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NOTE ON GENERAL MEETINGS

Ministry of Corporate Affairs (MCA) has issued 4 (four Circulars) in past one month in relation to General Meeting i.e. for Extra-Ordinary General Meeting and Annual General Meeting. In this note we tried to cover all the General Circulars issued by MCA in relation to General Meeting. This note has a wider scope which is mentioned as under:-

Reference

1. General Circular No. 14/2020 dated 08.04.2020 [Conduct of Extra-Ordinary General Meeting(EGM)] (Hereinafter referred as EGM Circular-I);
2. General Circular No. 17/2020 dated 13.04.2020 [Clarifications in relation to EGM] (Hereinafter referred as EGM Circular-II);
3. General Circular No. 18/2020 dated 21.04.2020 (Relaxation for Companies from holding Annual General Meeting (AGM) whose Financial Year ends on 31.12.2019);
4. General Circular No. 20/2020 dated 05.05.2020 (Clarification on holding of AGM through Video Conferencing or Other Audio Visual Means).



Provisions Applicable

1. Chapter-VII of the Companies Act, 2013 [Management and Administration];
2. Chapter-VIII of the Companies Act, 2013 [Declaration and payment of Dividend];
3. Chapter-IX of the Companies Act, 2013 [Accounts of Companies];
4. Companies (Management and Administration) Rules, 2014

The MCA General Circular No. 14/2020; 17/2020 and 20/2020 has clarifications regarding two types of Companies as mentioned below:-

1. *Companies which are required to provide the facility of e-voting or any other company which has opted such facility(listed company or company having at least 1000 members)(Hereinafter referred as “Type-A Company”)*
2. *Companies which are not required to provide the facility of e-voting (Hereinafter referred as “Type-B Company”)*

➤ Table below is a summary of Following Circulars:-

- A. General Circular No. 14/2020 dated 08.04.2020 (Conduct of Extra-Ordinary General Meeting) (Hereinafter referred as EGM Circular-I);
- B. General Circular No. 17/2020 dated 13.04.2020 (Clarifications in relation to Extra-Ordinary General Meeting) (Hereinafter referred as EGM Circular-II);
- C. General Circular No. 20/2020 dated 05.05.2020 (Clarification on holding of Annual General Meeting through Video Conferencing or Other Audio Visual Means).

S.No.	Particulars	EGM		AGM	
		Type-A	Type-B	Type-A	Type-B
1.	Applicability	Till June 30, 2020		During Calendar Year, 2020	
2.	Mode of Sending Notice	In view of present circumstances, in accordance with the provisions of Rule 18 of the Companies (Management and Administration) Rules, 2014, the notices to the members may be given only through e-mails registered with Companies or with the Depository Participant/ Depository.			



3.	Notice of General Meeting	<p>The notice for general meeting should contain the following information:</p> <p>a) Instruction as to how the members can access and participate in such meeting;</p> <p>b) Helpline number of Registrar and Transfer Agent and technology provider for assistance of members;</p>	<p>c) A designated e-mail address so that members can convey their vote, if a poll is required to be taken in the meeting.</p> <p>Further, copy of notice shall be displayed on the website of the company.</p>	Same as EGM Type-A	Same as EGM Type-B
4.	Other Requirements in relation to General Meeting such as Public Notice	<p>Companies by Complying with the requirement of Rule 20(4)(v) of Companies Management and Administration) Rules, 2014 in relation to publication of public notice, the following matters shall also be stated in public notice:-</p>	<p>Companies in order to ensure that all members must be aware about the general meeting shall:-</p> <p>1. Contact all members whose e-mail address are not registered with the Company over telephone or any other mode of communication for registration of their email-id before sending the notice for</p>	<p>Before sending of notice and Financial Statement, a public notice by way of advertisement be published at least once in a -</p> <p>a. Vernacular Newspaper in the principle vernacular language of the district , in which registered office is situated and</p> <p>b. English</p>	Same as EGM Type-B



		<p>1. Statement that EGM has been convened through VC or OAVM in compliance with applicable provisions of the Act read with EGM Circular-I and EGM Circular-II;</p> <p>2. Date and time of EGM through VC or OAVM;</p> <p>3. Availability of notice of the meeting on the website of the Company and stock exchange, in case of listed Company;</p> <p>4. The manner in which the members who are holding shares in physical form or who have not registered their email address with the company can cast their vote through remote e-voting or</p>	<p>meeting to all its members; or</p> <p>2. Where contact details are not available with the company or unable to obtain by way of (1) above, it shall cause a public notice by way of advertisement to be published immediately at least once in a :</p> <p>a) Vernacular Newspaper in the principle vernacular language of the district , in which registered office is situated and</p> <p>b) English Newspaper</p> <p>Please note that both newspapers should have wide circulation in district and preferably both newspaper having electronic edition.</p> <p>Advertisement in Newspaper should contain following information:-</p>	<p>Newspaper</p> <p>Please note that both newspapers should have wide circulation in district and preferably both newspaper having electronic edition.</p> <p>Following information should be specified in the newspaper:-</p> <p>1) Statement that AGM will be convened through VC or OAVM in compliance with the applicable provisions of the Act read with this Circular;</p> <p>2) Date and time of the AGM through VC or OAVM;</p> <p>3) Availability of notice on the website of the Company and stock exchange, in case of listed company;</p> <p>4) The manner in which the members who are holding shares in physical form or who</p>	
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		<p>through the e-voting system during the meeting;</p> <p>5. Manner of registering email id with the company;</p> <p>6. Any other details considered necessary by the Company.</p>	<ul style="list-style-type: none"> • That the Company intends to convene general Meeting in Compliance with the applicable provisions of the Act read with EGM Circular-I and EGM Circular-II and for the said purpose it propose to send notices to all its members by e-mail after , at least 3 days from the date of publication of the Public Notice; • The details of email-id along with phone no on which members may contact for getting their email-id registered for participation and voting in the General Meeting. 	<p>have not registered their email address with the company can cast their vote through remote e-voting or through the e-voting system during the meeting;</p> <p>5) Manner of registering email id with the company;</p> <p>6) Manner how can members provide their bank account details for transfer of Dividend;</p> <p>7) Any other details as necessary.</p>	
5.	Applicability to those companies, who have already issued a notice for meeting prior to this Circular:-	<p>Yes, if a company complies the following two conditions:</p> <p>a) Consent from the members shall be obtained in accordance with Section 101(1) of the Act ; and</p> <p>b) A fresh shorter notice in accordance with this circular shall be issued to members</p>		Not Applicable	
6.	Facility for	Applicable	Not Applicable	Applicable	Not Applicable



	remote e-voting before the meeting				
7.	Business/Items which can be transacted	All business/items can be transacted except- a) Ordinary Business; b) Business in which any person has right to be heard.		Ordinary Business :- (i) The consideration of financial statements and the reports of the Board of Directors and auditors; (ii) The declaration of any dividend; (iii) The appointment of directors in place of those retiring; and (iv) The appointment of, and the fixing of the remuneration of, the auditors. Any other Business which are considered to be unavoidable by the Board.	
8.	Minimum Capacity of Members to whom facility shall be provided	This facility must have a capacity to allow 1000 members to participate on a first come first served basis.	This facility must have a capacity to allow 500 members or members equal to total number of members of the company, whichever is lower to participate on a first come first served basis.	Same as EGM Type-A	Same as EGM Type-B
		However, the following person can attend the meeting without the restriction on account of first come first served basis principle: a) Shareholders holding 2% or more shareholding; b) Promoters; c) Institutional investors; d) Directors; e) KMP; f) Chairperson of Audit Committee, Nomination & Remuneration Committee and Stakeholder			



		Relationship Committee; and g) Auditors		
9.	Person required to compulsorily attend the meeting	a) At least one Independent Director (if any); b) Auditor or his authorized representative. Further, where institutional investors are member of Company, they must be encouraged to attend and vote in the meeting held through VC or OAVM.		
10.	Time for joining the meeting	The facility for joining meeting shall be kept open at least 15 minutes before the scheduled time of the meeting and shall be remain open till the expiry of 15 minutes of the scheduled time of the meeting.		
11.	Proxy	Proxy cannot be appointed for this meeting.		
12.	Authorized Representatives	Authorized Representatives under Section 112 and Section 113 can be appointed for this meeting.		
13.	Appointment of Chairman of the Meeting	a) If the members present in meeting are less than 50 , then Chairman shall be appointed in accordance with Section 104 of the Act; and b) If the members present in the meeting are 50 or more than 50 , then Chairman shall be appointed by a poll conducted in the way as provided in Point No.12.		
14.	Manner of Voting	a) <i>*Chairman present at a meeting shall ensure that the facility of e-voting system is available for the purpose of voting during the meeting held through VC or OAVM.</i>	a) If the members present in meeting are less than 50 , then voting may be conducted by show of hands unless a Demand for poll [#] is made by any member in accordance with section 109 of the Act. b) In all other cases, voting may be conducted by poll [#] .	Same as EGM Type-A Same as EGM Type-B



15.	Quorum	Members present through VC or OAVM are counted as Quorum.	All members present in the meeting through VC or OAVM are counted as quorum.	Members attending meeting through VC or OAVM are counted as quorum. However, ¹Members physically present and members attending meeting through electronic mode are counted for the purpose of quorum under section 103 of the act.	All members present in the meeting through VC or OAVM are counted as quorum.
16.	Member Entitled to Vote in the General Meeting	Only those members who are present in the meeting through VC or OAVM and have not casted their votes on resolutions through remote e-voting, will be allowed to vote in the meeting through e-voting or by show of hands, as the case may be.	All members present in the meeting through VC or OAVM are entitled to vote in this meeting.	Same as Type-A Company	Same as Type-B Company
17.	Transcript of meeting	After concluding the meeting, Recorded transcript of the meeting shall be maintained in safe custody of the Company. In case of public company , recorded transcript of meeting shall be available on the website of the Company, if any.			
18.	Resolution filed to ROC	All resolution passed in accordance with this mechanism shall be filed with Registrar of Companies within 60 days of the meeting and clearly indicating therein that the mechanism provided in this circular along with other provisions of the Act	For Other than Ordinary Business, All resolution passed in accordance with this mechanism shall be filed with Registrar of Companies within 60 days of the meeting and clearly indicating therein that the mechanism		



		and rule are duly complied with.	provided in this circular along with other provisions of the Act and rule are duly complied with.
19.	Other Compliance in relation of General Meeting	All other Compliance associated with the provisions of the General Meeting viz making of disclosures, inspection of related documents / registers by members, or authorizations for voting by bodies corporate, etc as provided in the Act and Article of Association of the Company are made through electronic mode.	
20.	Responsibility of Chairman of Meeting	The Chairman shall satisfy himself and cause to record the same before considering the business in the meeting that all efforts feasible under the circumstances have indeed been made by the company to enable members to participate and vote on the items being considered in the meeting. In short, Chairman will check all the arrangements made by the company for EGM.	

* This is the amendments in EGM Circular-I which brings by MCA through EGM Circular-II.

The MCA clarification for Type-B Companies does not provide for polling by members at any time before the General Meeting. The poll will take place during the meeting, and the members may convey their assent or dissent only at such stage on items considered in the meeting by sending emails to designated email-id of the Company, which was circulated by the Company in the notice sent to members.

¹ In case company has received permission from relevant authority (Relevant Authority means- District administration of the district and authority to whom is delegated in relation to give permission for resuming the office or other works.) to conduct AGM at registered office of the company or any other place as per section 96 of the Companies Act, 2013, the company may provide the facilities of VC or OAVM **along with the meeting with physical presence of some members.**

➤ **OTHER IMPORTANT DETAILS IN RELATION TO CONDUCT OF ANNUAL GENERAL MEETING (AGM) INTRODUCED BY MCA GENERAL CIRCULAR NO.- 20/2020 DATED 05.05.2020:-**

S.No.	Particulars	Type-A Company	Type-B Company		
1.	Companies who can conduct AGM	AGM may be conducted by any Company which falls in Type-A Category	AGM may be conducted through the facility of VC or OAVM only by a Company which has in its records, the email address of at least half (50%) of its total members who <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">In case of Nidhi Company</td> <td style="width: 50%;">Holds shares of more than INR 1000 in face value or More than 1 % of the total paid-up share capital</td> </tr> </table>	In case of Nidhi Company	Holds shares of more than INR 1000 in face value or More than 1 % of the total paid-up share capital
In case of Nidhi Company	Holds shares of more than INR 1000 in face value or More than 1 % of the total paid-up share capital				



				<p>Whichever is less</p> <p>In case of other Companies having share Capital Who represent not less than 75 % of such part of the paid-up share capital of the company as gives a right to vote at the meeting</p> <p>In case of Companies not having Share Capital Who have the right to exercise not less than 75% of the total voting power exercisable at the meeting</p>
2.	Financial Statements(Including Board's Report, Auditors report or other documents required to be attached)	Financial Statement shall be sent only by email to the <ul style="list-style-type: none"> ○ Members; ○ Trustees for the debenture-holders of any debentures issued by the company; and ○ All other person entitled to attend to the meeting. 		
3.	Dividend	<p>Company has to give information in advertisement regarding the system how members can give their mandate(official letter) for receiving dividend directly in their bank accounts through the Electronic Clearing Service (ECS) or any other means.</p> <p>For shareholders, whose bank accounts are not available, the company shall upon normalization of the postal services, dispatch the dividend warrant/cheque to such shareholder by post.</p>	<p>The Company shall make adequate provisions for allowing the members to give their mandate for receiving dividend directly in their bank accounts through the Electronic Clearing Service (ECS) or any other means.</p> <p>For shareholders, whose bank accounts are not available, the company shall upon normalization of the postal services, dispatch the dividend warrant/cheque to such shareholder by post.</p>	
4.	Email-Id	For those shareholders, whose email id is not registered with the Company, the Company has to give information in the	Company should take necessary step to register the email address of all persons who have not registered their email id with the	



		advertisement (as referred in above point) regarding the manner for registering the email id with the Company	Company.
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➤ **FREQUENTLY ASKED QUESTIONS (FAQs)**

1. Which Companies are required to conduct AGM in the Calendar Year 2020?

Ans: Companies which are required to conduct AGM in the Calendar year 2020 are:-

- Companies covered under General Circular No. 18/2020 dated 21.04.2020.
- Companies whose financial year ended on 31st March, 2020 and required to hold its subsequent meeting till September, 2020. (with limits as mentioned below)
- Companies whose First Financial year ended on 31st March, 2020 and required to hold its First AGM till December, 2020. (with limits as mentioned below)

2. Why does MCA introduce “Clarification on holding of AGM through Video Conferencing or other audio visual means”?

Ans: With considering the today’s current situation where relaxation is providing in Lock-down with certain conditions and advisory. It is not possible for the Corporates to holds their Annual General Meeting (hereinafter referred as AGM) with physical present of members. Thus, by keeping in view this issue and to avoid social gatherings, Ministry of Corporate Affairs (hereinafter referred as MCA) has issued this circular not only for ease of Corporates but also in support of government guidelines to avoid social gathering.

3. What is meaning of other Companies having share Capital?

Ans: Other Companies having Share capital means Companies which are not covered in Type (A) Company.

4. From where a reader can get the complete note on EGM Circular-I and other Circulars?

Ans: Reader by visiting Sumit Grover And Associates website can get access of EGM Circular-I and other Circulars/Notes.

5. What will a Company do if a Company is not covered in General circular No. 18/2020 dated 21.04.2020 and are unable to conduct their AGM in accordance with framework provided under General Circular No. 20/2020 dated 05.05.2020?



Ans: MCA has issued an advice to the Companies to prefer applications for extension of AGM at a suitable point of time before concerned Registrar of Companies under Section 96 of the Act.

6. What is the Clarification issued by MCA in EGM Circular-II in relation to Passing of certain items only through postal ballot without convening a General Meeting?

Ans: Rule 22(15) of Companies (Management and Administration) Rules, 2014 which provides that the provisions of Rule 20 of the Companies (Management and Administration) Rules, 2014 regarding voting by electronic means shall apply, as far as possible, mutatis mutandis to the Rule 22(15) in respect of voting by electronic means. Thus, Type-A Companies under EGM Circular-I, while they are transacting any item only by postal ballot , upto 30th June or till further order , whichever is earlier, the requirement of Rule 20 of the Companies (Management and Administration) Rules, 2014, EGM Circular-I and EGM Circular-II would be applicable. The Company would send notice by email to all its shareholders who have registered their email addresses with the company or Depository Participants/ Depository.

The Company would also bound to provide a process of registration of e-mail addresses of members and state so in its Public Notice. The communication of assent or dissent of the members would only take place through the remote e-voting system, as no meeting will be required to be called.

SHORT NOTE ON GENERAL CIRCULAR NO. 18/2020 DATED 21.04.2020

- As per Section 96 of the Companies Act, 2013, Annual General Meeting (AGM) shall in each year hold in addition to any other meetings, a General Meeting as its AGM and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one annual general meeting of a company.
- Provided that in case of the first AGM, it shall be held within a period of nine months from the date of closing of the first Financial Year of the company and in any other case, within a period of six months, from the date of closing of the Financial Year.
- For Companies whose Financial Year Ends on 31st December, 2019 (Other than First Financial Year) required to hold their meeting till June, 2020. But because of current scenario of COVID-19 which is not possible.
- Thus, MCA by the Circular No. 18/2020 dated 21.04.2020 provide relaxation to such companies. After issuance of this Circular, if the Companies whose Financial Year ends on 31st December, 2019(Other than First Financial Year),can hold their AGM for such financial year by 30th September, 2020.
- By this Circular MCA has granted relaxation of 3 months to the Companies.



Conclusion:-

We can conclude that MCA has granted relaxation for the ease of conducting business. It is advisable to the Corporates to get register email id of all their shareholders with them within prescribed time to avail the Circular. MCA has taken all necessary initiatives just in time for the stakeholders.

Disclaimer:-

This note and FAQs drafted by the author on the basis of its interpretation in this regard. In case of any loss cause due to this note, author and firm will not be held liable for that. It is advisable to reader to seek Professional and Legal guidance with this note.

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