

No 17/95/2011-CL.V
Government of India
Ministry of Corporate Affairs

5th floor, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road, New Delhi
Dated: 20.05.2011

All the Regional Directors,
All the Registrar of Companies

Subject: Green Initiative in the Corporate Governance – Participation by directors in meetings of Board / Committee of directors under the Companies Act, 1956 through electronic mode.

Sir,

The Ministry of Corporate Affairs has taken a "Green Initiative in the Corporate Governance" by allowing paperless compliances by the Companies after considering sections 2, 4, 5, 13 and 81 of the Information Technology Act, 2000 for legal validity of compliances under Companies Act, 1956 through electronic mode.

2. The Ministry has been receiving representations from various Industry bodies to recognize participation by directors in meetings of Board / Committee of directors under the Companies Act, 1956 through electronic mode.

3. Section 13 of the Information Technology Act, 2000, inter-alia provides time and place of dispatch of notices in electronic mode, which may be applicable for the purpose of notice period provided in the Companies Act, 1956 or in the Article of Association of the company.

4. In the light of the above provisions and circumstances, it is hereby clarified that directors of a company may participate in a meeting of Board / Committee of directors under the provisions of Companies Act, 1956 through electronic mode.

For this purpose, the company shall also comply with the following requirements and procedures, in addition to the normal procedures required under the Companies Act, 1956 for holding meetings of Board / Committee of directors: --

- (a) Electronic mode means video conference facility i.e. audio-visual electronic communication facility employed which enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.
- (b) Every director of the company must attend the meeting of Board/Committee of directors personally at least one meeting a financial year of the company.

(c) The Chairman of the meeting and Secretary shall assume the following responsibilities:

- (i) to safeguard the integrity of the meeting via videoconferencing.
- (ii) to ensure proper videoconference equipment/facilities.
- (iii) to prepare the minutes of the meeting.
- (iv) to ensure that no one other than the concerned director or other authorized participants are attending the meeting through electronic mode.
- (v) If a statement of a participant in the meeting via videoconferencing is interrupted or garbled, the Chairman or Secretary shall request for a repeat or reiteration, and if need be, the Chairman or Secretary shall repeat what he heard the participant was saying for confirmation or correction.

5(a) The notice of the meeting must inform directors regarding availability of participation through video conference, and provide necessary information to enable directors to access the available facility of videoconferencing.

(b) The notice of the meeting shall also seek confirmation from the director as to whether he will attend the meeting physically or through electronic mode and shall also contain the contact number(s) / e-mail addresses of the Secretary / designated officer to whom the director shall confirm in this regard.

(c) In the absence of any confirmation from the Director, it will be presumed that he will physically attend the Board meeting.

6. At the start of the scheduled meeting through electronic mode, a roll call shall be made by the Chairman/ Secretary. Every director and authorized participant shall state, for the record, the following:-

- i. Full Name
- ii. Location
- iii. that he can completely and clearly see and communicate with each of other participants.
- iv and will ensure that no one other than the concerned director or authorized participant is attending the meeting through electronic mode.

Thereafter, the Chairman/ Secretary shall confirm the participation of the directors in the meeting who are not physically present. After the roll call, the Chairman or Secretary may certify the existence of a quorum.

It is clarified that a director participating in a meeting through use of video conference shall be counted for the purpose of quorum. A roll call should also be made at the conclusion of the meeting or at re-commencement of the meeting after every break to ensure presence of quorum throughout the meeting.

7. The place where the Chairman or Secretary is sitting during the Board meeting shall be taken as place of meeting in terms of section 288 of the Act, and all recordings will be made at this place. The other statutory registers which are required to be placed in the Board meeting as per the provisions of the Act, shall be placed before the Chairman for compliance of the Act. The statutory registers required to be signed by the other directors shall be deemed to have been signed by directors participating through electronic mode if they have given their consent to this effect in that meeting.

8. If a motion is objected to and there is a need to vote, the Chairman/Secretary should call the roll and note the vote of each director who should identify himself.

9 (a) In the end of the meeting, Chairman of the meeting shall announce the summary of the decisions taken in that meeting in respect of each agenda item and names of the directors who have consented or dissented to those decisions. Video recording of that part of the meeting shall be preserved by the company for one year from the conclusion of that meeting.

(b) In the minutes, chairman shall also confirm the mode of attendance of every director of the company during last three meetings whether personally or through electronic mode.

(c) Draft minutes of the meeting shall be circulated in soft copy not later than 7 days of the meeting for comments/confirmation to the directors who attended the meeting to dispel all doubts on matters taken up during the meeting. Thereafter, the minutes shall be entered in the minute books as prescribed under section 193 of the Act. The minutes shall also disclose the particulars of the Directors who attended the meeting through electronic mode.

Yours faithfully,


25/5/11
(Monika Gupta)
Assistant Director

Copy to: All concerned.