

COMPLIANCES FOR LISTED COMPANY UNDER COMPANIES ACT- 2013



GOYAL DIVESH & ASSOCIATES, Practicing Company Secretary

LISTED COMPANY COMPLIANCES

Series-30

2 (52) “Listed Company” means a company which has any of its securities listed on any Recognized stock exchange;

23. (1) A Public Company may issue securities—

- (c) Through a rights issue or a bonus issue in accordance with the provisions of this Act and in case of a listed company or a company which intends to get its securities listed also with the provisions of the Securities and Exchange Board of India Act, 1992 and the rules and regulations made there under.

Close Register of Members:

Section- 91

91. (1) A company may close the register of members or the register of debenture holders or the register of other security holders for any period or periods not exceeding in the aggregate forty-five days in each year, but not exceeding thirty days at any one time, subject to giving of previous notice of at least seven days or such lesser period as may be specified by Securities and Exchange Board for listed companies or the companies which intend to get their securities listed, in such manner as may be prescribed.

Annual Return:

Section-92

(2) The annual return, filed by a listed company or, by a company having paid up share capital of Rs. 10 crore or more and turnover of Rs. 25 crore or more, shall be certified by a company secretary in practice in the prescribed form, stating that the annual return discloses the facts correctly and adequately and that the company has complied with all the provisions of this Act.

Change in Shareholding of Promoters and Top 10 Shareholders:

As per SECTION 93 of the Companies Act, 2013 and Rule 13 of Companies (Management and Administration) Rules, 2014

Every listed company is required to file a return with Registrar of Companies in e-form MGT-10 with respect to change of 2% or more (whether in value or volume) in shareholding of Promoters and Top ten Shareholders of the company within 15 days of such change.

E-VOTING:

As per SECTION 108 of the Companies Act, 2013 and the Rule 20 of Companies (Management and Administration) Rules, 2014

Every listed company or a company having not less than one thousand shareholders, shall provide to its members facility to exercise their right to vote at general meetings by electronic means.

Further, as per Clause 35B of listing agreement, as amended by SEBI vide its Circular dated April 17, 2014

Every listed company shall provide e-voting facility to its shareholders, in respect of all shareholders' resolutions, to be passed at General Meetings and those shareholders, who do not have access to e-voting facility shall be provided with postal ballot facility.

CONCLUSION:- e-voting and postal ballot facility is mandatorily required to be given to the shareholders in respect of any general meeting resolution.

MAINTENANCE OF RECORDS IN ELECTRONIC FORM

As per Section 120 of the Companies Act, 2013 and Rule 27 & 28 Companies (Management and Administration) Rules, 2014

Every **listed** company or a company having not less than one thousand shareholders, debenture holders and other security holders, shall maintain its records in electronic form which shall be in a readable format but cannot be tampered after affixing digital signature wherever required as per provisions of the Companies Act, 2013.

Record means: "Any register, index agreement, memorandum, minutes as any other document required by the Act or the rules made there under to be kept by a company."

Further a transitional phase of 6 months has been given for converting the existing records into e-forms.

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

CONCLUSION:- All records of the company are mandatorily required to be maintained in electronic form (readable but non re-writable).

REPORT ON ANNUAL GENERAL MEETING:

SECTION-121.

(1) Every listed public company shall prepare in the prescribed manner a report on each annual general meeting including the confirmation to the effect that the meeting was convened, held and conducted as per the provisions of this Act and the rules made there under.

(2) The company shall file with the Registrar a copy of the report referred to in subsection (1) within 30 days of the conclusion of the annual general meeting **in e-form MGT-15.**

DIRECTOR REPORT:

As per Section 134 of the Companies Act, 2013 and Rule 8 (4) of Companies (Accounts) Rules, 2014

Every listed company shall include, in the report by its Board of directors, a statement indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its committees and individual directors.

(e) the directors, in the case of a listed company, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.

As per Section 197 of Companies Act, 2013 and Rule 5 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014

Every listed company shall disclose in the Board's report the ratio of the remuneration of each director to the median remuneration of the employees of the company for the financial year and various other details like number of permanent employees on the rolls of company, comparison of the remuneration of the Key Managerial Personnel against the performance of the company etc.

MODE OF SENDING FINANCIAL STATEMENTS

As per Section 136 of the Companies Act, 2013 and Rule 11 of Companies (Accounts) Rules, 2014: Every listed company may send the financial statements:-

By Electronic Mode:-

To such members whose shareholding is in dematerialized format and whose email Ids are registered with Depository for communication purposes;

where Shareholding is held otherwise than by dematerialized format, to such members who have positively consented in writing for receiving by electronic mode; and

By dispatch of physical copies through any recognized mode of delivery as specified under section 20 of the Act, in all other cases.

Provided also that a listed company shall also place its financial statements including consolidated financial statements, if any, and all other documents required to be attached thereto, **on its website**, which is maintained by or on behalf of the company:

Provided also that every company having a subsidiary or subsidiaries shall,—

- (a) place separate audited accounts in respect of each of its subsidiary on its website, if any;
 - (b) provide a copy of separate audited financial statements in respect of each of its subsidiary, to any shareholder of the company who asks for it.
- (2) A company shall allow every member or trustee of the holder of any debentures issued by the company to inspect the documents stated under sub-section (1) at its registered office during business hours.
- (3) If any default is made in complying with the provisions of this section, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees.

INTERNAL AUDITOR

As per **Section 138** of the Companies Act, 2013 and the **Companies (Accounts) Rules, 2014**

Every listed company shall have an internal auditor, who may be a Chartered Accountant, Cost Accountant or any other Professional (i.e. Company Secretary). The scope, functioning, periodicity and methodology for conducting the internal audit shall be decided by Audit Committee in consultation with the internal auditor.

Further a transitional period of 6 months has been given to comply with this provision.

ROTATION OF AUDITORS

As per Section 139 of the Companies Act, 2013 and the Companies (Audit and Auditors) Rules, 2014

No listed company shall appoint or re-appoint—

- a) An individual as auditor for more than one term of five Consecutive years; and
- b) An audit firm as auditor for more than two terms of five consecutive years Provided that—

- I. An individual auditor who has completed his term under clause (a) shall not be eligible for re-appointment as auditor in the same company for five years from the completion of his term;
- II. An audit firm which has completed its term under clause (b), shall not be eligible for re-appointment as auditor in the same company for five years from the completion of such term:

Further, A transitional period of 3 years has been allowed for the compliance with this provision.

APPOINTMENT OF WOMAN DIRECTOR

As per [Section 149\(1\)](#) of the Companies Act, 2013 and Rule 3 of [Companies\(Appointment and Qualification of Directors, Rules 2014\)](#)

The following class of companies shall appoint at least one woman director-
Every listed company;

- a) every other public company having –
- b) paid-up share capital of one hundred crore rupees or more; or
- c) turnover of three hundred crore rupees or more:

Further a transitional period of 1 year has been given to comply with this provision and for a newly Incorporated Company these requirements get triggered after 6 months.

APPOINTMENT OF INDEPENDENT DIRECTOR

As per [Section 149](#) of the Companies Act, 2013 and Rule 4 of [Companies\(Appointment and Qualification of Directors, Rules 2014\)](#)

The following class of companies shall appoint Independent Directors-

- (i) every listed company;
- (ii) every other public company having -
 - (a) paid-up share capital of ten crore rupees or more; or
 - (b) turnover of hundred crore rupees or more:
- (c) the Public Companies which have, in aggregate, outstanding loans, debentures and deposits, exceeding fifty crore rupees

Further a transitional period of 1 year has been given to comply with this provision

APPOINTMENT OF SMALL SHAREHOLDER'S DIRECTOR

As per [Section 151](#) and Rule 7(1) of [Companies \(Appointment and Qualification of Directors\) Rules, 2014](#)

A listed company, may upon notice of not less than one thousand small shareholders or one-tenth of the total number of such shareholders, whichever is lower, have a small shareholders' director elected by the small shareholders.

OBTAIN CERTIFICATE OF INDEPENDENCE FROM INDEPENDENT DIRECTORS

As per [Section 149\(7\)](#) of the Companies Act, 2013 and the [Companies \(Appointment and Qualification of Directors, Rules 2014](#)

Every independent director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, give a declaration that he meets the criteria of independence as provided in sub-section (6).

CONSTITUTION OF AUDIT COMMITTEE

As per [Section 177](#) and Rule 6 of [Companies \(Meetings of Board and its Powers\) Rules, 2014](#)

The following class of companies shall constitute an Audit Committee: -

- (i) every listed company;
- (ii) every other public company having -
 - (a) paid-up share capital of ten crore rupees or more; or
 - (b) turnover of hundred crore rupees or more;
 - (c) the Public Companies which have, in aggregate, outstanding loans, debentures and deposits, exceeding fifty crore rupees

Composition: - Minimum 3 directors with majority independent, further provided that majority including its Chairperson shall be persons with ability to read and understand, the financial statement.

Transitional phase for Reconstitution: - As per Section 177(3), Every Audit Committee of a company existing immediately before the commencement of this Act shall, within one year of such commencement, be reconstituted in accordance with sub-section (2).

(9) Every listed company or such class or classes of companies, as may be prescribed, shall establish a vigil mechanism for directors and employees to report genuine concerns in such manner as may be prescribed.

CONSTITUTION OF NOMINATION & REMUNERATION COMMITTEE

As per [Section 178](#) of Companies Act, 2013 and Rule 6 of Companies ([Companies \(Meetings of Board and its Powers\) Rules, 2014](#))

Companies as aforesaid, shall constitute a Nomination & Remuneration Committee

Composition: - Three or more non-executive directors out of which not less than one-half be independent directors. The chairperson of the company (whether executive or non-executive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee.

CONSTITUTION OF STAKEHOLDERS RELATIONSHIP COMMITTEE

As per [Section 178](#) of Companies Act, 2013

The Board of Directors of a company which consists of more than one thousand shareholders, debenture-holders, deposit-holders and any other security holders at any time during a financial year shall constitute a Stakeholders Relationship Committee consisting of a chairperson who shall be a non-executive director and such other members as may be decided by the Board.

APPOINTMENT OF KEY MANAGERIAL PERSONNEL

As per [Section 203](#) and Rule 8 of [Companies \(Appointment and Remuneration of Managerial Personnel\) Rules, 2014](#)

Every listed company and every other public company having a paid-up share capital of ten crore rupees or more shall have whole-time key managerial personnel

SECRETARIAL AUDIT

As per [Section 204](#) of the Companies Act, 2013 and [Companies \(Appointment and Remuneration of Managerial Personnel\) Rules, 2014](#)

Every listed Company shall annex with its Board's report, a secretarial audit report, given by a company secretary in practice, in **form MR-3** and the Board shall explain in full in its Board report any qualification or observation made by the secretarial auditor.

Further, following Companies also have to comply with these provisions:-

- (a) every public company having a paid-up share capital of 50 crore rupees or more; or
- (b) every public company having a turnover of 250 crore rupees or more.

OTHER IMPACT AREAS:-

A. Notice of Board meeting:-

As per [Section 173](#) of the Companies Act, 2013 at least 7 days notice in writing is required to be given to every director of the company.

B. Quorum for Annual General Meeting

As per [Section 103](#) of the Companies Act, 2013 following shall be the quorum for all public Companies:-

S. No.	No. of Members	Quorum
1.	Upto 1000	5 Members
2.	Above 1000 upto 5000	15 Members
	Above 5000	30 members

C. Maximum Number of Directorships

As per [Section 165](#) no person, after the commencement of this Act, shall hold office as a director, including any alternate directorship, in more than 20 companies at the same time.

Provided that the maximum number of public companies in which a person can be appointed as a director shall not exceed 10.

For this purpose, holding or subsidiaries of private companies shall be taken as public.

Further a company may, by special resolution, specify any lesser number of companies in which a director of the company may act as directors.

(Author – CS DiveshGoyal, GOYAL DIVESH & ASSOCIATES Company Secretary in Practice from Delhi and can be contacted at csdiveshgoyal@gmail.com) Disclaimer: The entire contents of this document have been prepared on the basis of relevant provisions and as per the information existing at the time of the preparation. Though utmost efforts has made to provide authentic information, it is suggested that to have better understanding kindly cross-check the relevant sections, rules under the Companies Act, 2013. The observations of the author are personal view and the authors do not take responsibility of the same and this cannot be quoted before any authority without the written