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Unit - III

Share Capital

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Share Capital

A company cannot be started without capital it is truism. This capital is divided into smaller parts called share. These shares having distinct numbers and possess specific face value. A person purchases share is called share holder. All the share holders are the members of company. Therefore, they get dividend for the shares purchased by them.

Share capital can be said permanently issued owned capital of company. It is because of usually it is not refundable during the life time of company. Moreover, a company had to pay dividend on share capital only if they earned enough profit, otherwise not. It means at the time of loss or less profit it is not obligatory on a company to pay dividend. It is because of share capital is owned capital of a company. Moreover, company has to repay amount of shares at last. It means only at the time of winding up

The company requires capital for two purposes.

1. For the purchase of fixed asset like land, building, machinery etc. which are to be retained in the business for use for productive purposes.
2. For purchase of raw materials or goods and for meeting current and recurring expenses of the business.

Feature

1) **Own Capital :-** It is the owned capital as it is contributed by the owners.
2) **Risk Capital:-** It involves risk. There is no guarantee of return of capital or any fixed dividend.
3) **No Fixed Return:-** There is any fixed return on share capital. The return i.e. dividend depend on availability of profit.
4) **Right of Management :-** Holders of share capital are the owners who have voting rights. Therefore, they have right of management.

5) No Charge on Assets :- No assets of the company are charged for raising capital. Assets are kept free.

6) Raised by companies limited by shares :- Share capital can be raised only by companies limited by shares and registered with share capital. companies limited by guarantee and unlimited companies cannot raise share capital.

7) Raised for formation and expansion :- Share capital can be either at the time of formation of the company for starting business operations or later on, for further expansion or diversification of business.

8) Permanent liability :- Share capital (except in case of redeemable preference share). Once raised, become a permanent liability of the company and cannot be returned to the shareholders as the company continues to exist, it can be returned only at the time of winding up of business of the company.

Classification of Share Capital

1. Authorized capital

Authorized capital is the amount of share capital by which company registered. It is also called nominal or registered capital. It is set out in the memorandum of association of company. This is the maximum amount which a company authorized to raise by the issue of shares. However, at the time of higher need of capital like expansion plan, automation etc. company may need additional capital, at that time change in capital clause should be made by passing special resolution with the prior permission of central govt. to increase authorized capital.

2. Issued Capital

A company can be issued the above authorized share capital as per need and requirement. Thus, it is that portion of capital which is actually issued to public. But company should be issued capital as minimum as possible. Otherwise, there is a risk of fall in the rate of dividend due to excess issue. It happened due to distribution of the same profit in large number of shares. The difference between the authorized and issued capital is known as unissued capital.

3. Subscribed Capital

Subscribed capital is that portion of above issued capital which is purchased by public. If company is reputed then entire portion of issued capital is subscribed by public. But when market conditions are not favorable to company at that time subscribed capital may lesser than issued capital.

4. Called up Capital

It is the amount of shares called up by company in different installments and after a specific intervals. A company can be called up this amount as per need and requirement instead of at once. Whatever amount is actually called up by company is included in this category.

5. Paid up capital

Paid up capital is that part of the called up capital which has been paid up by the shareholders. The money received on each share as a result of calls is said to be paid up and the total amount that has been paid upon the company's share is the paid up capital.

6. Uncalled capital

It is that portion of capital on which amount is not called up by a company. It means, it is the difference between subscribed and called up capital. However, there is no specific reason for uncalled capital. A company can made a call for this amount as per need and requirement.

7. Reserved capital

It is that portion of uncalled capital which is kept safe for specific purpose applied in future. It means, for meeting contingencies as like payment to creditors refund of loan, repayment of debentures, expansion plan etc this capital can not be used for other than stated purpose.

8. Circulating Capital

It is that portion of share capital which is to be converted into various current assets like stock, bills receivable, advance payment etc. it means to fulfill current requirement of business. The process of investing amount of capital is similar type of current assets is continued one after another. Thus, the amount of share capital being kept in circulating. Therefore, it is called circulating capital

9. Call in arrears

All the share holders are not paying full called up amount. Some of them are not paying amount in due time. It means they are defaulters. The called up amount which is not paid by the share holders at proper time can be said call in arrears.

10. Call in Advance

There are certain types of share holders who are paying amount before call is made by a company. Therefore, it can be said call in advance. The basic purpose of call in advance is to release the future tension of payment.

11. Working capital

Just as there are floating or current assets of company, there are also corresponding liabilities of this nature, viz., bills payable, expenses payable, etc. these are called floating or current liabilities. Working capital is represented by the excess of current assets over current liabilities.

Share

Capital of a company is divided into smaller parts is called shares. It possesses serial-wise distinct numbers. The basic purpose of issuing shares by a company is to acquire capital of its own. There are different types of investors. Therefore, a company issues different types of shares. It is done with the purpose of convenience of different investors. The shares can be divided into basic 3 categories. It is called deferred or founders, equity, and preference shares.

Types of Share

Types of Shares

- **Deferred Shares**
- **Equity Shares**
- **Preference Shares**

1. Cumulative
2. Non cumulative
3. Convertible
4. Non convertible
5. Participating
6. Non participating
7. Redeemable
8. Ir-redeemable

1. Deferred Shares or Founders Shares

Deferred shares are known as directors' shares. Only directors used to purchase them. Such shares are not in existence and even directors have to purchase ordinary shares.

It is a type of share on which fewer dividends but higher voting rights are provided by a company. As there are higher voting rights. Therefore, these shares are usually purchased by those persons including their friends and relatives who desire to control over company. These are mostly promoters.

According to the company Act these types of shares are completely prohibited. Therefore deferred shares occur only in the case of those companies which are established before passing the recent Company Act.

2. Equity Shares

These shares do not possess preferential right in payment of dividends as well as for repayment of capital at the time of winding up. It means the dividend on equity shares is to be paid only if profit is left after payment of the preference dividend. But if there is the higher balance after such payment then equity shareholders can get higher dividends.

Features

1. Risk capital

a) Equity shareholders assume the risk of business. They do not get the dividend unless the company has adequate profit. The rate of dividend fluctuates with the fortunes of the company.

b) The return on capital to the equity shareholders is not guaranteed. When the company is wound up, the capital of equity shareholders is repaid last, only after all other claims have been paid in full. That is why equity share capital is called as the risk bearing or venture capital

2. Fluctuating rate of dividend

The rate of dividend on these shares is not fixed. It varies depending upon the profits available for distribution and the discretion of directors. In the years of prosperity the holders of these shares get a very high rate of dividend. In the years of losses or low profit they get low or no dividend.

3. Voting rights.

Equity shareholders have a statutory right to vote in the shareholders meeting. They can exercise their rights either in person or in proxy. (on behalf of another) generally one share has one vote. Thus, they enjoy a controlling right by the exercise of which they can influence the decisions of the company.

4. Dividend after preference share

The holder of equity shares gets their dividend only after the payment of dividend to preference shareholders.

5. Repayment of capital

In the event of liquidation, the holders of these shares get repayment of capital only after the preference shareholders are repaid their share capital.

6. Share the prosperity (successful)

The equity shareholders assume the business risk but at the same time they share the prosperity of the company. They enjoy high rate of dividend when the business of the company prospers. With the development of company business the value of these shares increases in the stock markets. Hence equity shareholders enjoy capital appreciation.,

7. No arrears of dividend

The holders of equity shares cannot claim arrears of dividend. If in a particular year, no dividend is declared by a company, the shareholders have to waive-off the right to a dividend of that year. The right to dividend of that year is not carried forward to the subsequent years.

8. Benefits of right issue

When a company needs more money for expansion purposes, its unissued capital is to be issued to the public. At such times, equity shareholders are given "rights" first i.e. the company has to offer the shares first to the equity shareholders in proportion to their existing share holding.

9. Transferability

The articles of association lay down the procedure of transfer of equity shares. The shareholders enjoy the right of transfer of these shares according to this procedure. The share of public company are freely transferable.

10. Permanent capital

Equity share capital represent permanent capital of the company. There is no obligation on the company to repay the capital during the life time except when the company goes for buyback.

Advantages of Equity share capital to Company

1. It serves as a permanent capital of a company
2. It does not create any charge on the assets of the company.
3. It does not create any fixed obligation as regards dividend payment.
4. It bears maximum business risk.
5. Strong equity base increases credit worthiness of company.

Advantages of Equity share capital to Shareholders.

1. Shareholders can participate in the management by way of their voting rights.
2. They can share the prosperity of company in term of high rate of dividend and appreciation in the market value of their shares.
3. They enjoy the benefits of bonus shares as well as right issue.
4. Their liability remains limited to the unpaid value of their shares.
5. They can exercise controlling powers by electing their own representatives on the board. Investors who are ready to bear risk in order to get extra benefits invest in equity shares.

Preference Shares

When the share holders can enjoy preferential rights in case of dividends declared at the end of every year as well as the refund of capital at the time of winding up called preference share. The rate of dividend on preference shares is fixed. Moreover, they can get some excess dividends if there is excess profit. But they can not enjoy voting rights in ordinary conditions. However, due to less risk; those shareholders who are not ready to accept higher risk are investing in it. There are various types of preference share. Some of them are stated below.

Features

1. **Preference for dividend :** the preference shareholders get preference in payment of dividend. The dividend is paid to preference shareholder before paying dividend to ordinary shareholders.

2. Repayment of capital : the preference shareholders get the preference in repayment of capital over the equity shareholders in the event of liquidation of the company.

3. Redeem ability : preference shares are redeemable after certain period of time.

4. Dividend : the rate of dividend of preference shares are fixed in nature. They get fixed dividend every year.

5. Risk : there is less risk in case of preference shares as the holders get preference over equity shares in payment of dividend and payment of capital

6. Bonus shares: the preference shareholders are not entitled for bonus or right shares.

7. Voting rights : the preference shareholders cannot vote on all matters like ordinary shareholders. They can vote only on the matters affecting their own interest.

8. Type of investors : preference shares attracts the cautious type of investors who do not want to take any risk on their part.

Types of Preference Shares

1. Cumulative preference shares

If a dividend on preference shares is accumulated and carried forward for the next year (when a company is not in a position to pay a dividend due to less profit) is called cumulative preference shares. Thus, the shareholders will get dividends of the current year along with the arrears of dividends if any at the time of profit. Afterward, the dividend is payable to equity share holders otherwise not. This arrears of dividend is payable maximum for 3 years.

2. Non-cumulative preference shares.

In this type of preference share dividends is paid only if there is enough profit in a particular year. But no arrears of dividend is payable even at the time of large profit. It means if a dividend is not paid in a particular year then it lapses forever. Thus, non-cumulative preference shares are more risky as compared with the cumulative category.

3. Convertible preference shares

The shareholders of these preference shares have a right to convert their shares into equity shares at a later date. Such right is given to them by memorandum of articles or terms of issue.

4. Non convertible preference shares

When preference shareholders do not get the option to convert their shares into equity shares in the future then these are called non-convertible preference shares. Usually, preference shares are included into non-convertible category until and unless there is a clear cut provision in the articles of association Non-convertible

5. Participating preference shares

In this type of preference share the shareholders can be acquired additional dividend if there is excess profit. It means shareholders are participating in additional dividends. Therefore, it is called participating preference shares.

6. Non participating preference shares

When share holders are not eligible to get a share in surplus profit it is called non-participating preference shares. It means shareholders can get only fixed dividend as usual.

7. Redeemable preference shares

The term redeemable means refundable. When a company issues those preference shares the amount of which is to be refunded in future after passing few years called redeemable preference shares. Usually, the amount of preference share is not refundable in normal conditions. It means the amount is refunded only at the time of winding up. But a company can be issued this type of preference shares only if there is the provision in the articles of association, otherwise not.

8. Ir-redeemable preference shares

When the amount of preference shares is not refundable during the lifetime of a company it is called irredeemable preference shares. It means the amount of these shares can be refunded only at the time of winding up. Otherwise company is liable only to pay dividend and not the original amount.

Difference between Ordinary (Equity) Shares and Preference Shares

Ordinary shares	Preference shares
1. Ordinary of shares do not enjoy any preferential right with respect to payment of dividend and repayment of capital.	These shares enjoy preference right with respect to payment of dividend and repayment of capital
2. The rate of dividend is fluctuating.	The rate of dividend is fixed.
3. Equity shareholders have normal voting rights. They can vote on all the matters placed before general meeting	Preference shareholders do not have normal voting rights. They can vote on matters directly affecting their own interest
4. Investment in equity shares is more risky	Investment in preference shares is less risky

5. Face value is small. It is generally Rs 10	Face value is relatively higher. It is generally Rs 100

6. They receive dividend only after fixed dividend is paid to preference shareholders.	They are given the preference in the payment of dividend.

7. They are repaid the capital only after preference shareholders.	They are given the preference in the payment of capital.

Transfer of Shares

One of the most important features of a company is that its shares are freely transferable. Section 44 of the Companies Act, 2013 provides that the shares of a company shall be a movable property, transferable in the manner provided by the articles of the company.

In the case of public companies also, there may be some restrictions on the right of members to transfer shares. Regulation 20 (Table F) provides that the Board of directors may refuse to register the transfer of partly paid shares to a person of whom they do not approve. Further, the Board of Directors may refuse to register the transfer of any share on which the company has a lien. Regulation 21 also envisages certain conditions which may be introduced by a company in its Articles to restrict the transfer of shares.

Procedure of Transfer of Shares

Section 56 has laid down the following procedure for effecting transfer of shares the shares the

1. A company shall not register a transfer of securities of the company unless a proper instrument of transfer, in such form as may be prescribed, duly stamped, dated and executed by or on behalf of the transferor and the transferee and specifying the name, address and occupation, if any, of the transferee has been delivered to the company by the transferor or the transferee.

2. The instrument of transfer, as aforesaid, must have been delivered to the company within a period of sixty days from the date of execution.

3. The instrument of transfer must be accompanied by the certificate relating to the securities, or if no such certificate is in existence, along with the letter of allotment of securities.

4. The company shall, unless prohibited by any provision of law or any order of Court, Tribunal or other authority, deliver the certificates within a period of one month from the date of receipt by the company of the instrument of transfer.

Bonus Shares

Bonus shares are similar to equity shares, but they are given as bonus or free gift to the existing equity share holders. Every year part of the profits is transferred to reserve such accumulated reserves are used to issue new fully paid up shares. Such shares are called bonus shares. The issue of bonus shares implies payment of dividend in the form of shares instead of cash. Bonus shares are issued to existing shares holders in proportion to their present shareholding for eg. 2 equity shares for equity shares held. Share holders do not have to pay anything for bonus shares. The issue of bonus shares is called as "Capitalization of undistributed profits"

Term of Bonus Shares

1. Articles of Association

There should provision in articles of association for bonus issue, until and unless there is provision like that a company cannot issue bonus shares.

2. Dividend

No bonus issue should be made in lieu of dividend. It means dividend should be paid in cash form only and not in the form of bonus shares. If shares are paid instead of cash dividend then it is called share dividend and not bonus issue.

3. Defaulter

No bonus shares should be issued to those share holders who are defaulters. It means who failed to pay amount on allotment or any amount on call.

4. Free

Bonus shares should be provided totally free of cost. It means no amount should be charged on share holders partially or wholly.

5. Implementation

The board of directors and secretary both are liable to issue bonus share as per the resolution passed in share holders meeting.

6. Permission of controller

Permission of controller of share should be obtained for the issue bonus shares.

7. Resolution

A company must pass resolution in board meeting about issue of bonus shares instead of free reserve.

8. Shareholders meeting

For bonus issue share holders meeting should be held and the resolution for issue of bonus share should be passed in that meeting.

9. SEBI guidelines (securities and exchange board of India)

The bonus issue should be made as per guidelines provided by SEBI

10. Time limit

No bonus issue shall be made within 12 months from the date of public issue.

Right Shares

If the public company issues additional shares, the existing equity shareholders have right to get them in proportion of their present share holdings. Such shares are called as right shares. This means preference must be given to the existing equity shareholders while marketing new shares of the company. The company has to issue a notice specifying the offer of new shares which is sent to all the shareholders of the company. If any shareholders declines to accept the right shares.

Right issue is different from bonus of shares. Bonus shares are given as bonus or free gift to existing equity shareholders, in case of right shares full payment has to be made by the shareholders, if they accept the right to offer, they only get preference in case of allotment of shares.

Rules for Right Shares

1. Articles of association : A company cannot be made right issue until and unless there is clear cut provision for it.

2. Allotment: Right issue cannot be made within 1 year after allotment.

3. Board of directors: The board of directors are empowered to transfer right issue in favour of other if right issue has refused by any original share holders.

4. Defaulter: The share holders to whom right issue is offered should be paid all previous installments on their initial issue regularly. It means they should not defaulter.

5. Opening: Right issue shall be opened for at least 30 days for existing share holders but not more than 60 days.

6. Proportion: The bonus issue should be provided in proportion of shares holding by share holders.

7. Proposal: The proposal should be sent to share holders for right issue made by company.

8. Period: Minimum period of 15 days should be allotted to the shares holders for investment in right issue.

9. Partially called up: Sometimes a company is called up amount as per need and requirement. Therefore, if amount is called up partially at that time also share holders are entitled to get right issue. But condition is that they should not defaulter till the date of issue.

10. Right of purchase: The initial equity share holders should be given first preference in purchase of right issue.

11. Transfer: A share holders can shift his chance of right issue in favour of his nominee if there is such provision in articles of association.

Issue of Shares

A company can collect it's capital by issue of equity and preference shares. For that purpose company had apply of SEBI. A company had also to make an agreement with bankers for collection of amount. These shares can be issued by three ways

1. **At par**
2. **At premium**
3. **At discount**

1. Issue of share at Par

When the shares are issued at face value, then it is called issue of shares at par. It is the usual method of issue of shares. Suppose a share of Rs 10 issued at the same value i.e. at Rs 10, it is called issue of shares at par.

2. Issue of share at Premium

When the shares are issued at higher than its face value then it is called issue of share at premium, when there is higher demand for shares or when a company acquired popularity at that time share can be issued at premium. Suppose share with face value of Rs 10 is issued at Rs 11 it means it is issued at Rs 1 premium. The whole amount of premium on issued shares should be immediately transferred to share premium account.

3. Issue of share at Discount

When the shares are issued at lesser than it’s face value then it is called issue of share at discount. When there is less demand for shares or when management fears that it is very difficult to issue shares fully at that time shares are issued at discount. Suppose share with face value of Rs 10 is issued at Rs 9 it means it is issued at Rs 1 discount.

Term of Discount or Premium

1. Articles of association

There should be a provision in articles of association for issue of share at discount or premium. In absence of such provision, a company cannot be made issue of share at discount or premium.

2. Balance sheet

The amount of discount or premium on share should be shown in balance sheet. The amount of discount of share is to be shown on asset side and afterward it is to be written off gradually every year. The amount of premium can be shown on liability side.

3. Court's sanction

Shares can not be issued at discount without court's sanction. But for the issue of share at premium such sanction is not required.

4. Maximum limit

The amount of discount should not exceed 10% of face value. However, this limit can be extended with the approval of the central govt. but this limit is not applied to the issue of shares at a premium.

5. Prospectus

The information on discounts or premiums should be clearly shown in the prospectus or lieu in the statement of a prospectus.

6. Period

Shares can be issued at a discount only one year after receiving a certificate of commencement of business and not before that. But the share at a premium can be issued even at the beginning.

7. Resolution

The resolution should be passed in general meeting for issue of shares at discount or premium.

8. Similar type

The shares issued at discount or premium should be of similar type as issued before. It means some additional facilities should not be provided for the same.

Difference between Bonus Shares and Right Shares

Rights shares	Bonus shares
1. It only confers a privilege on the existing shareholders to have a claim on the shares offered after the first public issue. However, the shareholder must pay for the shares accepted.	Bonus shares are issued to the existing members free of charge.
2. The existing shareholding of the members as well as rights shares may be partly paid.	Bonus shares are always fully paid.
3. In the event of a company failing to receive a minimum of 90% subscription, the company shall have to return the entire money received.	There is no such requirement.

Rights shares	Bonus shares
4. Till the concerned regional stock exchange approve the allotment, money received against rights must be kept in a separate bank account.	This is not relevant to bonus issues as no money is to be received by the company.
5. Rights shares may be renounced by a member in favour of his nominee. He may renounce all or part of the shares offered to him.	No such facility is available in respect of bonus shares.

Sweat Share

According to Section 2(88) of the Companies Act, 2013, sweat equity shares are shares that are distributed to certain employees of a given company when they have made exceptional contributions to the successful completion of a project or assignment, when an employee has demonstrated expert technical skill in a particular subject or when an employee has contributed significantly to the company and earned intellectual property rights.

Significance of Sweat Equity Shares

Recognising Hard Work: Offering employees sweat equity shares is a way to appreciate their hard work and dedication. Such appreciation encourages them to remain with the company for a longer period.

Replace Cash Rewards: Most startups in the early stages cannot give their staff cash bonuses or other financial incentives. Therefore, rewarding employees with sweat equity shares makes it reasonable. This is not just restricted to startups, and well-known companies also engage in this.

Provide Compensation: They can be used to make up for any wage reductions that any employees may have experienced. Employees and directors in some companies generally agree to a lower salary in return for a stake in the company.

Why Do Companies Issue Sweat Equity Shares?

Retain Employees: The primary goal of granting these is to increase employee attraction and retention. Offering such shares is beneficial in the early stages when the company's potential growth trajectory is unknown. Additionally, having such shares offers employees a sense of business because they are eligible to vote and get dividends. It is also important to note that these shares are non transferable and have a lock in period of three years.

Acknowledge Director’s Efforts: When the company wishes to award an exceptional director who goes above and beyond for the business expansion, they can issue sweat equity shares. Such directors may be given sweat equity to reward their efforts and maintain their interest in the engagement for the foreseeable future.

Discounted Shares: Sweat equity is the allotment of shares at a discount. This feature of holding shares is frequently preferred over ESOPs (Employee Stock Option Plans), which are a right of the employee and not an obligation to him to purchase some shares of the company at a pre-decided price to be allocated in the future while being dependent on share price volatility.

Buy Back

The term buy-back refers to the act of a company repurchasing its own shares or securities from its existing shareholders. This unique provision allows the company to approach its shareholders and offer to purchase their shares at a predetermined buy-back price. By doing so, the company reduces its total outstanding shares and thus, the equity ownership of the shareholders.

Mode of Buy Back

1. Buy-Back from Existing Shareholders or Security Holders on a Proportionate Basis: This mode entails the company making a proportionate offer to all its existing shareholders or security holders based on their current shareholding

2. Buy-Back from the Open Market: In this mode, the company purchases its own shares from the open market, i.e., through the stock exchange, at prevailing market prices.

3. Buy-Back of Securities Issued to Employees: Companies can also buy back securities that were issued to employees as part of a stock option or sweat equity scheme.

Financial Source for Buy Back

1. Free Reserves: Companies can utilize their accumulated profits (free reserves) to fund the buy-back.

2. Security Premium Account: The security premium account, which holds the securities' premium amounts received during the issue of shares, can also be used to finance the buy-back.

3. Proceeds of the Issue: Companies can utilize the proceeds generated from the issue of shares or other specified securities to fund the buy-back. However, it's important to note that the proceeds from a prior issue of the same kind of shares or securities cannot be used for the buy-back.

Condition for Buy Back

1. **Authorization by Articles of the Company (Section 68(2)(a))**: The buy-back must be duly authorized by the Articles of Association of the company. The Articles should explicitly permit the company to buy back its own shares.

2. **Shareholder Approval through Special Resolution (Section 68(2)(b) & (c))**: The company must obtain approval from the shareholders through a special resolution passed in a general meeting. This approval is required to authorize the buy-back and outline the terms and conditions of the buy-back.

3. **Maximum Limit of Buy-Back**: The aggregate value of the shares bought back should not exceed 25% of the company's paid-up share capital and free reserves.
4. **Debt-Equity Ratio Post Buy-Back (Section 68(2)(d))**: After the buy-back, the aggregate of the company's secured and unsecured debts should not be more than twice the paid-up capital and its free reserves.
5. **Shares or Securities Should be Fully Paid-Up (Section 68(2)(e))**: The shares or other specified securities that are bought back should be fully paid-up at the time of buy-back.
6. **Completion Period (Section 68(4))**: Every buy-back should be completed within one year from the date of passing the special resolution or board resolution, as the case may be.
7. **Minimum Gap Between Buy-Back Offers (Section 68(2)(g))**: There must be a minimum gap of one year between two successive buy-back offers. A company cannot make back-to-back buy-back offers within a year.

8. **Extinguishment of Shares (Section 68(7))**: The shares or other specified securities bought back by the company should be extinguished or physically destroyed within seven days from the last date of completion of the buy-back.
9. **Waiting Period for New Buy-Back Offers (Section 68)**: After completing one buy-back offer, a company must wait for at least one year before making another buy-back offer.
10. **Post Buy-Back Restrictions on Issuance of Shares or Other Specified Securities (Section 68(8))**: After completing a buy-back, the company is prohibited from issuing the same kind of shares or other specified securities for a period of six months, except in the case of certain exceptions like bonus shares, ESOPs, sweat equity, or conversion of debts/preference shares into equity.

Procedure for Buy Back

1. **Authorization by the Articles (Section 68(2))**: The first step is to ensure that the articles of the company authorize the buy-back of shares or other specified securities. If the necessary provisions are not present in the articles, they need to be altered to include this authorization.
2. **Convene Board Meeting (Section 68(2))**: If the buy-back represents 10% or less of the total paid-up equity share capital and free reserves of the company, the board of directors can authorize the buy-back through a board resolution.
3. **Convene General Meeting (Section 68(2))**: For buy-back exceeding the 10% threshold mentioned above, the company should obtain approval from its members by passing a special resolution in a general meeting.

4. File Form MGT-14 with Registrar: The company should file a copy of the board resolution and special resolution, passed in the respective meetings, with the Registrar of Companies (ROC) through Form No. MGT-14. This filing should be done within 30 days of passing the resolutions.

5. File Letter of Offer (Rule 17(2)): If the buy-back is authorized by a special resolution, the company needs to file a letter of offer along with other required documents in Form No. SH-8 with the ROC before the buy-back. This letter of offer contains detailed information about the buy-back, such as the number of shares to be bought back, the price, and the mode of buy-back.

6. File Declaration of Solvency (Section 68(6) and Rule 17(3)): The company should file a declaration of solvency in Form No. SH-9 with the ROC, along with the letter of offer in Form No. SH-8. This declaration should be signed by at least two directors (one of whom is the managing director, if any) and verified through an affidavit. The declaration states that the board of directors has conducted a thorough inquiry into the company’s affairs and concludes that the company is capable of meeting its liabilities and will remain solvent within a year from the date of the declaration.

7. Dispatch of Letter of Offer (Rule 17(4)): Once Form No. SH-8 has been filed with the ROC, the company should dispatch the letter of offer to the shareholders or security holders immediately, but not later than 20 days from the date of filing.

8. Offer Period (Rule 17(5)): The buy-back offer must remain open for a minimum of 15 days and a maximum of 30 days from the date of dispatch of the letter of offer. However, if all the members of the company agree, the offer period can be less than 15 days.

9. Verification of Offers (Rule 17(7)): The company should complete the verification of the offers received within 15 days from the offer closure date. Unless a communication of rejection is made within 21 days from the offer closure date, the shares or securities lodged will be considered accepted.

10. Open a Separate Bank Account (Rule 17(8)): After the offer is closed, the company should open a separate bank account and deposit the necessary funds to cover the sum due as consideration for the shares tendered for buy-back.

11. Extinguishment of Shares (Section 68(7)): The shares or other specified securities bought back by the company should be extinguished or physically destroyed within seven days from the last date of completion of the buy-back.

12. Closure of Offer (Rule 17(9)): Within seven days of the time specified in Rule 17(7), the company should make payment of consideration in cash to the shareholders or security holders whose securities have been accepted. In the case of non-acceptance or partial acceptance, the company should return the share certificates or the balance of securities within this timeframe.

13. File Form SH-11 (Section 68(10) and Rule 17(13)): Within 30 days of completing the buy-back, the company should file a return in Form No. SH-11 with the ROC. This filing should include a description of the shares or other specified securities bought back, particulars of the holders of securities before the buy-back, copies of the resolutions authorizing the buy-back, and other relevant documents.

14. Maintain the Statutory Register (Section 68(9) and Rule 17(12)): The company should maintain a register of shares or other specified securities bought back in Form No. SH-10. This register should be kept at the company's registered office and should include authenticated entries by the company secretary or any authorized person.

Share Certificate

A share certificate is a written document signed on behalf of a corporation that serves as legal proof of ownership of the number of shares indicated. A share certificate is also referred to as a stock certificate.

When companies issue shares in the market, shareholders who buy in are issued a share certificate. The share certificate basically acts as a receipt for the purchase and ownership of shares in the company. The document certifies registered ownership of shares from a particular date.

Key information on a share certificate includes:

- Certificate number
- Company name and registration number
- Shareholder name and address
- Number of shares owned
- Class of shares
- Issue date of shares
- Amount paid (or treated as paid) on the shares

SHARE CERTIFICATE

(Incorporated under the Companies Act, 1956)

Certificate No. ______________ No. of Shares _______ Shares Ledger Folio ________________

No. of Shares ______________ from _____________ to ______________________ both inclusive

Name ____

Father / Husband Name ____________________________ Occupation _____________________

Address ____

____

Given under the Common Seal of the Company this __________ day of ________________

Authorised Signatory Director Managing Director

		MEMORANDUM OF CALLS PAID			
Date	Receipt	Particulars	Per Share	Amount	Signature
		Application ___________ Allotment ___________ 1st Call ___________ 2nd Call ___________			

SHARE CERTIFICATE

THIS IS TO CERTIFY that the person (s) named in this Certificate is / are the Registered Holder (s) of the within – mentioned share (s) bearing the distinctive number (s) herein specified in the above Company subject to the Memorandum and Articles of Association of the Company and that the amount endorsed herein has been paid up on each such shares.

EQUITY SHARES EACH OF RUPEES
AMOUNT PAID UP PER SHARE RUPEES

Reg. Folio No. Certificate No.
Name(s) of Holder(s)

No. of Share(s) Held
Distinctive No. (s)

GIVEN under the Common Seal of the Company at this

Chairman / Managing Director

Director

Authorised Signatory

No transfer of any of the shares comprised in this certificate will be registered unless accompanied by this Certificate.

Alteration of Share Capital

Alteration of share capital refers to the process of changing the capital structure of a company by increasing or decreasing the number of shares, or by modifying the rights attached to existing shares. It can be done for various reasons, such as to raise capital, to consolidate shares, to convert shares from one class to another, or to cancel shares. Alteration of share capital is a complex process and involves compliance with legal and regulatory requirements.

Reason or Types for Alteration of Share Capital

1. **To raise capital:** Companies may need to raise additional capital to fund their expansion plans or to meet their working capital requirements. Alteration of share capital allows them to issue new shares and raise capital from the market.

2. **To consolidate shares:** Companies may have a large number of small denomination shares, which may make it difficult to manage their share capital. Alteration of share capital allows them to consolidate their shares into larger denominations, which makes it easier to manage.
3. **To convert shares from one class to another:** Companies may have different classes of shares with different rights attached to them. Alteration of share capital allows them to convert shares from one class to another.
4. **To cancel shares:** Companies may have unissued or cancelled shares on their balance sheet, which may affect their financial statements. Alteration of share capital allows them to cancel these shares and improve their financial statements.

Procedure for Alteration of Share Capital

1. **Board resolution**: The first step is to pass a board resolution proposing the alteration of share capital and convening a general meeting of shareholders.
2. **Notice of general meeting**: The company must issue a notice of the general meeting to all shareholders, specifying the date, time, and place of the meeting and the proposed resolution.
3. **General meeting:** The shareholders must approve the proposed resolution by a special resolution passed by a majority of not less than three-fourths of the members present and voting.
4. **Approval of regulatory authorities:** If the proposed alteration requires regulatory approval, the company must obtain the necessary approvals from the relevant regulatory authorities.

4. **Filing of documents:** After obtaining the necessary approvals, the company must file the necessary documents with the Registrar of Companies, such as the altered memorandum and articles of association, and obtain a certificate of registration.
5. **Share certificates:** If the alteration involves the issue of new shares, the company must issue new share certificates to the shareholders.
6. **Update of records:** The company must update its records to reflect the altered share capital, and inform relevant parties such as stock exchanges, depositories, and banks.

Shareholder’s Voting Right

A voting right is the right of a shareholder of a corporation to vote on matters of corporate policy. It is common for shareholders to voice their vote by proxy by mailing in their response or by relinquishing their vote to a third-party proxy voter.

Unlike the single-vote rights that individuals commonly possess in democratic governments, the number of votes a shareholder has corresponds to the number of shares they own. Thus, somebody owning more than 50% of a company's shares has a majority of the vote and is said to have a controlling interest in the firm.

Shareholders have the right to vote on corporate actions, often at the company's annual shareholder meeting. These decisions can include:

- The makeup of the board of directors
- Issuing new securities
- Initiating corporate actions like mergers or acquisitions
- Approving dividends
- Substantial changes in the corporation's operations or policies

Global Depository Receipt

In India, the shares of public companies are listed and traded on various stock exchanges like the Bombay Stock Exchange (BSE) and National Stock Exchange (NSE). With the adoption of free economic policy and due to globalization some of the Indian company's shares are also listed and traded on foreign stock exchanges like the New York Stock Exchange (NYSE) or National Association of Securities Dealer Automated Quotation (NASDAQ). To list shares on these stock exchanges, the company has to comply with the policies of those stock exchanges. The policies of these stock exchanges are different than the policies of Indian Stock Exchanges. Therefore, those Indian companies which can not list their shares directly on foreign stock exchanges, get listed indirectly using ADR and GDR.

ADR and GDR are Dollar/Euro denominated instruments traded in USA and Europe Stock Exchanges. Indian Company issues share to an intermediary called ‘Depository’. Bank of New York, Citigroup etc. act as foreign Depository Bank. This Depository bank issues ADR and GDR to investors against these shares. The ADR / GDR represents a fixed number of shares. These ADR / GDR are then sold to people in foreign countries. The ADR / GDR are traded like regular shares. They are listed on stock exchanges. The prices fluctuate depending on demand and supply.

Both ADR and GDR are depository receipts, but the only difference is the location where they are traded. If the Depository Receipt is traded in the USA, it is called an American Depository Receipt (ADR) and if it is traded in a country other than the USA is called Global Depository Receipts (GDR).

Non-resident Indians (NRI) and Foreign nationals can invest their money in India by purchasing ADR and GDR. They can buy ADR / GDR using their regular equity trading Account.

The company pays dividends in home currency to the depository bank and the depository bank converts it into the currency of the investor and pays dividends.

The exchanges on which GDR is traded are as follows:

1) London Stock Exchange.
2) Luxembourg Stock Exchange.
3) NASDAQ Dubai.
4) Singapore Stock Exchange.
5) Hongkong Stock exchange.

Shiksha Mandal’s

G. S. College of Commerce, Wardha

Department of B. Com. Computer Application

Unit - III

Debenture

Shailesh Devidas Janbandhu
Assistant Professor

Debenture

The word ‘debenture’ itself is a derivation of the Latin word ‘debere’ which means to borrow or loan. Debentures are written instruments of debt that companies issue under their common seal. They are similar to a loan certificate.

Debentures are issued to the public as a contract of repayment of money borrowed from them. These debentures are for a fixed period and a fixed interest rate that can be payable yearly or half-yearly. Debentures are also offered to the public at large, like equity shares. Debentures are actually the most common way for large companies to borrow money.

Features of Debenture

1. Debentures are instruments of debt, which means that debenture holders become creditors of the company
2. They are a certificate of debt, with the date of redemption and amount of repayment mentioned on it. This certificate is issued under the company seal and is known as a Debenture Deed
3. Debentures have a fixed rate of interest, and such interest amount is payable yearly or half-yearly
4. Debenture holders do not get any voting rights. This is because they are not instruments of equity, so debenture holders are not owners of the company, only creditors
5. The interest payable to these debenture holders is a charge against the profits of the company. So these payments have to be made even in case of a loss.

Advantages of Debenture

1. One of the biggest advantages of debentures is that the company can get its required funds without diluting equity. Since debentures are a form of debt, the equity of the company remains unchanged.
2. Interest to be paid on debentures is a charge against profit for the company. But this also means it is a tax-deductible expense and is useful while tax planning
3. Debentures encourage long-term planning and funding. And compared to other forms of lending debentures tend to be cheaper.
4. Debenture holders bear very little risk since the loan is secured and the interest is payable even in the case of a loss to the company
5. At times of inflation, debentures are the preferred instrument to raise funds since they have a fixed rate of interest

Disadvantages of Debenture

1. The interest payable to debenture holders is a financial burden for the company. It is payable even in the event of a loss
2. While issuing debentures help a company trade on equity, it also makes it to dependent on debt. A skewed Debt-Equity Ratio is not good for the financial health of a company
3. Redemption of debentures is a significant cash outflow for the company which can imbalance its liquidity
4. During a depression, when profits are declining, debentures can prove to be very expensive due to their fixed interest rate

Types of Debenture

There are various types of debentures that a company can issue, based on security, tenure, convertibility etc.

1. ***Secured Debentures:*** These are debentures that are secured against an asset/assets of the company. This means a charge is created on such an asset in case of default in repayment of such debentures. So in case, the company does not have enough funds to repay such debentures, the said asset will be sold to pay such a loan. The charge may be fixed, i.e. against specific assets/assets or floating, i.e. against all assets of the firm.

2. ***Unsecured Debentures:*** These are not secured by any charge against the assets of the company, neither fixed nor floating. Normally such kinds of debentures are not issued by companies in India.

Types of Debenture

3. ***Redeemable Debentures***: These debentures are payable at the expiry of their term. This means at the end of a specified period they are payable, either in a lump sum or in installments over some time. Such debentures can be redeemable at par, premium or at a discount.
4. ***Irredeemable Debentures:*** Such debentures are perpetual in nature. There is no fixed date at which they become payable. They are redeemable when the company goes into the liquidation process. Or they can be redeemable after an unspecified long time interval.

Types of Debenture

5. ***Fully Convertible Debentures:*** These shares can be converted to equity shares at the option of the debenture holder. So if he wishes then after a specified time interval all his shares will be converted to equity shares and he will become a shareholder.

6. ***Partly Convertible Debentures***: Here the holders of such debentures are given the option to partially convert their debentures to shares. If he opts for the conversion, he will be both a creditor and a shareholder of the company.

7. ***Non-Convertible Debentures***: As the name suggests such debentures do not have an option to be converted to shares or any kind of equity. These debentures will remain so till their maturity, no conversion will take place. These are the most common types of debentures.

Issue of Debenture

The issue of Debentures is very similar to the issue of shares by a company. Here the money can be collected in lump sum or in instalments.

1) Issue at Par

Here the debentures will be issued exactly at their nominal price, i.e. not above or below the face value of the debentures. Now the company can decide to collect the cash all at once, in a lump sum. Or the money will be collected in installments, like with allotment, first call, second call, last call etc.

2) *Issue at Discount*

When the debentures are issued at below face value, such issue of debentures is known as a discount issue. Like, say for example the debenture has a nominal value of 100/- but is issued for 90/-. Then such debentures are said to be issued at discount.

Discount on the issue of debentures is treated as a capital loss and put under "Miscellaneous Expenses" on the asset side of the balance sheet until it can be written off.

3) Issue at Premium

Now we come to the issue of debentures at a premium, that is when more money than the nominal value is charged. So if a debenture with a face value of 100/- is sold at 110/- then it is issued at a premium. The amount of the premium is charged to a special account known as the Securities Premium Reserve Account. This account will be shown on the liabilities side of the Balance Sheet under the heading of Reserves and Surplus.

4) Issue of Debentures as Collateral Security

Debentures can also be issued by a company as collateral security against a bank loan or any such borrowings. A collateral security is like a parallel security which is provided along with the actual security against the loan taken. Debentures issued as such a collateral liability are a contingent liability for the company, i.e. the liability may or may not arise. Only when the company defaults on such a loan will this liability arise.

5) Issue of Debentures for Consideration other than Cash

Debentures can be issued for non-cash considerations. The company may have purchased assets from some vendors or acquired some other business. Then instead of paying cash, the company may issue debentures to such vendors. Such an issue for debentures can be at par, or for a discount or at a premium.

Fixed Charged

A debenture creates a fixed charge over certain assets on its creation. Fixed charge assets can vary but include

- Land;
- Property;
- Shares;
- Plant and machinery;
- Intellectual property such as copyrights, patents and trade-marks;
- Goodwill; and
- Book debts.

A business that borrows does not typically sell these fixed assets and therefore the fixed charge is applied to protect the repayment of the company debt. The simplest way to put it into perspective is to think of a mortgage, a company cannot sell its office without the lender’s permission, as the company will have not yet paid the debt off and therefore these assets must be retained as security for the loan.

With fixed-charge debentures, the lender has full control of the company assets. Therefore, should the company want to sell that particular asset, it must have the lender’s approval to do so or pay off the debt.

The fixed charge in debenture ranks before that of a floating charge in a debenture on company insolvency.

While a fixed charge in a debenture charges assets that can be easily identified, a floating charge debenture is a charge that floats above ever-changing assets.

Floating Charged

The floating charge in a debenture creates a security interest over changing company assets and by its nature must allow for more freedom for a business, so the borrower can buy and sell those assets in the ordinary course of its business.

The floating charge gives more scope for the company to sell, transfer or dispose of their assets, without seeking approval from the financier. If otherwise, the borrower likely could not trade. From the lender's point of view, it leaves them a little more exposed but it is a compromise between being secured and have a trading client.

Floating charge assets can vary, but typically will include assets such as:

- ✓ Stock and Inventory;
- ✓ Trade Debtors;
- ✓ Cash and Currency;
- ✓ Movable Plant and Machinery (Such As Vehicles); And
- ✓ Raw Materials and Other Consumable Items Used By The Business.

Crystallization of Floating to Fixed Charged

Crystallization is the process by which a floating charge converts into a fixed charge. If a company fails to repay the loan or enters liquidation, the floating charge becomes crystallized or frozen into a fixed charge. With a fixed charge, the assets become fixed by the lender so the company cannot use the assets or sell them.

Crystallization can also happen if a company ends operations or if the borrower and lender go to court and the court appoints a receiver. Once crystallized, the now-fixed rate security cannot be sold, and the lender may take possession of it.

Typically, fixed charges are secured by tangible assets, such as buildings or equipment. For example, if a company takes out a mortgage on a building, the mortgage is a fixed charge, and the business cannot sell, transfer or dispose of the underlying asset—the building—until it repays the loan or meets other conditions outlined in the mortgage contract.

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Department of B. Com. Computer Application

Unit - III

Company Meeting

Shailesh Devidas Janbandhu
Assistant Professor

Company Meeting

A meeting may be generally defined as a "gathering or assembly or getting together of a number of persons for transaction any lawful business, for entertainment or the like" there must be at least two persons to constitute a meeting.

Apart from face to face communication with individuals, another vital application of oral communication in business is the meeting the best medium for group discussion, group decisions and transaction of some lawful business.

Meeting are a way of life in modern business. In a democratic participative managerial setup. Meeting have a unique place. They provide the best means of communication. i.e. a bridge of understanding through interchange of thoughts. They provide opportunity for face to face contact and direct exchange of ideas and views. The collective decisions arrived at meeting. A secretary is closely associated with the conduct of the meeting, so that they become the most effective tools in the management of a company enterprise.

Characteristics of Meeting

The following are the main characteristics of a meeting.

1) There must be at least two persons to constitute a meeting.
2) The date, time and venue of the meeting should be pre-fixed and conveyed to the concerned member in advance through proper notice.
3) Every meeting of the company must have a chairman who has a responsibility to conduct the business transacted in the meeting.
4) The subject matter to be discussed and the proceedings of the meeting must be legal. It is then only that the meeting is considered valid.
5) Without quorum, i.e. the minimum prescribed number of the members to be present, the business in the meeting cannot be transacted.

Procedure of Meeting

1) Proper convening authority

All meeting must be called by proper authority. In case of joint stock company.

- The general meeting of shareholders should be called by the board of directors.
- The meetings of board of directors should be called by the chairman of the board
- The extra ordinary general meeting can be called by the board or it can be called by the qualified members under special circumstances.

2) Proper Notice

Proper notice of a meeting must be sent to all those who are entitled to attend the meeting. Notice of the meeting must be issued by proper authority. It must includes, day, date, time and place of the meeting. Generally a copy of agenda is also sent along with the notice. Notice of share holders meeting must be issued at least 21 days before the meeting. The secretary has to see that notice is given to all concerned person.

3) Proper Quorum

Quorum means minimum number of members necessary to conduct and transact the business of the meeting. In general meeting, minimum 5 members in case of public company and minimum 2 members in case of private company must be present in the meeting.

In board meeting minimum 2 directors or one third of the total directors, whichever is higher must be the quorum.

If there is no proper quorum then the meeting is invalid.

4) Proper chairman

The chairman is person who preside over the meeting. Every meeting must have a chairman. Normally the chairman in responsible for the proper holding of meeting. The chairman has to ensure that the meeting is proper conducted. The chairman of board meeting also act as the chairman of every general meeting.

5) Proper voting

Voting is essential in case of all meeting. All decisions are taken by majority only. Hence voting is necessary. Vote means the expression of opinion on a particular proposal.

6) A meeting must be properly conducted

All meetings of the joint stock companies must be properly conducted. Following are the main rules regarding conducting of a meeting

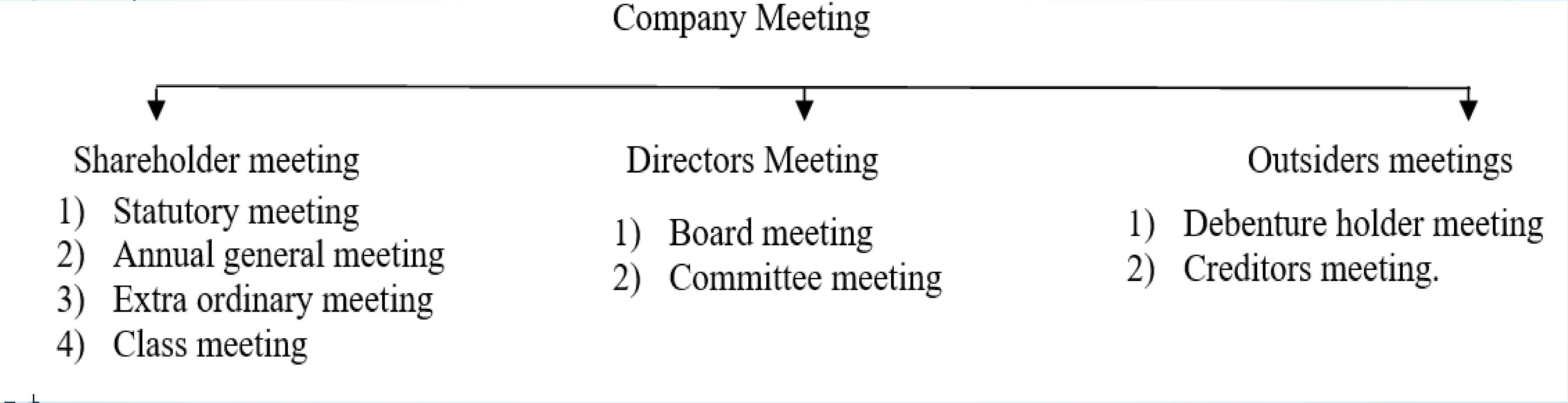
- **Proper day:** a meeting should be held on proper day should be held on working day. Only extra-ordinary general meeting can be held even on Sunday or public holiday
- **Proper time:** a meeting must be held at a proper time. it is t be held during the business or office hours.
- **Proper place:** a meeting can be held at the registered office of the company or at any place, in the same town or city, where the registered office of the company situated.

7) Proper Minutes

Minutes are written records of the work done at the meeting. The secretary has to record minutes within 30 days from the date of conclusion of the meeting.

Kinds of Meeting

The meeting of a company can be broadly divided into 3 basic categories viz. share holder meetings, directors meetings, outsider meeting etc. these are again further divided into various categories as stated below.



A) Share holders meeting

The share holder provide capital to a company. Therefore, they are the real owner of a company. These share holder are very large in numbers. Therefore, it is not possible for them to make direct control over company. Thus it is very difficult to safeguard the interest of share holders. With a view to safeguard interest of share holders the following different types of meetings are held out by a company.

1) Annual General Meeting

The term annual general meeting denotes the share holders meeting which is held out every year. The first annual general meeting should be held within **18 months from its establishment** and thereafter once in every year. It should be held with 6 months after closing records. The difference between two annual general meetings should not be above **15 months**. Annual general meeting is held out with the various purpose like declaration of dividend, appointment of secretary, selection of board of directors etc.

Objectives / Aims / Advantages / Purposes / Functions of Annual General Meeting (AGM)

1) Acceptance of annual account

It includes trading A/c, profit and loss A/c, profit and loss Appropriation A/c and balance sheet. All these are helpful to know financial position of company.

2) Appointment of Secretary

New secretary can be appointed at the place of retired or existing secretary. Sometimes existing secretary can be continued.

3) Appointment of Auditor

New auditor may be appointed in annual general meeting. Sometimes the same auditor may be continued as before. Remuneration of auditor can be fixed in the same meeting. If remuneration is not determined in that meeting then he is entitled to get remuneration as before.

4) Advisory speech

It includes advisory speech of chairman, director, auditor etc.

5) Clarification of members doubts

All the members are entitled to clarify their doubts in annual general meeting.

6) Declaration of dividend

In Annual general meeting the share holder has to accept the decision of declaration of dividend made by directors. Here it should be noted that the share holders can decrease or accept the same. They cannot increase it.

7) Minute of last AGM

The confirmation of minute of previous Annual general meeting can be made in present annual general meeting.

8) New investment policy

The decision about new investment policy can be taken in annual general meeting.

9) Other objects suggested by members

10) Sanction of expenditure on new machine

11) Selection of directors.

Notice of an Annual General Meeting

Shree Industries Ltd.
Regd. Office 605 Ashish Chambers
'C' Road, Mumbai – 400 020

Date : 25 April, 2024

Notice

Notice is hereby given that the 25^{th} Annual General Meeting of the company will be held at the Registered Office of the company on Monday 16 May, 2024 at 4.00 P.M. to transact the business as per agenda enclosed herewith.

Encl: 1) Copy of the Agenda
2) Proxy form

By order of the Board
sd/
Secretary

Mumbai
Dated : 19 April, 2023

Note :

1) A member entitled to attend and vote at the meeting is entitled to appoint to attend and on a poll to vote instead of himself and such proxy need not be a member.
2) The register of members and share transfer book of the company shall remain closed from Date 5^{th} May to 25^{th} May, 2023, both days included.
3) Members are requested to bring their copies of the Annual Report to the Meeting.

Agenda of Annual General Meeting

Shree Industries Ltd.
Regd. Office 605 Ashish Chambers
'C' Road, Mumbai – 400 020

Date : 18 April, 2023

Agenda

Agenda for the 25th Annual General Meeting to be held on Monday 16th May, 2023 at 4.00 p.m.

1. To read the notice of the meeting.
2. To receive, consider and adopt the audited final accounts and directors report.
3. The chairman to deliver his speech.
4. To approve the final account for the year ended 31, March, 2023.
5. To declare the dividend.
6. To appoint a director in place of those who have retired from office by rotation.
7. To appoint auditor of the company and fix their remuneration.
8. Vote of thanks to the chairman and declare the meeting closed.

By order of the Board
Sd/
Secretary

Consequences of Not Conducting an Annual General Meeting

Failure to comply with the provisions outlined in Section 96 of the Companies Act 2013 can lead to several consequences:

- **Tribunal Intervention:** The National Company Law Tribunal has the Authority to order the convening of an Annual General Meeting under Section 97 and Section 98 of the Companies Act, 2013.
- **Financial Penalties:** If a company or any authorized person fails to adhere to the provisions from Section 96 to Section 98, they may face monetary penalties. The tribunal can impose a fine on the company and every officer found to be in default, with the fine amount extending to Rs. 1 lakh.
- **Continuing Default:** If the default continues beyond the initial penalty, the tribunal may impose an additional fine of Rs. 5,000 per day for each day during which the default persists.

Compliances After Conducting an AGM

After conducting an Annual General Meeting a company is required to fulfill several compliance obligations. Here is a checklist of post-AGM compliances:

1) Reporting of the AGM

Following the Annual General Meeting completion, every listed company must file a report on the AGM using Form MGT-15. This report must be submitted within 30 days from the conclusion of the AGM.

2) Annual Return Filing (Form MGT-7)

File the Annual Return with the Registrar of Companies (ROC) in Form MGT-7 within 60 days of the AGM (Section 92).

3) Resolution Filing (Form MGT-14)

File resolutions passed during the AGM, along with the explanatory statement, in Form MGT-14 with the ROC. Special resolutions and other resolutions passed under Section 117 should be filed within 30 days of passing (Section 117).

4) Minutes of Meeting (MoM)

Ensure that the Minutes of Meetings (MoM) of the AGM are entered in the minute book within 30 days of the conclusion of the AGM (Section 118).

5) Dividend Payment

Pay the declared dividend or dispatch the dividend warrants within 30 days from the declaration date (Section 123).

6) Unpaid Dividend Statement

Prepare a statement containing each person's name, last known address, and unpaid dividend amounts. Display this information on the company's website. Additionally, amounts related to unpaid dividend accounts must be credited to the Investor Education Protection Fund (IEPF) within 30 days of becoming due and reported online to the Authority using Form IEPF-1. Within 60 days following the AGM, file Form IEPF-2 with the Registrar, containing information on unclaimed and underpaid payments (Section 124 r/w 125).

7) Financial Statement Filing

File the Audited Financial Statements, along with the consolidated financial statement (if any), in the appropriate form (AOC-4, AOC-4 CFS, or AOC-4 XBRL), with the ROC within 30 days of the AGM (Section 137).

8) Auditor’s Appointment (Form ADT-1)

File the resolution related to the appointment of the auditor in Form ADT-1 with the ROC within 15 days of the AGM (Section 139).

9) Director’s Appointment (Form DIR-12)

File the resolution related to appointing directors (except for directors retiring by rotation) in Form DIR-12 with the ROC within 30 days of the AGM (Section 152). TI

Extraordinary General Meeting

The term extraordinary meeting denotes a meeting that is held out to discuss matters of urgent nature. Thus, when the subject matter is so important that it can not be postponed till the next annual general meeting then an extraordinary meeting is held out. This meeting can be called up if at least 1/10 of the shareholders applied for it. The purpose of this meeting is to make necessary changes in the Memorandum of Association, Articles of Association, removal of a particular director or secretary, and immediate appointment of new personnel instead of them.

Mandatory Requirement for Extraordinary General Meeting

Distribution of gifts, gift coupons, or cash instead of gifts to members during or in connection with the General Meeting is prohibited.

- Companies listed on a recognized stock exchange and those with a membership of at least 1,000 members must provide electronic voting facilities for members to exercise their voting rights on proposed resolutions during a general meeting.
- A quorum must be maintained throughout the meeting, and no business can be conducted if the quorum is not met (as per Clause 3.1 of the Secretarial Standard on General Meetings).
- The presence of the Chairperson is essential.
- The Minutes Book must be maintained for the signing of meeting minutes.

When arranging for the printing of a notice for an Extraordinary General Meeting, ensure that the notice includes the following details:

- ❑ Date, time, and location of the meeting
- ❑ Agenda items for the meeting
- ❑ Instructions for electronic voting, if applicable
- ❑ Proxy form
- ❑ Explanatory statement
- ❑ Route Map

Notice and Agenda of Extra Ordinary General meeting

X INDUSTRIES LTD.

Phone –
Telex -

H.O. – 101 B, MIDC
Mumbai.
Date : 6th Jan, 2024

Notice is hereby given to all the members of ABC INDUSTRIES LTD. that Extra ordinary General meeting will be held on Mon, 13th Feb 2014 at 11.30 Am. At Vidarbha Sahitya Sangh, Sitabuldi, Nagpur. The following matters will be considered in meeting

1) To increase authorized share capital from 10 lac. To 20 lac.
2) To dismiss director B for his mis-management and to appoint Mr. C instead of him.
3) To terminate services of auditor M for helping in fraud to director B and to appoint Mr. N as an auditor.

By order of board of directors

Mr.E.
Company Secretary

Note:-

a) If quorum is not completed then meeting will be held after half an hour at the same place. The term completion of quorum will not be considered thereafter.
b) Bring this letter at the time of attending meeting.

Draft an agenda for Extra ordinary General Meeting

X INDUSTRIES LTD.

Agenda for Extra-ordinary General Meeting of X industries ltd. held on Mon, 13th Feb, 2024 at 11.30 A.M. at Vidarbha sahitya Sangh, Sitabuldi, Nagpur.

1. To increase authorized share capital from Rs 10 lac. To 20 lac.
2. To dismiss director B for his mis management and to appoint Mr. X instead of him.
3. To terminate services of the auditor M for helping in fraud to the director B and to appoint Mr. N as an auditor.
4. To provide name Nagpur Industries Ltd. instead of present name X industries ltd.
5. Speech of chairman regarding extra ordinary general meeting.
6. To change office form 101 MIDC to Central Nagpur.
7. Any other subject of immense importance.
8. To provide vote of thanks to the members of company for attending meeting and to take active part in voting for passing resolution.

By Order of the Board
Sd/
Secretary

Advantages of Extraordinary General Meeting

- **Flexibility:** EGMs can be convened anytime, enabling swift decision-making on unforeseen and critical matters.
- **Specialized Focus:** EGMs can be tailored to address specific topics, fostering a more concentrated and efficient discussion.
- **Greater Participation:** Shareholders who cannot attend the annual general meeting (AGM) can engage and express their views on significant issues through EGM participation.
- **Increased Transparency:** EGMs provide a platform for shareholders to seek clarifications, ask questions, and gain deeper insights into the company's operations and affairs.

- **Changes in Company Structure:** EGMs can be called to deliberate and sanction changes in the company's structure, such as mergers, acquisitions, or other transformative actions.
- **Resolving Deadlocks:** In cases of tied votes during the AGM, EGMs offer the chance for shareholders to reevaluate and potentially break the deadlock on a particular issue, ensuring a conclusive decision.

Procedure of Extraordinary General Meeting

The Extraordinary General Meeting (EGM) procedure entails several vital steps.

2) Appointment of Scrutinizer:

Companies listed on recognized stock exchanges or with at least 1,000 members must enable electronic voting for resolutions at general meetings.

1. A Scrutinizer, independent of the company, is appointed to oversee the voting and e-voting process fairly.
2. Consent of a Chartered Accountant, Cost Accountant, Company Secretary in practice, Advocate, or another independent person is required for their appointment.

2) Board Meeting:

- Conduct a Board Meeting, following Section 173 and Secretarial Standard on Board Meeting (SS-1).
- Provide notice of the Board Meeting to all Directors at least seven days in advance or shorter notice in case of urgent business.
- Attach the agenda, notes, draft resolutions, and terms and conditions for appointing the Managing Director (MD) or Whole-Time Director (WTD).

- **Pass a Board Resolution to:**
  - Set the date, time, and venue for the General Meeting.
  - Approve the draft notice of the General Meeting with the explanatory statement.
  - Authorize the Director or Company Secretary to issue the notice and take necessary actions.
  - Appoint a scrutinizer for e-voting.
  - Appoint an agency for remote e-voting.
  - Determine the cut-off date for member voting rights.
  - Authorize the Chairman or another director to receive the Scrutinizer’s reports and related documents.

- **Draft Minutes:**
  - Prepare and circulate draft minutes within 15 days of the Board Meeting to all Directors for their comments.
- **Notice of General Meeting:**
  - Provide a minimum of 21 days' notice for the General Meeting, either in writing or electronically.
  - Send the notice to every Member, Director, Auditor, Secretarial Auditor, Debenture Trustee (if applicable), and other specified persons.
- Include a statement of special business in the notice.
- For listed companies, submit a copy of the notice to the stock exchange(s) and post it on their website within specified timelines.

3) Advertisement of Notice in Newspaper

- Publish the notice in a vernacular and an English newspaper with wide circulation in the district where the company’s registered office is located.
- For listed companies, please submit a copy of the advertisement to the Stock Exchange and post it on the website.

4) Remote E-Voting:

- Allow remote e-voting for at least three days, closing at 5:00 p.m. on the day before the General Meeting.
- Members holding shares as of the cut-off date can opt for remote e-voting.

5) Proxy Register:

- Maintain a chronological register of all proxies received.
- Record reasons for rejecting any proxy in the remarks column.

6) Documents at the Venue:

Ensure that the following documents are available at the General Meeting venue:

- Copy of the meeting notice.
- Ballot form.
- Register of Members.
- Proxy registers.

7) Vote of Thanks:

Ensure a vote of thanks is given to the Chair after the General Meeting.

8) Disclosure of Proceedings:

Listed companies must submit a disclosure of the General Meeting proceedings to the Stock Exchange and post it on the company's website within specified timelines.

9) Announcement of E-Voting Results:

The Scrutinizer submits a report on the total number of votes for or against the resolutions.

- The Chairman or authorized person declares the results.
- Post the results at least three days at various locations on the company's website.
- Preparation and Signing of Minutes:

Follow the procedures outlined in Section 118 and SS-2 for the preparation and signing of minutes.

Who can Call for an Extraordinary General Meeting?

An Extraordinary General Meeting (EGM) can be called by the members or shareholders of a company, but there are specific requirements outlined in the Companies Act, 2013:

For Companies with Share Capital:

- Members holding at least one-tenth of the company's paid-up capital carrying voting rights can call for an EGM.

For Companies without Share Capital:

- Members holding at least one-tenth of the total voting power regarding the matter can call for an EGM.

EGM Called by the Board:

- When a valid requisition is received, the Board has 21 days to call for an EGM.
- The EGM must then be held within 45 days from the day it is called by the Board.

EGM Called by the Requisitionists:

- If the Board fails to call for an EGM, the requisitionists can call for it within three months from the date the requisition was deposited.
- If the EGM is held within this specified 3-month period, it can be adjourned to any future date after the three months.

Difference between EGM and AGM

Aspect	Annual General Meeting (AGM)	Extraordinary General Meeting (EGM)
Frequency	Required by law to be held annually	Called as and when required, usually to address specific issues or proposals
Purpose	Discusses regular business of the company	Addresses specific and urgent matters that cannot wait until the next AGM
Attendees	All shareholders have the right to attend and vote	Only shareholders who were on the register at the time of the EGM are entitled to attend and vote

Aspect	Annual General Meeting (AGM)	Extraordinary General Meeting (EGM)
Agenda Items	Includes routine matters such as approval of annual financial statements and appointment of auditors	Agenda items are specific to the reason for the EGM being called, such as changes in the company's structure or major acquisitions
Notice Period	Notices are given well in advance of the meeting	May be called with shorter notice, as per the nature of the matter to be discussed