Meetings provide a forum to the Members to review the manner in which the Directors manage the company while also giving the Directors an opportunity to apprise the Members about the affairs of the company and to listen their views and suggestions.

All the Directors are, therefore, expected to attend the General Meetings of the company. In case any Director is unable to attend the Meeting, the Chairman should explain the absence of such Director at the Meeting. Such absence is, however, not wrong in law.

The Chairman of the Audit Committee, Nomination and Remuneration Committee and the Stakeholders Relationship Committee, or any other Member of any such Committee authorised by the Chairman of the Committee to attend on his behalf, shall attend the General Meeting.

While all Directors are expected to attend the General Meetings of the company, the Chairmen of the Audit Committee, Nomination and Remuneration Committee and the Stakeholders Relationship Committee are specifically required by this paragraph of SS-2, to attend the General Meeting of the company. Flexibility has however been given to the Chairman of these Committees to authorise any other Member of the Committee to attend the General Meeting on his behalf, in case he is unable to be present at the Meeting (In line with Section 178(7) of the Act).

This Standard has been introduced as a good governance practice to ensure that at least one Member of the above mentioned Committees is present at the General Meeting in order to address the Members' queries, if any, concerning their respective Committees.

4.1.2 Directors who attend the General Meetings of the company and the Company Secretary shall be seated with the Chairman.

The Company Secretary shall assist the Chairman in conducting the Meeting.

Rule 10 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 clearly provides that it is the duty of the Company Secretary to facilitate the convening of Meetings and to attend Board, Committee and General Meetings and maintain their Minutes. Further, it is duty of the Company Secretary to render assistance to the Chairman in conduct of the Meeting.

It is in this context that the above paragraph 4.1.2 of SS-2 requires the Company Secretary and directors to be seated with the Chairman.

The following are some of the illustrative situations under which assistance can be rendered by the Company Secretary:

- *To enable the Chairman to identify that requisite Quorum is present at the Meeting*
- *To enable the Chairman to ascertain the votes cast on each Resolution put to vote by show of hands*
- *To assist the Chairman in co-ordinating with the Members present at the Meeting and answering their queries*

- *To facilitate voting at the Meeting, electronically or otherwise*
- *To analyse the result of Remote e-voting and facilitate declaration thereof*
- *To maintain the decorum of the Meeting etc.*

4.2 Auditors

The Auditors, unless exempted by the company, shall, either by themselves or through their authorised representative, attend the General Meetings of the company and shall have the right to be heard at such Meetings on that part of the business which concerns them as Auditors.

Auditors or their authorised representative should attend the General Meetings to reply to any query that may be raised or provide any explanation that may be sought by the Members in relation to any part of the business which concerns them or to any reservations, qualifications or adverse remarks made by them in the Auditor's Report.

The authorised representative who attends the General Meeting of the company shall also be qualified to be an Auditor.

The authorised representative of the Auditor attending the General Meeting on behalf of the Auditor should be a person who is a member of the Institute of Chartered Accountants of India (ICAI) and eligible for appointment as auditor of the company.

4.3 Secretarial Auditor

The Secretarial Auditor, unless exempted by the company shall, either by himself or through his authorised representative, attend the Annual General Meeting and shall have the right to be heard at such Meeting on that part of the business which concerns him as Secretarial Auditor.

Unless exempted by the company, the Secretarial Auditor for the last financial year whose Secretarial Audit Report has been annexed to the Board Report, is required to attend, either by himself or through his authorised representative, the Annual General Meeting. The Secretarial Auditor shall have the right to be heard at such Meetings on that part of the business which concerns him as Secretarial Auditor.

Secretarial Auditor or his authorised representative should attend the Annual General Meeting to reply to any query that may be raised or provide any explanation that may be sought by the Members in relation to any part of the business which concerns him or to any reservations, qualifications or adverse

remarks made by him in the Secretarial Audit Report or to the compliance and governance aspects of the company.

It is advisable that the Secretarial Auditor appointed for the current financial year in which Annual General Meeting is being held also attends such Annual General Meeting.

The Chairman may invite the Secretarial Auditor or his authorised representative to attend any other General Meeting, if he considers it necessary.

The authorised representative who attends the General Meeting of the company shall also be qualified to be a Secretarial Auditor.

The authorised representative of the Secretarial Auditor attending the General Meeting on behalf of the Secretarial Auditor should be a person who is a member of the Institute of Company Secretaries of India (ICSI) and eligible for appointment as Secretarial Auditor of the company.

5. Chairman

5.1 Appointment

The Chairman of the Board shall take the chair and conduct the Meeting. If the Chairman is not present within fifteen Minutes after the time appointed for holding the Meeting, or if he is unwilling to act as Chairman of the Meeting, or if no Director has been so designated, the Directors present at the Meeting shall elect one of themselves to be the Chairman of the Meeting. If no Director is present within fifteen Minutes after the time appointed for holding the Meeting, or if no Director is willing to take the chair, the Members present shall elect, on a show of hands, one of themselves to be the Chairman of the Meeting, unless otherwise provided in the Articles.

The Chairman of the company, if any, should be the Chairman of the Board. It is not necessary to pass a Resolution, either at a Board Meeting or a General Meeting, in order to authorise the Chairman of the Board to preside over all General Meetings. Unless otherwise provided in the Articles, the provisions below should be complied with:

- *The Chairman of the Board should preside over the General Meetings, and therefore the Chairman of the Board, if present, should take the chair.*
- *If there is no Chairman of the Board or if such Chairman of the Board is not present within fifteen minutes after the time appointed for holding the Meeting or if he declines to take the chair, the Directors present should elect any one among themselves to chair such Meeting.*

- *If there is only one Director present at a Meeting and he is willing to act as Chairman, he may chair the Meeting with the consent of the Members present.*
- *If no Director is present within fifteen minutes or if none of the Directors is willing to take the chair, the Members present should elect any one among themselves to chair the Meeting.*

The election of the Chairman, as aforesaid, should in the first instance be made by a show of hands. The person elected as Chairman on a show of hands should preside over the Meeting and commence the proceedings of the Meeting.

Articles to be complied with

If the Articles contain a provision as to who should be the Chairman of the Meeting and the procedure for the election of the Chairman, the same should be complied with.

Effect of MCA Notification

In case of a private company, the Articles may contain a provision as to the election of the Chairman of General Meetings. In such a case, notwithstanding anything stated above, the election of the Chairman should be done as provided in the Articles [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

Demand for poll on the election of Chairman

If a poll is demanded on the election of the Chairman, it shall be taken forthwith in accordance with the provisions of the Act and the Chairman elected on a show of hands shall continue to be the Chairman of the Meeting until some other person is elected as Chairman as a result of the poll, and such other person shall be the Chairman for the rest of the Meeting.

Chairman of the adjourned Meeting

Since an adjourned Meeting is a continuation of the original Meeting, the Chairman of the original Meeting should be the Chairman of the adjourned Meeting unless he is unable or unwilling to act as such or is validly removed as Chairman at the Meeting. In such case, the procedure of election of Chairman should be followed to elect a new Chairman to preside at the Meeting. If the Chairman of the Board was not present to chair the original Meeting but is

present at the adjourned Meeting, then he should take the chair at the adjourned Meeting.

Duty of the Chairman

The Chairman shall ensure that the Meeting is duly constituted in accordance with the Act and the Articles or any other applicable laws, before it proceeds to transact business. The Chairman shall then conduct the Meeting in a fair and impartial manner and ensure that only such business as has been set out in the Notice is transacted. The Chairman shall regulate the manner in which voting is conducted at the Meeting keeping in view the provisions of the Act.

It is the duty of the Chairman to preserve order at the Meeting and to conduct the proceedings in a proper manner.

5.2 The Chairman shall explain the objective and implications of the Resolutions before they are put to vote at the Meeting.

Even though Resolutions forming part of "Special Business" are accompanied by an explanatory note, the Chairman should, at the Meeting, explain the objective and implications of each such Resolution in simple language for the convenience of Members present at the Meeting so that they may make informed decisions after understanding the meaning, scope and implications of the concerned items of business. For this purpose, the Chairman may take the assistance of the Company Secretary or any other Director or officer of the company in order to do so, if required.

Chairman may explain developments if any subsequent to the posting of Notice if such developments constitute a material fact. Any omission to state a material fact in the Statement of Material Facts which gets noticed subsequently could also be explained at the Meeting.

The Chairman shall provide a fair opportunity to Members who are entitled to vote to seek clarifications and/or offer comments related to any item of business and address the same, as warranted.

The Chairman should provide an opportunity to Members to raise questions relating to the agenda items and ensure that Members who have sought any clarifications, information or explanations, are given an effective and timely response.

The Chairman should act fairly and allow all Members who wish to speak on a motion to have a reasonable opportunity to do so, even if there appears to be clear majority who have already made up their mind on the agenda item. The Chairman has no right to prevent discussion upon a matter which is included

in the Notice convening a Meeting [S.Rm.S.T. Narayana Chettiar v. The Kaleeswarar Mills Ltd. (1951) 21 Comp. Cas. 351 (Mad)].

The Chairman can, however, restrict repetitive questions and limit the amount of debate permitted on each Resolution. For this purpose, the company may invite Members to submit questions in advance. The company may select the common questions and provide a comprehensive answer for each of these at the General Meeting.

For the purpose of answering any question, the Chairman may consult the Company Secretary, key managerial personnel or other officers of the company, the Auditors, Secretarial Auditors, etc.

5.3 In case of public companies, the Chairman shall not propose any Resolution in which he is deemed to be concerned or interested nor shall he conduct the proceedings for that item of business.

The Chairman is expected to act in good faith and in an impartial manner and not to put his own interests ahead of or in conflict with those of the company. In line with this principle, in case of public companies, the Chairman should neither propose, any Resolution in which he is deemed to be concerned or interested nor conduct the proceedings for such item of business.

If the Chairman is interested in any item of business, without prejudice to his Voting Rights on Resolutions, he shall entrust the conduct of the proceedings in respect of such item to any Dis-Interested Director or to a Member, with the consent of the Members present, and resume the Chair after that item of business has been transacted.

6. Proxies

6.1 Right to Appoint

A Member entitled to attend and vote is entitled to appoint a Proxy, or where that is allowed, one or more proxies, to attend and vote instead of himself and a Proxy need not be a Member.

A Proxy may be described as the agent appointed by a Member to act on his behalf at the Meeting [Lord Hansworth in Cousins v. International Brick Co. Ltd. (1932) 2 Comp. Cas. 108 (CA)].

Every Member has a right to appoint any person as a Proxy to attend and vote at a General Meeting [Sub–section (1) of Section 105 of the Act].

However, a Proxy shall be a Member in case of companies with charitable objects etc. and not for profit registered under the specified provisions of the Act.

Members of certain class or classes of companies as may be specified by the Central Government shall not be entitled to appoint any other person as a proxy [Third Proviso to sub–section (1) of Section 105 of the Act].

Accordingly, in case of companies incorporated under Section 8 of the Companies Act, 2013 (corresponding to Section 25 of Companies Act, 1956), the Member is not entitled to appoint any other person as his Proxy unless such other person is also a Member of such company [Rule 19(1) of the Companies (Management and Administration) Rules, 2014].

Thus, a Proxy need not be a Member of the company, except in the case of companies incorporated under Section 8 of the Companies Act, 2013 (corresponding to Section 25 of Companies Act, 1956).

Number of Proxies

A Member may name one or more "alternate" individuals to be appointed as his Proxy to act as substitutes when the first named Proxy holder cannot attend the Meeting.

A Proxy can act on behalf of Members not exceeding fifty and holding in the aggregate not more than ten percent of the total share capital of the company carrying Voting Rights.

A single person cannot be appointed as a proxy on behalf of:

(i) more than fifty Members and/or

(ii) Members holding more than ten percent of the total share capital of the company carrying voting rights.

Illustration

Say, 32 Members holding not more than ten percent of the total share capital appoint a single person as Proxy and one more Member (i.e. 33rd Member) also appoints the same person as Proxy. Here, by the addition of the 33rd member, if the shareholding exceeds the said threshold of ten percent of total share capital, the Proxy can act only for the 32 members.

However, a Member holding more than ten percent of the total share capital of the company carrying Voting Rights may appoint a single person as Proxy for his entire shareholding and such person shall not act as a Proxy for another person or shareholder.

If a Proxy is appointed for more than fifty Members, he shall choose any fifty Members and confirm the same to the company before the commencement of

specified period for inspection. In case, the Proxy fails to do so, the company shall consider only the first fifty proxies received as valid.

A Proxy should be in favour of an individual.

Competence of an Artificial Person to appoint a Proxy

A Proxy may be appointed by both natural and artificial persons competent in law to act as principals.

The Proxy holder should have the legal capacity to act as an agent. A Proxy, when it refers to the person appointed as a Proxy, should always be a natural person. The words "to attend" and "to vote" implicitly make it clear that such acts can be done only by a natural person. Section 113 of the Act makes it clear that a body corporate can appoint an authorised representative to attend and vote including the right to vote by Proxy and the words "as that body could exercise if it were an individual Member, creditor or holder of debentures of that company" makes it clear that the act of attending and voting at General Meetings has to be done only by individuals who are natural persons.

Appointment of Proxy by a Preference Shareholder

Where a preference shareholder has a right to vote on a particular Resolution, he has the right to appoint a Proxy to vote on the said Resolution. Further, the same person may be appointed as Proxy by more than one preference shareholder and, in such a case, if one Preference shareholder instructs the Proxy to vote in one way while another Preference shareholder instructs the Proxy to vote in a different way, the Proxy shall act in accordance with such instructions.

Appointment of Proxy by a Member who has already voted through Remote e-voting

A Member who has already cast his vote through Remote e-voting may appoint a Proxy to attend the Meeting instead of himself, but such Proxy will not be able to cast his vote at the Meeting.

Appointment of Proxy in case of a company not having a share capital

In the case of a company not having share capital, the Articles may contain a provision stating that a Proxy has no right to speak and that a Proxy need not be a Member and also that a Proxy cannot vote, except on a poll.

Unless otherwise provided in the Articles, sub-section (1) of the Section 105 of the Act shall not apply in case of a company not having a share capital.

While the provisions for appointment of Proxy apply in relation to companies that have share capital, even companies that do not have share capital may make such provision through their Articles.

Right of a Proxy

First proviso under sub–section (1) of Section 105 of the Act says that a Proxy has no right to speak and is not entitled to vote except on a poll.

Effect of MCA Notification

In case of a private company, the Articles may contain provisions as to various aspects of Proxies. In such a case, notwithstanding anything stated below, the Articles should be complied with [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

6.2 Form of Proxy

6.2.1 An instrument appointing a Proxy shall be either in the Form specified in the Articles or in the Form set out in the Act.

The instrument of Proxy shall be signed by the appointer or his attorney duly authorised in writing, or if the appointer is a body corporate, be under its seal or be signed by an officer or an attorney duly authorised by it.

The Proxy form should be in writing [Clause (a) of sub-section (6) of Section 105 of the Act].

An instrument appointing a Proxy should be in Form No. MGT-11 [Rule 19 of the Companies (Management and Administration) Rules, 2014].

If an instrument appointing a Proxy, is in Form No. MGT-11, it shall not be questioned on the ground that it fails to comply with any special requirements specified for such instrument by the Articles of a company [Sub-section (7) of Section 105 of the Act].

This means that the Articles may prescribe any other requirement or format for the "Proxy form" and the Member may be advised to submit the Proxy on such form. However, if any Member uses Form No. MGT-11 and deposits the same with the company, it should be accepted by the company.

6.2.2 An instrument of Proxy duly filled, stamped and signed, is valid only for the Meeting to which it relates including any adjournment thereof.

A Proxy given for the original Meeting is also valid for the adjourned Meeting.

6.3 Stamping of Proxies

An instrument of Proxy is valid only if it is properly stamped as per the applicable law. Unstamped or inadequately stamped Proxies or Proxies upon which the stamps have not been cancelled are invalid

The Indian Stamp Act, 1899 requires certain instruments to be stamped. If the instrument is not stamped in accordance with the Indian Stamp Act, 1899, the corresponding penalty, as mandated by the Act, would be levied.

An instrument of proxy is invalid, if it is not properly stamped as per the relevant law related to stamping of various instruments. The Proxy should be stamped before it is acted upon. A Proxy cannot be said to have been duly stamped and executed if the stamp has been affixed over the signature of the Member.

Stamp duty on Proxies is uniform throughout the country [Article 246(1) of the Constitution of India, read with Entry 91 of List I of Schedule VII], and hence it is immaterial whether or not the stamp affixed on the Proxy form bears the name of a State. Similarly, a Proxy executed by a Member in one State, though having the stamp of another State affixed on it, is valid [Firestone Tyre & Rubber Co. v. Synthetics and Chemicals (1971) 41 Comp. Cas. 377].

Though under Section 18 of the Indian Stamp Act, 1899, an instrument other than bills and notes executed outside India can be stamped in accordance with the duty payable under the Indian Stamp Act, 1899 within three months from the date of its receipt in India, a Proxy executed outside India or within India must be stamped prior to depositing the same with the company.

A vote cast on an unstamped Proxy is invalid [In Re. Tata Iron and Steel Co. Ltd. AIR 1928 Bom 80].

6.4 Execution of Proxies

6.4.1 The Proxy-holder shall prove his identity at the time of attending the Meeting.

Proper details of name and folio number of the Member should be entered on the Proxy form in order to facilitate related identification.

The Proxy-holder should also sign the Proxy form so as to enable the company to verify that only such person as has been appointed by the Member, is attending the Meeting and exercising rights on behalf of the Member. In addition, photo-identification of such Proxy–holder may also be done by the company.

6.4.2 An authorised representative of a body corporate or of the President of India or of the Governor of a State, holding shares in a Company, may appoint a Proxy under his signature.

The President of India or the Governor of a State, if he is a Member of a company, may appoint such person as he thinks fit to act as his representative at any Meeting of the company [Sub-section (1) of Section 112 of the Act]. Such a person appointed for this purpose shall be deemed to be a Member of such company and is entitled to exercise the same rights and powers as a Member including right to vote by Proxy.

A Member of a company who is a body corporate may authorise by Resolution of its Board, or other governing body, such person as it thinks fit to act as its representative at any Meeting of such company [Section 113 of the Act]. Such a person appointed as a representative is entitled to exercise the same rights and powers of a Member, including the right to vote by Proxy.

6.5 Proxies in Blank and Incomplete Proxies

In case there is any objection to the validity of a Proxy, the Chairman is entitled to take a decision on that question.

Authority of Chairman on validity of Proxy

Without prejudice to the above statutory requirements, the Chairman shall be the final authority to decide on the validity of the Proxy.

It is for the Chairman to decide the validity of the proxies and his decision in this regard will stand unless the contrary is proved [Dawson v. Hormasji AIR 1932 Rang 154]. The validity of the Proxies cannot be decided by scrutinisers.

6.5.1 A Proxy form which does not state the name of the Proxy shall not be considered valid.

The executor of the Proxy should state the name of the Proxy in the form. A Proxy form, though duly signed, should not be acted upon unless it bears the name of the Proxy.

6.5.2 Undated Proxy shall not be considered valid.

A space should be provided in the Proxy form for dating such form and, if the date is not inserted, the Proxy should be deemed to be invalid, even if it is otherwise complete in all aspects and has been received within the prescribed time.

6.5.3 If a Company receives multiple Proxies for the same holdings of a Member, the Proxy which is dated last shall be considered valid; if they are not dated or bear the same date without specific mention of time, all such multiple Proxies shall be treated as invalid.

Illustration

Assume that the General Meeting of a company is scheduled on 22nd September, 2015 and company has received 4 proxies for the same holdings of a Member dated with 5th, 12th, 10th and 20th September, 2015. The proxy dated last should be considered valid i.e. 20th. However, if the proxies received are not dated or bear the same date without mention of time, all proxies should be treated as invalid.

6.6 Deposit of Proxies

6.6.1 Proxies shall be deposited with the Company either in person or through post not later than forty-eight hours before the commencement of the Meeting in relation to which they are deposited and a Proxy shall be accepted even on a holiday if the last date by which it could be accepted is a holiday.

The above time limit of forty-eight hours affords the company an opportunity to scrutinise proxies and for the Chairman to be advised on the validity thereof. It also facilitates the taking of a poll, if any, as the company would be able to compile the list of proxies lodged in favor of the various appointees with the total number of votes which they represent, which in turn would facilitate the processes of checking of proxies, polling, counting of votes, etc.

There is nothing in law to exclude Sundays in the computation of the forty-eight hours and a Proxy delivered on a Sunday for a Meeting to be held forty-eight hours later, on Tuesday, would be valid provided the receipt of the Proxy at the time stated could be determined [K.P. Chackochan v. Federal Bank (1989) 66 Comp. Cas. 953 (Ker)].

The actual time of receipt of Proxy should be considered for determining its validity irrespective of when the form was posted.

Any provision in the Articles of a company which specifies or requires a longer period for deposit of Proxy than forty-eight hours before a Meeting of the company shall have effect as if a period of forty-eight hours had been specified in or required for such deposit.

6.6.2 If the Articles so provide, a Member who has not appointed a Proxy to attend and vote on his behalf at a Meeting may appoint a Proxy for any adjourned Meeting, not later than forty-eight hours before the time of such adjourned Meeting.

A Proxy may be appointed for an adjourned Meeting though the Member had himself attended the original Meeting.

6.7 Revocation of Proxies

A Proxy is in the same position as an agent and his authority to act may be revoked in the same manner as that of an agent. Such authority continues unless it is revoked.

The relationship between a shareholder and his Proxy is similar to that of principal and agent. A Proxy can, any time, be revoked by the shareholder [S. Rm. S.T. Narayana Chettiar v. Kaleeswarar Mills Ltd. AIR 1952 Mad 515].

The revocation of Proxy can be divided into two categories:

(i) Implied revocation - when the Proxy is revoked by operation of law, it is termed as implied revocation. In this case it is not necessary for a Member to give an express notice of revocation to the company.

A few examples are as follows:

- *When the Member has appointed a Proxy and he comes to attend the Meeting himself, such Proxy stands revoked impliedly [Paragraph 6.7.4 of SS-2].*
- *If the Member appoints another Proxy, the previous Proxy shall be revoked. A Proxy later in date revokes any Proxy/Proxies dated prior to such Proxy [Paragraph 6.7.2 of SS-2].*
- *If a Proxy had been appointed for the original Meeting and such Meeting is adjourned, any Proxy given for the adjourned Meeting revokes the Proxy given for the original Meeting [Paragraph 6.7.1 of SS-2].*

(ii) Express revocation- when the Member expressly gives the notice to revocation of proxy to the company.

6.7.1 If a Proxy had been appointed for the original Meeting and such Meeting is adjourned, any Proxy given for the adjourned Meeting revokes the Proxy given for the original Meeting.

6.7.2 A Proxy later in date revokes any Proxy/Proxies dated prior to such Proxy.

If a Member has given a Proxy and then, at a later date, gives another Proxy

which is valid in all respects, the Proxy given earlier is automatically revoked. However, where one Proxy was lodged before and the other after the expiry of the date fixed for lodging proxies, the former would be accepted and the second would be rejected.

6.7.3 A Proxy is valid until written notice of revocation has been received by the Company before the commencement of the Meeting or adjourned Meeting, as the case may be.

Except in case of implied revocation, a Proxy is not revoked unless the written notice to that effect is received by the company before the commencement of the Meeting or the adjourned or postponed Meeting, as the case may be.

Revocation of Proxies cannot be assumed and written notice of revocation is necessary [Swadeshi Polytex Ltd. v. V.K. Goel (1988) 63 Com Cases 688 (Del)].

The vote given by a Proxy is valid notwithstanding its revocation provided no intimation in writing of the revocation is received by the company or by the Chairman of the Meeting before the vote is cast [K.P. Chackochan v. Federal Bank (1989) 66 Comp. Cas. 953 (Ker)].

A vote given in accordance with the terms of an instrument of Proxy shall be valid, notwithstanding the previous death or insanity of the principal or the revocation of the Proxy or of the authority under which the Proxy was executed or the transfer of the shares in respect of which the Proxy is given. Provided that no intimation in writing of such death, insanity, revocation or transfer should have been received by the Company at its office before the commencement of the Meeting or adjourned Meeting at which the Proxy is used [Regulation 59 of Table F to Schedule I to the Act].

However, if intimation of the death or insanity of the Member has been given to the Company, a Proxy appointed by such Member will be revoked.

An undated Notice of revocation of Proxy shall not be accepted. A notice of revocation shall be signed by the same Member (s) who had signed the Proxy, in the case of joint Membership.

A Proxy need not be informed of the revocation of the Proxy issued by the Member.

6.7.4 When a Member appoints a Proxy and both the Member and Proxy attend the Meeting, the Proxy stands automatically revoked.

The right of a Member to vote in person supersedes rights conferred by the grant of a Proxy to a Proxy-holder. Mere presence of the Member will revoke the Proxy.

It may be noted that the Member concerned should sign the attendance register or deliver the attendance slip.

6.8 Inspection of Proxies

Before keeping open the proxies for inspection by Members, the Chairman should decide on the validity or otherwise of the proxies lodged. If any objection is raised after inspection by a Member, the Chairman may revise his decision.

6.8.1 Requisitions, if any, for inspection of Proxies shall be received in writing from a Member entitled to vote on any Resolution at least three days before the commencement of the Meeting.

Once a Proxy form has been deposited, it should be open to the inspection of all persons entitled to vote. The right of inspection is a necessary corollary to the right to challenge the vote of any other Member. The object of inspection is to enable Members to scrutinise the proxies filed and raise objections to the validity of any of them.

The manner of inspection may be subject to restrictions.

6.8.2 Proxies shall be made available for inspection during the period beginning twenty-four hours before the time fixed for the commencement of the Meeting and ending with the conclusion of the Meeting.

Every Member entitled to vote on any Resolution at a General Meeting is entitled to inspect the proxies lodged with the company. The inspection should be allowed during the period starting twenty-four hours before the time fixed for the commencement of the Meeting and ending with the conclusion of the Meeting.

Inspection shall be allowed between 9 a.m. and 6 p.m. during such period.

6.8.3 A fresh requisition, conforming to the above requirements, shall be given for inspection of Proxies in case the original Meeting is adjourned.

As deposit of proxies is allowed even before the adjourned Meeting, a fresh requisition for inspection of proxies should be filed in case the original Meeting is adjourned.

6.9 Record of Proxies

6.9.1 All Proxies received by the company shall be recorded chronologically in a register kept for that purpose.

All proxies received by the company, irrespective of whether they are valid or not, should be recorded.

As a good secretarial practice, the time of receipt may also be mentioned in the register and on the Proxy itself.

6.9.2 In case any Proxy entered in the register is rejected, the reasons therefor shall be entered in the remarks column.

If for any reason, a Proxy is rejected, the fact of and the reasons for such rejection should be recorded on the Proxy itself and in the Register of Proxies.

7. Voting

Voting is a method by which the Meeting decides whether it approves or disapproves the Resolution. It is a procedure which enables the Chairman to ascertain the true sense of the Meeting on any Resolution put before it.

Only those Members entitled to vote either in person or, where permissible, through authorised representative or Proxy, can participate in the voting process. The voting process may be through show of hands, ballot process, e-voting or voting by post in a postal ballot. In order to be entitled to vote, the Member concerned should be holding shares entitled to voting rights as on the cut-off date or record date or any other date as the company would have specified in the Notice of General Meeting. In certain cases, for instance, where Regulation 55 of Table F of Schedule I to the Act applies, a Member will not be entitled to vote at any General Meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

7.1 Proposing a Resolution

Every Resolution shall be proposed by a Member and seconded by another Member.

This Standard is relevant for a company which has not provided e-voting facility to its Members and takes up the Resolution for consideration at the Meeting directly.

In the case of a company which has provided e-voting facility, voting commences much before a physically convened General Meeting is held. In such cases, it is not necessary to follow this conventional practice which causes no harm if practiced. The Chairman shall have the discretion in requiring proposing or seconding of the Resolution, while considering the same at the Meeting.

A Proxy cannot speak and therefore he cannot propose or second a Resolution. However, the position of an authorised representative of a body corporate is different as discussed under paragraph 3.1 and 3.2 above and such a person is entitled to propose and second a Resolution.

7.2 E-voting

7.2.1 Every company having its equity shares listed on a recognized stock exchange other than companies whose equity shares are listed on SME Exchange or on the Institutional Trading Platform and other companies as prescribed shall provide e-voting facility to their Members to exercise their Voting Rights.

Every company having its equity shares listed on a recognised stock exchange should provide e-voting facility to its Members to exercise their voting rights. However, pursuant to Rule 20 of Companies (Management and Administration) Amendment Rules, 2015, the companies referred to in Chapter XB (companies listed on SME Exchange) or Chapter XC (companies listed on Institutional trading platform) of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 are exempt from providing e-voting facility.

Other companies presently prescribed are companies having not less than one thousand Members.

In terms of Rule 20(2) of Companies (Management and Administration) Amendment Rules, 2015, companies having not less than one thousand Members should provide e-voting facility to their Members to exercise their Voting Rights.

The facility of Remote e-voting does not dispense with the requirement of holding a General Meeting by the company.

It is mandatory to have a physical General Meeting in view of the fact that e-voting is only a facility and it is not mandatory for the Members to use the same. Members may still prefer to attend the Meeting and exercise their voting rights at such Meeting.

Therefore, a Meeting should be called and held in the normal way with the fulfillment of all attendant factors such as a Quorum. In case the Quorum is not present at the Meeting, such Meeting shall stand adjourned as per the applicable provisions for want of Quorum and the fate of the Resolutions put before such a Meeting would be decided at the adjourned Meeting.

If at adjourned Meeting also a Quorum is not present, the Members present shall be the Quorum [Sub–section (3) of Section 103 of the Act]. It means even if two Members are present, the Meeting will be valid.

At an adjourned General Meeting, if only one Member is present, such adjourned General Meeting shall stand cancelled for want of a minimum of two members to constitute a Meeting and the Resolution would fail, even if Remote e-voting has taken place.

7.2.2 Voting at the Meeting

Every Company, which has provided e-voting facility to its Members, shall also put every Resolution to vote through a ballot process at the Meeting.

Ballot process may be carried out by distributing ballot/poll slips or by making arrangement for voting through computer or secure electronic systems.

Voting at the Meeting should be made available for Members through a ballot process, which may be carried out by distributing ballot papers/poll slips or by making arrangement for voting through computer or secure electronic systems.

Voting through a ballot process at the Meeting is different from Demand for poll under Section 109 of the Act and paragraph 9 of SS-2.

The company may provide the same electronic voting system for the ballot process as used during Remote e-voting. In such cases, the said facility should be in operation till all the Resolutions are considered and voted upon in the Meeting and may be used for voting only by the Members attending the Meeting in person or through Proxy, and who have not exercised their right to vote through Remote e-voting [Proviso to clause (viii) of sub-rule (4) of Rule 20 of Companies (Management and Administration) Amendment Rules, 2015].

It is not necessary for a Quorum to be present while the ballot process is being conducted or when the scrutiniser is doing his job or when the result is announced. However, such a Quorum should be present at the time of announcement by the Chairman of the commencement of ballot process.

Any Member, who has already exercised his votes through Remote e-voting, may attend the Meeting but is prohibited to vote at the Meeting and his vote, if any, cast at the Meeting shall be treated as invalid.

A Proxy can vote in the ballot process.

7.3 Show of Hands

Every company shall, at the Meeting, put every Resolution, except a Resolution which has been put to Remote e-voting, to vote on a show of hands at the first instance, unless a poll is validly demanded.

A Resolution, in the first instance, should be put to vote on a show of hands. In such case, each Member present in person has only one vote regardless of the number of shares held by him.

A Resolution put to vote at the General Meeting should be decided on show of hands provided no poll is demanded under Section 109 of the Act, or no facility of Remote e-voting is provided [Sub-section (1) of Section 107 of the Act].

In view of the provisions of Section 107 of the Act, voting by show of hands is not permitted in cases where Rule 20 of Companies (Management and Administration) Rules, 2014 as amended by the Companies (Management and Administration) Amendment Rules, 2015 is applicable. Rule 20 deals with voting through electronic means.

In Remote e-voting, the voting rights of a Member are determined on the basis of his share in the paid up equity share capital or on the basis of his share in the paid up preference share capital as the case may be and he need not necessarily use all his votes in favour or against and may use some votes in favour and some against the same Resolution. However, in a voting by show of hands, every Member shall have only one vote. Therefore, the practice of voting by show of hands is incompatible with Remote e-voting [Vide MCA Circular No. 20/2014 dated 17th June, 2014].

A Proxy cannot vote on a show of hands.

Proxies are not entitled to vote when a Resolution is put to vote on a show of hands.

Representatives of bodies corporate, or of the President of India or of Governors of States, holders of powers of attorney, guardians of minors and Kartas of HUFs should be treated as Members personally present for the purposes of voting on show of hands [Section 112 & Section 113 of the Act].

Procedure for voting on show of hands

When the Chairman puts a Resolution to vote on a show of hands, he should first request those Members who are in favour of the Resolution to raise their hands. Thereafter, he should request those Members who are against the Resolution to raise their hands.

On counting–

(a) in the case of an Ordinary Resolution, if the number of hands raised in favour of the Resolution exceeds the number of hands raised against, the Resolution can be said to have been passed.

(b) in the case of a Special Resolution, if the number of hands raised in favour of the Resolution is at least three times the number of hands raised against the Resolution, the Special Resolution can be said to have been passed.

The Chairman should ascertain if the Resolution has been carried through with the requisite majority of votes in favour of the Resolution. In case of any doubt, he should order a poll to ascertain the same.

On completion of voting on a show of hands, the Chairman should declare the result by announcing that the Resolution has been passed by the requisite majority or that such Resolution has not been passed.

The result of voting so declared by the Chairman should subsequently be recorded in the Minutes of the Meeting and such record shall be conclusive evidence of the fact that the Resolution has been passed or not, and no further proof of the number of votes cast for or against the Resolution should be necessary.

When voting takes place by show of hands, declaration by the Chairman as to the result of voting is conclusive evidence that the Resolution was passed or not passed as the case may be [E.D. Sasoon United Mills, Re AIR 1929 Bom 38].

However, this may not be so in the following two cases:

(a) when a poll is demanded [Anthony v. Seger (1789) 1 HAG CON 13]; and

(b) when the declaration is without taking a count of the number or proportion of the votes recorded in favour or against the Resolution [Dhakeshwari Cotton Mills Ltd. v. Nil Kamal Chakravarthy and Others (1937) 7 Com Cases 417].

If Members or Proxy holders having requisite percentage of shareholding/ voting power, as the case may be, demand a poll, it becomes the duty of the Chairman to order a poll.

Any objection as to the result declared on show of hands, should be made at once, i.e. the Chairman's ruling that a Resolution has been carried on show of hands should be challenged at that very time. It cannot be challenged subsequently [Arnot v. United African Lands Ltd. (1901) 1 Ch 518 (CA)].

Effect of MCA Notification

In case of a private company, the Articles may contain a provision as to the voting by show of hands at the General Meetings. In such a case, notwithstanding anything stated above, the Articles should be complied with [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

7.4 Poll

The Chairman shall order a poll upon receipt of a valid demand for poll either before or on the declaration of the result of the voting on any Resolution on show of hands.

Before or on the declaration of the result of the voting on any Resolution put to vote on a show of hands, a poll should be ordered to be taken by the Chairman on a demand made in that behalf, –

(a) in the case a company having a share capital, by the Members present in person or by Proxy, where allowed, and having not less than one-tenth of the total voting power or holding shares on which an aggregate sum of not less than rupees five lakh has been paid up; and

(b) in the case of any other company, by any Member or Members present in person or by Proxy, where allowed, and having not less than one-tenth of the total voting power.

A poll demanded should be taken within forty eight hours from the time when demand was made, except on the question of adjournment of the Meeting or appointment of Chairman which should be taken forthwith [Sub-sections (3) and (4) of Section 109 of the Act].

A poll can be demanded even before declaration of result of voting on a show of hands. A specimen of a demand for poll is placed at ***Annexure X.***

In case of demand for poll, the Chairman should act bona fide and ascertain the wishes of the Members [Second Consolidated Trust Ltd. v. Ceylon Amalgamated Tea and Rubber Estates Ltd (1943) 2 All ER 567].

The poll may be taken by the Chairman, on his own motion also.

The Chairman may, on his own motion, order a poll before or on the declaration of the result of voting on a show of hands [Sub-section (1) of Section 109 of the Act].

Poll in such cases shall be through a Ballot process.

While a Proxy cannot speak at the Meeting, he has the right to demand or join in the demand for a poll.

Effect of MCA Notification

In case of a private company, the Articles may contain a provision as to the demand for poll at the General Meetings. In such a case, notwithstanding anything stated above, the poll should be conducted as provided in the Articles [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

7.5 Voting Rights

7.5.1 Every Member holding equity shares and, in certain cases as prescribed in the Act, every Member holding preference shares, shall be entitled to vote on a Resolution.

Whether it is a Meeting called under the authority of the Board or in pursuance of a requisition of eligible Members, only those persons who are entitled to vote on a Resolution should vote.

Every Member entitled to vote on a Resolution and present in person shall, on a show of hands, have only one vote irrespective of the number of shares held by him.

A Member present in person or by Proxy shall, on a poll or ballot, have votes in proportion to his share in the paid up equity share capital of the company, subject to differential rights as to voting, if any, attached to certain shares as stipulated in the Articles or by the terms of issue of such shares.

In e-voting or ballot process at the General Meeting, the number of votes cast in favour or against should be reckoned on the basis of the Member's share in the paid-up capital of the company, and the Chairman of the Meeting should regulate the Meeting accordingly.

A company may, if so authorised by its Articles, accept from any Member, the whole or a part of the amount remaining unpaid on any shares held by him, even if no part of that amount has been called up. A Member of the company limited by shares shall not be entitled to any voting rights in respect of the amount paid by him on any shares held by him until that amount has been called up [Section 50 of the Act].

Entitlement to vote:

Equity Shareholders

One of the basic rights of a Member is to attend and vote at General Meetings of the company and normally anyone whose name is borne on the Register of Members of the Company on the date of the General Meeting is entitled to attend the Meeting and vote, irrespective of when he became a Member.

Thus, every Member whose name appears on the Register of Members on the day of the General Meeting has the right to attend and vote at the General Meeting.

However, this position will not hold good in cases where Remote e-voting facility has been provided.

In cases where facility of Remote e-voting has been provided, only those Members whose names are recorded in the Register of Members of the company as on the cut-off date will be entitled to vote at the Meeting.

Cut-off date means a date not earlier than seven days before the date of General Meeting for determining the eligibility to vote by electronic means or in the General Meeting [Rule 20 of the Companies (Management and Administration) Amendment Rules, 2015].

If conversion of debenture into shares has taken place prior to the cut off date, such shareholders are entitled to attend and vote on the Resolution placed

before a General Meeting. However, if conversion has taken place after the cutoff date but before the General Meeting, such shareholders may attend the Meeting with the right to speak but without any voting rights in case of e-voting.

In cases where the identity of a Member is established to the satisfaction of the company/scrutiniser(s), his right to attend and to vote cannot be denied on grounds of non-availability of specimen signatures or difference in signature [In Re. United Western Bank Ltd. (2002) 38 SCL (34) CLB].

Preference Shareholders

A preference shareholder has a right to vote only in the following cases:

1. *On Resolutions placed before the company which directly affect the rights attached to his preference shares;*
2. *On any Resolution for the winding up of the company or for the repayment or reduction of its equity or preference share capital.*
3. *On all Resolutions if dividend on the preference shares has not been paid for a period of two years or more [Second proviso to sub-section (2) of Section 47 of the Act]. If dividend default as aforesaid pertains only to a class of preference shares, it is only the holders of such class of preference shares who will have voting shares as aforesaid on all Resolutions placed before the company.*

While under the Companies Act, 1956 there was a difference between cumulative preference shares and non-cumulative preference shares with respect to voting rights, there is no such distinction between those two types of preference shares under the Act.

The voting rights of a preference shareholder on a poll should be in proportion to his shares in the paid-up preference share capital of the company.

Where the preference shareholders are entitled to vote, the proportion of the voting rights of equity shareholders to the voting rights of the preference shareholders shall be in the same proportion as the paid-up capital in respect of the equity shares bears to the paid-up capital in respect of the preference shares [First Proviso to the Section 47 (2) of the Act].

Joint-holders

Unless otherwise provided in the Articles, any one of two or more joint holders may vote at a Meeting either personally or by Proxy in respect of such shares as if he was solely entitled thereto and if more than one of such joint holders is

present personally or by Proxy or by attorney, then that one of such persons so present whose name stands first or higher on the Register of Members in respect of such shares shall alone be entitled to vote in respect thereof. However, any other joint holder shall be entitled to be present at the Meeting.

In the case of joint shareholding, vote of the senior, whether in person or by Proxy, should be accepted to the exclusion of the votes of the other joint holders. For this purpose seniority will be determined by the order in which the names stand in the Register of Members [Regulation 52 of Table F of Schedule I to the Act].

Calls in arrears

The Articles of the company may provide that no Member shall exercise any voting rights in respect of any shares registered in his name on which any calls or other sums presently payable by him have not been paid or in regard to which the company has exercised any right of lien [Sub-section (1) of Section 106 of the Act].

Persons of unsound mind

A Member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and any such committee or guardian may, on a poll, vote by Proxy [Regulation 53 of Table F of Schedule I to the Act].

Minors

Minors are entitled to vote at Meetings, both on a show of hands and on a poll through their guardians only.

Insolvent Member

An insolvent Member is entitled to exercise his voting rights, which are attributed to his status as a Member, so long as his name remains on the Register of Members of the company as a Member.

Hindu Undivided Family

A Hindu Undivided Family [HUF], in respect of shares held by it, can participate in the voting process through its Karta or any other adult Member of the HUF duly authorised by the Karta.

Bodies corporate/President of India/Governors of States

Bodies corporate or the President of India and Governors of States can participate in the voting process by representatives appointed by them or through the proxies of such representatives [Section(s) 112 and 113 of the Act].

Effect of MCA Notification

Private companies are exempted from Section 43 and Section 47 of the Act, where the Memorandum or Articles so provide [MCA's Notification No. 464(E) dated June 5, 2015]. Therefore private companies may make different provision in the Articles as far as kinds of share capital and voting rights are concerned. In such cases, notwithstanding anything stated above, the voting rights shall be reckoned in accordance with the Articles.

In case of Nidhis, no member shall exercise voting rights on poll in excess of five per cent of total voting rights of equity shareholders [MCA Notification No. 465(E) dated June 5, 2015].

7.5.2 A Member who is a related party is not entitled to vote on a Resolution relating to approval of any contract or arrangement in which such Member is a related party.

Specific related party transactions provided in Section 188 of the Act read with the Rule 15(3) of the Companies (Meetings of the Board and its Powers) Rules, 2014, which are not in the ordinary course of business or not on an arm's length basis, would need specific approval of Members at a General Meeting.

Where any Member is a related party, such a Member is not entitled to vote on the Resolution relating to such contract or arrangement provided such Member is a related party in the context of the contract or arrangement that is being specifically approved at the General Meeting.

Listed companies, however, have to follow the requirements of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and such requirements are in addition to and not in derogation of the above provisions.

Exemptions

Transactions arising out of Compromises, Arrangements and Amalgamations dealt with under specific provisions of the Act will not attract the requirements of Section 188 of the Act [General Circular No. 30/2014 dated 17th July 2014].

Wholly Owned Subsidiary has been exempted from the requirement of passing the said Resolution at its General Meeting in case of a transaction entered into

with its holding company [Vide Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014 dated 14th August 2014].

Such transactions therefore will not attract the requirements of this paragraph of SS-2.

Chairman – A related party

If the Chairman is a related party in respect of a Resolution relating to approval of a contract or arrangement, he should entrust the conduct of the proceedings in respect of such item to any dis-interested Director or to a Member, with the consent of the other Members present, and resume the chair after that item of business in which he is a related party has been transacted.

Effect of MCA Notification

This paragraph of SS-2 shall not apply to a private company. Accordingly, a Member who is a related party may vote on a Resolution relating to approval of any contract or arrangement in which such Member is a related party [In line with MCA Notification No. G.S.R. 464(E) dated June 5, 2015].

The requirement of obtaining prior approval of the Members in case of related party transactions and the restriction on the right of related parties to vote on such Resolution shall not apply to:

(a) a Government company in respect of contracts or arrangements entered into by it with any other Government company;

(b) a Government company, other than a listed government company, in respect of contracts or arrangements other than those with any other Government company, in case such company obtains approval of the Ministry or Department of the Central Government which is administratively in charge of the company, or, as the case may be, the State Government, before entering into such contract or arrangement.

[MCA Notification No. G.S.R. 463(E) dated June 5, 2015]

Accordingly, this paragraph of SS-2 will not be applicable in the above cases.

7.6 Second or Casting Vote

Unless otherwise provided in the Articles, in the event of equality of votes, whether on show of hands or electronically or on a poll, the Chairman of the Meeting shall have a second or casting vote.

A second or casting vote is a deciding vote. Second or Casting vote is the vote of a Chairman of a Meeting which he can use in the event of a tie in voting, i.e.

equality of votes in favour of or against a Resolution. Second or casting vote is different from the original vote of the Chairman as a Director and it can be exercised only after the process of voting has been completed.

Second or casting vote to the Chairman is allowed by the Model Articles under the Act [Regulation 68 (ii) and 73 (ii) of Table F of Schedule I to the Act].

In the event of equality of votes on a particular matter at a Meeting, the Chairman may cast a second or casting vote on such matter subject to any provision to the contrary in the Articles.

Thus, the Articles of the company may expressly prohibit exercise of second or casting vote by the Chairman, in which case, the Chairman shall not have a second or casting vote. In case the Articles are silent, the Chairman may use his discretion to have a second or casting vote.

The discretion to use or not to use his casting vote vests entirely with the Chairman. If the Chairman declines to exercise his second or casting vote and there is then an equality of votes, the Resolution is lost.

Where the Chairman chooses to exercise his vote as a member, he should do so before the voting is concluded.

Where the Chairman has entrusted the conduct of proceedings in respect of an item in which he is interested to any Dis-interested Director or to a Member, a person who so takes the chair shall have a second or casting vote.

8. Conduct of e-voting

This paragraph of SS-2 would be applicable to those companies which have to provide the facility of Remote e-voting to their Members and to all those companies that may provide such facility voluntarily.

8.1 Every Company that is required or opts to provide e-voting facility to its Members shall comply with the provisions in this regard.

Every company, other than a company referred to in Chapter XB (companies listed on SME Exchange) or Chapter XC (Companies listed on Institutional trading platform) of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, having its equity shares listed on a recognised stock exchange or a company having not less than one thousand Members, should provide to its Members facility to exercise their right to vote on Resolutions proposed to be considered at General Meetings by electronic means [Rule 20(2) of the Companies (Management and Administration) Amendment Rules, 2015].

Once a company voluntarily opts for e-voting, it should comply with the e-voting rules under the Act and SS-2.

8.2 Every Company providing e-voting facility shall offer such facility to all Members, irrespective of whether they hold shares in physical form or in dematerialised form.

8.3. The facility for Remote e-voting shall remain open for not less than three days.

The voting period shall close at 5 p.m. on the day preceding the date of the General Meeting.

Once the vote on a Resolution is cast by the Member, he should not be allowed to change it subsequently or cast the vote again.

8.4 Board Approval

The Board shall:

(a) appoint one or more scrutinisers for e-voting or the ballot process;

The scrutiniser(s) may be a Company Secretary in Practice, a Chartered Accountant in Practice, a Cost Accountant in Practice, or an Advocate or any other person of repute who is not in the employment of the company and who can, in the opinion of the Board, scrutinise the e-voting process or the ballot process, as the case may be, in a fair and transparent manner.

The scrutiniser (s) so appointed may take assistance of a person who is not in employment of the company and who is well-versed with the e-voting system.

Prior consent to act as a scrutiniser(s) shall be obtained from the scrutiniser(s) and placed before the Board for noting.

The scrutiniser should be willing to be appointed and be available for the purpose of ascertaining the requisite majority [Rule 20(4)(x) of the Companies (Management and Administration) Amendment Rules, 2015].

(b) appoint an Agency;

An Agency should be appointed for providing and supervising the electronic platform for e-voting.

(c) decide the cut-off date for the purpose of reckoning the names of Members who are entitled to Voting Rights;

The cut-off date for determining the Members who are entitled to vote through

Remote e-voting or voting at the Meeting shall be a date not earlier than seven days prior to the date fixed for the Meeting.

Only Members as on the cut-off date, who have not exercised their Voting Rights through Remote e-voting, shall be entitled to vote at the Meeting.

(d) authorise the Chairman or in his absence, any other Director to receive the scrutiniser's register, report on e-voting and other related papers with requisite details.

The scrutiniser(s) is required to submit his report within a period of three days from the date of the Meeting.

The Chairman or any other director so authorized shall countersign the scrutiniser's report so received.

Since the scrutiniser's report and related papers are important documents, authority to receive and countersign the same has been given to the Chairman or any other Director authorised by the Board. The idea is also to bring in uniformity between the provisions of e-voting, poll and postal ballot in the Act as far as receiving and countersigning of the scrutiniser's report are concerned.

8.5 Notice

8.5.1 Notice of the Meeting, wherein the facility of e-voting is provided, shall be sent either by registered post or speed post or by courier or by e-mail or by any other electronic means.

The Notice in case of e-voting should not be served though hand delivery or ordinary post.

The provisions of sending Notice covered in paragraph 1.2.2 of SS-2 shall be mutatis-mutandis applicable for the purpose of sending Notice, wherein the facility of e-voting is provided.

An advertisement containing prescribed details shall be published, immediately on completion of despatch of notices for Meeting but atleast twenty one days before the date of the General Meeting, at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated and having a wide circulation in that district and at least once in English language in an English newspaper, having country-wide circulation, and specifying therein, *inter-alia* the following matters, namely:-

(a) A statement to the effect that the business may be transacted by e-voting;

(b) The date and time of commencement of remote e-voting;

(c) The date and time of end of Remote e-voting;

(d) The cut-off date as on which the right of voting of the Members shall be reckoned;

(e) The manner in which persons who have acquired shares and become Members after the despatch of Notice may obtain the login ID and password;

(f) The manner in which company shall provide for voting by Members present at the Meeting;

(g) The statement that

(i) Remote e-voting shall not be allowed beyond the said date and time;

(ii) a Member may participate in the General Meeting even after exercising his right to vote through Remote e-voting but shall not be entitled to vote again; and

(iii) a Member as on the cut-off date shall only be entitled for availing the Remote e-voting facility or vote, as the case may be, in the General Meeting;

(h) website address of the company, in case of companies having a website and Agency where Notice is displayed; and

(i) Name, designation, address, e-mail ID and phone number of the person responsible to address the grievances connected with the e-voting.

Advertisement shall also be placed on the website of the company, in case of companies having a website and of the Agency.

The advertisement on Remote e-voting should remain on the website of the company and of the Agency, till the date of the General Meeting.

Effect of MCA Notification

In the case of Nidhis, the Notice may be served only on Members who hold shares of more than one thousand rupees in face value or more than one percent of the total paid-up share capital of the company, whichever is less. For other shareholders, notice may be served by a public notice in newspaper circulated in the district where the Registered Office of the Nidhi is situated; and also be placed on the notice board of the company [In line with MCA Notification No. G.S.R. 465(E) dated June 5, 2015].

8.5.2 Notice shall also be placed on the website of the Company, in case of companies having a website, and of the Agency.

Such Notice shall remain on the website till the date of General Meeting.

8.5.3 Notice shall inform the Members about procedure of Remote e-voting, availability of such facility and provide necessary information thereof to enable them to access such facility.

Notice shall clearly state that the company is providing e-voting facility and that the business may be transacted through such voting.

Notice shall describe clearly the Remote e-voting procedure and the procedure of voting at the General Meeting by Members who do not vote by Remote e-voting.

The Notice of the Meeting should clearly state that the facility for voting, either through electronic voting system or ballot or polling paper, is being made available at the Meeting and that Members attending the Meeting, who have not already cast their vote by Remote e-voting, shall only be able to exercise their voting right at the Meeting.

Notice shall also clearly specify the date and time of commencement and end of Remote e-voting and contain a statement that at the end of Remote e-voting period, the facility shall forthwith be blocked.

Notice shall also contain contact details of the official responsible to address the grievances connected with voting by electronic means.

Notice shall clearly specify that any Member, who has voted by Remote e-voting, cannot vote at the Meeting.

Notice shall also specify the mode of declaration of the results of e-voting.

Notice shall also clearly mention the cut-off date as on which the right of voting of the Members shall be reckoned and state that a person who is not a Member as on the cut-off date should treat this Notice for information purposes only.

Notice shall provide the details about the login ID and the process and manner for generating or receiving the password and for casting of vote in a secure manner.

8.6 Declaration of results

8.6.1 Based on the scrutiniser's report received on Remote e-voting and voting at the Meeting, the Chairman or any other Director so authorised shall countersign the scrutiniser's report and declare the result of the voting

forthwith with details of the number of votes cast for and against the Resolution, invalid votes and whether the Resolution has been carried or not.

The manner in which Members have cast their votes, that is, affirming or negating the Resolution or otherwise, should not be available to the Chairman, scrutiniser or any other person till the votes are cast in the Meeting or voting at the Meeting ends. The purpose of the requirement to maintain such confidentiality is to ensure that no one is influenced by the manner in which votes have been cast by those who have voted already.

8.6.2 The result of the voting, with details of the number of votes cast for and against the Resolution, invalid votes and whether the Resolution has been carried or not shall be displayed on the Notice Board of the company at its Registered Office and its Head Office as well as Corporate Office, if any, if such office is situated elsewhere. Further, the results of voting alongwith the scrutiniser's report shall also be placed on the website of the company, in case of companies having a website and of the Agency, immediately after the results are declared.

Results of the voting should be displayed at the Registered Office of the company. Such results should also be displayed at the Head Office as well as the Corporate Office of the Company, if such offices are situated elsewhere i.e. at places other than the Registered Office.

Placing of voting result on the website as well as on the Notice Boards at the Registered Office/ Head Office/ Corporate Office of the company is being provided for wider coverage and for convenience of the Members who may visit such offices.

In case of companies whose equity shares are listed on a recognised stock exchange, the company should, simultaneously, forward the results to the concerned stock exchange or exchanges where its equity shares are listed [Rule 20(4)(xvi) of the Companies (Management and Administration) Amendment Rules, 2015].

8.6.3 The Resolution, if passed by a requisite majority, shall be deemed to have been passed on the date of the relevant General Meeting.

For the purpose of this paragraph, the requisite number of votes should be the votes required to pass the Resolution as an 'Ordinary Resolution' or a 'Special Resolution', as the case may be, under Section 114 of the Act.

Such majority would be determined after the voting at the relevant General Meeting is over.

8.7 Custody of scrutinisers' register, report and other related papers

The register and all other papers relating to voting by electronic means should remain in the safe custody of the scrutiniser until the Chairman considers, approves and signs the Minutes and thereafter, the scrutiniser should hand over the register and other related papers to the company [Rule 20(4)(xv) of the Companies (Management and Administration) Amendment Rules, 2015].

The scrutinisers' register, report and other related papers received from the scrutiniser(s) shall be kept in the custody of the Company Secretary or any other person authorised by the Board for this purpose.

9. Conduct of Poll

9.1 When a poll is demanded on any Resolution, the Chairman shall get the validity of the demand verified and, if the demand is valid, shall order the poll forthwith if it is demanded on the question of appointment of the Chairman or adjournment of the Meeting and, in any other case, within forty-eight hours of the demand for poll.

A poll when validly demanded should be taken, even if the Chairman had refused to grant the poll. [M.K. Srinivasan and Others v. W. S. Subrahmanya Aiyar and Others (1932) 2 Comp. Cas. 147].

Where the Chairman refused to order a poll even after a valid demand for poll had been made, the business on the agenda for which the poll was demanded and which was carried through by show of hands becomes invalid [Namita Gupta v. Cachar Native Joint Stock Co. Ltd. (1999) 98Comp. Cas. 655 (CLB)].

If a valid demand for poll is refused by the Chairman, the Meeting should either be re-convened or a new Meeting should be convened to hold the poll or to consider the item in respect of which the valid demand for poll was not granted, as the case may be.

The result of the poll is deemed to be the decision of the Meeting on the Resolution on which the poll was taken [Sub-section (7) of Section 109 of the Act].

Once a valid demand for a poll has been received, those who have made the demand may withdraw it at any time. However, such withdrawal should be made before the declaration of the results of the poll [Sub-section (2) of Section 109 of the Act].

Any business, other than that upon which a poll is demanded, can be proceeded with, pending taking of the poll.

Where Resolutions are put to vote through Remote e-voting, poll cannot be

demanded on any Resolutions, other than for adjournment of the Meeting or election of Chairman of the Meeting.

9.2 In the case of a poll, which is not taken forthwith, the Chairman shall announce the date, venue and time of taking the poll to enable Members to have adequate and convenient opportunity to exercise their vote. The Chairman may permit any Member who so desires to be present at the time of counting of votes.

The Chairman has the power to fix and announce the date, time and place of taking the poll and should exercise this power impartially and reasonably so as to ensure that all the Members of the company who wish to exercise their vote have the opportunity to do so. The Chairman should, while deciding the time and place of the poll, take into account the specific circumstances, the nature and importance of the items of business to be put to vote and the reasons for the demand for a poll.

However, the date on which poll will take place should not be a National Holiday.

The Meeting will be deemed to conclude when voting by way of poll is completed.

If the date, venue and time of taking the poll cannot be announced at the Meeting, the Chairman shall inform the Members, the modes and the time of such communication, which shall in any case be within twenty four hours of closure of the Meeting.

A Member who did not attend the Meeting can participate and vote in the poll in such cases.

Any mode of communication viz. public notice, advertisement through newspaper, website of the company, e-mail etc. may be used for informing the Members regarding the poll.

A specimen of the announcements to be made by the Chairman in connection with a poll is placed at ***Annexure XI*** *and the checklist for poll is placed at* ***Annexure XII.***

9.3 Each Resolution put to vote by poll shall be put to vote separately.

One ballot paper may be used for more than one item.

Each Resolution on which a poll is demanded should be put to vote separately and the result announced should specify the number of votes that are casted in favor of and against each Resolution. All the Resolutions may, however, be included in one polling paper, to be separately marked by the voters.

Form No. MGT-12 prescribed by MCA contains the form in which the polling paper should be prepared.

9.4 Appointment of scrutinisers

The Chairman shall appoint such number of scrutinisers, as he deems necessary, who may include a Company Secretary in Practice, a Chartered Accountant in Practice, a Cost Accountant in Practice, an Advocate or any other person of repute who is not in the employment of the company, to ensure that the scrutiny of the votes cast on a poll is done in a fair and transparent manner.

Scrutiny of votes cast on a poll envisages detailed examination of the relevant records and calls for comprehensive knowledge and competence to deal with the intricacies and technicalities involved. These matters require professional knowledge, efficiency, fairness and transparency.

There is no bar on appointing any number of scrutinisers if the volume of work involved warrants such appointments. The Chairman should use his discretion in this regard and appoint such number of scrutinisers, as he deems necessary.

At least one of the scrutinisers shall be a Member who is present at the Meeting, provided such a Member is available and willing to be appointed.

In case more than one Scrutiniser is appointed, at least one of them should be a Member, provided such a Member is available and willing to be appointed.

The same scrutiniser (s) appointed for remote e-voting and the ballot process at the Meeting may be appointed for poll.

At any time before the result of the poll is declared, the Chairman has the power, if circumstances warrant, to remove the scrutiniser from office. However, the Chairman should not exercise such power capriciously. The Chairman also has the power to fill the vacancy in the office of scrutiniser arising from such removal or from any other cause.

9.5 Declaration of results

9.5.1 Based on the scrutiniser's report, the Chairman shall declare the result of the poll within two days of the submission of report by the scrutiniser, with details of the number of votes cast for and against the Resolution, invalid votes and whether the Resolution has been carried or not.

The Scrutiniser shall submit his Report to the Chairman who shall counter-sign the same. In case Chairman is not available, for such purpose, the report by

the scrutiniser shall be submitted to any Director who is authorised by the Board to receive such report, who shall countersign the scrutiniser's report on behalf of the Chairman.

Since the scrutiniser's report and related papers are important documents, authority to receive and countersign the same has been given to the Chairman or any other Director authorised by the Board. The idea is also to bring in uniformity between the provisions of e-voting, poll and postal ballot in the Act as far as receiving and countersigning of the scrutiniser's report are concerned.

The scrutiniser should submit the report on the poll in Form No. MGT.13 within seven days from the date the poll is taken. The report should be signed by the scrutiniser and, in case there is more than one scrutiniser by all the scrutinisers.

The result shall be announced by the Chairman or any other person authorised by the Chairman in writing for this purpose.

Where the poll has been conducted forthwith, the Chairman may declare the result orally at the Meeting.

The Chairman of the Meeting shall have the power to regulate the manner in which the poll shall be taken and shall ensure that the poll is scrutinised in the manner prescribed under the Act.

9.5.2 The result of the poll with details of the number of votes cast for and against the Resolution, invalid votes and whether the Resolution has been carried or not shall be displayed on the Notice Board of the company at its Registered Office and its Head Office as well as Corporate Office, if any, if such office is situated elsewhere, and in case of public companies having a website, shall also be placed on the website.

Results of the voting should be displayed in the Registered Office of the company. Such results should also be displayed at the Head Office as well as Corporate Office, if such offices are situated elsewhere i.e. other than where the Registered Office is situated.

Placing of voting result on the website as well as on the Notice Boards at the Registered Office/ Head Office/ Corporate Office of the company is required with the intent of wider coverage and for convenience of the Members who may visit such offices.

9.5.3 The result of the poll shall be deemed to be the decision of the Meeting on the Resolution on which the poll was taken.

The result of poll once declared shall be final. The decision as declared by the Chairman should be recorded in the Minutes of the Meeting.

*Specimens of the polling record and the announcement of the result of poll are placed at **Annexure XIII and XIV** respectively.*

10. Prohibition on Withdrawal of Resolutions

Resolutions for items of business which are likely to affect the market price of the securities of the company shall not be withdrawn. However, any Resolution proposed for consideration through e-voting shall not be withdrawn.

A proposed Resolution likely to affect the market price of the securities of the company should not be withdrawn once Notice has been issued. This is because the subsequent withdrawal of such Resolutions may result in movements in the market price of the securities of the company and may be used for unfair gains. For example, Resolutions for issue of bonus shares or rights shares or for buy-back of securities may have an impact on the share price and the subsequent withdrawal of any such Resolution would adversely affect those who may have taken any investment decisions based on such information. Such Resolution should therefore, not be withdrawn.

Companies offering the facility of Remote e-voting should not withdraw any Resolution once Notice has been issued [Rule 20(4)(xviii) of the Companies (Management and Administration) Rules, 2015].

11. Rescinding of Resolutions

A Resolution passed at a Meeting shall not be rescinded otherwise than by a Resolution passed at a subsequent Meeting.

A Resolution rescinding an earlier Resolution should be passed in the same manner in which the Resolution in question was passed, e.g. a Resolution passed as a Special Resolution should be rescinded only by a Special Resolution and a Resolution passed by voting through postal ballot should be rescinded only by a Resolution passed by voting through postal ballot.

Notice of such subsequent Meeting where the rescinding of a Resolution passed earlier is proposed should specify the intention to rescind such Resolution.

Similarly, the Board should recommend to the General Meeting, rescinding of the Resolution prior to such subsequent Meeting.

12. Modifications to Resolutions

Modifications to any Resolution which do not change the purpose of the Resolution materially may be proposed, seconded and adopted by the requisite majority at the Meeting and, thereafter, the modified Resolution shall be duly proposed, seconded and put to vote.

No modification to any proposed text of the Resolution shall be made if it in any way alters the substance of the Resolution as set out in the Notice. Grammatical, clerical, factual and typographical errors, if any, may be corrected as deemed fit by the Chairman.

Members present at a Meeting have a right to make modifications to a Resolution provided that the modification is within the scope of the Notice and the explanatory statement. However, the proposed modification should not be so fundamental so as to destroy the intent of the original Resolution or to alter its effect to a major degree, qualitatively or quantitatively. Similarly, a modification which adds onerous conditions to a Resolution would not be admissible.

The Chairman has no right to refuse to put before the Meeting an amendment arising on an Ordinary Resolution which is contained in the Notice. If the Chairman improperly refuses to submit an amendment to the Meeting, the Ordinary Resolution actually carried will be invalidated [Henderson v. Bank of Australasia (1890) 45 Ch D 330 (CA)].

No modification shall be made to any Resolution which has already been put to vote by Remote e-voting before the Meeting.

Subject to the limitations mentioned above, Resolutions other than those proposed through postal ballot or Remote e-voting may be modified by the majority of the Members present at the Meeting. However, shareholders do not have power to increase the rate of the proposed dividend at the Meeting.

Procedure

The modification to a Resolution may be moved at any time after discussion on the original Resolution has been called up, or during such discussion, but before the original Resolution is voted upon.

In case two or more amendments are moved to a Resolution, the amendments should be put to vote in the same order in which they were moved. Where the amendments are accepted, they should be incorporated in the substantive or main Resolution which then should be put to vote.

13. Reading of Reports

13.1 The qualifications, observations or comments or other remarks on the financial transactions or matters which have any adverse effect on the functioning of the company, if any, mentioned in the Auditor's Report shall be read at the Annual General Meeting and attention of the Members present shall be drawn to the explanations / comments given by the Board of Directors in their report.

The Chairman has to ensure that before any voting takes place at the Annual General Meeting, the qualifications, observations or comments or other remarks given in the Auditors' report are read out. Simultaneously, he has to ensure that the explanations or comments given by the Board in its report on such qualifications, observations or comments or other remarks of the Auditor are also read at the Annual General Meeting.

It is not necessary that the Auditors themselves read out the Auditor's Report.

13.2 The qualifications, observations or comments or other remarks if any, mentioned in the Secretarial Audit Report issued by the Company Secretary in Practice, shall be read at the Annual General Meeting and attention of Members present shall be drawn to the explanations / comments given by the Board of Directors in their report.

The Chairman has to ensure that before any voting takes place at the Annual General Meeting, the qualifications, observations or comments or other remarks given in the Secretarial Auditors' Report are read out. Simultaneously, he has to ensure that the explanations or comments given by the Board in its report on such qualifications, observations or comments or other remarks of the Secretarial Auditor are also read at the Annual General Meeting.

This would enable the Members to know about the compliance and governance aspects in the company and would enhance transparency.

It is not necessary that the Secretarial Auditors themselves read out the Secretarial Auditor's Report.

14. Distribution of Gifts

No gifts, gift coupons, or cash in lieu of gifts shall be distributed to Members at or in connection with the Meeting.

No gifts, gift coupons, food coupons etc. or cash in lieu of gifts should be distributed to the Members at the Meeting or in connection with the Meeting. This is because such practice is discriminatory and favours only those Members who attend the Meeting.

Further, any item or offer distributed with the intent to influence the decision of the Members shall tantamount to distribution of gifts and should not be practiced.

However, offering, as a matter of courtesy, any food, snacks and beverages, including packed food, at the venue of the Meeting, in the form of refreshments to Members or Proxies who attend the Meeting physically would not amount to offering of gifts.

Further, discount coupons or gift coupons which may be given by the company with respect to its products or services, to all the Members, whether attending

the Meeting or not, would not amount to gift/coupon for the purpose of this paragraph.

15. Adjournment of Meetings

15.1 A duly convened Meeting shall not be adjourned unless circumstances so warrant. The Chairman may adjourn a Meeting with the consent of the Members, at which a Quorum is present, and shall adjourn a Meeting if so directed by the Members.

Meetings shall stand adjourned for want of requisite Quorum.

The Chairman may also adjourn a Meeting in the event of disorder or other like causes, when it becomes impossible to conduct the Meeting and complete its business.

Adjournment means to defer or suspend the Meeting to a future time, either at an appointed date or indefinitely or as decided by the Members present at the scheduled Meeting.

A Meeting shall stand automatically adjourned for want of requisite Quorum as per the applicable provisions of the Act. The Chairman may adjourn a Meeting, at which a Quorum is present in the following circumstances:

(a) With the consent of the Members, when circumstances warrant, or

(b) In the event of disorder or like causes, or

(c) Where so directed by a majority of the Members.

The Chairman of a Meeting has an inherent power to adjourn the meeting in the event of disorder or like causes, if he acts bona fide and if the adjournment was necessary for restoration of order.

The Chairman has the right to make a bona fide adjournment whilst a poll or other business is proceeding, if circumstances of violent interruption make it unsafe or seriously difficult for the Members to tender their votes. The question will turn upon the intention and effect of the adjournment; if the intention and effect were to interrupt or delay the business, such an adjournment would be illegal; if, on the contrary, the intention and effect were to forward or facilitate it and no injurious effects would result, such an adjournment would generally be supported [United Bank of India Ltd. v. United India Credit and Development Corporation Ltd. (1977) 47 Comp. Cas. 689 (Cal)].

Demand of poll for adjournment of a Meeting

A poll may be demanded for adjournment of a Meeting [Sub-section (3) of Section 109 of the Act].

Other aspects related to adjournment

For a valid adjournment of a General Meeting, the holding of the Meeting at its scheduled time is necessary. The Meeting may, however, be adjourned at any time. It may be adjourned after some items of business have been transacted and the remaining items can be transacted at the adjourned Meeting.

15.2 If a Meeting is adjourned *sine-die* or for a period of thirty days or more, a Notice of the adjourned Meeting shall be given in accordance with the provisions contained hereinabove relating to Notice.

An adjourned Meeting is merely a continuation of the original Meeting and, instead of sending a fresh Notice for the Meeting adjourned sine-die or for a period of thirty days or more, the Notice of the original Meeting may be sent, under cover of an intimation specifying the day, date, time and place of the adjourned Meeting. The intimation should clarify that certain items of business had been transacted at the original Meeting, state the reasons for adjournment and list the remaining items of business to be transacted at the adjourned Meeting. The relevant explanatory statement in respect of such remaining items of business should also be given.

The Notice of adjourned Meeting should also be hosted at the website of the company, if any.

15.3 If a Meeting is adjourned for a period of less than thirty days, the company shall give not less than three days' Notice specifying the day, date, time and venue of the Meeting, to the Members either individually or by publishing an advertisement in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and in an English newspaper in English language, both having a wide circulation in that district.

An adjourned Meeting is merely a continuation of the original Meeting and, unless the Articles provide otherwise, a fresh Notice of the Meeting adjourned for a period of less than thirty days is not necessary to be sent individually. However, an announcement in the newspapers as stated in this paragraph regarding the adjournment of the Meeting, giving details of the day, date, time and place and the business to be transacted at the adjourned Meeting should be given. Such announcement should also be placed on the website, if any, of the company.

15.4 If a Meeting, other than a requisitioned Meeting, stands adjourned for want of Quorum, the adjourned Meeting shall be held on the same day, in the next week at the same time and place or on such other day, not being a

National Holiday, or at such other time and place as may be determined by the Board.

If a Meeting is adjourned for want of a Quorum to the same day on the next week, at the same time and place or with a change of day, time or place, the company shall give not less than three days' Notice specifying the day, date, time and venue of the Meeting, to the Members either individually or by publishing an advertisement in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and in an English newspaper in English language, both having a wide circulation in that district.

If, at an adjourned Meeting, Quorum is not present within half an hour from the time appointed, the Members present, being not less than two in number, will constitute the Quorum.

The provisions with respect to National Holiday explained in paragraph 1.2.4 of this Guidance Note shall mutatis-mutandis be applicable in this regard.

15.5 If, within half an hour from the time appointed for holding a Meeting called by requisitionists, a Quorum is not present, the Meeting shall stand cancelled.

Since, a Meeting by requisitionists had been called by the Members themselves, it will not be adjourned for want of Quorum but shall stand cancelled.

15.6 At an adjourned Meeting, only the unfinished business of the original Meeting shall be considered.

Any Resolution passed at an adjourned Meeting would be deemed to have been passed on the date of the adjourned Meeting and not on any earlier date.

If any new business has to be transacted, a fresh Meeting should be duly convened for the purpose of transacting such new business.

16. Passing of Resolutions by postal ballot

16.1 Every company, except a company having less than or equal to two hundred Members, shall transact items of business as prescribed, only by means of postal ballot instead of transacting such business at a General Meeting.

A list of items of businesses requiring to be transacted only by means of a postal ballot is given at ***Annexure XV.***

The Board may however opt to transact any other item of special business, not being any business in respect of which Directors or auditors have a right to be heard at the Meeting, by means of postal ballot.

Ordinary business shall not be transacted by means of a postal ballot.

Postal ballot cannot be conducted in respect of ordinary business and/or matters where the Directors, Auditors, etc. have a right of being heard at the Meeting.

16.2 Every company having its equity shares listed on a recognized stock exchange other than companies whose equity shares are listed on SME Exchange or on the Institutional Trading Platform and other companies which are required to provide e-voting facility shall provide such facility to its Members in respect of those items, which are required to be transacted through postal ballot.

Pursuant to Rule 20 of the Companies (Management and Administration) Amendment Rules, 2015, the companies referred to in Chapter XB (companies listed on SME Exchange) or Chapter XC (companies listed on Institutional Trading Platform) of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, as the case may be, are exempt from providing remote e-voting facility.

Other companies presently prescribed are companies having not less than one thousand Members.

Where the item of business is one for which the company concerned should provide a postal ballot process for passing Resolutions, the question of calling and holding a General Meeting does not arise. The difference between e-voting facility and postal ballot facility lies in the items of business to be transacted at a General Meeting requiring the passing of Resolutions by Members of a company and in respect of certain matters where companies have to offer postal ballot facility to its Members as a mandatory requirement of the Act. In respect of matters required to be transacted through Postal Ballot only, even though companies should offer e-voting facility, the requirement to provide postal ballot facility is mandatory and cannot be done away with.

16.3 Board Approval

The Board shall:

(a) identify the businesses to be transacted through postal ballot;

(b) approve the Notice of postal ballot incorporating proposed Resolution(s) and explanatory statement thereto;

(c) authorise the Company Secretary or where there is no Company Secretary, any Director of the company to conduct postal ballot process and sign and send the Notice along with other documents;

(d) appoint one scrutiniser for the postal ballot.

The scrutiniser may be a Company Secretary in Practice, a Chartered Accountant in Practice, a Cost Accountant in Practice, an Advocate or any other person of repute who is not in the employment of the company and, who can in the opinion of the Board, scrutinise the postal ballot process in a fair and transparent manner.

The scrutiniser shall however not be an officer or employee of the company.

The scrutiniser so appointed may take assistance of a person who is not in employment of the company and who is well-versed with the e-voting system.

Prior Consent to act as a scrutiniser shall be obtained from the scrutiniser and placed before the Board for noting.

The scrutiniser should be willing to be appointed and be available for the purpose of ascertaining the requisite majority.

(e) appoint an Agency in respect of e-voting for the postal ballot;

An Agency should be appointed by the Board which can handle the whole process of postal ballot through e-voting.

(f) decide the record date for reckoning Voting Rights and ascertaining those Members to whom the Notice and postal ballot forms shall be sent.

Only Members as of the record date shall be entitled to vote on the proposed Resolution by postal ballot.

(g) decide on the calendar of events.

An illustrative calendar of events is given in ***Annexure XVI.***

(h) authorise the Chairman or in his absence, any other Director to receive the scrutiniser's register, report on postal ballot and other related papers with requisite details.

Since the scrutiniser's report and related papers are important documents, authority to receive the same has been given to the Chairman or any other Director authorised by the Board.

The intention is also to bring in uniformity between the provisions of e-voting, poll and postal ballot as far as receiving of the scrutiniser's report is concerned.

The scrutiniser is required to submit his report within seven days from the last date of receipt of postal ballot forms.

16.4 Notice

16.4.1 Notice of the postal ballot shall be given in writing to every Member of the company. Such Notice shall be sent either by registered post or speed post, or by courier or by e-mail or by any other electronic means at the address registered with the company.

The Notice shall be accompanied by the postal ballot form with the necessary instructions for filling, signing and returning the same.

In case the Notice and accompanying documents are sent to Members by e-mail, these shall be sent to the Members' e-mail addresses, registered with the company or provided by the depository, in the manner prescribed under the Act.

Such Notice shall also be given to the Directors and Auditors of the company, to the Secretarial Auditor, to Debenture Trustees, if any, and, wherever applicable or so required, to other specified recipients.

The provisions with respect to sending of Notice explained in paragraph 1.2.1 and paragraph 1.2.2 above shall mutatis-mutandis be applicable in this regard.

An advertisement containing prescribed details shall be published at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and having a wide circulation in that district, and at least once in English language in an English newspaper having a wide circulation in that district, about having dispatched the Notice and the ballot papers.

In cases where e-voting facility is provided, the Notice should be published in an English newspaper having country-wide circulation; whereas in other cases, such Notice should be published in the English newspaper having a wide circulation in the district in which the registered office of the company is situated.

If the company accidentally omits to send the Notice to a Member or if a Member does not receive the Notice sent to him, this will not invalidate the Resolution passed or the result of the postal ballot.

16.4.2 In case of companies having a website, Notice of the postal ballot shall also be placed on the website.

Such Notice shall remain on the website till the last date for receipt of the postal ballot forms from the Members.

16.4.3 Notice shall specify the day, date, time and venue where the results of the voting by postal ballot will be announced and the link of the website where such results will be displayed.

Notice shall also specify the mode of declaration of the results of the voting by postal ballot.

It is a general practice to give the information about the date, time and venue of declaration of result of postal ballot.

A company may even declare the result at its registered office, corporate office and head office and put it on the company website.

16.4.4 Notice of the postal ballot shall inform the Members about availability of e-voting facility, if any, and provide necessary information thereof to enable them to access such facility.

In case the facility of e-voting has been made available, the provisions relating to conduct of e-voting shall apply, *mutatis mutandis,* as far as applicable.

Notice shall describe clearly the e-voting procedure.

Notice should also mention the Internet link of e-voting platform.

Notice shall also clearly specify the date and time of commencement and end of e-voting, if any and contain a statement that voting shall not be allowed beyond the said date and time. Notice shall also contain contact details of the official responsible to address the grievances connected with the e-voting for postal ballot.

The Notice should request the Members to send their assent or dissent in writing on the postal ballot paper or vote through electronic means within a period of thirty days from the date of dispatch of such Notice.

Notice shall clearly specify that any Member cannot vote both by post and e-voting and if he votes both by post and e-voting, his vote by post shall be treated as invalid.

The advertisement shall, *inter alia*, state the following matters:

(a) a statement to the effect that the business is to be transacted by postal ballot which may include voting by electronic means;

(b) the date of completion of dispatch of Notices;

(c) the date of commencement of voting (postal and e-voting);

(d) the date of end of voting (postal and e-voting);

(e) the statement that any postal ballot form received from the Member after thirty days from the date of dispatch of Notice will not be valid;

(f) a statement to the effect that Member who has not received postal

ballot form may apply to the company and obtain a duplicate thereof;

(g) contact details of the person responsible to address the queries/ grievances connected with the voting by postal ballot including voting by electronic means, if any; and

(h) day, date, time and venue of declaration of results and the link of the website where such results will be displayed.

Notice and the advertisement shall clearly mention the record date as on which the right of voting of the Members shall be reckoned and state that a person who is not a Member as on the record date should treat this Notice for information purposes only.

16.4.5 Each item proposed to be passed through postal ballot shall be in the form of a Resolution and shall be accompanied by an explanatory statement which shall set out all such facts as would enable a Member to understand the meaning, scope and implications of the item of business and to take a decision thereon.

The Resolution and the explanatory statement should be framed in simple and intelligible language so as to enable the Members to understand the meaning, scope and implications of the proposed items of business. The nature of interest in the proposed Resolution and the extent of shareholding, if any, of Directors and KMPs should be disclosed in the explanatory statement. Where reference is made to any document, contract, agreement or the Memorandum and Articles of Association, the relevant explanatory statement should state that such documents are available for inspection as per the provisions of the Act.

16.5 Postal ballot forms

16.5.1 The postal ballot form shall be accompanied by a postage prepaid reply envelope addressed to the scrutiniser.

A single postal ballot Form may provide for multiple items of business to be transacted.

16.5.2 The postal ballot form shall contain instructions as to the manner in which the form is to be completed, assent or dissent is to be recorded and its return to the scrutiniser.

The postal ballot form may specify instances in which such Form shall be treated as invalid or rejected and procedure for issue of duplicate postal ballot Forms.

16.5.3 A postal ballot form shall be considered invalid if:

(a) A form other than one issued by the company has been used;

(b) It has not been signed by or on behalf of the Member;

(c) Signature on the postal ballot form doesn't match the specimen signatures with the company

(d) It is not possible to determine without any doubt the assent or dissent of the Member;

(e) Neither assent nor dissent is mentioned;

(f) Any competent authority has given directions in writing to the company to freeze the Voting Rights of the Member;

(g) The envelope containing the postal ballot form is received after the last date prescribed;

The assent or dissent received after the last day specified for receipt of duly completed postal ballot forms should be treated as if reply from the Member has not been received.

(h) The postal ballot form, signed in a representative capacity, is not accompanied by a certified copy of the relevant specific authority;

(i) It is received from a Member who is in arrears of payment of calls;

(j) It is defaced or mutilated in such a way that its identity as a genuine form cannot be established;

(k) Member has made any amendment to the Resolution or imposed any condition while exercising his vote.

Any extraneous paper enclosed in the envelope together with a valid and correctly filled in postal ballot form will not impair the validity of the postal ballot form. Any comment or observation made by the Member on the postal ballot form, apart from the vote exercised by him, should not be considered for determining the validity of the postal ballot form.

In case any Member votes both by post and e-voting, his vote by post should be treated as invalid.

A postal ballot form which is otherwise complete in all respects and is lodged within the prescribed time limit but is undated shall be considered valid.

In case there are two items of business to be transacted by Resolutions to be passed through postal ballot, if a Member has given assent or dissent for one item and not for the other, the postal ballot form should be treated as valid for the item for which the decision has been conveyed and invalid for the item for which no decision is indicated.

16.6 Declaration of results

16.6.1 Based on the scrutiniser's report, the Chairman or any other Director authorised by him shall declare the result of the postal ballot on the date, time and venue specified in the Notice, with details of the number of votes cast for and against the Resolution, invalid votes and the final result as to whether the Resolution has been carried or not.

The scrutiniser shall submit his report to the Chairman who shall countersign the same. In case Chairman is not available, for such purpose, the report by the scrutiniser shall be submitted to any other Director who is authorised by the Board to receive such report, who shall countersign the scrutiniser's report on behalf of the Chairman.

The result should be announced by the Chairman or any director or any other person authorised by the Chairman for this purpose.

16.6.2 The result of the voting with details of the number of votes cast for and against the Resolution, invalid votes and whether the Resolution has been carried or not, along with the scrutiniser's report shall be displayed on the Notice Board of the company at its Registered Office and its Head Office as well as Corporate Office, if any, if such office is situated elsewhere, and also be placed on the website of the company, in case of companies having a website.

Results of the voting should be displayed in the Registered Office of the company. Such results should also be displayed at the Head Office as well as the Corporate Office, if such offices are situated elsewhere i.e. other than where the Registered Office is situated.

Placing of voting result on the website as well as on the Notice Boards at the Registered Office/ Head Office/ Corporate Office of the company is prescribed with the intent of wider coverage and for convenience of the Members who may visit such offices.

16.6.3 The Resolution, if passed by requisite majority, shall be deemed to have been passed on the last date specified by the company for receipt of duly completed postal ballot forms or e-voting.

There is no General Meeting conducted in case of postal ballot and therefore the deemed date of passing of the Resolution shall be the last date specified by the company for receipt of duly completed postal ballot forms or e-voting.

16.7 Custody of scrutiniser's registers, report and other related papers

The postal ballot and all other papers relating to postal ballot including voting

by electronic means, should be under the safe custody of the scrutiniser till the Chairman considers, approves and signs the Minutes and thereafter, the scrutiniser should return the ballot papers and other related papers or register to the company who should preserve such ballot papers and other related papers or register safely [Rule 22(11) of the Companies (Management and Administration) Rules, 2014].

The postal ballot forms, other related papers, register and scrutiniser's report received from the scrutiniser shall be kept in the custody of the Company Secretary or any other person authorised by the Board for this purpose.

16.8 Rescinding the Resolution

A Resolution passed by postal ballot shall not be rescinded otherwise than by a Resolution passed subsequently through postal ballot.

A Resolution passed by postal ballot can be rescinded only by a Resolution passed subsequently through postal ballot.

Similarly, a Resolution rescinding the earlier Resolution should be passed in the same manner in which the Resolution in question was passed, e.g. a Resolution passed as a Special Resolution should be rescinded only by a Special Resolution.

Notice of such subsequent postal ballot where the rescinding of a Resolution passed earlier through postal ballot is proposed should specify the intention to rescind such Resolution.

16.9 Modification to the Resolution

No amendment or modification shall be made to any Resolution circulated to the Members for passing by means of postal ballot.

17. Minutes

'Minutes' are the official recording of the proceedings of the Meeting and the business transacted at the Meeting.

Every company shall keep Minutes of all Meetings. Minutes kept in accordance with the provisions of the Act evidence the proceedings recorded therein.

If the Minutes are kept in the prescribed manner, until the contrary is proved, the Meeting shall be deemed to have been duly called and held, and all proceedings thereat to have duly taken place.

Minutes of Meeting were rejected as evidence for not being maintained as per the requirements of the Act [Marble City Hospitals and Research Centre (P.) Ltd. v. Sarabjeet Singh Mokha (2010) 99 SCL 303 (MP)].

As such, Minutes of Meetings constitute a very important statutory record and serve as evidence of various matters, until the contrary is proved.

The burden of proof is on the person who questions the correctness of the proceedings of a Meeting as recorded in the Minutes. If the Minutes of the Meeting are not recorded or signed within the period prescribed under the statute, it would be presumed that the Minutes have not been properly kept and hence such Minutes cannot be produced as evidence [B Sivaraman and Others v. Egmore Benefit Society Ltd. (1992) 2 Comp L J 218 (Mad)].

Accordingly, when Minutes are duly drawn and signed, the contents of Minutes are presumed to be true and the burden of proof lies on those who allege the contents to be not true, to prove the fact.

The presumptions referred above, in regard to Minutes of Extra-Ordinary General Meetings convened on the requisition of Members are not applicable [Bhankerpur Simbhaoli Beverages P. Ltd. v. Sarobjit Singh (1996) 86 Comp. Cas. 842 (P&H)].

Minutes help in understanding the deliberations and decisions taken at the Meeting.

There is no restriction in law on the language of recording Minutes.

17.1 Maintenance of Minutes

17.1.1 Minutes shall be recorded in books maintained for that purpose

The Minutes of proceedings of each Meeting should be entered in the books maintained for that purpose [Rule 25(1)(b)(i) of the Companies (Management and Administration) Rules, 2014].

Where Minutes are recorded in a proper book which is not a Minutes Book as per law, the statutory presumption under Section 195 of the Companies Act, 1956 (corresponding to Section 118 of the Companies Act, 2013) and no such Meeting could be regarded as having been held [V. G. Balasundaram v. New Theatres Carnatic Talkies Pvt. Ltd. (1993) 77 Com. Cases 324 (Mad)].

17.1.2 A distinct Minutes Book shall be maintained for Meetings of the Members of the company, creditors and others as may be required under the Act.

A distinct Minutes Book should be maintained for each type of Meeting namely:-

(i) General Meetings of the Members;

(ii) Meetings of the Creditors;

(iii) Meetings of the Debenture Holders; and

(iv) Meetings of class of Members.

Resolutions passed by postal ballot shall be recorded in the Minutes book of General Meetings.

17.1.3 Minutes may be maintained in electronic form in such manner as prescribed under the Act and as may be decided by the Board. Minutes in electronic form shall be maintained with Timestamp.

A company may maintain its Minutes in physical or in electronic form with Timestamp.

Every listed company or a company having not less than one thousand shareholders, debenture holders and other security holders, may maintain its records in electronic form [Rule 27(1) of the Companies (Management and Administration) Rules, 2014]. An Explanation underneath the said Rule states that the term "records" means any register, index, agreement, memorandum, minutes or any other document required by the Act or the rules made there under to be kept by a company.

This paragraph of SS-2 clearly states that Minutes of Meetings may be maintained in electronic form with Timestamp.

Timestamp

Timestamp is the most authentic way to assure existence of electronic documents, agreements, certificates or any other vital information in electronic form. The term 'Timestamp' is derived from rubber stamps used in offices to record when the document was received. However, in modern times, usage of the term has expanded to refer to digital date and time information attached to digital data. For example, computer files contain Timestamps that indicate when the file was last modified; digital cameras add Timestamps to the pictures they take, recording the date and time the picture was taken.

For the purpose of SS-2, Timestamp should be created with a system integrated time to mark the creation or modification of a file. When a file is created, the system itself should note the time at which the file is created or modified. When digital signature is affixed, the date and time of signing should get recorded automatically. When an e-mail is received or sent, there should be a recording of the time by the system. All this should be recorded by a Secured Computer System.

Consistency in the form of maintaining Minutes

Every company shall, however, follow a uniform and consistent form of maintaining the Minutes. Any deviation in such form of maintenance shall be authorised by the Board.

Companies should maintain the Minutes of all Meetings either in physical form or in electronic form. In other words, the companies should not maintain Minutes of few Meetings in physical form and few in electronic form. Companies should follow a uniform and consistent form of maintaining the Minutes.

Maintenance of Minutes in electronic form

Where Minutes are maintained in electronic form, following requirements should be satisfied –

(a) the information contained therein remains accessible so as to be usable for a subsequent reference;

(b) it is retained in the format in which it was originally generated, or in a format which can be demonstrated to represent accurately the information originally generated;

(c) the details which would facilitate the identification of the origin, destination, date and time of generation are available in the electronic record.

The Managing Director, Company Secretary or any other Director or officer of the company as the Board may decide should be responsible for the Maintenance and security of Minutes in electronic form [Rule 28(1) of Companies (Management and Administration) Rules, 2014]. The Board may authorise any one of the above to maintain the Minutes Book whose duty and responsibility would be to maintain it securely.

The person who is responsible for the Maintenance and security of Minutes in electronic form should -

(a) provide adequate protection against unauthorised access, alteration or tampering of Minutes;

(b) ensure against loss of the Minutes as a result of damage to, or failure of the media on which the Minutes are maintained;

(c) ensure that the signatory of Minutes does not repudiate the signed Minutes as not genuine;

(d) ensure that computer systems, software and hardware are adequately secured and validated to ensure their accuracy, reliability and consistent intended performance;

(e) ensure that the computer systems can discern invalid and altered Minutes;

(f) ensure that Minutes are accurate, accessible, and capable of being reproduced for reference later;

(g) ensure that the Minutes are at all times capable of being retrieved to a readable and printable form;

(h) ensure that Minutes are kept in a non-rewriteable and non-erasable format like pdf. version or some other version which cannot be altered or tampered;

(i) ensure that a backup is kept of the updated Minutes maintained in electronic form; such backup is authenticated and dated and is securely kept at such place as may be decided by the Board;

(j) limit the access to the Minutes to the Managing Director, Company Secretary or any other Director or officer or persons performing work of the company as may be authorised by the Board in this behalf;

Access may be given to the Auditor (s) and / or other persons as allowed in terms of relevant paragraphs of SS-2.

(k) ensure that any reproduction of non-electronic original Minutes in electronic form is complete, authentic, true and legible when retrieved;

(l) arrange and index the Minutes in a way that permits easy location, access and retrieval of any particular record; and

(m) take necessary steps to ensure security, integrity and confidentiality of Minutes.

17.1.4 The pages of the Minutes Books shall be consecutively numbered.

This shall be followed irrespective of a break in the Book arising out of periodical binding in case the Minutes are maintained in physical form. This shall be equally applicable for maintenance of Minutes Book in electronic form with Timestamp.

So as to facilitate easy retrieval of any decision/Resolution and additionally to safeguard the integrity of the Minutes, the pages of the Minutes Book should be consecutively numbered irrespective of break in the Minutes Book. Thus, in case a Minutes Book is full and a new Minutes Book is started, the numbering should continue from the number appearing on the last page of the previous Minutes Book.

This should also be followed irrespective of the number or year of Meeting.

For the purpose of this paragraph of SS-2, a company may choose to give

consecutive numbering from Meetings held on or after 1st July, 2015, this being the date from which SS-2 became effective.

In the event any page or part thereof in the Minutes Book is left blank, it shall be scored out and initialled by the Chairman who signs the Minutes.

17.1.5 Minutes shall not be pasted or attached to the Minutes Book, or tampered with in any manner.

The law prohibits pasting of Minutes in the Minutes Book and hence Minutes cannot be type-written and then pasted in bound Minutes Book or in loose leaves. Minutes should also not be printed on a piece of paper, whether on letterhead or other paper, and pasted in Minutes Book.

It is with a view to maintain the integrity and evidentiary value of Minutes that a lot of safeguards have been introduced in SS-2 so that Minutes are kept, maintained and preserved with requisite care and caution.

17.1.6 Minutes of Meetings, if maintained in loose-leaf form, shall be bound periodically depending on the size and volume.

Maintenance of Minutes in loose-leaf form is not specifically provided under the Act. However, MCA has issued clarifications supporting the contention that Minutes kept in a loose-leaf form can be said to be in accordance with the provisions of the Act.

If Minutes are maintained in loose-leaf form, these should be bound in one or more than one book, coinciding with the calendar year or financial year. This would facilitate proper Maintenance and preservation of Minutes.

Security in case of Minutes maintained in loose leaves

There shall be a proper locking device to ensure security and proper control to prevent removal or manipulation of the loose leaves.

This is to ensure security and effective control.

Further, if Minutes are kept in loose-leaf form, the company should:

1. *take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded; and*
2. *provide means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.*

17.1.7 Minutes Books shall be kept at the Registered Office of the company or at such other place, as may be approved by the Board.

Minutes of the General Meetings should be kept at the Registered Office of the company or at such other place as may be approved by the Board [Rule 25 (1) (e) of the Companies (Management and Administration) Rules, 2014].

17.2 Contents of Minutes

17.2.1 General Contents

17.2.1.1 Minutes shall state, at the beginning the Meeting, name of the company, day, date, venue and time of commencement and conclusion of the Meeting.

Minutes should state at the beginning the following:

1. *The name of the company*
2. *The type of Meeting (Annual General Meeting, Extra-Ordinary General Meeting, etc.)*
3. *The day, date and venue of the Meeting*
4. *The time of commencement as well as the time of conclusion of the Meeting*

In Form No. MGT 15, being the form for reporting by the listed companies about the Annual General Meeting, there is a requirement to mention the time of conclusion of the Meeting. However, since SS-2 promotes good corporate practices, this requirement has been extended to other companies and other General Meetings as well. Recording the time of conclusion of the Meeting would also help the Minutes to be complete in all aspects.

Adjourned Meetings

In case a Meeting is adjourned, the Minutes shall be entered in respect of the original Meeting as well as the adjourned Meeting.

In respect of a Meeting convened but adjourned for want of quorum a statement to that effect shall be recorded by the Chairman or any Director present at the Meeting in the Minutes.

The Minutes of the adjourned Meeting should be prepared separately and in the same manner as the Minutes of the original Meeting and the fact that the Meeting is an adjourned one should be specified in such Minutes by the Chairman or any Director present at the Meeting.

For the purpose of recording the time of conclusion of the Meeting which has been adjourned, the time at which such Meeting was adjourned should be recorded.

17.2.1.2 Minutes shall record the names of the Directors and the Company Secretary present at the Meeting.

Minutes should record the names of the following:

1. *the Directors present,*

   The names of the Directors shall be listed in alphabetical order or in any other logical manner, but in either case starting with the name of the person in the Chair.

   The term "any other logical manner" should be liberally construed as the manner in which the company deems it appropriate to record the names of Directors present with some logic behind it e.g. designation, seniority etc. of the Directors.

2. *the Company Secretary, if any, present.*

Besides the above, Minutes should also record the following:

1. *The name of the Director who took the Chair.*
2. *Vote of thanks.*

17.2.2 Specific Contents

17.2.2.1 Minutes shall, *inter alia*, contain:

(a) The Record of election, if any, of the Chairman of the Meeting.

The election, if any, of the Chairman of the Meeting as provided in paragraph 5 of SS-2, should be recorded in the Minutes.

(b) The fact that certain registers, documents, the Auditor's Report and Secretarial Audit Report, as prescribed under the Act were available for inspection.

(c) The Record of presence of Quorum.

If at the commencement of the Meeting, the Quorum is present, but subsequently if some Members leave before the close of the Meeting, due to which the Quorum requirement is not met for businesses taken up thereafter, the Meeting should be adjourned and a statement to that effect should be recorded in the Minutes.

(d) The number of Members present in person including representatives.

The Minutes should record the number of Members who attended the Meeting in person including authorised representatives.

(e) The number of proxies and the number of shares represented by them.

(f) The presence of the Chairmen of the Audit Committee, Nomination and Remuneration Committee and Stakeholders Relationship Committee or their authorised representatives.

(g) The presence if any, of the Secretarial Auditor, the Auditors, or their authorised representatives, the Court/Tribunal appointed observers or scrutinisers.

(h) Summary of the opening remarks of the Chairman.

(i) Reading of qualifications, observations or comments or other remarks on the financial transactions or matters which have any adverse effect on the functioning of the company, as mentioned in the report of the Auditors.

(j) Reading of qualifications, observations or comments or other remarks as mentioned in the report of the Secretarial Auditor.

(k) Summary of the clarifications provided on various Agenda Items.

(l) In respect of each Resolution, the type of the Resolution, the names of the persons who proposed and seconded and the majority with which such Resolution was passed.

Where a motion is moved to modify a proposed Resolution, the result of voting on such motion shall be mentioned. If a Resolution proposed undergoes modification pursuant to a motion by shareholders, the Minutes shall contain the details of voting for the modified Resolution.

(m) In the case of poll, the names of scrutinisers appointed and the number of votes cast in favour and against the Resolution and invalid votes.

(n) If the Chairman vacates the Chair in respect of any specific item, the fact that he did so and in his place some other Director or Member took the Chair.

(o) The time of commencement and conclusion of the Meeting.

17.2.2.2 In respect of Resolutions passed by e-voting or postal ballot, a brief report on the e-voting or postal ballot conducted including the Resolution proposed, the result of the voting thereon and the summary of the scrutiniser's report shall be recorded in the Minutes Book and signed by the Chairman or

in the event of death or inability of the Chairman, by any Director duly authorised by the Board for the purpose, within thirty days from the date of passing of Resolution by e-voting or postal ballot.

In case of every Resolution passed by postal ballot, a brief report on the postal ballot conducted including the Resolution proposed, the result of the voting thereon and the summary of the scrutiniser's report should be entered in the Minutes Book of General Meetings along with the date of such entry within thirty days from the date of passing of Resolution [Rule 25(1)(b)(ii) of the Companies (Management and Administration) Rules, 2014].

*A specimen report of postal ballot is placed at **Annexure XVII.***

Where the Minutes have been kept in accordance with the Act, until the contrary is proved, the Resolutions passed by postal ballot shall be deemed to have been duly passed.

17.3. Recording of Minutes

Companies follow diverse practices with respect to recording of Minutes. Some companies record only the decisions while some companies record only the Resolutions that capture the decisions taken and some companies record the entire proceedings in the form of almost an exact transcript of what had transpired at the Meeting. SS-2 seeks to harmonise such divergent practices by providing principles for recording of Minutes.

The Minutes should be recorded in such a way that it enables any reader to understand what had transpired in the Meeting.

Specimens of the Minutes of an Annual General Meeting and Extra-Ordinary General Meeting are placed at **Annexure XVIII and XIX** respectively.

17.3.1 Minutes shall contain a fair and correct summary of the proceedings of the Meeting.

Minutes are not an exhaustive record of everything said at a Meeting. Minutes should not attempt to record all reasons for decisions taken, i.e. all arguments put forth for and against a particular Resolution.

The Company Secretary shall record the proceedings of the Meetings. Where there is no Company Secretary, any other person authorised by the Board or by the Chairman in this behalf shall record the proceedings.

In case a Company Secretary is unable to attend a Meeting or in the absence of the Company Secretary, any other person duly authorised by the Board or by the Chairman, may attend and record the proceedings of the Meeting.

The Chairman shall ensure that the proceedings of the Meeting are correctly recorded.

Chairman's discretion

The Chairman has absolute discretion to exclude from the Minutes, matters which in his opinion are or could reasonably be regarded as defamatory of any person, irrelevant or immaterial to the proceedings or which are detrimental to the interests of the company.

The Chairman has the responsibility to ensure that the Minutes contain a fair and accurate summary of the proceedings at the Meeting. The word "fair" signifies the need to record matters as transpired at the Meeting without any bias. While doing so, he has absolute discretion to exclude matters of the type specified above.

17.3.2 Minutes shall be written in clear, concise and plain language.

Minutes need not be an exact transcript of the proceedings at the Meeting.

Minutes should be written in simple language and should contain a brief synopsis of the discussions along with the decisions taken at the Meeting.

Minutes should record the essential elements of the Meeting i.e., narration which is fundamental to understand the proceedings at the Meeting and the complete text of all the Resolutions.

Minutes shall be written in third person and past tense. Resolutions shall however be written in present tense.

17.3.3 Each item of business taken up at the Meeting shall be numbered.

Numbering shall be in a manner which would enable ease of reference or cross-reference.

While numbering, the company may choose to follow any system of numbering.

Illustrations

(i) Serially numbering irrespective of the number of the Meeting

Items to be discussed in the General Meeting would be numbered 1, 2, 3, 4… and so on and so forth.

(i) Serial numbering on Meeting-to-Meeting basis as follows:

Items to be discussed in first Meeting of XYZ Company would be numbered as 1.1, 1.2, 1.3, 1.4 etc…Items to be discussed in the 2nd

Meeting would be numbered as 2.1, 2.2, 2.3 and so on and so forth.

(iii) Continuous numbering irrespective of year/Meeting:

Suppose there are 8 items to be discussed in the first Meeting and 10 items in the second Meeting. In such a case, the items of the 1st Meeting would be numbered as item numbers 1-8 and the items of the second Meeting would be numbered from 9-18 and so on.

A company should follow a uniform pattern of numbering for every item of business.

17.4. Entry in the Minutes Book

17.4.1 Minutes shall be entered in the Minutes Book within thirty days from the date of conclusion of the Meeting.

The Minutes of proceedings of each Meeting should be entered in the books maintained for that purpose within thirty days of the conclusion of the Meeting [Rule 25(1)(b)(i) of the Companies (Management and Administration) Rules, 2014].

In case a Meeting is adjourned, the Minutes in respect of the original Meeting as well as the adjourned Meeting shall be entered in the Minutes Book within thirty days from the date of the respective Meetings.

The Minutes of an adjourned Meeting should be entered in the Minutes Book within thirty days of the conclusion of the adjourned Meeting, since an adjourned Meeting is only a continuation of the original Meeting.

17.4.2 The date of entry of the Minutes in the Minutes Book shall be recorded by the Company Secretary.

Where there is no Company Secretary, it shall be entered by any other person authorised by the Board or the Chairman.

The date of entry of the Minutes should be recorded on the last page of the respective Minutes. If the Minutes are maintained in electronic form, the date of entry should be captured in Timestamp.

17.4.3 Minutes, once entered in the Minutes Book, shall not be altered.

The pasting of Minutes or corrections or modification in the text of Minutes duly entered in the Minutes Book and signed by the Chairman would tantamount to alteration of Minutes.

17.5. Signing and Dating of Minutes

17.5.1 Minutes of a General Meeting shall be signed and dated by the Chairman of the Meeting or in the event of death or inability of that Chairman, by any Director who was present in the Meeting and duly authorised by the Board for the purpose, within thirty days of the General Meeting.

While the Minutes of Meetings of the Board have to be entered within thirty days, Minutes of every General Meeting should not only be entered but also be signed within thirty days from the date of the conclusion of the Meeting.

The Minutes of an adjourned Meeting should also be signed within thirty days of the conclusion of the adjourned Meeting, since an adjourned Meeting is only a continuation of the original Meeting.

A cursory perusal of Section 195 of the Companies Act, 1956 (corresponding to Section 118 of the Act) regarding the presumption to be drawn where Minutes of the company are duly drawn and signed, clearly proves that the presumption arising in this Section is a rebuttable one by adducing contrary evidence. It is therefore, important to ensure that the Minutes are signed and kept as stated above in order to have the benefit of the statutory presumption that such Minutes constitute evidence of the proceedings recorded therein.

If the Minutes are not recorded or signed within the prescribed period, it is to be presumed that they have not been properly kept and hence will not be admissible in evidence [B Sivaraman and Others v. Egmore Benefit Society Ltd. (1992) 2 Comp L J 218 (Mad)].

The authorisation to sign the Minutes in the event of death or inability of the Chairman, may be given at a Meeting of the Board or by a Resolution passed by circulation.

17.5.2 The Chairman shall initial each page of the Minutes, sign the last page and append to such signature the date on which and the place where he has signed the Minutes.

Each page of the Minutes should be initialled or signed and the last page of the Minutes or report in Minutes Books should be dated and signed by the Chairman of the same Meeting within the aforesaid period of thirty days or in the event of the death or inability of that Chairman within that period, by a Director duly authorised by the Board for the purpose [Rule 25(1)(d)(ii) of the Companies (Management and Administration) Rules, 2014].

The place for this purpose should be the city or town where the Minutes are being signed. The date on which the Minutes are signed should be appended to the signature.

Any blank space in a page between the conclusion of the Minutes and signature of the Chairman shall be scored out.

The Minutes should be recorded on consecutive pages of the Minutes Book. No blank space should be left in between the Minutes.

If the Minutes are maintained in electronic form, the Chairman shall sign the Minutes digitally.

Scanned signature of the Chairman cannot be affixed to the Minutes.

17.6. Inspection and Extracts of Minutes

17.6.1 Directors and Members are entitled to inspect the Minutes of all General Meetings including Resolutions passed by postal ballot.

Minutes of all General Meetings shall be open for inspection by any Member during business hours of the company, without charge, subject to such reasonable restrictions as the company may, by its Articles or in General Meeting, impose, so, however, that not less than two hours in each business day are allowed for inspection.

The Act empowers only the Members to inspect and take copies of Minutes of General Meetings [Section 119 of the Act].

The right of inspection cannot be denied whatever be the motive of the Member [Rameshwarlal Nath v. Calcutta Wheat and Seed Association Ltd. (1938) 8 Comp. Cas. 78 (Cal)].

Besides Members, the Directors of the company are also entitled to inspect the Minutes of General Meetings in accordance with this paragraph of SS-2.

The Company Secretary in Practice appointed by the company, the Secretarial Auditor, the Statutory Auditor, the Cost Auditor or the Internal Auditor of the company can inspect the Minutes as he may consider necessary for the performance of his duties.

This would enable the Statutory Auditor or the Internal Auditor or the Secretarial Auditor or the Company Secretary in Practice or the Cost Auditor, as the case may be, to discharge their professional duties fairly.

Officers of the Registrar of Companies can inspect the Minutes Book during the course of inspection [Section 206 and 207 of the Act]. Officers of the Government/ Regulatory bodies, if so authorised by the Act or any other law, can also inspect the Minutes Book.

Inspection of Minutes Book may be provided in physical or in electronic form.

While providing inspection of Minutes Book, the Company Secretary or the official of the company authorised by the Company Secretary to facilitate inspection shall take all precautions to ensure that the Minutes Book is not mutilated or in any way tampered with by the person inspecting.

17.6.2 Extract of the Minutes shall be given only after the Minutes have been duly signed. However, any Resolution passed at a Meeting may be issued even pending signing of the Minutes provided the same is certified by the Chairman or any Director or the Company Secretary.

Only after the Minutes have been signed, any extract of Minutes can be given to third parties.

However without waiting for these formalities, certified copies of the Resolutions can always be issued even earlier once a Resolution is passed provided the same is certified by the Chairman or any Director or the Company Secretary.

Many a times, it might be necessary to furnish certified copies of Resolutions or file the same with authorities for various purposes. Other than "Ordinary Business", it is usual to give a text of the Resolution proposed to be passed in respect of every item forming part of the "Special Business" as set out in the Notice of a General Meeting. Therefore, when a Resolution is passed at a General Meeting, a certified extract of such Resolution can be given without waiting for the Minutes to be signed.

When a Member requests in writing for a copy of any Minutes, which he is entitled to inspect, the company shall furnish the same within seven working days of receipt of his request, subject to payment of such fee as may be specified in the Articles of the company. In case a Member requests for the copy of the Minutes in electronic form, in respect of any previous General Meetings held during a period immediately preceding three financial years, the company shall furnish the same on payment of such fee as prescribed under the Act.

The company should furnish copies of Minutes on payment of fees as prescribed in the Articles but not exceeding ten rupees per page or part of any page. However, the soft copy of Minutes of previous General Meeting held during immediately preceding three financial years be furnished at free of cost [Rule 26 of the Companies (Management and Administration) Rules, 2014].

Copies of the Minutes or the extracts thereof as requisitioned by the Member, duly certified by the Company Secretary or where there is no Company Secretary, an officer duly authorised by the Board in this behalf, may be provided in physical or electronic form.

18. Preservation of Minutes and other Records

18.1 Minutes of all Meetings shall be preserved permanently in physical or electronic form with Timestamp.

Where, under a scheme of arrangement, a company has been merged or amalgamated with another company, Minutes of all Meetings of the transferor company, as handed over to the transferee company, shall be preserved permanently by the transferee company, notwithstanding that the transferor company might have been dissolved.

The preservation of Minutes of the merged or amalgamated company would ensure easy reference to any important decisions taken prior to amalgamation.

18.2 Office copies of Notices, scrutiniser's report, and related papers shall be preserved in good order in physical or in electronic form for as long as they remain current or for eight financial years, whichever is later and may be destroyed thereafter with the approval of the Board.

Copies of the Notice calling the Meeting, scrutiniser's report and other papers, documents, agreements, approvals, etc. related to the business transacted at the Meeting should be retained at least for as long as the related subject remains relevant or for eight financial years, whichever is later.

Corollary has been drawn from Rule 15 of the Companies (Management and Administration) Rules, 2014 which prescribes a period of eight years for preservation of the register of debenture holders or any other security holders etc. and the annual return.

Unlike Minutes, these papers explain in detail all the proposals, voting process, results etc. and hence would enable easy reference to the important decisions taken earlier along with the rationale for the decisions. Therefore, considering the importance of these papers, prior approval of the Board is necessary for their destruction. This is also because the Directors are responsible for devising and ensuring effective operation of proper and adequate systems, and the need to refer to these papers may arise anytime.

Office copies of Notices, scrutiniser's report, and related papers of the transferor company, as handed over to the transferee company, shall be preserved in good order in physical or electronic form for as long as they remain current or for eight financial years, whichever is later and may be destroyed thereafter with the approval of the Board and permission of the Central Government, where applicable.

The permission of the Central Government for destroying such records has been prescribed in line with the provisions of Section 239 of the Act, which

provides that the books and papers of a company which has been amalgamated with, or whose shares have been acquired by, another company should not be disposed of without the prior permission of the Central Government and before granting such permission, that Government may appoint a person to examine the books and papers or any of them for the purpose of ascertaining whether they contain any evidence of the commission of an offence in connection with the promotion or formation, or the management of the affairs, of the transferor company or its amalgamation or the acquisition of its shares.

Any record destroyed after 1st July, 2015 requires the approval of the Board, even if such record pertains to a period prior to the applicability of SS-2.

It may be noted that the Board may authorise destruction of such records only after the expiry of the period specified in this paragraph of SS-2.

18.3 Minutes Books shall be kept in the custody of the Company Secretary.

Where there is no Company Secretary, Minutes shall be kept in the custody of any Director duly authorised for the purpose by the Board.

The Company Secretary or where there is no Company Secretary, any Director who has been duly authorised for this purpose, should ensure that the Minutes Books are under a proper locking system and that no person has access to the Minutes without his permission. Minutes maintained in electronic form should also be kept under a proper security system.

19. Report on Annual General Meeting

Every listed Company shall prepare a report on Annual General Meeting in the prescribed form, including a confirmation that the Meeting was convened, held and conducted as per the provisions of the Act.

In case of a listed company, the report on Annual General Meeting should be prepared in addition to the Minutes of the Annual General Meeting [In line with Section 121 of the Act].

Such report which shall be a fair and correct summary of the proceedings of the Meeting shall contain:

(a) the day, date, time and venue of the Annual General Meeting;

(b) confirmation with respect to appointment of Chairman of the Meeting;

(c) number of Members attending the Meeting;

(d) confirmation of Quorum;

(e) confirmation with respect to compliance of the Act and Standards with respect to calling, convening and conducting the Meeting;

(f) business transacted at the Meeting and result thereof with a brief summary of the discussions;

(g) particulars with respect to any adjournment, postponement of Meeting, change in venue; and

(h) any other points relevant for inclusion in the report.

It shall be signed and dated by the Chairman of the Meeting or in case of his inability to sign, by any two Directors of the company, one of whom shall be the Managing Director, if there is one and Company Secretary.

Considering that Form No. MGT-15 prescribed by the MCA for this purpose requires all the aforesaid details to be filled in the Form itself and requires this Form to be digitally signed by the Chairman, it shall be sufficient if Form No. MGT-15 is digitally signed by the Chairman of the Meeting.

Such report shall be filed with the Registrar of Companies within thirty days of the conclusion of the Annual General Meeting.

20. Disclosure

The Annual Return of a Company shall disclose the date of Annual General Meeting held during the financial year.

The expression "Annual Return" for the purpose of this paragraph of SS-2 should be understood within the meaning of Section 92 of the Act.

Every company should file with the Registrar of Companies, at the end of every financial year, an Annual Return, which inter alia, should contain particulars of Meetings of Members or a class thereof.

This paragraph of SS-2 requires the companies to make a disclosure in their Annual Return, of the date of Annual General Meeting held during the year.

In addition, Form No. MGT-7 (Format of Annual Return) prescribed by MCA for this purpose requires all companies to disclose the dates of all General Meetings held during the financial year, total number of Members entitled to attend the Meeting, and number of Members who attended the Meeting along with their total shareholding.

Annexure I

(Refer Paragraph 1.2.10)

Attendance Slip

Name of the Company .....

Registered Address .....

CIN - ..... Email- ..... Telephone: ..... Website: .....

ATTENDANCE SLIP

..... (Meeting Number) ..... (Date)

Folio No. / DP ID Client ID No.	
Name of First named Member/Proxy/ Authorised Representative	
Name of Joint Member(s), if any:	
No. of Shares held	

I/we certify that I/we am/are member(s)/proxy for the member(s) of the Company.

I/we hereby record my/our presence at the .....(Meeting number) Annual General Meeting of the Company being held on .....(Day & Date) at .....(time) at ..... (Venue address).

.....

Signature of First holder/Proxy/Authorised Representative

Signature of 1st Joint holder

Signature of 2nd Joint holder

Note (s) : 1. Please sign this attendance slip and hand it over at the Attendance Verification Counter at the MEETING VENUE.

2. Only shareholders of the Company and/or their Proxy will be allowed to attend the Meeting.

Annexure II

(Refer Paragraph 1.2.10)

Specimen Notice on Annual General Meeting

Name of the Company .....

Registered Address .....

CIN - ..... Email- ..... Telephone: ..... Website: .....

NOTICE OF ..... (Meeting Number) ANNUAL GENERAL MEETING

NOTICE is hereby given that the ..... (Meeting Number) Annual General Meeting of the Members of ..... (Name of the Company) will be held on ..... (day), the ..... (date), 20....., at ..... am/ p.m. at ..... (address) to transact the following business:

Ordinary Business:

1. To receive, consider and adopt the standalone and consolidated Financial Statements of the Company for the financial year ended 31st March, ... and the Reports of the Board of Directors and the Auditors.

2. To declare dividend for the financial year ended 31st March, ...

3. To appoint a Director in place of Mr. ..... (DIN .....), who retires by rotation and being eligible, offers himself for reappointment.

4. To appoint a Director in place of Mr. ..... (DIN .....), who retires by rotation and being eligible, offers himself for reappointment.

5. To appoint a Director in place of Mr. ..... (DIN .....), who retires by rotation and being eligible, offers himself for reappointment.

6. To appoint Statutory Auditors and to determine their remuneration. For this purpose, to consider and if deemed fit, to pass, with or without modification, the following Resolution as an Ordinary Resolution:

"RESOLVED THAT pursuant to the provisions of Section 139 and other applicable provisions if any, of the Companies Act, 2013 and the Rules framed thereunder, as amended from time to time, M/s. ....., Chartered Accountants, (Firm Registration No.....) be and are hereby appointed as Auditors of the Company to hold office from the conclusion of this Annual General Meeting till the conclusion of the ..... Annual General Meeting of the Company

(subject to ratification of their appointment at every AGM), at a remuneration of Rs. ...../- (Rupees ..... only) for the year ..... and Rs. ...../- (Rupees ..... only) per year for the subsequent ..... years plus reimbursement of out of pocket expenses and service tax, as applicable."

"RESOLVED FURTHER THAT the Board of Directors of the Company (including a Committee thereof), be and is hereby authorised to do all such acts, deeds, matters and things as may be considered necessary, desirable or expedient to give effect to this Resolution."

Or

"RESOLVED THAT pursuant to the provisions of Section 139, 142 and other applicable provisions, if any, of the Companies Act, 2013 read with the Companies (Audit and Auditors) Rules, 2014 (including any statutory modification(s) or re-enactment thereof, for the time being in force), M/s. ....., Chartered Accountants (Registration No. .....), who were appointed as Statutory Auditors of the Company at ..... Annual General Meeting to hold office up to the conclusion of ..... Annual General Meeting and have confirmed their eligibility to be appointed as Auditors in terms of the provisions of Section 141 of the Act and the relevant Rules and have offered themselves for re-appointment, be and are hereby re-appointed as the Statutory Auditors of the Company to hold office from the conclusion of this Annual General Meeting till the conclusion of the next Annual General Meeting of the Company at such remuneration plus service tax, out-of-pocket, travelling and living expenses, etc., as may be mutually agreed between the Board of Directors of the Company and the said Auditors."

"RESOLVED FURTHER THAT the Board of Directors of the Company (including a Committee thereof), be and is hereby authorised to do all such acts, deeds, matters and things as may be considered necessary, desirable or expedient to give effect to this Resolution."

OR

Approval of Remuneration of Statutory Auditors appointed by CAG

To consider and if deemed fit, to pass the following Resolution as a Special Resolution:

"RESOLVED that pursuant to Section 142 of the Companies Act 2013, and other applicable provisions, if any, of the Companies Act, 2013, the remuneration of the Statutory Auditors appointed by Comptroller & Auditor General of India (C & AG) under Section 139(5) of the said Act, be and is hereby fixed at Rs. ...../- for the year 201....-1....."

Special Business:

7. To appoint Mr. ..... as Director.

To consider, and if thought fit, to pass, with or without modification, the following Resolution as an Ordinary Resolution:

"RESOLVED THAT pursuant to the provisions of Section 152 and other applicable provisions of the Companies Act, 2013 read with the Companies (Appointment and Qualification of Directors) Rules, 2014, Mr. ..... (DIN .....), who was appointed as an Additional Director of the Company with effect from ....., 20..... by the Board of Directors of the Company pursuant to Section 161(1) of the Companies Act, 2013 and the Articles of Association of the Company and who holds office upto the date of this Annual General Meeting, and being eligible, offer himself for appointment and in respect of whom the Company has received a notice in writing under Section 160 of the Companies Act, 2013 from a member signifying his intention to propose the candidature of Mr. ..... for the office of Director, be and is hereby appointed with effect from the date of this Meeting as a Director of the Company, liable to retire by rotation."

By Order of the Board of Directors

For .....

.....(Signature)

Place : ..... *.....(Name)*

Date : ..... 20..... *Company Secretary*

Notes :

1. The explanatory statement setting out the material facts pursuant to Section 102 of the Companies Act, 2013, relating to special business to be transacted at the Meeting is annexed.

2. A Member entitled to attend and vote at the Meeting is entitled to appoint a Proxy to attend and, on a poll, to vote instead of himself and the Proxy need not be a Member of the Company.

3. Proxies, in order to be effective, must be received in the enclosed Proxy Form at the Registered Office of the Company not less than forty-eight hours before the time fixed for the Meeting.

4. A person can act as a proxy on behalf of Members not exceeding 50 and holding in the aggregate not more than ten percent of the total share capital of the Company carrying voting rights. A Member holding more than ten percent

of total share capital of the Company carrying voting rights may appoint a single person as proxy and such person shall not act as a proxy for any other person or shareholder.

5. A Corporate Member intending to send its authorised representatives to attend the Meeting in terms of Section 113 of the Companies Act, 2013 is requested to send to the Company a certified copy of the Board Resolution authorizing such representative to attend and vote on its behalf at the Meeting.

6. Members/Proxies/Authorised Representatives are requested to bring the attendance slips duly filled in for attending the Meeting. Members who hold shares in dematerialised form are requested to write their client ID and DP ID numbers and those who hold shares in physical form are requested to write their Folio Number in the attendance slip for attending the Meeting.

7. During the period beginning 24 hours before the time fixed for the commencement of Meeting and ending with the conclusion of the Meeting, a Member would be entitled to inspect the proxies lodged at any time during the business hours of the Company. All documents referred to in the Notice and accompanying explanatory statement are open for inspection at the Registered Office of the Company on all working days of the Company between 11:00 a.m. and 1:00 p.m. upto the date of the Annual General Meeting and at the venue of the Meeting for the duration of the Meeting.

8. Route-map to the venue of the Meeting is provided at the end of the Notice / Page no. ..... of the Annual Report.

9. The Register of Members and the Share Transfer Books of the Company will remain closed from ..... to ..... (both days inclusive).

10. The dividend on shares as recommended by the Board, if approved at the Annual General Meeting, will be paid within thirty days from the date of declaration to those Members or their mandatees whose names appear:

(a) as Members in the Register of Members of the Company on ....., and

(a) as beneficial owners on that date as per the lists to be furnished by ..... in respect of shares held in electronic form.

11. Unclaimed / Unpaid Dividend:

Pursuant to Section 205A of the Companies Act, 1956 (Section 124 of the Companies Act, 2013, once notified), dividend for the financial year ended 31st March, _____ which remains unclaimed for a period of seven years, become due for transfer on ..... (date) to the Investor Education and Protection

Fund of the Central Government. Members who have not claimed their dividend for the above mentioned year are requested to make their claim to the Share Department of the Company at the Registered Office of the Company or to the Registrar & Share Transfer Agents of the Company at ..... (address) as early as possible but not later than ..... (date).

11. The Company has already transferred unclaimed dividend declared for the financial year ended 31st March, ... and earlier periods to the Investor Education and Protection Fund. Members who have so far not claimed or collected their dividends for the said period may claim their dividend from the Registrar of Companies, ..., by submitting an application in the prescribed form.

12. The Securities and Exchange Board of India (SEBI) has mandated the submission of Permanent Account Number (PAN) by every participant in securities market. Members holding shares in electronic form are, therefore, requested to submit the PAN to their Depository Participants with whom they are maintaining their demat accounts. Members holding shares in physical form can submit their PAN details to the Company.

13. Electronic copy of the Annual Report is being sent to all the Members whose email IDs are registered with the Company/Depository Participant(s) for communication purposes unless any Member has requested for a hard copy of the same. For Members who have not registered their email address, physical copy of the Annual Report is being sent in the permitted mode. In case you wish to get a physical copy of the Annual Report, you may send your request to ..... (email) mentioning your folio/DP ID and Client ID. Annual Reports is also available in the Financials section on the website of the Company at www.....com.

14. Members holding shares in physical mode are requested to register their email IDs with the Registrar & Share Transfer Agents of the Company and Members holding shares in demat mode are requested to register their email ID's with their respective DP in case the same is still not registered. Members are also requested to notify any change in their email ID or bank mandates or address to the Company and always quote their Folio Number or DP ID and Client ID Numbers in all correspondence with the Company. In respect of holding in electronic form, Members are requested to notify any change of email ID or bank mandates or address to their Depository Participants.

15. Members holding shares in electronic form may please note that their bank details as furnished to the respective Depositories will be printed on their dividend warrants as per the applicable regulations. The Company will not

entertain any direct request from such Members for deletion or change of such bank details. Instructions, if any, already given by Members in respect of shares held in physical form will not be automatically applicable to the dividend paid on shares in electronic form.

16. Any query relating to financial statements must be sent to the Company's Registered Office at least seven days before the date of the Meeting.

17. With a view to serving the Members better and for administrative convenience, an attempt would be made to consolidate multiple folios. Members who hold shares in identical names and in the same order of names in more than one folio are requested to write to the Company to consolidate their holdings in one folio.

18. Members who still hold share certificates in physical form are advised to dematerialise their shareholding to avail the benefits of dematerialisation, which include easy liquidity, since trading is permitted in dematerialised form only, electronic transfer, savings in stamp duty and elimination of any possibility of loss of documents and bad deliveries.

19. Members can avail of the nomination facility by filing Form SH-13, as prescribed under Section 72 of the Companies Act, 2013 and Rule 19(1) of the Companies (Share Capital and Debentures) Rules, 2014, with the Company. Blank forms will be supplied on request.

20. In accordance with the provisions of Article .....of the Articles of Association of the Company, Mr. ....., Mr. ..... and Mr. ..... will retire by rotation at the Annual General Meeting and, being eligible, offer themselves for re-election. Further, Mr. ..... was appointed as an Additional Director and retires at the Annual General Meeting and the Company has received a notice for his appointment at the Annual General Meeting. Pursuant to the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, additional information in respect of Directors seeking election, those retiring by rotation and seeking reappointment at the Annual General Meeting is given elsewhere in the Annual Report.

21. Voting through electronic means

In compliance with provisions of Section 108 of the Companies Act, 2013 and Rule 20 of the Companies (Management and Administration) Rules, 2014, the Company is pleased to provide members the facility of exercising their right to vote electronically on the items mentioned in this Notice. The Company has appointed Mr. ..... as scrutinizer for conducting the e-voting process in a fair and transparent manner.

The voting period begins on ....., ..., 201.... at 10:01 hrs. and will end on ....., ..., 201.... at 17:00 hrs. During this period shareholders' of the Company, holding shares either in physical form or in dematerialised form, as on the cut-off date of ....., 201..., may cast their vote electronically. The e-voting module shall be disabled for voting thereafter.

The Company has signed an agreement with ..... (agency) for facilitating e-voting to enable the Shareholders to cast their vote electronically. The instructions for shareholders voting electronically are given at page no. ..... of the Annual Report.

22. The Results shall be declared on or after the Annual General Meeting of the Company and shall be deemed to be passed on the date of Annual General Meeting. The results alongwith the Scrutinizer's Report shall be placed on the website of the Company ..... within 2 days of passing of the resolutions at the Annual General Meeting of the Company and shall be communicated to ..... (Stock Exchange).

EXPLANATORY STATEMENT

As required by Section 102 of the Companies Act, 2013, the following explanatory statement sets out all material facts relating to the business mentioned under Item No. 7 of the accompanying Notice dated .....

Item No. 7

Mr. ..... who was appointed as an Additional Director of the Company under Section 161(1) of the Companies Act, 2013 effective ....., ... holds office up to the date of this Annual General Meeting, and is eligible for appointment as Director of the Company.

The Company has received notice under Section 160 of the Companies Act, 2013 from a Member signifying her intention to propose the candidature of Mr. ..... for the office of Director.

A brief profile of Mr. ....., as required to be given pursuant to the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, has been given elsewhere in this Notice.

Mr. ..... is not a Director of any other public limited company in India. He is a Member of the Audit Committee and the Investment Committee of ..... He does not hold any share in the Company and is not related to any Director or Key Managerial Personnel of the Company in any way.

The Board of Directors considers it in the interest of the Company to appoint Mr. ..... as a Director.

By Order of the Board of Directors

For .....

.....(Signature)

Place : ..... *.....(Name)*

Date : .....20.... *Company Secretary*

.

Annexure III

(Refer Paragraph 1.2.10)

Notice of Extra-ordinary General Meeting

Name of the Company .....

Registered Address .....

CIN - ..... Email- ..... Telephone: .....
Website: .....

NOTICE OF

EXTRA-ORDINARY GENERAL MEETING

NOTICE is hereby given that an Extra-Ordinary General Meeting of the Members of ..... (name of Company) will be held on..... (day), ... (date) at .....a.m./p.m. at ..... (address) to transact the following special business:

1. Shifting of Registered Office

To consider and, if thought fit, to pass the following Resolution as a Special Resolution:

"RESOLVED that pursuant to Section 13 and other applicable provisions, if any, of the Companies Act, 2013, and subject to the approval of the Regional Director, the Registered Office of the Company be shifted from the ..... (Name of State) to the ..... (Name of State).

RESOLVED FURTHER that Clause - II of the Memorandum of Association of the Company be altered by substitution of the words ..... in place of the words .....

RESOLVED FURTHER that the Board of Directors of the Company be and is hereby authorised to file the necessary petition(s) before the Regional Director, ... Region for confirmation of the alteration of Clause - II of the Memorandum of Association of the Company as aforesaid and to carry out all other acts and deeds as are necessary in connection therewith, including compliance of directions, if any, of the concerned authorities."

2. Appointment of Mr. ..... as Director

To consider and, if thought fit, to pass, with or without modification, the following Resolution as an Ordinary Resolution:

"RESOLVED that pursuant to the provisions of Sections 149, 150(2), 152 and any other applicable provisions of the Companies Act, 2013 and the rules made there under read with Schedule IV to the Companies Act, 2013, approval of the Company be and is hereby accorded for appointment of Mr. ..... (DIN No.....), as an Independent Director of the Company to hold the office for a period of 3 years i.e. up to ....., ... AND THAT by virtue of sub-section (13) of Section 149 of the Companies Act, 2013 he shall not be liable to retire by rotation."

By Order of the Board of Directors

For .....

.....(Signature)

Place : ..... *.....(Name)*

Date : ..... *Company Secretary*

Notes :

1. The explanatory statement setting out the material facts pursuant to Section 102 of the Companies Act, 2013, relating to special business to be transacted at the Meeting is annexed.

2. A Member entitled to attend and vote at the Meeting is entitled to appoint a Proxy to attend and, on a poll, to vote instead of himself and the Proxy need not be a Member of the Company.

3. Proxies, in order to be effective, must be received in the enclosed Proxy Form at the Registered Office of the Company not less than forty-eight hours before the time fixed for the Meeting.

4. A person can act as a proxy on behalf of Members not exceeding 50 and holding in the aggregate not more than ten percent of the total share capital of the Company carrying voting rights. A Member holding more than ten percent of total share capital of the Company carrying voting rights may appoint a single person as proxy and such person shall not act as a proxy for any other person or shareholder.

5. A Corporate Member intending to send its authorised representatives to attend the Meeting in terms of Section 113 of the Companies Act, 2013 is requested to send to the company a certified copy of the Board Resolution authorizing such representative to attend and vote on its behalf at the Meeting.

6. Members/Proxies/Authorised Representatives are requested to bring the attendance slips duly filled in for attending the Meeting. Members who hold shares in dematerialised form are requested to write their client ID and DP ID numbers and those who hold shares in physical form are requested to write their Folio Number in the attendance slip for attending the Meeting.

7. During the period beginning 24 hours before the time fixed for the commencement of Meeting and ending with the conclusion of the Meeting, a Member would be entitled to inspect the proxies lodged at any time during the business hours of the company. All documents referred to in the Notice and accompanying explanatory statement are open for inspection at the Registered Office of the Company on all working days of the Company between 11:00 a.m. and 1:00 p.m. upto the date of the Annual General Meeting and at the venue of the Meeting for the duration of the Meeting.

8. Route-map to the venue of the Meeting is provided at the end of the Notice.

9. In compliance with provisions of Section 108 of the Companies Act, 2013 and Rule 20 of the Companies (Management and Administration) Rules, 2014, the Company is pleased to provide members the facility of exercising their right to vote electronically on the items mentioned in this Notice. The Company has appointed Mr. ..... as scrutinizer for conducting the e-voting process in a fair and transparent manner.

The voting period begins on ....., ..., 201... at 10:01 hrs. and will end on ....., ..., 201... at 17:00 hrs. During this period shareholders' of the Company, holding shares either in physical form or in dematerialised form, as on the cut-off date of ....., 201..., may cast their vote electronically. The e-voting module shall be disabled for voting thereafter.

The Company has signed an agreement with .....(agency) for facilitating e-voting to enable the Shareholders to cast their vote electronically. The instructions for shareholders voting electronically are given at the end of the Notice.

EXPLANATORY STATEMENT

As required by Section 102 of the Companies Act, 2013, the explanatory statement sets out all material facts relating to the business mentioned under Item Nos. 1 & 2 of the accompanying Notice dated .....

Item No. 1

The Registered Office of the Company has been situated in .....since the incorporation of the Company. The business of the Company has increased

manifold since incorporation and it is expected that such growth trends will be maintained in future.

The employee strength of the Company has also increased manifold and the Company needs an area of around 50,000 square feet to accommodate the entire staff and to carry out its growing business activities efficiently. However, expansion at the present location is not possible and prevailing rents in..... render it unviable to look for additional premises in the vicinity of the Registered Office.

The Board of Directors has identified suitable premises at .....in the State of ....., not very far from the present Registered Office. Acquiring such premises, situated close to ....., is advantageous for the Company to carry on its business more conveniently, economically and efficiently.

In view of these advantages, the Board of Directors has decided to shift the Registered Office of the Company from ..... (Name of State) to the ..... (Name of State) subject to necessary approvals.

In terms of Section 13 of the Companies Act, 2013, approval of the shareholders and the Regional Director is required for the purpose of shifting the registered office of the Company from one state to another state.

A copy of the Memorandum of Association is available for inspection at the Registered Office of the Company on all working days of the Company between 11:00 a.m. and 1:00 p.m. upto the date of the Meeting and at the venue of the Meeting for the duration of the Meeting.

The Board commends the passing of the Resolution at Item No.1 as a Special Resolution.

None of the Directors and Key Managerial Personnel of the Company or their relatives is concerned or interested in the proposed Resolution.

Item No. 2

Mr. ..... is an Independent Director of the Company, whose period of office is liable to be determination by rotation of Directors under the erstwhile applicable provisions of the Companies Act, 1956. He joined the Board in May 2010.

The Companies Act, 2013 came into force with effect from 1st April, 2014. Section 149 of the Companies Act, 2013, provides that every listed public company shall have at least one third of the total number of Directors as Independent Directors. An Independent Director can be appointed for any period up to 5 years but can be reappointed for another term of not more than 5 years by passing a Special Resolution. The provisions relating to retirement of Directors by rotation shall not apply to the appointment of Independent Director.

The Board has undertaken due diligence to determine the eligibility of Mr. ..... for appointment as an Independent Director on the Board, based upon his qualification, expertise, track record integrity etc. and recommends the appointment of Mr. ..... to the shareholders for a period of three years, i.e. up to .....

Mr. ..... will not be liable to retire by rotation during this period.

Other than Mr. ....., none of the Directors or Key Managerial Personnel of the Company or their relatives is concerned or interested in the proposed Resolution.

A brief profile of Mr. ..... is given below.

By Order of the Board of Directors

For .....

.....(Signature)

Place : ..... *.....(Name)*

Date : .....20.... *Company Secretary*

.

Annexure IV

(Refer Paragraph 1.2.10)

Notice in Newspapers of Annual General Meeting

Name of the Company .....

Registered Address .....

CIN - ..... Email- ..... Telephone: .....
Website: .....

NOTICE is hereby given that the ..... Annual General Meeting of the Company is scheduled to be held on .....(day) ..... (date) at ..... a.m. /p.m. at the registered office of the company situated at .....(address).

Notice of the Meeting setting out the Resolutions proposed to be transacted thereat and the Audited financial statements for the year ended at March 31, 201....., Auditors' Report and Report of the Board of Directors for the year ended on that date, have also been dispatched to the Members. Notice and the said documents are available at the Company's website ..... and copies of said documents are also available for inspection at the registered office of the Company on all working days during the business hours up to the date of Annual General Meeting. The Company has completed dispatch of Annual Report on ....., 201....

Pursuant to the provisions of Section 108 of the Companies Act, 2013 read with Rule 20 of the Companies (Management and Administration) Rules, 2014, your Company is pleased to provide remote e-voting facility to its Members to exercise their right to vote on the Resolutions proposed to be transacted at the ..... (Number) Annual General Meeting. The Company has arranged remote e-voting facility through .....(agency) at ..... (website) Notice of the Annual General Meeting is also available at the ..... (agency's) website.

A Member whose name appears in the register of members as on cutoff date i.e. ....., 201... only shall be entitled to avail the facility of remote e-voting as well as voting through physical ballot at the Meeting. Members who cast their vote through remote e-voting may attend the Meeting but shall not be entitled to cast their vote again.

Any person who becomes Member of the Company after dispatch of the Notice of the Meeting and holding shares on ....., 201..., if already registered with ..... (agency), can use his/her existing user ID and password otherwise

follow the detailed procedure mentioned in Notice of Meeting available at Company's website www.....com or may obtain the login ID and password by sending a request at ..... (email ID of agency) or to the Company's Registrar, M/s ..... at .....@.....com latest by ..... p.m. of ....., 201....

Remote e-voting facility shall commence on ...., 201..... at 10:00 hrs. and will end on ...., 201... at 17:00 hrs.. The remote e-voting will be disabled by ..... (agency) after the said date and time.

The Company has appointed Mr. ....., Practising Company Secretary as the scrutiniser to scrutinise the e-voting process in fair and transparent manner.

In case of any queries/grievances relating to e-voting process, the Members may contact at ..... (email ID of agency), Tel: .....or M/s. .....RTA address) at .....@.....com, Tel: 011-..... or at the .....@.....com , Tel: +91 ....

Please keep your most updated email ID registered with the company/your Depository Participant to receive timely communications.

By Order of the Board of Directors

For .....

.....(Signature)

Place : ..... *.....(Name)*

Date : .....20.... . *Company Secretary*

Annexure V

(Refer Paragraph 1.2.11)

Notice of postponed Annual General Meeting

Name of the Company.....

Registered Office : .....

Members are hereby informed that, due to unforeseen and unavoidable circumstances, the ..... Annual General Meeting of the Company, which was scheduled on ....., will now be held on ....., at .....p.m. at the Registered Office of the Company, to consider the business mentioned in the Notice dated ..... which had been sent to Members in connection with the Meeting originally scheduled to have been held on ..... .

A Member entitled to attend and vote at the Meeting is entitled to appoint a Proxy to attend and, on a poll, to vote instead of himself and the Proxy need not be a Member of the Company. Proxies, in order to be effective, should be duly completed, stamped (if applicable) and signed and must be received at the Registered Office of the Company not less than forty-eight hours before the time fixed for the Meeting.

By Order of the Board of Directors

For .....

.....(Signature)

Place : ..... *.....(Name)*

Date : ..... *Company Secretary*

Note :

Members may please immediately intimate any change in their address.

Annexure VI

(Refer Paragraph 1.2.11)

Notice in Newspapers of postponement of Annual General Meeting

Name of the Company: .....

Registered Office : .....

NOTICE

POSTPONEMENT OF ANNUAL GENERAL MEETING

Members are hereby informed that, due to the unforeseen and unavoidable circumstances, it has not been possible for the Company to convene the ..... Annual General Meeting of the Company, which was scheduled to be held on .....20.....

Accordingly, the Board of Directors of the Company has decided to postpone the said Annual General Meeting, which now is convened on .....20.... Notice and other documents, if any, relevant to the re-convened Meeting will be dispatched to Members shortly.

A Member entitled to attend and vote at the Meeting is entitled to appoint a Proxy to attend and, on a poll, to vote instead of himself and the Proxy need not be a Member of the Company. Proxies, in order to be effective, should be duly completed, stamped (if applicable) and signed and must be received at the Registered Office of the Company not less than forty-eight hours before the time fixed for the Meeting.

By Order of the Board of Directors

For .....

.....(Signature)

Place : ..... *.....(Name)*

Date : ..... *Company Secretary*

Note :

Members may please immediately intimate any change in their address.

Annexure VII

(Refer Paragraph 2.2)

Notice by requisitionists
convening an Extra-ordinary General Meeting

NOTICE is hereby given that the persons named below, who are Members of ..... (Name of the Company), having its Registered Office at ....., and who have requisitioned the convening of an Extra-Ordinary General Meeting of the Company, hereby, in exercise of the powers and rights conferred by Section 100 of the Companies Act, 2013, give Notice that the said requisitioned Meeting shall be held on ..... day, the .....20....., at .....a.m./p.m. at ..... (address) to consider the following proposal:

State the proposal

{OR

for considering and, if thought fit, passing the following Ordinary/ Special Resolution:

Reproduce the Resolution}

Names of requisitionists:

1. .....

2. .....

3. .....

4. .....

Note :

A Member entitled to attend and vote at the Meeting is entitled to appoint a Proxy to attend and, on a poll, to vote instead of himself and the Proxy need not be a Member of the Company. Proxies, in order to be effective, should be duly completed, stamped (if applicable) and signed and must be received at the Registered Office of the Company not less than forty-eight hours before the time fixed for the Meeting.

Annexure VIII

(Refer Paragraph 2.2)

Notice of an Extra-ordinary General Meeting called on the Requisition of Members

NOTICE

Name of the Company: .....

CIN: .....

Registered Office : .....

NOTICE is hereby given that, pursuant to a valid requisition under Section 100 of the Companies Act, 2013, lodged at the Registered Office of the Company by the Members whose names are annexed hereto, an Extra-Ordinary General Meeting of the Members of the Company will be held on ....., the .....20..., at a.m./p.m. at the Registered Office of the Company to consider the following proposal put forth by the requisitionists:

"RESOLVED that .....
.....
.....
....."

The Board of Directors has considered the abovementioned Resolution in its Meeting held on .....20... and submits the following observations thereon for the consideration of the Members:

.....
.....

{after stating the observations, it should also be stated whether the Board supports or does not support the proposal of the requisitionists contained in the aforesaid Resolution.}

By Order of the Board of Directors

For .....

.....(Signature)

Place : ..... *.....(Name)*

Date : ..... 20.... *Company Secretary*

Notes :

1. A Member entitled to attend and vote at the Meeting is entitled to appoint a Proxy to attend and, on a poll, to vote instead of himself and the Proxy need not be a Member of the Company. Proxies, in order to be effective, should be duly completed, stamped (if applicable) and signed and must be received at the Registered Office of the Company not less than forty-eight hours before the time fixed for the Meeting.

2. The requisition dated ....., referred to above, signed by the requisite number of Members in terms of Section 100 of the Companies Act, 2013, and all documents referred to in the Notice are available for inspection by any Member at the Registered Office of the Company on any working day of the Company between the hours of 11:00 a.m. and 1:00 p.m. upto the date of this Extra-Ordinary General Meeting and at the venue of the Meeting for the duration of the Meeting.

3. Route-map to the venue of the Meeting is enclosed.

Annexure IX

(Refer Paragraph 2.2)

Specimen Board Resolution for convening Extra-ordinary General Meeting on Requisition

"RESOLVED THAT pursuant to the provisions of Section 100 and other applicable provisions of the Companies Act, 2013 and rules thereunder and as per the requisition received from the Members, the Board of Directors hereby authorises calling of an Extra-Ordinary General Meeting (EGM) of the Members on .....(date) at .....(time) at .....(venue).

RESOLVED FURTHER THAT the draft notice of the EGM, the explanatory statement and other ancillary documents in connection with the EGM, as placed before the Board, be and are hereby approved.

RESOLVED FURTHER THAT any one of the Directors and the Company Secretary of the Company be and are hereby authorised to sign and execute the notice and other relevant documents in connection with the EGM and circulate them to the Members of the Company and do all such acts, deeds and things as may be necessary in connection with calling and convening of EGM including appointing scrutinisers and e-voting agencies, if required."

Annexure X

(Refer Paragraph 7.4)

Demand for Poll

Dated: .....

To

The Chairman of the ..... Annual General Meeting of ..... (Name of the Company) being held on ...day, ... 20... at ..... a.m. /p.m. at..... (address).

We the undersigned, being the holders of an aggregate of ..... equity shares of Rs.10/Re.1/- each of the Company, as per the details set out below against our respective names, demand that, pursuant to the provisions of Section 109 of the Companies Act, 2013, a poll be taken in respect of the Resolution proposed at Item No. ..... of the Notice dated ..... 20..... of the ..... Annual General Meeting of the Company on which the voting is yet to be taken on a show of hands.

{OR

on which voting on a show of hands has been taken but the result thereof is yet to be announced

OR

which was declared carried on voting by show of hands.}

Sr. No.	*Name of Member*	*Folio No./ Client ID No.*	*No. of shares held*	*Signature of Members*

Annexure XI

(Refer Paragraph 9.2)

Announcements by the Chairman of the Meeting in connection with a Poll

1. Immediately after a Poll is demanded:

"I request you to make your demand on the Poll Demand Sheet so that the same can be verified to ascertain the validity of the demand in terms of the Companies Act, 2013, and the Articles of Association of the Company."

2. After verification of the demand and if the demand is found to be validly made:

"I now order that the Poll on the Resolution in respect of Item No. ..... of the Notice, on the subject of ..... be taken and I appoint Mr ..... and Mr ..... as the Scrutinisers.

The Poll will commence half an hour after the transaction of all the items on the Agenda for the Meeting.

The Poll will be held in a part of this Hall and will continue for half an hour or till all the Members or their valid Proxies or Authorised Representatives present and willing to cast their votes, have cast their votes, whichever is earlier.

I authorise the Scrutinisers to issue the Poll papers to Members/Proxies/ Authorised Representatives and to advise them about the procedure to be followed; and to declare the Poll as closed on conclusion thereof, after ensuring that all the Members/Proxies/Authorised Representatives present have been provided the opportunity to vote. In terms of the provisions of the Articles of Association of the Company, a Member who is in arrears of moneys payable on the shares allotted to him is not entitled to vote. The Scrutinisers can take the assistance as may be required of the officers or employees of the Company in the conduct of the poll. I request you all to extend your co-operation in the conduct of the poll.

The details of the result of the poll would be displayed on the notice board at the Registered Office of the Company not later than 11:00 a.m. on ....., ... It would also be put up on the website of the Company ..... under the head ....."

Annexure XII

(Refer Paragraph 9.2)

Checklist for Poll

Sr. No.	*Relevant Section of the Companies Act, 2013*	*Provisions*
(1)	*(2)*	*(3)*
1.		*Resolutions, as appearing in the Notice, to be proposed and seconded.*
2.	*109*	*Poll may be ordered by the Chairman or demanded by Member(s) (as in 3 below) before or on the declaration of the result of the voting by show of hands on a Resolution.*
3.	*109*	*Poll may be demanded by any Member(s) present in person or by Proxy holding shares :* *(i) of 1/10 of the total voting power, or* *(ii) on which an aggregate sum of not less than five lakh rupees has been paid up*
4.	*109*	*The demand for a poll may be withdrawn at any time by the person(s) who made the demand.*
5.	*109*	*Poll shall be taken immediately if demanded on a question of adjournment of the Meeting or on the election of the Chairman (Section 104); otherwise within forty-eight hours from the time it is demanded on any other question.*
6.		*Each Resolution should be put to poll separately and polling papers shall be distributed to all Members and to proxies attending the Meeting. Thereafter, polling/ballot papers shall be deposited in a ballot box by the Members/ proxies.*
7.	*105*	*A Member present in person or by Proxy shall be entitled to vote only on a poll.*

		If any Member present in person or by Proxy has more than one vote, such Member has the option to use his votes in different ways.
8.	*109*	*The Chairman shall appoint such number of Scrutinisers as he deems necessary to scrutinise the votes given on a poll and to report to him.*
9.	*109*	*If more than one Scrutiniser is appointed, one of the Scrutinisers should be a Member attending the Meeting, other than an officer or employee of the Company.* *The Chairman has the power, at any time before the result of the poll is declared, to remove a scrutiniser(s) and fill the vacancy / vacancies.*
10.		*(i) The demand for a poll, except on the question of the election of the Chairman or of any adjournment, shall not prevent the continuance of a Meeting for the transaction of any business other than the question on which a poll has been demanded.* *(ii) In case of equality of votes, the Chairman shall have a second or casting vote (in addition to his vote as a Member).*
11.		*Votes shall be counted by the Scrutinisers.*
12.		*The results of poll shall be entered in a polling register showing the votes for and against each Resolution, which shall be signed by the Scrutinisers, and shall be deemed to be the decision of the Meeting.*
13.	*109*	*The Chairman shall regulate the manner of Poll and declare the results, after completion of the procedures listed in 6 to 12 above.*

Notes :

(a) The Meeting is deemed to continue until the poll has been taken. Appointing a later day for taking / completing the poll is not an adjournment.

(b) A voter may vote at the poll even though not present when the poll was demanded.

(c) Members in arrears of payment of allotment money or calls cannot vote.

(d) Every Member entitled to vote at a Meeting, or on any Resolution to be moved thereat, shall be entitled during the period beginning twenty-four hours before the time fixed for the commencement of the Meeting and ending with the conclusion of the Meeting, to inspect the proxies, at any time during the business hours of the Company, provided not less than three days notice in writing of the intention so to inspect is given to the Company.

Annexure XIII

(Refer Paragraph 9.5.3)

Polling Record

Name of the Company : .....

Registered Office : .....

POLLING RECORD

Date of Meeting .....

Item No. of the Notice dated ..... of the Meeting on which the poll was held : .....

Subject matter on which the poll was held: .....

S. No.	*Particulars*	*Details*
1.	*Name of the Member*	
2.	*Address*	
3.	*Registered folio No. / *Client ID No. (*Applicable to investors holding shares in dematerialised form)*	
4.	*Class of Shares (Whether shares have differential voting rights)*	
5.	*No. of shares held*	
6.	*Nominal Value of Shares*	

No.	*Item No.*	*Assent*	*Dissent*
1.			

Date: ..... Initials of Scrutinisers: ..... {each page should be initialed by the Scrutinisers and they should sign the last page in full}

Annexure XIV

(Refer Paragraph 9.5.3)

Announcement on the Notice Board of the Company of the Result of the Poll

Name of the Company :.....

Registered Office : .....

RESULT OF THE POLL HELD AT THE ..... MEETING OF THE COMPANY HELD ON .....

Item No. ..... of the Notice dated ..... Subject: .....

Total number of votes cast : .....

Invalid votes : .....

Total number of valid votes : .....

Number of votes cast FOR the Resolution : .....

Number of votes cast AGAINST the Resolution : .....

Result : .....

Place : ..... *CHAIRMAN*

Date : .....

Time : .....

Annexure XV

(Refer Paragraph 16.1)

Items of Business which shall be passed only by Postal Ballot

1. Alteration of the objects clause of the memorandum and in the case of the company in existence immediately before the commencement of the Act, alteration of the main objects of the memorandum.
2. Alteration of articles of association in relation to insertion or removal of provisions which are required to be included in the articles of a company in order to constitute it a private company.
3. Change in place of registered office outside the local limits of any city, town or village.
4. Change in objects for which a company has raised money from public through prospectus and still has any unutilised amount out of the money so raised.
5. Issue of shares with differential rights as to voting or dividend or otherwise.
6. Variation in the rights attached to a class of shares or debentures or other securities.
7. Buy-back of shares by a company.
8. Appointment of a Director elected by small shareholders.
9. Sale of the whole or substantially the whole of an undertaking of a company or where the company owns more than one undertaking, of whole or substantially the whole of any of such undertakings.
10. Giving loans or extending guarantee or providing security in excess of the limit specified.
11. Any other Resolution prescribed under any applicable law, rules or regulations.

Annexure XVI

(Refer Paragraph 16.3)

An Illustrative Calendar of Events

A	*Date on which the Scrutiniser & Agency are identified*	*Before 1st May*
B	*Date of Board Resolution*	*1st May*
C	*Date of appointment of the Scrutiniser and Agency (Appointed at Board Meeting or by Resolution passed by circulation)*	*1st May*
D	*Cut-off date (Decided at the Board Meeting)*	*24th May*
E	*Date of dispatch of Notice along with postal ballot forms and PIN MAILERS*	*3rd June*
F	*Date of commencement of Voting*	*3rd June*
G	*Date of publishing the advertisement in newspapers as specified*	*3rd June*
H	*Last date for receiving postal ballot forms by the Scrutiniser / Last date of Voting by electronic means (Thirty days from the date of dispatch)*	*1st July*
I	*Last date of submission of the Report by the Scrutiniser*	*8th July*
J	*Date of declaration of the result by the Chairman or any other Director authorised by the Board (the same date as has been mentioned in the Notice)*	*9th July*
K	*Date on which Resolution will be deemed to be passed*	*1st July*
L	*Last date for recording the report in the Minutes Book of General Meetings*	*31st July*

Annexure XVII

(Refer Paragraph 17.2.2.2)

RESOLUTIONS PASSED BY POSTAL BALLOT ON .....

Name of the Company.....

The Company had, on ..... dispatched to all the Shareholders, Notice dated ..... under Section 110 of the Companies Act, 2013, for obtaining the consent of the Shareholders to the following Ordinary Resolution by means of postal ballot :

"RESOLVED that the consent of the Company be and is hereby accorded pursuant to Section 180(1)(a) and other applicable provisions of the Companies Act, 2013, to the Board of Directors of the Company (the Board) to sell, lease or otherwise dispose of at such consideration and with effect from such date as the Board may think fit, the whole or substantially the whole of the undertaking of the Company at ..... engaged in the business of manufacture of .....

RESOLVED FURTHER that the Board be and is hereby authorised to do or cause to be done all such acts, deeds and other things as may be required or considered necessary or incidental thereto for giving effect the aforesaid Resolution".

The dispatch of Notices and accompanying documents were completed on ..... (date) to all Members appearing in the records of the Company as on ..... (cut-off date). Mr. ....., was appointed as Scrutiniser on ..... (date) and ..... (name of the Agency) was appointed as an Agency on ..... (date) for providing and supervising electronic platform for e-voting.

It was mentioned in the said Notice dated ..... that the postal ballot forms sent therewith should be returned by the Shareholders duly completed so as to reach the Scrutiniser on or before ..... The Notice also indicated the date of commencement of e-voting as ..... (Day) ..... (Date) and the last date of e-voting as ..... (Day) ..... (Date) alongwith the process and manner of voting by electronic means. The Scrutiniser was required to submit his report to the Chairman after completion of the Scrutiny.

Mr. ..... (Scrutiniser) carried out the scrutiny of all the postal ballot forms and electronic votes received upto the close of working hours on ..... He submitted his Report dated ..... on ..... (date) and the Chairman accepted the said Report.

The following is the result of the postal ballot as per the Scrutiniser's Report:

Number of valid postal ballot forms received	
Number of valid votes cast by electronic means	
Votes in favour of the Resolution including votes cast by electronic means	
Votes against the Resolution including votes cast by electronic means	
Number of invalid postal ballot forms received	
Number of invalid votes by electronic means	

In view of the foregoing, the Ordinary Resolution set out in the Notice dated ..... has been therefore duly approved/not approved by the requisite majority of the Shareholders.

Place :..... *.....*

Date :..... *Chairman*

Annexure XVIII

(Refer Paragraph 17.3)

Specimen Minutes of Annual General Meeting

MINUTES OF THE PROCEEDINGS OF THE ..... (Number of Meeting) ANNUAL GENERAL MEETING OF ..... (Name of the Meeting) HELD ON ..... (day), ... (date) 20... FROM ..... TO ..... A.M/ P.M. AT ..... (address).

The following were present:

1.	*Mr. W*	*(in the Chair)*
2.	*Mr. B*	*(Director and Member)*
3.	*Mr. C*	*(Director)*
4.	*Mr. D*	*(Director and Member)*
5.	*Mr. E.*	*(Director and Chairman of Audit Committee)*
6.	*Mr. F*	*(Company Secretary)*
7.	*.....*	*(Members present in person) [state number]*
8.	*.....*	*representing ..... shares (Members present by Proxy) [state number]*

Mr. G, Partner of M/s....., Chartered Accountants, Auditors of the Company, was present.

Mr. H, Practising Company Secretary, Secretarial Auditor of the Company, was also present.

CHAIRMAN

In accordance with Article ..... of the Articles of Association, Mr. W, Chairman of the Board of Directors, took the Chair.

{OR

Mr. B was elected Chairman of the Meeting, in terms of Article ..... of the Articles of Association of the Company}.

The Chairman welcomed the Members and introduced the Directors seated on the dais.

The Chairman stated that Mr..... and Mr.....Directors, could not attend the Meeting due to..... (explain the reason for absence).

Quorum was present at the commencement of the Meeting as well as at the time of consideration of each item of business.

The following documents / Registers of the Company remained open and accessible for inspection during the continuance of the AGM:

(a) Financial Statements for the financial year ended 31st March, ..., including the Consolidated Financial Statements for the said financial year, and the Reports of the Board of Directors and the Auditors.

(b) Register of Directors and Key Managerial Personnel and their shareholding.

Register of Contracts or Arrangements in which Directors are interested.

With the consent of the Members present, the Notice convening the Annual General Meeting of the Company was taken as read.

The Chairman delivered his speech.

The business of the Meeting as per the Notice thereof was thereafter taken up item wise.

1. Adoption of Consolidated and Standalone Financial Statements

The Chairman requested Mr. ..... to read the Ordinary Resolution for the adoption of the Financial Statements for the year ended 31st March, 20..... and Mr. ..... read out the Ordinary Resolution as follows:

"RESOLVED that the Financial Statements of the Company for the year ended 31st March, 20....., including Consolidated Financial Statements for the said financial year, along with the Reports of the Board of Directors and the Auditors, as circulated to the Members and laid before the Meeting, be and are hereby approved and adopted."

After the above Resolution was proposed and seconded, but before it was put to vote, the Chairman invited Members (other than those present by Proxy) to make observations and comments, if any, on the Report and financial statements, as well as on the other Resolutions set out in the Notice convening the Meeting.

Some Members made their observations and comments and raised queries on the Annual Report and Financial Statements and other items set out in the Notice and the Chairman answered their queries.

Before putting the Resolution to vote, the Chairman reminded the Meeting that Proxies were not eligible to vote on a show of hands. Thereafter, the Chairman put the Resolution for the adoption of the Financial Statements, Consolidated Financial Statements and the Reports thereon to vote as an Ordinary Resolution.

On a show of hands, the Chairman declared the aforesaid Ordinary Resolution carried by the requisite majority.

2. Declaration of Dividend

Mr. ..... read out the following Resolution:

"RESOLVED that the dividend @ Rs. ..... on the equity shares of Rs. 10/Re.1/- each, fully paid-up, be and is hereby declared for payment, to those Members whose names appear on the Company's Register of Members on .....20...".

The Resolution was proposed by Mr. ..... and seconded by Mr. ....., and was put to vote as an Ordinary Resolution.

On a show of hands, the Chairman declared the aforesaid Ordinary Resolution carried unanimously.

3. Appointment of Director

Proposed by : Mr. .....

Seconded by : Mr. .....

The following Resolution having been proposed and seconded by the aforementioned two Members, was put to vote as an Ordinary Resolution:

"RESOLVED that pursuant to Section 152 of the Companies Act, 2013, Mr. A, who retires by rotation and, being eligible for re-appointment, offers himself for re-appointment, be and is hereby re-appointed as a Director of the Company liable to retire by rotation."

On a show of hands, the Chairman declared the aforesaid Ordinary Resolution carried unanimously.

4. Appointment of Director

Proposed by : Mr. .....

Seconded by : Mr. .....

The following Resolution having been proposed and seconded by the aforementioned two Members, was put to vote as an Ordinary Resolution:

"RESOLVED that pursuant to Section 152 of the Companies Act, 2013, Mr. B, who retires by rotation and, being eligible for re-appointment, offers himself for re-appointment, be and is hereby re-appointed as a Director of the Company liable to retire by rotation."

On a show of hands, the Chairman declared the aforesaid Ordinary Resolution carried unanimously.

5. Appointment of Director

Proposed by : Mr. .....

Seconded by : Mr. .....

The following Resolution having been proposed and seconded by the aforementioned two Members, was put to the vote as an Ordinary Resolution:

"RESOLVED that, pursuant to Section 152 of the Companies Act, 2013, Mr. C, who retires by rotation and, being eligible for re-appointment, offers himself for re-appointment, be and is hereby re-appointed as a Director of the Company liable to retire by rotation."

On a show of hands, the Chairman declared the aforesaid Ordinary Resolution carried unanimously.

6. Appointment of Auditors

Proposed by : Mr. .....

Seconded by : Mr. .....

The following Resolution having been proposed and seconded by the aforementioned two Members, was put to vote as an Ordinary Resolution:

"RESOLVED THAT pursuant to the provisions of Section 139 and other applicable provisions if any, of the Companies Act, 2013 and the Rules framed thereunder, as amended from time to time, M/s....., Chartered Accountants, (Firm Registration No.....) be and are hereby appointed as Auditors of the Company to hold office from the conclusion of this Annual General Meeting till the conclusion of the ..... Annual General Meeting of the Company (subject to ratification of their appointment at every AGM), at a remuneration of Rs. ...../- (Rupees ..... only) for the year ..... and Rs. ...../- (Rupees ..... only) per year for the subsequent ..... years plus reimbursement of out of pocket expenses and service tax, as applicable."

On a show of hands, the Chairman declared the aforesaid Ordinary Resolution carried unanimously.

7. Appointment of Director

Proposed by : Mr. .....

Seconded by : Mr. .....

The following Resolution having been proposed and seconded by the aforementioned two Members, was put to vote as an Ordinary Resolution:

"RESOLVED THAT pursuant to the provisions of Section 152 and other applicable provisions of the Companies Act, 2013 read with the Companies (Appointment and Qualification of Directors) Rules, 2014, Mr. ..... (DIN .....), who was appointed as an Additional Director of the Company with effect from ....., 20..... by the Board of Directors of the Company pursuant to Section 161(1) of the Companies Act, 2013 and the Articles of Association of the Company and who holds office upto the date of this Annual General Meeting, and being eligible, offer himself for appointment and in respect of whom the Company has received a notice in writing under Section 160 of the Companies Act, 2013 from a member signifying his intention to propose the candidature of Mr. ..... for the office of Director, be and is hereby appointed as a Director of the Company, liable to retire by rotation with effect from the date of this Meeting."

On a show of hands, the Chairman declared the aforesaid Ordinary Resolution carried unanimously.

8. Delisting of Securities – Special Resolution

Proposed by : Mr. .....

Seconded by : Mr. .....

The following Resolution having been proposed and seconded by the aforementioned two Members, was put to vote as a Special Resolution:

"RESOLVED that, subject to the provisions of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009, Securities Contracts (Regulation) Act, 1956, and the Securities and Exchange of Board of India Act, 1992, and the rules framed thereunder and other applicable laws, rules and regulations and guidelines and subject to such other approvals, permissions and sanctions as may be necessary and subject to such conditions as may be prescribed by the Securities and Exchange Board of India and Stock Exchanges while granting such approvals, permissions and sanctions, which may be agreed to by the Board of Directors of the Company, which expression shall be deemed to include any Committee of the Board for the time being, exercising the powers conferred by the Board, the consent of the Company be and is hereby accorded to the Board to voluntarily de-list the equity shares of the Company from ..... (name of stock exchanges).

"RESOLVED FURTHER that the Board be and is hereby authorised to do all acts, deeds and things as it may in its absolute discretion deem necessary and appropriate to give effect to the above Resolution."

On a show of hands, the Chairman declared the aforesaid Special Resolution carried with the requisite majority.

CLOSE OF THE MEETING

There being no other business to transact, the Meeting closed with a vote of thanks to the Chair.

Date : ..... *.....*

Place: ..... *CHAIRMAN*

Under each item before proposal and seconding of the Resolutions, we should record as follows: "The objective and implications of the Resolution were explained by the Chairman (or at the request of the Chairman by Mr…….. (designation)"

The Chairman informed that there were no qualifications, observations or comments or other remarks, if any, mentioned in the Auditor's Report or in the Secretarial Auditor's Report.

OR

The Chairman asked the auditors to read the qualifications/, observations*/ comments*/ other remarks*, mentioned in the Auditor's* / Secretarial Auditor's* Report.*

Attention of the Members present was drawn to the explanations / comments given by the Board of Directors in their report at page…..para…..

**as may be relevant or applicable.*

Annexure XIX

(Refer Paragraph 17.3)

Specimen Minutes of Extra-ordinary General Meeting

MINUTES OF THE PROCEEDINGS OF THE EXTRA-ORDINARY GENERAL MEETING OF ..... (Name of the Company) HELD ON ..... (day), ... (date) 20..... FROM ..... TO ..... A.M./P.M. AT .....(address)

The following were present:

1.	*Mr. A*	*(in the Chair)*
2.	*Mr. B*	*(Director and Member)*
3.	*Mr. C*	*(Director)*
4.	*Mr. F*	*(Company Secretary)*
5.	*.....*	*(Members present in person) {state number}*
6.	*.....*	*(Members present by Proxy) {state number}*

Mr. G, Partner of M/s....., Chartered Accountants, Auditors of the Company, was present.

CHAIRMAN

In accordance with Article ..... of the Articles of Association, Mr. A, Chairman of the Board of Directors, took the Chair.

{OR:

Mr. B was elected Chairman of the Meeting, in terms of Article ..... of the Articles of Association of the Company}

The Chairman welcomed the Members and introduced the Directors seated on the Dias.

The Chairman stated that Mr. ..... and Mr. .....Directors, could not attend the Meeting due to..... (explain the reason for absence).

Quorum was present at the commencement of the Meeting as well as at the time of consideration of each item of business.

With the consent of the Members present, the Notice convening the Extra-Ordinary General Meeting of the Company was taken as read.

The business of the Meeting, as per the Notice thereof, was thereafter taken up item-wise.

1. Shifting of the Registered Office

Proposed by : Mr. .....

Seconded by : Mr. .....

The following Resolution having been proposed and seconded by the aforementioned two Members was put to vote as a Special Resolution:

"RESOLVED that pursuant to Section 13 and other applicable provisions, if any, of the Companies Act, 2013, and subject to the approval of the Regional Director, the Registered Office of the Company be shifted from the ..... (Name of State) to the ..... (Name of State).

"RESOLVED FURTHER that Clause - II of the Memorandum of Association of the Company be altered by substitution of the word.....

"RESOLVED FURTHER that the Board of Directors of the Company be and is hereby authorised to file the necessary petition(s) before the Regional Director, ... Region for confirmation of the alteration of Clause - II of the Memorandum of Association of the Company as aforesaid and to carry out all other acts and deeds as are necessary in connection therewith, including compliance of directions, if any, of the concerned authorities."

The Chairman enquired if there were any clarifications required on the same. Since none of the Members required any clarification, the Special Resolution was put to vote and on a show of hands declared carried by the requisite majority.

2. Appointment of Independent Director

Proposed by : Mr. .....

Seconded by : Mr. .....

The following Resolution having been proposed and seconded respectively by the aforementioned Members was put to vote as an Ordinary Resolution:

"RESOLVED that pursuant to the provisions of Sections 149, 150(2), 152 and any other applicable provisions of the Companies Act, 2013 and the rules made there under read with Schedule IV to the Companies Act, 2013, approval of the Company be and is hereby accorded for appointment of Mr. E (DIN No.....), as an Independent Director of the Company to hold the office for a period of 3 years i.e. up to ....., ... AND THAT by virtue of sub-section (13) of Section 149 of the Companies Act, 2013 he shall not be liable to retire by rotation."

The Chairman enquired from the Members present if there were any clarifications required on the same. Since none of the Members required any clarification, the Ordinary Resolution was put to vote and on a show of hands declared carried by the requisite majority.

CLOSE OF THE MEETING

There being no other business to transact the Meeting closed with a vote of thanks to the Chair.

Date : ..... *.....*

Place: ..... *CHAIRMAN*

GLOSSARY

- *"Alter" or "alteration" includes the making of additions, omissions and substitutions [Sub-section (3) of section 2 of Companies Act, 2013]*
- *"Body corporate" or "corporation" includes a company incorporated outside India, but does not include –*
  - *(i) a co-operative society registered under any law relating to co-operative societies; and*
  - *(ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf.*

  [Sub-section (11) of Section 2 of the Companies Act, 2013]
- *"Company" means a company incorporated under this Act or under any previous company law. [Sub-section (20) of Section 2 of the Companies Act, 2013]*
- *"Company Secretary" or "Secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 who is appointed by a company to perform the functions of a company secretary under this Act. [Sub-section (24) of the Section 2 of the Companies Act, 2013]*
- *"Company secretary in practice" means a company secretary who is deemed to be in practice under sub-section (2) of section 2 of the Company Secretaries Act, 1980. [Sub-section (25) of Section 2 of the Companies Act, 2013]*
- *"Court" means –*
  - *(i) the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate, except to the extent to which jurisdiction has been conferred on any district court or district courts subordinate to that High Court under sub-clause (ii);*
  - *(ii) the district court, in cases where the Central Government has, by notification, empowered any district court to exercise all or any of the jurisdictions conferred upon the High Court, within the scope of its jurisdiction in respect of a company whose registered office is situate in the district;*

(iii) *the Court of Session having jurisdiction to try any offence under this Act or under any previous company law;*

(iv) *the Special Court established under section 435;*

(v) *any Metropolitan Magistrate or a Judicial Magistrate of the First Class having jurisdiction to try any offence under this Act or under any previous company law. [Sub-section (29) of Section 2 of the Companies Act, 2013]*

- *"Debenture" includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not. [Sub-section (30) of Section 2 of the Companies Act, 2013]*
- *"Depository" means a depository as defined in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996. [Sub-section (32) of Section 2 of the Companies Act, 2013]*
- *"Director" means a director appointed to the Board of a company. [Sub-section (34) of Section 2 of the Companies Act, 2013]*
- *"Electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche. [Clause (t) of sub-section (1) of Section 2 of the Information Technology Act, 2000]*
- *"Financial statement" in relation to a company, includes—*

(i) *a balance sheet as at the end of the financial year;*

(ii) *a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;*

(iii) *cash flow statement for the financial year;*

(iv) *a statement of changes in equity, if applicable; and*

(v) *any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv):*

Provided that the financial statement, with respect to One Person Company, small company and dormant company, may not include the cash flow statement. [Sub-section (40) of Section 2 of the Companies Act, 2013]

- *"Financial year", in relation to any company or body corporate, means*

the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up. [Sub-section (41) of Section 2 of the Companies Act, 2013]

- *"An independent director" in relation to a company, means a director other than a managing director or a whole-time director or a nominee director,–*

  (a) who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience;

  (b) (i) who is or was not a promoter of the company or its holding, subsidiary or associate company;

  (ii) who is not related to promoters or directors in the company, its holding, subsidiary or associate company;

  (c) who has or had no pecuniary relationship with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;

  (d) none of whose relatives has or had pecuniary relationship or transaction with the company, its holding, subsidiary or associate company, or their promoters, or directors, amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;

  (e) who, neither himself nor any of his relatives–

  (i) holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;

  (ii) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of–

  (A) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or

(B) any legal or a consulting firm that has or had any transaction with the company, its holding, subsidiary or associate company amounting to ten per cent. or more of the gross turnover of such firm;

(iii) holds together with his relatives two per cent. or more of the total voting power of the company; or

(iv) is a Chief Executive or director, by whatever name called, of any nonprofit organisation that receives twenty-five per cent. or more of its receipts from the company, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent. or more of the total voting power of the company; or

(f) who possesses such other qualifications as may be prescribed.

[Sub-section (6) of Section 149 of the Companies Act, 2013]

- *"Listed company" means a company which has any of its securities listed on any recognised stock exchange. [Sub-section (52) of Section 2 of the Companies Act, 2013]*
- *"Managing Director" means a director who, by virtue of the articles of a company or an agreement with the company or a Resolution passed in its general Meeting, or by its Board of Directors, is entrusted with substantial powers of management of the affairs of the company and includes a director occupying the position of managing director, by whatever name called.*

  Explanation. – For the purposes of this clause, the power to do administrative acts of a routine nature when so authorised by the Board such as the power to affix the common seal of the company to any document or to draw and endorse any cheque on the account of the company in any bank or to draw and endorse any negotiable instrument or to sign any certificate of share or to direct registration of transfer of any share, shall not be deemed to be included within the substantial powers of management;

  [Sub-section (54) of Section 2 of the Companies Act, 2013]

- *"Member", in relation to a company, means –*

  (i) the subscriber to the memorandum of the company who shall be deemed to have agreed to become member of the company, and on its registration, shall be entered as member in its register of members;

(ii) every other person who agrees in writing to become a member of the company and whose name is entered in the register of members of the company;

(iii) every person holding shares of the company and whose name is entered as a beneficial owner in the records of a depository. [Sub-section (55) of Section 2 of the Companies Act, 2013]

- *"memorandum" means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous company law or of this Act; [Sub-section (56) of Section 2 of the Companies Act, 2013]*
- *"notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly. [Sub-section (58) of Section 2 of the Companies Act, 2013]*
- *"One Person Company" means a company which has only one person as a member. [Sub-section (62) of Section 2 of the Companies Act, 2013].*
- *"Ordinary Resolution" means a Resolution when, at a General Meeting of which the Notice required under the Act has been duly given, the votes cast (whether on a show of hands or on a poll or on e-voting) in favour of the Resolution (including the casting vote, if any, of the Chairman) exceed the votes, if any, cast against the Resolution by Members entitled to vote thereon either in person or, where proxies are allowed, by Proxy. [In line with Section 114 of the Act]*
- *"Promoter" means a person–*

  (a) who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92; or

  (b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or

  (c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act:

  Provided that nothing in sub-clause (c) shall apply to a person who is acting merely in a professional capacity;

  [Sub-section (69) of Section 2 of the Companies Act, 2013]

- *"Registrar" or "Registrar of Companies" means a Registrar, an Additional Registrar, a Joint Registrar, a Deputy Registrar or an Assistant Registrar,*

having the duty of registering companies and discharging various functions under this Act. [Sub-section (75) of Section 2 of the Companies Act, 2013]

- *"Related party", with reference to a company, means–*

  (i) a director or his relative;

  (ii) a key managerial personnel or his relative;

  (iii) a firm, in which a director, manager or his relative is a partner;

  (iv) a private company in which a director or manager [or his relative] is a member or director;

  (v) a public company in which a director or manager is a director [and] holds along with his relatives, more than two per cent. of its paid-up share capital;

  (vi) any body corporate whose board of directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a Director or manager;

  (vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:

  Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

  (viii) Any company which is—

  (A) a holding, subsidiary or an associate company of such company; or

  (B) a subsidiary of a holding company to which it is also a subsidiary;

  (ix) such other person as may be prescribed. [Sub-section (76) of section 2 of the Companies Act, 2013 and Rule 3 of Companies (Specification of definitions details) Rules, 2014]

- *"Relative", with reference to any person, means anyone who is related to another, if—*

  (i) they are members of a Hindu Undivided Family;

  (ii) they are husband and wife; or

(iii) one person is related to the other in such manner as may be prescribed. [Sub-section (77) of Section 2 of the Companies Act, 2013]

A person shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely:-

(1) Father:

Provided that the term "Father" includes step-father.

(2) Mother:

Provided that the term "Mother" includes the step-mother.

(3) Son:

Provided that the term "Son" includes the step-son.

(4) Son's wife.

(5) Daughter.

(6) Daughter's husband.

(7) Brother:

Provided that the term "Brother" includes the step-brother;

(8) Sister:

Provided that the term "Sister" includes the step-sister.

[Rule 4 of Companies (Specification of definitions details) Rules, 2014]

- *"Remuneration" means any money or its equivalent given or passed to any person for services rendered by him and includes perquisites as defined under the Income-tax Act, 1961 [Sub-section (78) of Section 2 of the Companies Act, 2013]*
- *"Schedule" means a Schedule annexed to this Act [Sub-section (79) of Section 2 of the Companies Act, 2013]*
- *"Section" means section of the Companies Act, 2013.*
- *"Securities" include –*

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;

(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(id) units or any other such instrument issued to the investors under any mutual fund scheme;

(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and

(iii) rights or interest in securities;

[Clause (h) of Section 2 of the Securities Contracts (Regulation) Act, 1956]

- *"Share" means a share in the share capital of a company and includes stock [Sub-section (84) of Section 2 of the Companies Act, 2013]*
- *"Special Resolution" means a Resolution in respect of which (a) the intention to propose the Resolution as a Special Resolution has been duly specified in the Notice calling the Meeting or other intimation of the Resolution has been given to the Members; (b) the Notice of the Meeting required under the Act has been duly given; and (c) the votes cast in favour of the Resolution (whether on a show of hands or on a poll or on e-voting) are not less than three times the number of the votes, if any, cast against the Resolution by Members entitled to vote thereon either in person or, where proxies are allowed, by Proxy. [In line with Section 114 of the Act]*
- *"Total Share Capital", for the purposes of clause (6) and clause (87) of section 2, means the aggregate of the -*

  (a) paid-up equity share capital; and

  (b) convertible preference share capital

  [Rule 2(1)(r) of Companies (Specification of Definitions Details) Rules, 2014]
- *"total voting power", in relation to any matter, means the total number of votes which may be cast in regard to that matter on a poll at a*

Meeting of a company if all the members thereof or their proxies having a right to vote on that matter are present at the Meeting and cast their votes; [Sub-section (89) of Section 2 of the Companies Act, 2013]

- *"Tribunal" means the National Company Law Tribunal constituted under section 408 [Sub-section (90) of Section 2 of the Companies Act, 2013]*
- *"Voting right" means the right of a member of a company to vote in any Meeting of the company or by means of postal ballot [Sub-section (93) of Section 2 of the Companies Act, 2013].*
- *"Whole-time director" includes a director in the whole-time employment of the company [Sub-section (94) of Section 2 of the Companies Act, 2013]*