

Procedure for Issue Equity Shares with Differential Voting Rights

1. Check whether the Articles of Association of the company authorizes issue of equity shares with differential rights and if not, then amend the Articles of Association of the company.
2. Hold the Board meeting to issue the notice of general meeting for issuance of equity share with differential rights along with the explanatory statement u/s 102 of the Act with the contents.
3. Before issuing equity shares with differential rights as to dividend, voting or otherwise, ensure the following:
 - (i) the shares with differential rights shall not exceed twenty-six percent of the total post-issue paid up equity share capital including equity shares with differential rights issued at any point of time;
 - (ii) the company has consistent track record of distributable profits for the last three years;
 - (iii) the company has not defaulted in filing financial statements and annual returns for three financial years immediately preceding the financial year in which it is decided to issue such shares;
 - (iv) the company has no subsisting default in the payment of a declared dividend to its shareholders or repayment of its matured deposits or redemption of its preference shares or debentures that have become due for redemption or payment of interest on such deposits or debentures or payment of dividend;
 - (v) the company has not defaulted in payment of the dividend on preference shares or repayment of any term loan from a public financial institution or State level financial institution or scheduled Bank that has become repayable or interest payable thereon or dues with respect to statutory payments relating to its employees to any authority or default in crediting the amount in Investor Education and Protection Fund to the Central Government;
 - (vi) the company has not been penalized by Court or Tribunal during the last three years of any offence under the Reserve Bank of India Act, 1934, the Securities and Exchange Board of India Act, 1992, the Securities Contracts Regulation Act, 1956, the Foreign Exchange Management Act, 1999 or any other special Act, under which such companies being regulated by sectoral regulators.
4. If the company is listed with any of the recognized stock exchange, then within 15 minutes of the closure of the aforesaid Board Meeting intimate to the concerned Stock Exchange about the decision taken at the Board Meeting.
5. Pass the ordinary resolution in the general meeting.
6. If the company is listed, then ensure it obtains the approval of its shareholders through postal ballot as per rule 22 of the Companies (Management and administration) Rules, 2014.
7. Once the company makes any allotment, then its shall, within 30 days thereafter, file with the Registrar a return allotment in Form PAS-3, along with the fees as specified in the Companies(Registration Offices and Fees) Rules, 2014.
8. The company shall not convert its existing equity share capital with voting rights into equity share capital carrying differential voting rights and vice-versa.

9. In case of listed company, forward three copies of the notice and a copy of the proceedings of the general meeting to the stock exchange.

10. Complete all other proceedings for the issue of certificate of shares with differential voting rights making necessary entries in various registers. In case of a company whose shares are dematerialized form, inform the depositories about the same for credit to the respective accounts.

11. Intimate the details of allotment of shares to the Depository immediately on allotment of such shares.

12. Maintain the Register of Members under section 88 containing all the relevant particulars of the shares so issued along with details of the shareholders.