



### Video Conference and Audio-Visual Annual General Meetings

In view of the pandemic COVID-19, the Ministry of Corporate Affairs (“MCA”), had issued circular no. 14/2020 dated 8<sup>th</sup> April 2020 (“**EGM Circular-I**”) and circular no. 17/2020 dated 13<sup>th</sup> April 2020 (“**EGM Circular-II**”), which dealt with conducting of extraordinary general meeting (“**EGM**”) through video conferencing (“**VC**”) or any other audio visual means (“**OAVM**”) under the Companies Act, 2013 (“**Act**”) and rules made thereunder, so as to avoid convening of physical general meetings for business of urgent nature. We had issued newsflashes on the aforesaid circulars. The links to the said newsflashes can be viewed [‘Video Conference and Audio-Visual Extra-ordinary General Meetings’](#) and [‘Video Conference and Audio-Visual Extra-ordinary General Meetings – II’](#). Further, MCA through a general circular 18/2020 dated 21<sup>st</sup> April 2020 allowed companies whose financial year ended on 31<sup>st</sup> December 2019 to hold their annual general meeting (“**AGM**”) by 30<sup>th</sup> September 2020. Our newsflash on the said circular can be viewed [‘Extension for holding of an Annual General Meetings’](#).

The MCA has received various representations from stakeholders for providing similar relaxations as regards holding of an AGM. Therefore, the MCA vide circular no. 20/2020 (“**AGM Circular**”) has provided certain relaxations on holding AGM through VC or OAVM for calendar year 2020, subject to the compliance of the below-mentioned rules.

The rules to be followed as per AGM Circular are set out below:

**A. Companies required to provide e-voting facility under the Act or a company which has opted for such facility**

- a. The guidelines provided in part A of our newsflash for EGM Circular I and EGM Circular II shall be applicable *mutatis mutandis* for conducting the AGM.
- b. In the AGM other than ordinary business items, ‘*special business*’ items can be considered only if they are considered to be unavoidable by the Board of the company.
- c. Due to the prevailing situation, the financial statements (including board report, auditor's report and other documents required to be attached therewith) (“**Annual Report**”) can not be physically dispatched to the members before the AGM. Thus, the company has to send all the Annual Reports by e-mail to the members and to all other persons so entitled to receive the same.

- d. Before sending the notice of the AGM and the Annual Report by e-mail, a public notice by way of advertisement has to be published in one vernacular newspaper and one English newspaper (preferably having electronic editions) having a wide circulation in the district where the registered office of the company is situated.
- e. The newspaper advertisement shall contain the following:
  - i. statement that AGM will be held through VC or OAVM in compliance with the Act and the AGM Circular;
  - ii. date and time of AGM through VC or OAVM;
  - iii. the manner in which the members who are holding shares in physical form or who have not registered their e-mail addresses with the company can cast their vote through remote e-voting or through the e-voting system during the AGM;
  - iv. the manner in which the persons who have not registered their email addresses with the company can get the same registered with the company;
  - v. the manner in which the members can give their mandate receiving dividends directly in their bank accounts through Electronic Clearing Service (ECS) or any other means; and
  - vi. any other necessary information for the AGM.
- f. If the company cannot pay dividend to any shareholder by electronic means due to non-availability of bank details, the company shall dispatch dividend warrants/ cheques to shareholders once postal services resume.
- g. If a company is allowed to hold an AGM through physical meeting at the registered office of the company or at any other place as per the Act after following all the advisories, the company should also provide the facility for holding meeting through VC or OAVM and the members who attend the meeting by such means shall be counted for the purpose of quorum. All resolutions shall continue to be passed through e-voting facility.

**B. Companies not required to provide e-voting under the Act**

- a. A Company can conduct AGM through VC or OAVM if it has the e-mail addresses of at least half of its total number of members, who:
  - i. in case of a Nidhi, hold shares of more than one thousand rupees in face value or more than one per cent. of the total paid-up share capital, whichever is less;
  - ii. in case of other companies having share capital, who represent not less than 75% of such part of the paid-up share capital of the company as gives a right to vote at the meeting;
  - iii. in case of companies not having share capital, who have the right to exercise not less than 75% of the total voting power exercisable at the meeting.
- b. The company shall take all necessary steps to register the e-mail address of all persons who have not registered their e-mail addresses with the company;
- c. The guidelines provided in part B of our newsflash for EGM Circular I and EGM Circular II shall be applicable mutatis mutandis for conducting the AGM.
- d. In the AGM, other than ordinary business items, '*special business*' items can be considered only if they are considered to be unavoidable by the Board of the company.
- e. Due to prevailing situation, the Annual Report cannot be physically dispatched to the members before the AGM. Thus, the company has to send all the Annual Reports by e-mail to the members and to all other persons so entitled to receive the same.

- f. The company is required to make adequate provisions for allowing members to give their mandate for receiving dividends directly into their bank. If the bank account details are not available, the company shall dispatch dividend warrants / cheques to shareholders once postal services resumes.

The companies referred to in A and B above shall ensure that all other compliances associated with the provisions of the general meeting (viz. making of disclosures, inspection of documents etc.), are done through electronic mode.

The companies which are not covered by the general circular 18/ 2020 dated 21<sup>st</sup> April 2020 (our newsflash on the referred circular can be viewed at '[Extension for holding of an Annual General Meetings](#)') and are unable to conduct their AGM in accordance with framework provided in the AGM Circular, are advised to file an application with the Registrar of Companies for extension of holding of AGM.

The MCA has been granting relaxations in relation to compliances in a staggered manner based on the difficulties faced and the concerned voiced by the stakeholders keeping in mind the due compliance and the shareholders' interest.

### **Disclaimer**

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