

SECRETARIAL STANDARD ON NOTICE OF THE GENERAL MEETING UNDER COMPANIES ACT 2013 & SECRETARIAL STANDARD

SERIES NO

85

GOYAL DIVESH & ASSOCIATES
Practicing Company Secretary

*Notice of
General Meeting*

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BACKGROUND:

The Ministry of

Corporate Affairs (MCA) has issued circular Dated: 10th April 2015 vide Letter No. 1/E/2014/CA/I and same has been notified in official Gazette on 23rd April 2015. Secretarial standard has been applicable on Companies from 1st July, 2015.

After elaborate deliberations, the Institute of Company Secretaries of India (ICSI) has prepared these standards, which have been approved by the Corporate Affairs Ministry. Compliance with the strict rules -- that would help strengthen corporate governance practices and help curb corporate misdoings -- would be ensured by company secretaries.



This Standard seeks to prescribe a set of principles for the convening and conduction of General Meeting and matters relating thereto. This Standard also deals with conduct of e-voting and postal ballot.

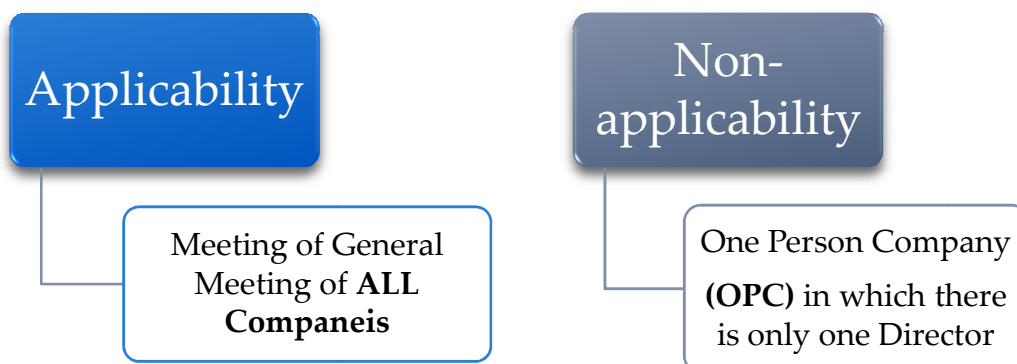
ICSI President Atul H Mehta today said these rules would lead to
"higher standard of corporate governance".

According to ICSI, these standards would help boost investor confidence, particularly fund managers and overseas investors.



Applicability & Non Applicability:

These Standards are applicable mutatis mutandis to meeting of debenture-holders and creditors.



Disclaimer:

A Meeting of the Members or class of Members or debenture-holders or creditors of a Company under the direction of the Court or the Company Law Board (CLB) or the National Company Law Tribunal (NCLT) or any other prescribed authority shall be governed by this Standard without prejudice to any rules, regulations and directions prescribed for and orders of, such courts, judicial forums and other authorities with respect to the conduct of such meeting.

SOME IMPORTANT DEFINITIONS:

CHAIRMAN	Chairman of the Board or its Committee, as the case may be, or The Chairman appointed or elected for a Meeting.
CALENDAR YEAR	Calendar year as per Gregorian calendar i.e. a period of one year which begins on 1st January and ends on 31st December
MAINTENANCE	Keeping of registers and records either in physical or electronic form , as may be permitted under any law for the time being in force, and includes the making of appropriate entries therein, the authentication of such entries and the preservation of such physical or electronic records
MINUTES	A formal written record, in physical or electronic form , of the proceedings of a Meeting
MINUTES BOOK	A Book maintained in physical or in electronic form for the purpose of recording of Minutes.
ORDINARY BUSINESS	Means business to be transacted at an Annual General Meeting: a) The consideration of Financial Statement, consolidated financial statement, if any. b) The declaration of any dividend c) The appointment of Director in the place of those retiring d) The appointment or ratification thereof and fixing of remuneration of the Auditors.
REMOTE E-VOTING	The facility of casting votes by a member using an electronic voting system from a place other than venue of a General Meeting.
NATIONAL HOLIDAY	Republic Day i.e. 26th January, Independence Day i.e. 15th August,

Gandhi Jayanti i.e. 2nd October and
Such other day as may be declared as National Holiday by the Central Government.

Important Note:

- ❖ Calendar Year is 1st January and ends on 31st December
- ❖ Registers and Records are permitted to maintain in "ELECTRONIC FORM".
- ❖ Minutes and Minutes Book are permitted to maintain in "ELECTRONIC FORM".
- ❖ National Holidays are defined.

PROVISIONS RELATING TO NOTICE OF GENERAL MEETING;

A. Persons to whom Notice will be Sent:

Notice in writing of every General Meeting shall be given to:

- Every Member
- Every Directors
- Statutory Auditor
- Secretarial Auditor
- Debenture trustee, if any.
- Whenever applicable or so required, to other specified persons.

TO WHOM

B. Address at which Notice will be Sent:

ADDRESS

PERSON WHO IS ENTITLED TO RECEIVE NOTICE	ADDRESS AT WHICH NOTICE SHALL BE SEND
In case of Members	Notice shall be given at the address registered with the Company or depository.
In case of shares or other securities held <u>Jointly</u> by two or more persons.	Notice shall be given to the person whose name appears first as per records of the Company or the depository.
In case of Director	At the email address provided by them to Company, if being sent by electronic

	means.
In case of Statutory Auditor	At the email address provided by them to Company
In case of Secretarial Auditor	At the email address provided by them to Company
In case of any other person who is entitled to receive Notice	The same shall be given to such person at the address provided by him.

C. Modes of Sending of Notice:

- By hand or By Speed Post or by Registered Post or
- By Courier or by facsimile or By Email or by any other electronic mode.

Note:

- Company will maintain record of “proof of sending” and “proof of Receipt of Notice”
- **If Member Request:** If a member requests for delivery of Notice through a particular mode, other than one of those listed above, he shall **pay such fees** as may be determined by the company in its Annual General Meeting and the Notice shall be sent to him in such mode.

D. Disclosure on Website:

WEBSITE

- If Company having website, the Notice shall be hosted on the website.
- Route map shall be hosted along with the notice on the website.

E. Time Period for Calling of Notice:

TIME

Notice convening a Meeting and accompanying documents shall be given **at least TWENTY ONE clear days before the date of the Meeting**, unless the Articles prescribe a longer period.

In case the company sends the Notice by **Speed Post** or by registered post or by courier, **An Additional Two Days Shall be Added** for the service of Notice.

Note:

Twenty One Clear Days: For the purpose of reckoning 21 clear days notice, the day of sending of the Notice and the day of Meeting shall not be counted

F. Notice of General Meeting In case of DEATH of Member:

DEATH OF MEMBER

Where the company has received intimation of death of member, the Notice of Meeting shall be sent as under

Where the securities held <u>Singly</u>	To the Nominee of the Single Holder
Where securities are held by more than one person <u>Jointly and any Joint Holder Dies</u>	To the surviving First Joint Holder
Where securities are held by more than one person <u>Jointly and all the Joint Holder Dies</u>	To the nominee appointed by the Joint Holders.
In case of absence of Nominee	Notice will be sent to the legal representative of the deceased Member.
In case of insolvency of a Member	The Notice shall be sent to the assignee of the insolvent Member.
In case the Member is a Company or body corporate which is being wound up	Notice shall be sent to the Liquidator.

G. Place of holding of General Meeting:

PLACE

- i. **Annual General Meeting:**
 - Registered Office of the Company; or
 - Some other place within city, town or village in which the registered office of the Company is situated.
- ii. **Extra Ordinary General Meeting:**
 - Any PLACE in INDIA.
- iii. **General Meeting called by Requisitionists:**
 - Registered office of the Company or
 - At some other place within the city, town or village in which the registered office of the Company is situated.

Contact On csdiveshgoyal@gmail.com For Any Query Or Question Or Suggestions

H. Particular of Notice:

The Notice shall include the followings:

- Complete particulars of 'VENUE' of Meeting
- Route Map of Location of Meeting
- Prominent Land Mark of Location of Meeting
- Day, Date and Time of Meeting
- Notice shall clearly specify the nature of the Meeting and the business to be transacted thereat

PARTICULAR

RESOLUTIONS:

Special Business: In case of Special Business in Notice of General Meeting

- Each such item shall be in the form of Resolution.
- Shall be accompanied by an explanatory statement which shall set out all such facts as would enable a member to understand the meaning, scope and implication of the item of business and to take a decision thereon.

RESOLUTION

Ordinary Business: In case of Ordinary Business in Notice of General Meeting

- Resolution are not required to be stated in the Notice **EXCEPT**
 - Where the auditors or Directors to be appointed are other than the retiring Auditors or Directors, as the case may be.

DOX ACCOMPANIES WITH NOTICE:

- Attendance Slip
- Proxy Form
- Clear instruction for filing, stamping, signing and/or depositing the proxy form.

DOX ACCOMPANIED

I. Calling of General Meeting by Shorter Notice:

Notice and accompanying documents may be given at a shorter period of time if consent in writing is given

SHORTER NOTICE

Thereeto, by physical or electronic means, by not less than **95% (Ninety Five Percent)** of the Members entitled to vote at such meeting.

Note:

- *While sending the Notice of General Meeting *a copy of request for consenting the Shorter Notice shall be sent together.*
- The Meeting shall be held on shorter notice only if the consent is received prior to the date fixed for the Meeting from not less than 95% of the members entitled to vote at such Meeting.

J. Provision for postpone or cancellation of Meeting:

- If for any reason beyond the control of the Board, a Meeting can't be held on the date originally fixed, the Board may reconvene the Meeting.
- To transact the same business as specified in the original Notice.
- After giving not less than three days intimation to the Members.
- The intimation shall be either sent individually in the manner stated in this Standard or published in vernacular newspaper in the principal vernacular language of the district in which registered office of the Company is situated and in English newspaper language, both having a wide circulation in that district.

K. Explanatory Statement:

- i. ***Nature of Concern & Interest:*** The nature of the concern or interest (financial or otherwise), if any, of the following persons, in any Special Item of business or in a proposed Resolution, shall be disclosed in the explanatory statement:
 - a) Directors and Manager
 - b) Other Key Managerial Personnel; and
 - c) Relatives of the Persons mentioned above.
- ii. ***Document:***
 - Where reference is made to any document, contract, agreement, the Memorandum of Association or Article of Association,
 - the relevant explanatory statement shall state that such documents are available for inspection and

- such documents shall be so made available for inspection in physical or in electronic form during specified business hours at the registered office of the company and
 - copies thereof shall also be made available for inspection in physical or electronic form at the Head Office as well as corporate office of the company, if any, if such office is situated elsewhere, and also at a meeting.
- iii. ***Appointment or Reappointment of Director:*** In all cases relating to the Appointment or re-appointment of director and/or fixation of remuneration of Directors following below mention details required to be given in explanatory Statement:
- Details of each Such Director
 - Age, Qualification and Experience
 - Terms and conditions of appointment or re-appointment
 - Details of remuneration sought to be paid
 - Remuneration last drawn by such person,
 - Date of first appointment on the Board
 - Shareholding in the Company
 - Relationship with the Company
 - The number of Meetings of the Board attended during the year
 - Other Directorship/ Membership/
 - Chairmanship of Committee of other boards.

Important Note:

- i. If company fails to send notice in accordance with the Standard '***No business shall be transact at the Meeting.***
- ii. A ***resolution shall be valid*** only if is passed in respect of an item of 'business contained in the Notice convening the Meeting' or 'it is specifically permitted under the Act'.
- iii. A meeting convened upon due notice shall not be postponed or cancelled.



- iv. *Amendment to the Notice:*** Any amendment to the Notice, including the addition of any item of business, can be made provided the Notice of amendment is given to all persons entitled to receive the Notice of the Meeting at least 21 clear days before the Meeting.
- v. *If notice sent through Email:*** The company shall ensure that it uses a system which produces confirmation of the total number of recipients e-mailed and a record of each recipient to whom the Notice has been sent and copy of such record and any Notices of any failed transmissions and subsequent resending shall be retained by or on behalf of the Company as "proof of Sending".
- vi. *Proxy:*** Notice of Company shall prominently contain a statement that a member entitled to attend and vote is entitled to appoint a proxy. Proxy need not to be member.
- vii. *Day of calling of Meeting:***
- Meeting can be holding any day *other than National Holiday.*
 - Meeting called by Requisitionists can be convened *only on Working Day.*
- viii. *Item Specifically permitted under the Act:***
- a) Proposed Resolutions, the notice of which has been given by Members;
 - b) Resolutions requiring special notice, if received with the intention to move;
 - c) Candidature for Directorship, if any such notice has been received.
- ***Special Notice:*** In case of valid Special Notice under the Act has been received from Members(s)
- The Company shall give Notice of the Resolution to all its members at least 7 days before the Meeting, exclusive of the day of dispatch of Notice and day of the Meeting.
 - In same manner as a notice of any General Meeting is to be given.

- Where its not practicable, the Notice shall be published in a vernacular newspaper in the principal vernacular language of the district in which registered office of the Company is situated, an in an English newspaper, in English language, both having a wide circulation in that district, at least 7 days before the Meeting, exclusive of the day of publication of the Notice and day of the meeting.
- In case of Companies having website, such notice shall be hosted on the website.

ix. Documents required sending along with Notice of Annual General Meeting:

<i>S. No.</i>	<i>Name of Document</i>
1.	Proxy Form
2.	Attendance Slip
3.	Request for consenting shorter Notice, if any
4.	Directors' Report
5.	Balance Sheet
6.	Profit & Loss Account
7.	Cash flow Statement
8.	Auditors' Report

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