



# news flash

JUNE 2011



## VIRTUAL MEETINGS OF SHAREHOLDERS AND DIRECTORS

The Ministry of Corporate Affairs (**MCA**) has recently clarified that companies can hold board as well as shareholders' meetings through video conferencing. The clarifications have come under two circulars both dated 20 May 2011.

### REASONS BEHIND THE CIRCULARS

This is a result of representations received by the MCA from various industry bodies as well as the existing provisions of the Information Technology Act, 2000 which allowed dispatch of e-notices by companies in accordance with its articles.

### KEY FEATURES

#### ➤ **Meaning of "electronic mode"**

Meetings can be held in electronic mode by way of a **video conference facility** i.e. audio-visual electronic communication facility which enables all persons participating in that meeting to communicate concurrently with each other without an intermediary and to participate effectively in the meeting. Hence, it appears that meetings can be held by video-conferencing but **not teleconferencing**.

#### ➤ **Personal presence for directors**

It is mandatory for the director to **personally attend at least one meeting** in a financial year.

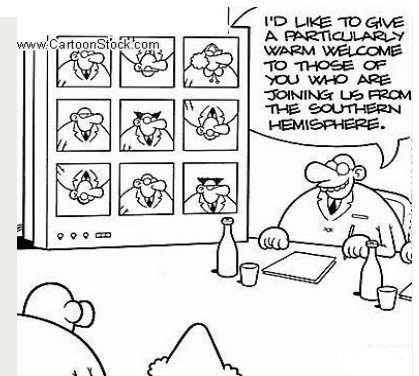
#### ➤ **Notice requirements**

The notice of the meeting (both board as well as general) must provide details of the availability of the video conference facility and the manner of accessing such facility.

#### ➤ **Chairman & Secretary**

The Chairman and Secretary are responsible (amongst other things) for the following in case of meetings held via videoconferencing:

- To safeguard the integrity of the meeting;
- To ensure proper videoconferencing equipments/facilities;
- to ensure that no one other than the concerned director or authorised participant/shareholder or proxy to shareholder is attending the meeting;
- In case of interruptions, to repeat/ reiterate what he heard the participant saying for confirmation or correction or request for repetition/ reiteration.



## ADDITIONAL PROCEDURES PRESCRIBED FOR BOARD MEETINGS

### ➤ Notice to seek confirmation from director

In case of **board meetings**, the notice must also provide for seeking confirmation from the directors as to whether he will attend the meeting physically or through electronic mode. In absence of any confirmation from director it will be presumed that he will physically attend the meeting.

### ➤ Quorum

The director participating in a meeting through use of video conference will be counted for the purpose of quorum. The Chairman is to commence the meeting by taking a roll call in the prescribed manner, where the directors are to (amongst other things) confirm visibility and audibility on the video conference.

### ➤ Preservation of recordings

In case of board meetings, the video recordings are to be preserved for 1 year with respect to that part of the meeting where the Chairman announces the summary of the decisions taken in that meeting.

### ➤ Circulation of minutes

Soft copy of the draft minutes of the board meetings are to be circulated within 7 days of the meeting for comments/confirmation of the directors to dispel all doubts on matters taken up during the meeting. The minutes are required to disclose the particulars of directors who attended the meeting through electronic mode.

## ADDITIONAL PROCEDURES PRESCRIBED FOR SHAREHOLDERS' MEETINGS

### ➤ Quorum

**Participation of shareholders by electronic mode will not be counted for the purpose of quorum.** The quorum as required under the Companies Act, 1956 is required to be **physically present** at the place of the meeting.

### ➤ In case of listed companies

Video conferencing to be set at least five places in India in such a way that:

- the places are situated all over India
- they cover top 5 States/ Union Territories based on maximum number of members or at least 1000 members, (whichever is more)

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