

Chapter VII

Management and Administration

Register of members.

7.1. (1) For the purposes of clause (a) of sub-section (1) of section 88, every company shall, from the date of its registration, keep and maintain a register of its members in one or more books in Form No. 7.1.

(2) In the case of a company not having share capital, the register of members shall contain the following particulars in respect of each member-

- (a) Name of the member; address (registered office address in case the member is a body corporate); e-mail address; Permanent Account Number or CIN; Unique Identification Number, if any; Father's/Mother's/Spouse's name; Occupation; Status; Nationality; in case member is a minor, name of the guardian and the date of birth of the member; name and address of nominee;
- (b) Date of becoming member;
- (c) Date of cessation;
- (d) Amount of guarantee, if any;
- (e) Instructions, if any, given by the member with regard to sending of notices etc.

Register of debenture holders or any other security holders.

7.2. For the purposes of clauses (b) and (c) of sub-section (1) of section 88, every company which issues or allots debentures or any other security shall maintain a separate register of debenture holders or security holders, as the case may be, for each type of debentures or other securities in one or more books in Form No.7.2.

Maintenance of the Register of members etc. under section 88.

7.3. For the purposes of sub-section (1) of section 88, every company shall maintain the registers under clauses (a), (b) and (c) in the following manner:-

- (1) Entries in the registers maintained under section 88 shall be made simultaneously after the Board of Directors or its duly constituted committee approves the allotment or transfer of shares, debentures or any other securities, as the case may be.
- (2) Such registers shall be maintained at the registered office of the company unless a special resolution is passed in a general meeting authorizing the keeping of the register at any other place within the city, town or village in which the registered office is situate or any other place in India in which more than one-tenth of the total members entered in the register of members reside.
- (3) If shares, debentures or other securities are held with a depository, the name, particulars of the depository and number of shares, debentures or other securities so held shall be entered in the respective register.
- (4) Consequent upon any forfeiture, buy-back, reduction, sub-division, consolidation or cancellation of shares, issue of sweat equity shares or issue of duplicate or new share certificates or new debenture or other security certificates, entry shall be made simultaneously in the register of members or in the respective registers, as the case may be.
- (5) If any change occurs in the status of a member or debenture holder or any other security holder whether due to death or insolvency or change of name or due to any other reason, entries thereof explaining the change shall be made in the respective register.

(6) If any rectification is made in the register maintained under section 88 by the company pursuant to any order passed by the competent authority under the Act, the necessary reference of such order shall be indicated in the respective register.

(7) If any order is passed by any judicial or revenue authority attaching the shares, debentures or other securities and giving directions for remittance of dividend or interest, the necessary reference of such order shall be indicated in the respective register.

Index of names to be included in Register.

7.4. (1) Every register maintained under sub-section (1) of section 88 shall include an index of the names entered in the respective registers. The index shall, in respect of each folio, contain sufficient indication to enable the entries relating to that folio in the register to be readily found.

(2) The company shall make the necessary entries in the index simultaneously with the allotment or transfer of any security in such Register.

Foreign register of members, debenture holders, other security holders or beneficial owners residing outside India.

7.5. (1) For the purpose of sub-section (4) of section 88, a company which has share capital or which has issued debentures or any other security may, if so authorized by its articles, keep in any country outside India a part of the register of members or as the case may be, of debenture holders or of any other security holders or of beneficial owners, resident in that country (in this rule called a "foreign register").

(2) The company shall, within thirty days from the date of the opening of any foreign register, file with the Registrar notice of the situation of the office in Form No. 7.3 along with the fee as provided in Annexure B where such register is kept; and in the event of any change in the situation of such office or of its discontinuance, shall, within thirty days from the date of such change or discontinuance, as the case may be, file notice in Form No. 7.3 with the Registrar of such change or discontinuance.

(3) A foreign register shall be deemed to be part of the company's register (in this rule called the "principal register") of members or of debenture holders or of any other security holders or beneficial owners, as the case may be.

(4) The foreign register shall be maintained in the same format as the Principal Register.

(5) A foreign register shall be open to inspection and may be closed, and extracts may be taken there from and copies thereof may be required, in the same manner, mutatis mutandis, as is applicable to the principal register, except that the advertisement before closing the register shall be inserted in at least two newspapers circulating in the place wherein the foreign register is kept.

(6) If a foreign register is kept by a company in any country outside India, the decision of the Tribunal in regard to the rectification of the register shall be binding.

(7) The company shall -

(a) transmit to its registered office in India a copy of every entry in any foreign register within fifteen days after the entry is made; and

(b) keep at such office a duplicate register of every foreign register duly entered up from time to time.

(8) Every such duplicate register shall, for all the purposes of this Act, be deemed to be part of the principal register.

(9) Subject to the provisions of section 88 and the rules made thereunder, with respect to duplicate registers, the shares or as the case may be, debentures or any other security, registered in any foreign register shall be distinguished from the shares or as the case may be, debentures or any other security, registered in the principal register and in every other foreign register; and no transaction with respect to any shares or as the case may be,

debentures or any other security, registered in a foreign register shall, during the continuance of that registration, be registered in any other register.

(10) The company may discontinue the keeping of any foreign register; and thereupon all entries in that register shall be transferred to some other foreign register kept by the company in the same part of the world or to the principal register.

Authentication.

7.6. (1) Entries in the registers maintained under section 88 and index included therein shall be authenticated by the company secretary of the company or by any other person authorized by the Board for the purpose, by appending his signature to each entry and mentioning the date of the board resolution authorizing the same.

(2) Entries in the foreign register shall be authenticated by the person authorized by the Board by appending his signature to each entry.

Declaration in respect of beneficial interest in any shares.

7.7. (1) For the purposes of sub-section (1) of section 89, a person whose name is entered in the register of members of a company as the holder of shares in that company but who does not hold the beneficial interest in such shares (hereinafter called “the registered owner”), shall file with the company, a declaration to that effect in Form No.7.4 in duplicate, within thirty days from the date on which his name is entered in the register of members of such company:

Provided that where any change occurs in the beneficial interest in such shares, the registered owner shall, within thirty days from the date of such change, make a declaration of such change to the company in Form No. 7.4 in duplicate.

(2) For the purposes of sub-section (2) of section 89, every person holding or acquiring a beneficial interest in shares of a company not registered in his name (hereinafter called “the beneficial owner”) shall file with the company, a declaration disclosing such interest in Form No. 7.5 in duplicate, within thirty days after acquiring such beneficial interest in the shares of the company:

Provided that where any change occurs in the beneficial interest in such shares, the beneficial owner shall, within thirty days from the date of such change, make a declaration of such change to the company in Form No. 7.5 in duplicate.

(3) For the purposes of sub-section (6) of section 89, where any declaration under section 89 is received by the company, the company shall make a note of such declaration in the register of members and shall file, within thirty days from the date of receipt of declaration by it, a return in Form No. 7.6 with the Registrar in respect of such declaration with fees prescribed in Annexure B .

Closure of register of members/debenture holders/other security holders.

7.8. (1) For the purposes of sub-section (1) of section 91, a company closing the register of members or the register of debenture holders or the register of other security holders shall give at least seven days previous notice or such lesser period and in such manner, as may be specified by Securities and Exchange Board, if such company is a listed company or intends to get its securities listed, by advertisement at least once in a vernacular newspaper in the principal vernacular language of the district and having a wide circulation in the place where the registered office of the company is situated, and at least once in English language in an English newspaper circulating in that district and having wide circulation in the place where the registered office of the company is situated and publish the notice on the website as may be notified by the Central Government and on the website, if any, of the Company.

(2) The provisions contained in sub-rule (1) shall not be applicable to a private company provided that the notice has been served on all members of the private company not less than seven days prior to closure of the register of members/debenture holders/other security holders.

ANNUAL RETURN.

7.9. (1) For the purposes of sub-section (1) of section 92, every company shall prepare its annual return in Form No. 7.7.

(2) For the purposes of sub-section (2) of section 92, the annual return, filed by a listed company or a company having paid-up share capital of five crore rupees or more and turnover of twenty five crore rupees or more, shall be certified by a Company Secretary in practice. The certificate shall be in Form No. 7.8.

Extract of annual return.

7.10. (1) For the purposes of sub-section (3) of section 92, the extract of the annual return to be attached with the Board's Report shall be in Form No. 7.9.

(2) For the purposes of sub-section (4) of section 92, a copy of the annual return shall be filed with the Registrar with such fee as provided in Annexure B .

Return of changes in shareholding position of promoters and top ten shareholders.

7.11. For the purposes of section 93, every listed company shall file with the Registrar, a return in Form No. 7.10 along with the fee as provided in Annexure B with respect to any change in the shareholding position of promoters and top ten shareholders of the company within fifteen days of such change.

Inspection etc. of registers, returns etc.

7.12. (1) The registers and indices maintained pursuant to section 88 and copies of returns prepared pursuant to section 92, shall be open for inspection during business hours by any member, debenture holder, other security holder or beneficial owner without payment of fee and by any other person on payment of such fee as may be specified in the articles of association of the company but not exceeding fifty rupees for each inspection.

(2) Any such member, debenture holder, security holder or beneficial owner or any other person may require a copy of any such register or entries therein or return on payment of such fee as may be specified in the articles of association of the company but not exceeding ten rupees for each page.

Preservation of register of members etc. and annual return.

7.13. For the purposes of sub-section (1) of section 94,

(1) the register of members along with the index shall be preserved permanently and shall be kept in the custody of the company secretary of the company or any other person authorized by the Board for such purpose; and

(2) the register of debenture holders or any other security holders along with the index shall be preserved for a period of 15 years from the date of redemption of debentures or securities, as the case may be, and shall be kept in the custody of the company secretary of the company or any other person authorized by the Board for such purpose.

(3) Copies of all annual returns prepared under section 92 and copies of all certificates and documents required to be annexed thereto shall be preserved for a period of 8 years from the date of filing with the Registrar.

(4) The foreign register of members shall be preserved permanently unless it is discontinued and all the entries are transferred to any other foreign register or to the principal register. Foreign register of debenture holders or any other security holders shall be preserved for a period of 15 years from the date of redemption of such debentures/ securities.

(5) The foreign register shall be kept in the custody of the person authorized by the Board for authentication of the entries made therein.

Copies of the registers and annual return

7.14 For the purposes of clause (b) of sub-section (3) of section 94, copies of the registers maintained under section 88 or entries therein and annual return filed under section 92 may be furnished to any member, debenture-holder, other security holder or beneficial owner of the company or any other person on payment of such fee as may be prescribed in the Articles of Association of the company but not exceeding rupees ten for each page.

Calling of Extraordinary general meeting by requisitionists.

7.15. (1) The requisitionists may call an extraordinary general meeting in accordance with sub-section (2) of section 100, by giving not less than twenty-one days' notice in writing or through electronic mode.

(2) The notice shall specify the place, date, day and hour of the meeting and shall contain the business to be transacted at the meeting.

(3) If the resolution is to be proposed as a special resolution, the notice shall be given as is required by sub-section (2) of section 114.

(4) The notice shall be signed by all the requisitionists or by a requisitionist duly authorized in writing by all other requisitionists on their behalf.

(5) No explanatory statement as required under section 102 need be annexed to the notice of an extraordinary general meeting convened by the requisitionists. The requisitionists may disclose the reasons for the resolution(s) which they propose to move at the meeting.

(6) The notice of the meeting shall be given to those members whose names appear in the Register of members of the company as on the date on which the requisitionists deposit with the Company a valid requisition for calling an extraordinary general meeting.

(7) The requisitionists shall have a right to receive and the company concerned is bound to give a list of members together with their registered address on the expiry of the forty fifth day from the date of deposit of the requisition. The aforesaid list shall be sent as early as possible but not later than three days from the expiry of the forty fifth day.

(8) The Notice of the meeting shall be given under by ordinary post or registered post or through electronic mode. Any accidental omission to give notice to, or the non-receipt of such notice by, any member shall not invalidate the proceedings of the meeting.

Notice of the meeting.

7.16. (1) For the purpose of sub-section (1) of section 101, a company may give notice through electronic mode.

Explanation: For the purpose of this rule, 'electronic mode' shall mean any communication sent by a company through its authorized 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.

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

(3) (i) The e-mail shall be addressed to the person entitled to receive such e-mail as per the records of the company. The company shall provide an advance opportunity to the member to register his e-mail address and changes therein from time to time.

(ii) The subject line in e-mail shall state the name of the company, notice of the type of meeting and the date on which meeting is scheduled.

(iii) If notice is sent in the form of an attachment to e-mail, such attachment shall be in the Portable Document Format (PDF) or electronic documentation format together with a facility for recipient for downloading relevant version of the software for accessing such notice along with instructions for

downloading such software and alternative contact details in case of inability of the recipient to open or read the attachment.

(iv) There shall be no difference in the text of the physical version of the notice and electronic version except in respect of mode of dispatch of notice.

(v) Sending of notice via e-mail shall be subject to such option being confirmed by the member and e-mail address being updated in writing at least 30 days prior to dispatch of notice. In such cases, the company shall not be under obligation to deliver physical copy of the notice unless specifically requested by the member in writing before the date of the meeting.

(vi) When notice or notifications of availability of notice are sent by e-mail, the company should 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. A 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'.

(vii) The company's obligation shall be satisfied when it transmits the e-mail and the company will not be held responsible for a failure in transmission beyond its control. However the company shall, where it is aware of the failure in delivery of the e-mail (and subsequent attempts do not rectify the situation), revert to sending physical copy of the notice at the member's registered address within 72 hours of the original attempt.

(viii) If a member entitled to receive notice fails to provide or update relevant e-mail address to the company, company shall not be in default for not delivering notice via e-mail.

(ix) Company may send e-mail through in-house facility or authorize any third party agency providing bulk e-mail facility.

(x) Notice made available on the electronic link/ URL has to be readable, and the recipient should be able to obtain and retain copies. The company shall give the complete URL/address of the website and full details of how to access the document/information.

(xi) The notice is taken to be 'sent' on the date the notification is sent. The notice must be available on the electronic link/ URL provided from the date of notification until the conclusion of the meeting. The failure to make notice available throughout the required period shall be disregarded if it is made available for part of that period and the failure is wholly attributable to circumstances that the company could not reasonably have prevented or avoided.

(4) The notice of the general meeting of the company shall be simultaneously placed on the website of the company and on the website as may be notified by the Central Government.

Proxies.

7.17. (1) For the purpose of third proviso to the sub-section (1) of section 105, a member of a company registered under section 8 shall not be entitled to appoint any other person as his proxy unless such other person is also a member of such company.

(2) No person shall act as proxy 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.

(3) For the purposes of sub-section (6) of section 105, the appointment of proxy shall be in the Form No. 7.11.

Voting through electronic means.

7.18.(1) For the purposes of section 108, every listed company or a company having five hundreds or more shareholders may provide to its members facility to exercise their right to vote at general meetings by electronic means.

(2) For the purposes of section 108, a member may exercise his right to vote at any general meeting by electronic means and company may pass any resolution by electronic voting system in accordance with the provisions of this rule.

Explanation.-I. For the purposes of this rule, 'voting by electronic means' or 'electronic voting system' means a 'secured system' based process of display of electronic ballots, recording of votes of the members and the number of votes polled in favour or against, such that the entire voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralized server with adequate 'cyber security'.

II. 'Secured system' means computer hardware, software, and procedure that –

- (a) are reasonably secure from unauthorized 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.

III. "Cyber security" means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorized access, use, disclosures, disruption, modification or destruction.

(3) A company which opts to provide the facility to its members to exercise their votes at any general meeting by electronic voting system shall follow the following procedure:

Explanation- For the purposes of this rule, 'agency' means an agency approved by the Ministry of Corporate Affairs and appointed by a company for providing and supervising electronic platform for voting by electronic means.

Provided that the company may itself get registered with Ministry of Corporate Affairs for providing and supervising electronic platform for voting by electronic means. The Ministry may authorize the agency from the approved list.

(i) The notices of the meeting shall be sent to all the members/ auditors of accompany/directors/key managerial personal either, -

- (a) by Registered Post or speed post with AD, or
 - (b) through electronic means like registered e-mail id etc,
- in accordance with the provisions of section 101.

(ii) The notice shall also be placed on the website of the company, if any and of the agency forthwith after it is sent to the members.

(iii) The notice of the meeting shall clearly mention that the business may be transacted through electronic voting system and the company is providing facility for voting by electronic means.

(iv) The notice shall clearly indicate the process and manner for voting by electronic means and time schedule including the time period during which the votes may be cast, address of places for casting votes duly sorted in order of name of states or union territories, where the members can cast their votes electronically.

(v) The company shall cause an advertisement to be published, not less than five days before the date of beginning of the voting period, 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 sent the notice of the meeting and specifying therein, inter alia, the following matters:

- (a) statement that the business may be transacted by electronic voting;
- (b) the date of completion of sending of notices;
- (c) the date and time of commencement of voting through electronic means;
- (d) the date and time of end of voting through electronic means;
- (e) the statement that voting shall not be allowed beyond the said date and time;
- (f) website address of the company and agency, if any, where notice of the meeting is displayed; and
- (g) contact details of the person responsible to address the grievances connected with the electronic voting.

(vi) E-voting shall remain open for not less than seven days and not more than ten days.

(vii) During the e-voting period, shareholders of the company, holding shares either in physical form or in dematerialized form, as on the record date, may cast their vote electronically:

Provided that once the vote on a resolution is cast by the shareholder, he shall not be allowed to change it subsequently.

(viii) At the end of the voting period, the portal where votes are cast shall forthwith be blocked.

(ix) The Board of directors shall appoint one scrutinizer, who is not in employment of the company and is a person of repute who, in the opinion of the Board can scrutinize the e-voting process in a fair and transparent manner:

Provided that the scrutinizer 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.

(x) The scrutinizer shall be willing to be appointed and be available for the purpose of ascertaining the requisite majority.

(xi) The scrutinizer shall, within a period of not exceeding three working days from the date of conclusion of e-voting period, unblock the votes in the presence of at least two witnesses and make a scrutinizer's report of the votes cast in favour or against, if any, forthwith to the Chairman.

(xii) The scrutinizer shall maintain a register either manually or electronically to record the consent or otherwise, received, mentioning the particulars of name, address, folio number or client ID of the shareholders, number of shares held by them, nominal value of such shares and whether the shares have differential voting rights.

(xiii) The register and all other papers relating to electronic voting shall remain in the safe custody of the scrutinizer till the chairman considers, approves and signs the minutes. Thereafter, the scrutinizer shall return the register and other related papers to the company.

(xiv) The results declared along with the scrutinizer's report shall be placed on the website of the company and on the website of the agency within two days of passing of the resolution at the relevant general meeting of members.

(xv) Subject to receipt of sufficient votes, the resolution shall be deemed to be passed on the date of the relevant general meeting of members.

(xvi) Words and expressions used in this rule but not defined shall, unless the context otherwise requires, bear the meaning, if any, as assigned to them under the Act and Information Technology Act, 2000.

Manner in which the Chairman of meeting shall get the poll process scrutinised and report thereon.

7.19. (1) For the purpose of sub-section (5) of section 109 the Chairman of a meeting shall ensure that -

- (a) The Scrutinizers are provided with the Register of Members, specimen signatures of the members, Attendance Register and Register of Proxies.
- (b) The Scrutinizers are provided with all the documents received by the Company pursuant to Section 105, 112 and 113.
- (c) The Scrutinizers shall initial the Polling papers and distribute them to the members and proxies present at the meeting. In case of joint shareholders, the polling paper shall be given to the first named holder or in his absence to the joint holder attending the meeting as appearing in the chronological order in the folio. The Polling paper shall be in Form No. 7.12.
- (d) The Scrutinizers shall keep a record of the polling papers issued.
- (e) The Scrutinizers shall lock and seal an empty polling box in the presence of the members and proxies.
- (f) The Scrutinizers shall open the Polling box in the presence of two persons as witnesses after the voting process is over.
- (g) In case of ambiguity about the validity of a proxy, the Scrutinizers shall decide the validity in consultation with the Chairman.
- (h) The Scrutinizers shall ensure that if a member who has appointed a proxy has voted in person, the proxy's vote shall be disregarded.
- (i) The Scrutinizers shall count the votes cast on poll and prepare a report thereon addressed to the Chairman.
- (j) Where voting is conducted by electronic means under the provisions of section 108 and rules made thereunder, the company shall provide all the necessary support, technical and otherwise, to the Scrutinizers in orderly conduct of the voting and counting the result thereof.
- (k) The Scrutinizers' report shall state total votes cast, valid votes, votes in favour and against the resolution including the details of invalid polling papers and votes comprised therein.
- (l) The Scrutinizers shall submit the Report to the Chairman who shall counter-sign the same.
- (m) The Chairman shall declare the result of Voting on poll. The result may either be announced by him or a person authorized by him in writing.

(2) The scrutinizer/s appointed for the poll, shall submit a report to the Chairman of the meeting in Form No. 7.13. The report shall be signed by the scrutinizer / all the scrutinizers, in case there is more than one scrutinizer, and be submitted by them to the Chairman of the meeting within 7 days from the date the poll is taken.

Procedure to be followed for conducting business through postal ballot.

7.20. (1) For the purposes of section 110, where a company is required or decides to pass any resolution by way of postal ballot, it shall send a notice to all the shareholders, along with a draft resolution explaining the reasons therefor and requesting them to send their assent or dissent in writing on a postal ballot or by electronic means within a period of thirty days from the date of dispatch of the notice.

(2) The notice shall be sent by speed post or registered post acknowledgement due or by electronic means and shall include with the notice where it is sent by post, a postage pre-paid envelope for facilitating the communication of the assent or dissent of the shareholder to the resolution within the said period of thirty days.

(3) An advertisement 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 ballot papers and specifying therein, inter alia, the following matters: ,

- (a) a statement to the effect that the business is to be transacted by postal ballot which includes voting by electronic means;
 - (b) the date of completion of dispatch of notices;
 - (c) the date of commencement of voting;
 - (d) the date of end of voting;
 - (e) the statement that any postal ballot received from the member beyond the said date will not be valid and voting whether by post or by electronic means shall not be allowed beyond the said date;
 - (f) a statement to the effect that members, who have not received postal ballot forms may apply to the company and obtain a duplicate thereof; and
 - (g) contact details of the person responsible to address the grievances connected with the voting by postal ballot including voting by electronic means.
- (4) The notice of the postal ballot shall also be placed on the website of the company forthwith after the notice is sent to the members and such notice shall remain on such website till the last date for receipt of the postal ballots from the members.
- (5) The Board of directors shall appoint one scrutinizer, who is not in employment of the company and who, in the opinion of the Board can conduct the postal ballot voting process in a fair and transparent manner.
- (6) The scrutinizer shall be willing to be appointed and be available for the purpose of ascertaining the requisite majority.
- (7) If a resolution is assented to by the requisite majority of the shareholders by means of postal ballot including voting by electronic means, it shall be deemed to have been duly passed at a general meeting convened in that behalf.
- (8) Postal ballot received back from the shareholders shall be kept in the safe custody of the scrutinizer. After the receipt of assent or dissent of the shareholder in writing on a postal ballot, no person shall deface or destroy the ballot paper or declare the identity of the shareholder.
- (9) The scrutinizer shall submit his report as soon as possible after the last date of receipt of postal ballots but not later than seven days thereof,,
- (10) The scrutinizer shall maintain a register either manually or electronically to record their assent or dissent received, mentioning the particulars of name, address, folio number or client ID of the shareholder, number of shares held by them, nominal value of such shares, whether the shares have differential voting rights, if any, details of postal ballots which are received in defaced or mutilated form and postal ballot forms which are invalid.
- (11) The postal ballot and all other papers relating to postal ballot including voting by electronic means, shall be under the safe custody of the scrutinizer till the chairman considers, approves and signs the minutes. Thereafter, the scrutinizer shall return the ballot papers and other related papers/register to the company who shall preserve such ballot papers and other related papers/register safely.
- (12) The consent or otherwise received after thirty days from the date of issue of notice shall be treated as if reply from the member has not been received.
- (13) The results shall be declared by placing it, along with the scrutinizer's report, on the website of the company.
- (14) The resolution shall be deemed to be passed on the date of declaration of its result.
- (15) The provisions of Rule 7.18 regarding voting by electronic means shall apply, as far as applicable, mutatis mutandis to this rule in respect of the voting by electronic means.

(16) Pursuant to clause (a) of sub-section (1) of section 110, the following items of business shall be transacted only by means of voting through a postal ballot-

- (a) 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;
- (b) Alteration of articles of association in relation to insertion or removal of provisions which, under sub-section (68) of section 2, are required to be included in the articles of a company in order to constitute it a private company;
- (c) Change in place of registered office outside the local limits of any city, town or village as specified in sub-section (5) of section 12;
- (d) Change in objects for which a company has raised money from public through prospectus and still has any unutilized amount out of the money so raised under sub-section (8) of section 13;
- (e) Issue of shares with differential rights as to voting or dividend or otherwise under sub-clause (ii) of clause (a) of section 43;
- (f) Variation in the rights attached to a class of shares or debentures or other securities as specified under section 48;
- (g) Buy-back of shares by a company under sub-section (1) of section 68;
- (h) Election of a director under section 151 of the Act;
- (i) Sale of the whole or substantially the whole of an undertaking of a company as specified under sub-clause (a) of sub-section (1) of section 180;
- (j) Giving loans or extending guarantee or providing security in excess of the limit prescribed under sub-section (3) of section 186;

Provided that One Person Company and other companies having members upto fifty are not required to transact any business through postal ballot.

Special Notice.

7.21. (1) For the purposes of section 115, a special notice required to be given to the company shall be 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 an aggregate sum of not less than one lakh rupees has been paid up on the date of the notice.

(2) Such notice shall be sent by members to the company not earlier than three months but at least 14 days before the date of the meeting at which the resolution is to be moved, exclusive of the day on which the notice is given and the day of the meeting.

(3) The company shall immediately after receipt of the notice, give its members notice of the resolution 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 it gives notice of any general meetings.

(4) Where it is not practicable to give the notice in the same manner as it gives notice of any general meetings, the notice shall be published in English language in English newspaper and in vernacular language in a vernacular newspaper, both having wide circulation in the State where the registered office of the Company is situated. Such notice shall also be posted on the website, if any, of the Company. Such notice shall be published at least seven days before the meeting, exclusive of the day of publication of the notice and day of the meeting.

Resolutions and agreements to be filed.

7.22. For the purposes of sub-section (1) of section 117, a copy of every resolution or any agreement required to be filed, together with the explanatory statement under section 102, if any, shall be filed with the Registrar in Form No. 7.14 along with the fee or additional fee as provided in Annexure- B .

Minutes of proceedings of general meeting, meeting of Board of Directors and other meetings and resolutions passed by postal ballot

7.23. (1) For the purposes of sub-section (1) of section 118,

(a) A distinct minute book shall be maintained for each type of meeting namely:

- (i) general meetings of the members;
- (ii) meetings of the creditors
- (iii) meetings of the Board; and
- (iv) Meetings of the committees of the Board.

Explanation: Resolutions passed by postal ballot shall be recorded in the minute book of general meetings as if it has been deemed to be passed in the general meeting.

(b) In no case the minutes of proceedings of a meeting or a resolution passed by postal ballot shall be pasted to any such book.

(c) (i) Minutes of proceedings of each meeting shall be entered in the books maintained for that purpose along with the date of such entry within thirty days of the conclusion of the meeting.

(ii) 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 scrutinizer's report shall 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.

Explanation: For the purpose of sub-section (1) of section 118, "kept within thirty days of the conclusion of every such meeting concerned, or passing of resolution by postal ballot" shall mean "entered in the minutes book within thirty days of the conclusion of every such meeting concerned, or passing of resolution by postal ballot and signed as prescribed in clause (d) hereafter"

(d) Each page of every such book shall be initialed or signed and the last page of the record of proceedings of each meeting or each report in such books shall be dated and signed –

- (i) in the case of minutes of proceedings of a meeting of the Board or of a committee thereof, by the chairman of the said meeting or the chairman of the next succeeding meeting;
- (ii) in the case of minutes of proceedings of a general meeting, 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 authorized by the Board for the purpose.
- (iii) In case of every resolution passed by postal ballot, by the chairman of the Board within the aforesaid period of thirty days or in the event of there being no chairman of the Board or the death or inability of that chairman within that period, by a director duly authorized by the Board for the purpose.

(e) Minute books of general meetings shall be kept at the registered office of the company. Minutes of the Board and committee meetings shall be kept at the registered Office or at such other place as may be approved by the Board.

(f) Minutes books shall be preserved permanently and kept in the custody of the company secretary of the company or any director duly authorized by the Board for the purpose and shall be kept in the

registered office or such place as the members may decide by passing special resolution pursuant to requirement of section 88 read with section 94 of the Act.

Copy of minute book of general meeting.

7.24. For the purposes of sub-section (2) of section 119, any member shall be entitled to be furnished, within seven working days after he has made a request in that behalf to the company, with a copy of any minutes of any general meeting, on payment of such sum as may be specified in the articles of the company but not exceeding a sum of ten rupees for each page or part of any page.

Provided that a member who has made a request for provision of soft copy in respect of minutes of any previous general meetings held during a period of immediately preceding three financial years shall be entitled to be furnished, with the same free of cost.

Maintenance and inspection of document in electronic form.

7.25. (1) For the purposes of section 120, every listed company or a company having not less than one thousand share holders, debenture holders and other security holders, shall maintain its records, as required to be maintained under the Act or rules made there under, in electronic form.

(2) The records in electronic form shall be maintained in such manner as the Board of directors of the company may think fit, provided that -

- (a) the records are maintained in the same formats and in accordance with all other requirements as provided in the Act or the rules made there under;
- (b) the information as required under the provisions of the Act or the rules made there under should be adequately recorded for future reference;
- (c) the records must be capable of being readable, retrievable and reproducible in printed form;
- (d) the records are capable of being dated and signed digitally wherever it is required under the provisions of the Act or the rules made there under;
- (e) the records, once dated and signed digitally, shall not be capable of being edited or altered;
- (f) the records shall be capable of being updated, according to the provisions of the Act or the rules made there under, and the date of updation shall be capable of being recorded on every updation;

Explanation: - For the purpose of this rule, 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.

Security of records maintained in electronic form

(3) (i) The Managing Director, Company Secretary or any other director or officer of the company as the Board may decide shall be responsible for the maintenance and security of electronic records.

(ii) The person who is responsible for the maintenance and security of electronic records shall-

- (a) provide adequate protection against unauthorized access, alteration or tampering of records;
- (b) ensure against loss of the records as a result of damage to, or failure of the media on which the records are maintained;
- (c) ensure that the signatory of electronic records does not repudiate the signed record 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 records;

- (f) ensure that records are accurate, accessible, and capable of being reproduced for reference later;;
- (g) ensure that the records are at all times capable of being retrieved to a readable and printable form;
- (h) ensure that records 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 at least two backups, taken at a periodicity of not exceeding one day, are kept of the updated records kept in electronic form, every backup is authenticated and dated and such backups shall be securely kept at such places as may be decided by the Board;
- (j) limit the access to the records to the managing director, company secretary or any other director or officer as may be authorized by the Board in this behalf;
- (k) ensure that any reproduction of non-electronic original records in electronic form is complete, authentic, true and legible when retrieved;
- (l) arrange and index the records 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 records.

Inspection and copies of records maintained in electronic form.

(4) Where a company maintains its records in electronic form, any duty imposed by the Act or rules made there under to make those records available for inspection or to provide copies of the whole or a part of those records, shall be construed as a duty to make the records available for inspection in electronic form or to provide copies of those records containing a clear reproduction of the whole or part thereof, as the case may be.

Penalty

(5) If any default is made in compliance with any of the provisions of this rule, the company and every officers or such other person who is in default shall be punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which such contravention continues.

Report on Annual General Meeting.

7.26. (1) The report in pursuance of the provisions of sub-section (1) of section 121 shall be prepared in the following manner:

- (a) A report under this section shall be prepared in addition to the minutes of the general meeting.
- (b) The report 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.
- (c) Such report shall contain the details in respect of the following:
 - (i) The day, date, hour and venue of the annual general meeting.
 - (ii) Confirmation with respect to appointment of Chairman of the meeting.
 - (iii) Number of members attending the meeting.
 - (iv) Confirmation of quorum.
 - (v) Confirmation with respect to compliance of the Act and the Rules made there under with respect to calling, convening and conducting the meeting.
 - (vi) Confirmation that the secretarial standards with respect to general meetings have been observed.

(vii) Business transacted at the meeting and result thereof.

(viii) Particulars with respect to any adjournment, postponement of meeting, change in venue and

(ix) any other points relevant for inclusion in the Report.

(d) Such Report shall contain fair and correct summary of the proceedings of the meeting.

(2) The copy of the report prepared in pursuance of sub-section (1) of section 121 and sub-rule (1), shall be filed with the Registrar within thirty days of the conclusion of the annual general meeting alongwith the fee or additional fee, as the case may be, as provided in Annexure B :