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Procedure for change in Object clause of the Company

Dear Professional Colleague,

This Article contains the procedure for change in Object clause of the Company under Companies Act, 2013 with detailed documentation required. I hope this document would be of some help w.r.t. your professional working:

Procedure for change in Object clause of the Company involves alteration in the Memorandum of Association (hereinafter referred to as **"Memorandum"**) of the Company. Hence it is necessary to discuss some basis information about Memorandum of the Company.

As per section 4(6) the Memorandum of a company shall be in respective forms specified in **Tables A, B, C, D and E in Schedule I** as may be applicable to such company.

As per section 4(1) Memorandum contains following important clauses:

- (a) **Name Clause** which contains name of the Company,
- (b) **Registered Office Clause** which contains State of India where registered office of the company is situated.
- (c) **Objects clause** of the Company and matters considered necessary in furtherance thereof,
- (d) **Liability Clause** which defines liability of members of the company; and
- (e) **Share Capital clause** which defines Authorized share capital of the company.

Alteration of Memorandum of Association

Alteration of Memorandum of Association may be of following kinds:

1. Alteration in the name clause [Section 13 (2) and (3)]
2. Alteration in the Registered Office Clause [Section 13 (4) (5) and (7)]
3. Alteration in the object clause [Section 13 (8) and (9)]
4. Alteration in the name clause
5. Alteration in the Capital clause [Section 61 read with section 64]

Alteration of Memorandum of Association due to change in Object Clause

Change in Object clause of the Company involves alteration of Memorandum of Association (hereinafter referred to as **"Memorandum"**) of the Company. Main provisions related to alteration of Memorandum are given in Section 13 of the Companies Act, 2013 read with Companies (Incorporation) Rules, 2014.

Applicability of Section 13:

Section 13 of Companies Act 2013 regulates the process of amendment in Memorandum of Association is applicable to all companies. All clauses of Memorandum except Capital clause can be altered by following the provisions of Section 13 of Companies Act, 2013 by passing special resolution.

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For alteration of any of the clauses of Memorandum, consent of members by way of Special Resolution is required. However, in case of alteration of capital clause, consent of members by way of Ordinary Resolution as stated in section 61 is required.

Capital clause of Memorandum can be altered by following the provisions of Section 61 read with section 64 of Companies Act, 2013.

Kindly check my Article, available at the link below, for Alteration in the Capital clause by way of Increase in Authorized Share capital of the Company:

http://www.caclubindia.com/articles/procedure-for-increase-in-authorise-capital-under-ca-2013-21069.asp#.U89_0qO816Y

Procedure for Change in object clause

Secretarial procedure for alteration in object clause is given below:

1. **Calling of Board Meeting:** Issue notice in accordance with the provisions of section 173(3) of the Companies Act, 2013, for convening a meeting of the Board of Directors. Main agenda for this Board meeting would be:
 - a. To Get in-principal approval of Directors for change in object clause of Memorandum;
 - b. Fix date, time and place for holding Extra-ordinary General meeting (EGM) to get approval of shareholders, by way of Special Resolution, for amendment in object clause of Memorandum. This amendment in object clause of Memorandum shall be in accordance with the requirement of section 13 of the Companies Act, 2013;
 - c. To approve notice of EGM along with Agenda and Explanatory Statement to be annexed to the notice of General Meeting as per section 102(1) of the Companies Act, 2013;
 - d. To authorise the Director or Company Secretary to issue Notice of the Extra-ordinary General meeting (EGM) as approved by the board under clause 1(c) mentioned above.
2. Issue Notice of the Extra-ordinary General meeting (EGM) to all Members, Directors and the Auditors of the company in accordance with the provisions of Section 101 of the Companies Act, 2013;
3. **Holding of General Meeting:** Hold the Extra-ordinary General meeting (EGM) on due date and pass the necessary Special Resolution under section 13(1) of the Companies Act, 2013, for change in object clause of Memorandum.
4. **ROC Form filing:** As per section 13(6), Company is required to file Special Resolution passed by shareholders for alteration of Memorandum with concerned Registrar of Companies. Hence, file form **MGT.14** within 30 days of passing of Special Resolution with the concerned Registrar of Companies, with prescribed fees and along with following **attachments**:

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- a. Notice of EGM;
- b. Certified True copy of Special Resolution;
- c. Altered Memorandum of Association;
- d. **Certified True copy of Board Resolution may be attached as an optional attachment.**

Small Restriction regarding Change in object clause of Memorandum: [Section 13 (8) and Rule 32]

A company, which has raised money from public through prospectus and still has any unutilized amount out of the money so raised, **shall not change its objects** for which it raised the money through prospectus unless a special resolution is passed by the company and—

- (i) Prescribed details in respect of such resolution shall also be published in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated and shall also be placed on the website of the company, if any, indicating therein the justification for such change;
- (ii) the dissenting shareholders shall be given an opportunity to exit by the promoters and shareholders having control in accordance with regulations to be specified by the Securities and Exchange Board.

As per Rule 32 of Companies (Incorporation) Rules, 2014, this Special Resolution under section 13(8) is to be passed through Postal Ballot. For more information and prescribed details kindly refer Rule 32 of Companies (Incorporation) Rules, 2014.

Duty of Registrar of Companies

As per section 13(10), no alteration made under this section shall have any effect until it has been registered in accordance with the provisions of this section.

As per section 13 (9) The Registrar shall register any alteration of the Memorandum with respect to the objects of the company and certify the registration within a period of thirty days from the date of filing of the Special Resolution in accordance with clause (a) of sub-section (6) of this section.

Concerned Registrar of Companies (ROC) will check the E-forms and attached documents and will give effect to the change in Object clause of the Memorandum.

SECRETARIAL PRACTICE / DRAFTING

Sample Board Resolution for:

Change in Object Clause of the Company

“RESOLVED THAT pursuant to the provisions of Section 13 and other applicable provisions, if any, of Companies Act, 2013, (including any statutory modifications or re-enactment thereof, for the time being in force), and the rules framed there under, consent of the Board of Directors of the Company be and is hereby accorded, subject to the approval of the Registrar of Companies, NCT of Delhi & Haryana and

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subject to the approval of Shareholders in General Meeting, to append following sub clause (4) after sub clause (3) of clause III (A) of the Memorandum of Association of Company:

(4) *“To carry on the Trade and Business*”

FURTHER RESOLVED THAT for the purpose of giving effect to this resolution, Mr. Manoj Agarwal, Director of the Company be and is hereby authorised, on behalf of the Company, to do all acts, deeds, matters and things as deem necessary, proper or desirable and to sign and execute all necessary documents, applications and returns for the purpose of giving effect to the aforesaid resolution along with filing of necessary E-form as return of appointment with the Registrar of Companies, NCT of Delhi and Haryana.”

Sample Shareholders Resolution for:

Change in Object Clause of the Company

“RESOLVED THAT pursuant to the provisions of Section 13 and other applicable provisions, if any, of Companies Act, 2013, (including any statutory modifications or re-enactment thereof, for the time being in force), and the rules framed there under, consent of the shareholders of the Company be and is hereby accorded, subject to the approval of the Registrar of Companies, NCT of Delhi & Haryana, to append following sub clause (4) after sub clause (3) of clause III (A) of the Memorandum of Association of Company:

(4) *“To carry on the Trade and Business*”

FURTHER RESOLVED THAT for the purpose of giving effect to this resolution, Mr. Manoj Agarwal, Director of the Company be and is hereby authorised, on behalf of the Company, to do all acts, deeds, matters and things as deem necessary, proper or desirable and to sign and execute all necessary documents, applications and returns for the purpose of giving effect to the aforesaid resolution along with filing of necessary E-form as return of appointment with the Registrar of Companies, NCT of Delhi and Haryana.”

Other Corporate Secretarial work under Companies Act, 2013

For my other Corporate Law Articles on Companies Act, 2013, kindly refer the links mentioned below:

1. [Useful Interpretations about Companies Act, 2013 - Part-1](#)
2. [List of Resolutions to be filed with ROC in Form MGT.14](#)
3. [Procedure for Appointment of Additional Director in CA 2013](#)
4. [Different Monetary Limits under Companies Act 2013](#)
5. [Companies to have Uniform Financial year under CA 2013](#)
6. [Procedure for Increase in Authorise Share Capital under Companies Act, 2013.](#)
7. [Intimation to ROC for Auditor appointment in form ADT.1](#)

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8. [Procedure for Resignation of Director under Companies Act, 2013](#)
9. [Useful Corporate Board Resolutions under Companies Act, 2013](#)
10. [Checklist for Action Points under Companies Act 2013](#)
11. [Company Law some useful Main Object Clause-III](#)
12. [Useful Interpretations about Companies Act, 2013- Part-2](#)
13. [Company Law some useful Main Object Clause-IV](#)
14. [Procedure for Incorporation of a Company under Companies Act, 2013](#)

Disclaimer:

This write up is intended to start academic discussion on few significant interpretations under Companies Act, 2013. It is not intended to be a professional advice and should not be relied upon for real time professional facts. Readers are advised to refer relevant provision of law before applying or accepting any of the point mentioned above. Author accepts no responsibility whatsoever and will not be liable for any losses, claims or damages which may arise because of the contents of this write up.

I am hopeful that this write up would be of some help w.r.t. your professional working and endeavors under Companies Act, 2013. Kindly share your opinion.

Thanks

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