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Introduction

A company is an artificial person established under Law. The management and administration of the company is conducted in a democratic manner. Shareholders are authorised to take a decision for the smooth running of business in a company. All the members of a company maybe unable to remain present for routine functions of the company, so for management of the company Directors are appointed by the shareholders by majority decision.

It is mandatory to call the first general meeting as soon as a newly established company starts functioning. If the company has issued debentures then it is necessary to call the meeting of debenture holders for the safeguards of their

interests. Even at the time of dissolution of the company, it is necessary to call a meeting for discussion and taking decisions on various issues. Thus, after the establishment of company, meetings are very important for routine work, annual performance, strategic decision making etc.

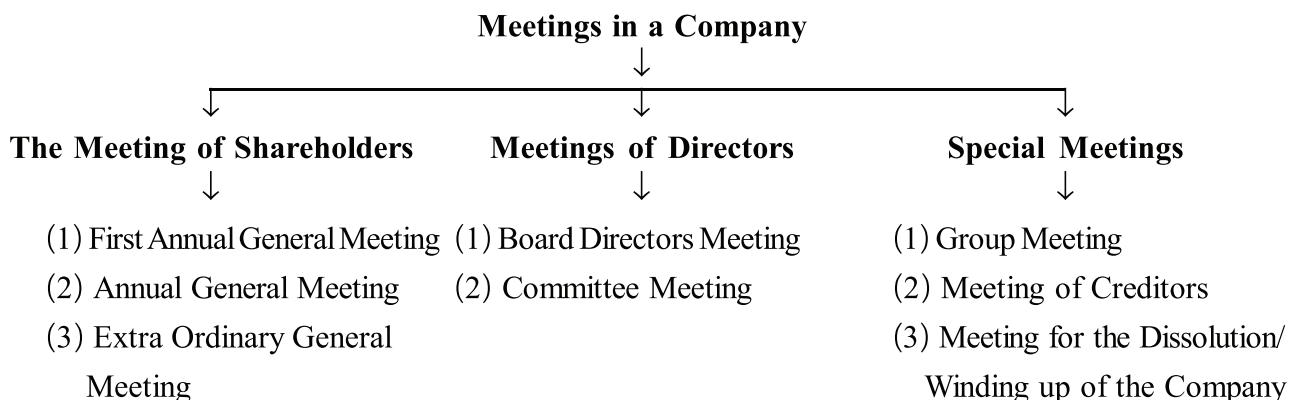
6.1 Meaning

Meeting means ‘When two or more persons meet at one place together, discuss any issue and arrive at a common decision.’

Formal and informal meetings of members are called to discuss various issues and take decisions. Formal meetings are called at a particular date, time, place for issues / agendas for discussions and decisions.

6.2 Types of Company Meetings

Various types of meetings of a company which can be described as under :



6.2.1 The Meeting of Shareholders : Shareholders of a Company are the real owners of a company, so their meetings are important. Various provisions are prescribed for, in The Companies Act 2013. The various meeting of share holders are as below :

(1) First Annual General Meeting - (FAGM) : A public company limited, by shares, has to call this meeting after obtaining the certificate of incorporation of business. The company has to conduct the meeting within 9 months of the completion of its first financial year. If not, the concerned officer is liable for punishment.

(2) Annual General Meeting - (AGM) : According to the provisions of The Companies Act, it is mandatory for public and private companies to organize an Annual General Meeting once in a year. There should not be a gap of more than 15 months between two annual general meetings. The meeting should be convened during working hours at the Company's registered office.

The decisions regarding following matters are taken in an annual general meeting :

- (1) The annual accounts, the reports of the directors and the reports of the auditors should be presented.
- (2) To declare dividend
- (3) To appoint new directors in place of retiring directors.
- (4) To Appoint auditors and to fix their remuneration.
- (5) Other matters which are proposed by the Chairman.

(3) Extra-Ordinary General Meeting - (EGM) : There is a provision mentioned for this purpose in the Companies Act-2013. The Board of Directors can call this meeting in following circumstances :

(1) A demand by the shareholders of the company, holding, not less than 1/10 share capital of the company.

(2) For a company which does not have share capital, a demand not less 1/10 of the members having voting right.

6.2.2 Meetings of Directors : Meetings of the Directors are organized for the management of the company, which consists the meeting of Board of Directors and meetings of the committees constituted for the various functions of the company.

(1) Board Meetings : The Board of Directors, in the affairs of the company, means a united unit of the directors of the company. They manage the functions of the company and possess control over the administration of the company. The first meeting of the board of directors should be called within 30 days from the date of incorporation. Atleast four meetings should be organized in one year. The quorum for the meetings of the Board of Directors is considered 1/3rd of the total directors or two directors. (Whichever number is higher between these). In modern times, due to availability of technological devices the directors can attend the meeting through video conference or any audio-visual device and participate in the proceedings of the meeting. The directors discuss various issues and take decisions through resolutions passed by the majority.

(2) Committee Meetings : Various committees are constituted for various functions i.e. the committee for sale and purchase, financial committee, export committee, committee for legal matters, monitoring committee etc. Committees organize meetings as per the duties delegated to them and as per their convenience. Members of the committee discuss issues related to the matters and take decisions in the interest of the company.

6.2.3 Special Meetings : Special meetings are organized in the company for the specific functions of the company as under :

(1) The Class Meeting : The company issues the different types of shares. The rights and privileges of different share holders are prescribed in the Articles of Association. According to this provision the meetings of the different groups can be organized which comprise : (i) The meeting of Directors (ii) The meeting of debentures holders (iii) The meeting of the creditors for the settlement with them (iv) The meeting of the share holders of unpaid instalments and of other groups.

These meetings are organized for the safe guard of the interest of the concerned group, so that the strategic decisions can be taken with transparency.

(2) Creditors' Meeting : This type of meeting is organized for settlements with the creditors. Whenever a creditor applies to court for the settlement or, the court orders to organize a meeting of the creditors, then, this type of meeting is organized.

(3) The Meeting at the Time of Dissolution of the Company : At the time of compulsory dissolution of company, the competent officer for dissolution may organise a number of meetings as per his discretion. Meetings of the creditors and share holders whose instalment are due for payment, are organised decisions taken after discussion on various issues.

Specific Words Used at the Time of Organization of Meeting : Different kinds of words are used at the time of the organization of different types of meeting, which may be listed as under :

- Notice for the meeting
- Quorum for the meeting
- Minutes book of the meeting
- Proxy Voting
- Agenda for the meeting
- Chairman of the meeting
- Voting
- Proposals and Resolutions.

The above words can be discussed as under :

6.3 Notice of the Meeting

Meaning : A notice means a written circular provided to the members, Directors or any other person required to be present in the meeting.

Objectives :

- (1) To provide primary information regarding the meeting.
- (2) The members can decide whether they should remain present or not in the meeting.
- (3) To provide agenda.
- (4) The member can decide to vote in favour or against the resolution.
- (5) To provide reasonable time.

The Duration of Notice : It is necessary for a company to issue a notice to the members 21 days before organizing a meeting. A notice can be issued in writing or through any 'Electronic Media'.

The Details of the Notice : The company should mention the following details in the notice of meeting :

- (1) The date and day of the meeting
- (2) Venue of the meeting
- (3) Time of the meeting
- (4) Agenda of the meeting

The Powers to Issue Notice : The directors of the company have power to issue notice regarding a meeting. Whenever the Secretary of the Company issues a notice, he has to mention. By orders of Board of Directors. If the power are assigned to the managing director of the company then he himself can issue the notice. If the Company Law Board or the Central Government call the meeting then the concerned officer can issue notice on their behalf.

The Notice of the Meeting Should be Issued to Whom, Where and How ? :

Notice to Whom ? :

- (1) Every member of the meeting is solvent member or the legal representative of the deceased member.
- (2) The auditors of the company, every director and auditors of subsidiary company.
- (3) Any person who has right to receive such notice.
- (4) If the shares are owned in a joint name, then, the first member of the share.

Where is the Notice sent to ?

- (1) It is sent to the registered address of shareholder as mentioned in Company's Registered Office.
- (2) Notice can be delivered by hand.

How is the notice served ?

- (1) By post
- (2) By advertisement as public notice in local newspaper.

The duties of the Secretary regarding notice of the meeting :

- (1) To send the notice 21 days prior to the meeting to the eligible members.
- (2) To prepare a specimen of the notice of the meeting.
- (3) To send the report of the general meeting with the notice.
- (4) To enclose a copy of annual accounts, auditors' report, chairman's statement, directors' report, copy of the chairman's speech etc.
- (5) To send an explanatory statement with the notice for extraordinary general meeting.
- (6) To prepare the list of functions which are to be carried out with the approval of shareholders proposal of resolution.
- (7) Any other matter proposed by the chairman.

6.4 Agenda

Meaning : The list of the functions to be conducted at a meeting, is called the agenda. That means an agenda indicates the serial numbers of the proposed functions which are to be conducted at a meeting.

Objectives : The company sends a notice to the members for a meeting, along with agenda so that the members are aware of what the purpose of the meeting is. The members can discuss their opinions, so that the proceedings of the meeting can be completed easily. It also ensures that all topics are covered in the meeting and repetitions are avoided.

Importance :

- (1) Work should be conducted as per the scheduled agenda
- (2) Work should be conducted serialwise. Hence the associated works can be co-ordinated.
- (3) During the meeting the chairman and secretary record their notes in the agenda.

The Duties of the Secretary :

- (1) To prepare the agenda after a discussion with the Board of Directors of the company.
- (2) To decide the procedure of agenda.
- (3) To record the proceedings while the meeting is being conducted.
- (4) To draw the attention of the quorum regarding important issues.
- (5) To draw the attention of legal aspects for the meeting.
- (6) To make and arrange the seating arrangement for members. He has to provide the details of the agenda if asked by any member, and obtain the signatures of the present members. He has to draw the final resolution by making the necessary amendments in the contents and also obtain the approval of the house
- (7) Convey thanks to the members

6.5 Quorum for the Meeting

Meaning : The presence of a minimum numbers of members for a meeting is required for the legal validation of the meeting. The specified number of the members is considered as the quorum for the meeting and has a legal impact.

However, in the modern times due to advanced technology of computer, internet, the presence of the directors through the video conference or audio visual media is considered as their physical presence and treated as completion of the required quorum.

Importance : In every meeting, the presence of minimum members required is mandatory, falling which the meeting is not considered as legally held and the meeting should be adjourned immediately.

(i) For a Public Limited Company : If the number of the shareholders does not exceed 1000 then the presence of 5 members will be considered as quorum. If the number of shareholder is between 1001 to 5000, then the presence of 15 members will be considered as quorum. If the number of shareholders exceeds 5001 then the presence of 30 members will be considered as quorum.

(ii) For a Private Limited Company : The presence of two members will be considered as quorum

(iii) If an adjourned meeting is reconvened and the required quorum is not reached even after 30 minutes of the time specified in the notice, then present members can be considered as quorum and the meeting can be conducted with the approval of the Board of Directors.

(iv) The above provisions are not applicable to the company headed by only one person.

6.6 Chairman of Meetings

Meaning : The person selected by the members to conduct the proceedings and management of the meeting known as chairman.

The Appointment of the Chairman for the Meeting : The chairman is appointed by the members to conduct the proceedings of the meeting. A meeting held without a chairman is considered to be illegal and hence it is mandatory to appoint one. Generally the head of the directors conduct work as chairman of the meeting. The chairman holds the management of the meeting.

The chairman has to ensure that the functions of agenda should be conducted properly according to agenda and the decisions should be taken after proper discussion and debates and the resolutions should be passed in a proper manner.

If any director is not willing to work as chairman or any director does not appear within 15 minutes after prescribed time, then, present members may select any one amongst them as chairman.

Thus he has to play an important role. The above provisions however do not apply to the a single person company.

Qualifications : A chairman is the leader of the meeting. He has to conduct the meeting with due care, has to monitor that the proceedings should be conducted as per agenda and resolutions be passed accordingly. Therefore, he must possess sufficient experience of conducting of meeting. He must possess some basic qualities that are as under :

(1) He should have knowledge of the rights and duties of the chairman

(2) He should have practical experience of conducting the proceedings of the meeting

(3) He should have sufficient legal knowledge of the company laws and Articles of Association of The Companies Act.

(4) He should be able to handle the situation at times of conflict and tension which may arise at the meeting.

(5) Effective personality.

(6) The knowledge of Economics, Company, Progress, Development and Trade

The Powers of Chairman : The powers delegated to the chairman to conduct the proceedings of the meeting, are as under :

(1) He is authorized to provide sufficient time to members for representation on important issues and has to make a schedule of this.

- (2) To expel any person who remains present in the meeting without proper authorisation.
- (3) Whenever a member represents the facts on any issue and if at that time other members object or criticise him or create disturbances, then the chairman has to find the truth and take final decision.
- (4) If any member uses non parliamentary language or behaves in an uncivilized manner, then the chairman will warn him and if the person does not change his behavior then the chairman can expel that person from the meeting.
- (5) He has authority to remove illegal, improper and false facts from the records.
- (6) If members behave in an improper manner, create obstacles in the meeting or create conflicts, then the chairman has the authority to adjourn the meeting.
- (7) If voting to be held on any issue and after the voting there are equal votes in the favour or against the chairman may use his casting vote.

The Duties of Chairman : There are certain duties of the chairman for conducting meetings fairly.

- (1) To monitor that the proceeding of the meeting should be conducted in a peaceful manner.
- (2) He has to verify the quorum of the meeting.
- (3) The proceedings of the meeting should be conducted as per agenda and the completion of work should be ensured.
- (4) It is the duty of the chairman to allow every member to speak without any bias.
- (5) To consider the opinion of the minority members.
- (6) It is his duty conduct voting in the meeting if necessary.
- (7) Chairman should use his casting vote very carefully and then declare the result.

6.7 The Minutes Book

Meaning : Minutes book means writing of proceeding, decisions in a proper and systematic manner.

According to The Companies Laws companies have to keep and maintain the details of every type of meeting (e.g. General meeting, Special meeting, meeting of the directors, meeting of the shareholder). The Minutes book is a written evidence of the discussion and resolutions passed in a meeting. The company secretary prepares the minute book as per the agenda of the meeting after the completion of the proceedings. The presence of the members is also evident from the Minutes book.

Objectives :

- (1) To obtain the information of the present members in the meeting.
- (2) To obtain the information regarding the proposals, discussion, decisions and resolutions passed during the meeting.
- (3) Written evidence for future reference
- (4) It highlights the presentations of the Chairman

Details to be Included in the Minutes Book :

- (1) The date, time type and venue of the meeting
- (2) The name and designations of the directors/ members who remained present at the meeting.
- (3) The appointment of any officer in the meeting.
- (4) The names of the members who had supported the resolution passed during the meeting.
- (5) Name of the members who have opposed the resolution in the meeting.
- (6) The proceeding of the meeting as stated by the chairman.

6.8 Voting

According to the Indian company law it is necessary that the decisions and resolutions be passed by a majority of the members, So it is necessary to know the opinions of the members on a particular issues. Voting is conducted to know the opinion of the members, so it can be sorted out that how many members favour and how many oppose the decision/resolutions. Chairman can take final decisions.

The Members who possess the right to vote are allowed to participate in the voting. Voting is conducted by the following methods :

- | | |
|----------------------------|--|
| (1) Voting by show of hand | (2) By vocal/voice |
| (3) Voting by Poll | (4) Voting by electronic machines |
| (5) Voting by postal votes | (6) The voting by division of the assembly |

Restriction on Voting Rights : The company may put a restriction on the voting right of any member, as per Articles of Association, under the following circumstances :

- (1) A shareholder who has not deposited instalment which is due to him.
- (2) If the company has a lien on the shares of the share holder in such circumstances the company can restrict the right of voting.

6.9 Proxy

Meaning : All the share holders of the company cannot remain present in every meeting of the company so they may delegate the right to vote, in writing, to a third person remaining present at the meeting to cast the vote. Such a person is called the representative or proxy.

It is not necessary that the person who is appointed as proxy should be a member of the company. The proxy has no right to speak anything in the meeting but participate in voting by poll.

Objective : If the member or shareholder is unable to remain present in the meeting then he can appoint any person as his representative who can cast the vote on his behalf.

The Important Provisions of the Companies Law : A member who is entitled to remain present in the meeting can appoint another person as a proxy under the following provisions :

- (1) The proxy has no right to speak in the meeting but can cast his vote by poll voting.
- (2) The person who is appointed as proxy can work on behalf of the members which should not be more than 50 members.
- (3) A shareholder has to appoint a proxy 48 hours before the time of meeting and submit the form with necessary documents.
- (4) A minor person cannot be appointed a proxy.
- (5) The above provisions are not applicable to as Single Person company.

The Duties of the Secretary Regarding Proxy :

- (1) To collect the forms of proxy and examine them.
- (2) The date of receipt, time, venue, stamp, signature and the legality of the member should be examined by him.
- (3) To prepare the list of proxies in which the details such as the name of the member, the name of the proxy, number of shares held, number of votes etc should be recorded in the list.
- (4) To cancel the form of proxy if it is not received within the prescribed time.
- (5) He has to monitor that the proxy utilizes his legal right according to the rules and Articles of Association.

6.10. Motion and Resolution

Meaning : A matter produced before a meeting for discussion between members, is known as proposal/motion.

When a proposal is presented before the meeting for discussion and debate then the members of the meeting express their opinion and views regarding that proposal. A thorough discussion is conducted on the proposal. The proposal is passed as it was presented or with amendment by the majority of the members is known as resolution. Thus, when members approve a proposal then it becomes a resolution.

Thus, a member can present a proposal and other members provide support to proposal.

There may be different proposals in the notice of the meeting. The chairman can present a proposal during the meeting. No prior intimation or notice is required for such proposal.

Amendments in Motion : The proposals that are presented in the meeting, can be amended. Changes, additions and amendments can be made in the proposal presented in a meeting. The changes can be : (1) a word can be added (2) a word or sentence can be removed (3) the serial number of word or sentence may be changed (4) a word may be rewritten (5) the place of words may be changed etc.

This can be done during the proceedings of the meeting. An amendment once made cannot be changed without the permission of the meeting. It is important that the amendments in the proposal should be consistent to the original proposal. It should not transform the original proposal completely or turn it complete opposite to the original.

Types of Resolutions :

(1) Ordinary Resolutions :

Meaning : The resolution which is passed by a simple majority during a meeting is known as ordinary resolution.

The Ordinary Resolution Means : (i) The Notice should be issued as per provisions of The Companies Laws. (ii) The resolution should be passed by show of hand, by vocal voting or by electronic machine voting. (iii) If it is necessary the decision is taken after the vote of the chairman is cast (iv) The ordinary resolution may be passed by the voting of absent members by proxy vote or postal vote. (v) A resolution that has more than 51% of votes in favour is known as ordinary resolution. It is not compulsory to register such resolution with a Registrar.

Objectives : The objectives of the ordinary resolutions are as under :

- (1) To approve the annual accounts and reports of the directors of the company.
- (2) For the change in the name of the company, with the prior permission from the Central Government.
- (3) For amendments in terms and conditions of the agreements as notified in the prospectus.
- (4) For the election of the members of the Directors of the company.
- (5) For the declaration of recommended dividend.
- (6) For the appointment of the auditor and to fix his remuneration.
- (7) Reappointment of the retired directors.
- (8) To select directors other than retired director.

(2) Special Resolution :

Special Resolution : (i) Notice should be issued to members as per the provisions of The Company Laws and Articles of Association. (ii) A notice for ordinary resolution may include a special resolution, converted from an ordinary resolution. However a clarification has to be enclosed. (iii) There should be a majority of 75% to pass a special resolution. (iv) It is mandatory to register special resolution with the Registrar of the Company, or the concerned officer may have to face penal consequences.

Objectives :

- (1) For the change in the name or the purpose of the company with the permission of the Central Government.
- (2) For the amendment in the Articles of Association of the company

- (3) For shifting the registered office of the company from one state to another.
- (4) For the amendment in the Memorandum of Association of the Company, subject to the approval of a Tribunal.
- (5) The company which conducts works of public benefits, public welfare and is authorized by the Central Government to conduct such works can delete the word private/limited from the name of the company.
- (6) For creation of reserve funds.
- (7) For reduction in the share capital and for the change in the right of the share holders.
- (8) To bestow a profitable post to a director of the company.
- (9) For the appointment of an officer to examine the management of the company.
- (10) To remove the Managing Director from the post.
- (11) For passing a resolution for the winding up of the company by the order of tribunal.

The Difference between Ordinary Resolution and Special Resolution :

Sr.	Points	Ordinary Resolution	Special Resolution
(1)	Meaning	Ordinary resolution is passed with a simple majority (51%) in the meeting.	75% majority is required to pass the special resolution.
(2)	Objectives	These resolution are passed for approval of annual accounts, recommendation for dividend, appointment of auditor and his remuneration and other works.	For the amendment in the Articles of Association/ Memorandum of Association for the winding up of the company, for the appointment of liquidator and other important matters.
(3)	Necessity	The ordinary resolution is passed for the daily routine work of the company.	A special resolution is passed for the specific policy matter/ important decisions.
(4)	Notice	It is not necessary to mention ordinary resolution.	It is necessary to mention in the notice regarding the special resolution.
(5)	Registration	It is not necessary to register with the Registrar of company.	It is mandatory to register with the Register of company.

(3) The Resolutions Passed by the Board of Directors : All resolutions passed during the meeting of the directors are deemed as ordinary resolutions. The attorney/ legal advisor of the company prepares the resolution in advance. These types of resolutions are passed with a simple majority. In addition, if it necessary to pass special resolutions with specific majority then the resolutions are passed accordingly.

What you have learnt in the chapter

The company is a artificial person having an existence according to law. It is necessary that the administration and the management should be conducted in the democratic manner. The secretary of the company arranges the meeting of Directors. The details regarding the meeting of the company are discussed in Section 96 to 122 in the Companies Law 2013

Meaning : A meeting means where two or more persons meet together at one place, discuss about any issue and decide on any issue with the unanimous consent. The legal or nonlegal meeting of the members is called for the members and the discussion is conducted between them and the decisions are taken. A meeting is organised at the proper place, date and time with a proper agenda for the discussion.

Types of the Meeting of a Company :

(A) The Meeting of the Share Holders : (1) First Annual General Meeting (2) Annual General Meeting (AGM) (3) Extra Ordinary General Meeting (EGM)

(B) The Meeting of Directors : (1) The Board of Directors meeting (2) Meeting of Committee.

(C) Special Meeting : (1) Group Meeting (2) Meeting of Creditors (3) The meeting for winding up of the Company.

Various Words Used in the Meeting : The notice of the meeting, the list of works of the meeting i.e. agenda, the quorum of the meeting the chairman of the meeting, minutes book, voting, proxy voting, proposal and resolution etc.

Notice of the Meeting : The information to remain present in the meeting to the member or director or any other person is known as notice of the meeting. This notice should be sent 21 days before the meeting, in writing.

Objectives : To provide the primary information of the meeting, the presence of the members, the agenda of the meeting, to vote in favour or in opposition, to provide time for the discussion on different issues.

Details : Information regarding the time, date, place, agenda, information for the examination of documents with time and place for examination.

The directors of the company have power to issue notice for meeting.

To Whom ? : To every member of the meeting, the heir of the deceased member, auditors of the company, all persons entitled to get the notice, in case of joint holding the notice should be sent to the first name holder.

Where ? : At the address of the members as is notified in the registered office of the company.

How it Should be Sent ? : By post, hand delivery, by publishing in the daily news paper under the head of 'Public Notice'.

The Duties of Secretary : To issue the notice 21 days before the meeting, to prepare the specimen of the notice and send enclosures, the content of the agenda should be sent, to conduct the proceeding as instructed by the chairman.

Agenda :

Meaning : The functions which are to be conducted in the meeting is called agenda, it states serial number of the proposed function.

Objectives : To inform the functions of the meeting. So the members discuss their opinions.

Importance : Work should be conducted as per the schedule agenda, conduct serial wise functions, co-ordinate functions, maintain record as per agenda.

Duties of the Secretary : Prepare agenda as per discussion with management, record the proceedings of the meeting, to draw attention to legal position in the meeting, seating arrangement and to obtain the signature of the present members.

Quorum :

Meaning : The presence of a certain number of members from the starting to the completion of a meeting to maintain the legal validity of the proceeding of the meeting is known as quorum. In today's advanced era of technology, the presence of Director by video conference or other audio visual devices is deemed as presence and considered as quorum.

Importance : The minimum number of members should be present in a meeting so the proceeding of the meeting can be deemed legal and valid.

With Respect to a Public Limited Company : If on the date of meeting the company has 1000 shareholders then the presence of 5 members should be considered as quorum, 15 members will constitute quorum if total shareholders is from 1001 to 5000, 39 members constitute quorum if the total shareholders exceed 5001.

With Respect to a Private Limited Company : The presence of 2 members will be considered a quorum. The above provisions do not apply to a single person company.

Chairman :

Meaning : The person appointed by the member for conducting of the proceedings of a meeting is known as chairman.

Importance : If no person is appointed as chairman then the meeting is not considered legal. The chairman conducts the proceeding of the meeting peacefully and impartially.

Qualifications : A person should be able to conduct a meeting in accordance with the agenda and ensure that proper discussions take place before proper resolutions are passed. He should have knowledge of the rights, duties and responsibilities of a Chairman; knowledge of law and the capability to handle stressful situations.

Qualities : He should possess a powerful personality, impartial, judicious, neutral, humble, firm enough to take decisions, excellent speech, passion, intelligence, humorous, able to take administrative decisions and other qualities of leadership.

The Powers of a Chairman : To provide opportunity for representation to every member, to expel any person from the meeting if he behaves improperly, find out the truth from objections, criticism, not allow to use bad language, to remove the illegal aspects from the records, abusive conduct, voting on any issue and at the instance of a tie during the voting, he should cast his conclusive vote with due care.

The Duties of a Chairman : To conduct the proceeding of meeting in a peaceful atmosphere, send notices as per the rules, observe the quorum, provide opportunity to every member for representation, consider the opinion of the majority members, produce the proposals in proper manner, notify the resolutions, obtain signatures over the minutes book, at the time of tie during the voting cast his conclusive vote with due care, conduct the proceeding impartially and neutrally.

Minutes Book :

Meaning : It is the written notes of the proceedings of a meeting. According to the provisions of the Companies Law every company has to maintain its minutes book in a proper manner, the minutes book is a written evidence of the proposals and resolutions of the meeting. The secretary of the company prepares the Minutes book.

Objectives : To record the details of members present in the meeting, the representations done in the meeting, information of the proposals, discussions, and resolutions. It is written evidence. Various legal provisions are described in the Companies Law regarding this.

Details Included in the Minute Book : Date, time, place, type and nature of the meeting, names and designations of the members who remained present, the names of the members who favoured or opposed any issue.

Voting :

Meaning : As per the Companies Law, all decisions and resolutions have to be passed by a majority. Voting is conducted to know the views of the members on any issue. The votes may be cast in favour or opposition the motion and after counting the result is declared.

Different Procedures of Voting : (1) By raising hands (2) by voice i.e. vocal voting (3) Voting by poll (4) Voting by electronic machine (5) Postal vote (6) voting by division of the assembly.

Restrictions for Voting : If a share holder has not paid the instalment of share to vote or the company holds any shares as lien of a share holder, then he may be restricted to vote.

Proxy (Representative of Share Holder) :

Meaning : Every share holder cannot remain present at every meeting. So sometimes, shareholders appoint any other person as their representative and delegate the authority for the presence and casting a vote, this person is known as proxy of the share holder. The proxy is not authorised to debate in the meeting but he has right to cast a vote.

Objectives : If a person is unable to remain present at the meeting, he can appoint another person as his representative who can participate in the voting. The above provisions do not apply to the company having only one person as member.

Duties of the Secretary : To collect the proxy forms, examine and notify the date , time and place of receipt, to examine the stamp, signature and legality of the share holder, prepare the list of the proxy.

Motion Proposal and Resolution :

Proposal Meaning : The issue which is produced for discussion in the meeting of company is known as a proposal. If the proposal is approved it becomes a resolution.

Any amendment, additions, alteration, deletion of any word sentence, change of serial number of word or sentence may be done in the proposal.

Types of Resolutions : (1) Ordinary resolution (2) Special Resolution (3) The resolution of the Board of Directors.

Ordinary Resolution : The resolution passed with a simple majority is known as ordinary resolution.

Special Resolution : It is specifically mentioned in the Companies Law and Articles of Association regarding the issues which needs to be passed through special resolution. There should be 75% votes in the favour of such resolution. Special resolutions should be registered with the Registrar of the Company within a specified period.

The Difference between Ordinary Resolution and Special Resolution : (1) Meaning (2) Objective (3) Necessity (4) Notice (5) Registration.

The Resolution of the Board of Directors :

Meaning : The resolutions passed by the Directors are treated as ordinary resolutions. These resolutions are passed by a simple majority. The attorney/legal advisor of the company prepare this resolution.

Exercise

1. Select the suitable option from options given :

- (1) Which meeting of the first financial year should be held within 9 months from the completion of the year ?
(A) Ordinary general meeting (B) Annual General Meeting
(C) The meeting of Board of Directors (D) The first Annual General Meeting
- (2) There should be a gap of months between two Annual General Meetings.
(A) 15 months (B) 12 months (C) 18 months (D) 24 months
- (3) How many meetings of the Board of Directors should be called by the company in a year ?
(A) Five (B) Three (C) Four (D) Two
- (4) Before how many days the notice is to be given, prior to the meeting ?
(A) 20 days (B) 31 days (C) 25 days (D) 21 days
- (5) The notification by which information of the meeting is communicated to the members is known as
(A) Agenda (B) Notice (C) Minutes book (D) Quorum
- (6) The list of works to be conducted during a meeting is known as
(A) Agenda (B) Minute book (C) Resolution (D) Proposal
- (7) The number of members present in a meeting from the starting up to end of the meeting is known as
(A) Voting (B) number of Debtors
(C) The total number of members (D) quorum
- (8) The person who is selected by the members to conduct the meeting is known as
(A) chairman (B) KMP
(C) secretary (D) director
- (9) Who can cast vote in case of equal votes ?
(A) Secretary (B) Creditors (C) Chairman (D) Director
- (10) The note book containing the decisions and the proceeding in the meeting, written point wise is known as
(A) quorum (B) notification (C) notice (D) minutes book
- (11) The member appointed by other person to be present and vote in the meeting on his behalf is known as
(A) proxy (B) chairman
(C) secretary (D) the member of company
- (12) The issues that are put forward for discussions in the meeting of a company are known as
(A) Resolution (B) Proposal
(C) Notice (D) Agenda
- (13) How many votes are essential for passing a special resolution ?
(A) 75% (B) 51% (C) 65% (D) 40%

2. Answer the following question in one sentence :

- (1) What is a meeting ?
- (2) List the types of company meeting.
- (3) Write down the types meetings of shareholders.
- (4) Write down the types of Directors' meetings.
- (5) Mention the duration the of notice of meeting.

- (6) What is meant by agenda ?
- (7) What is quorum ?
- (8) Who is known as chairman ?
- (9) What is a Minutes book ?
- (10) Define voting.
- (11) What is proxy ?
- (12) What is a proposal ?
- (13) What are resolutions ?

3. Answer the following questions in short :

- (1) What is a Annual General Meeting ?
- (2) Define notice of the meeting.
- (3) State the objectives of the notice of a meeting ?
- (4) Describe the contents of notice ?
- (5) Who are given notice ?
- (6) Mention the duties of secretary regarding notice ?
- (7) Which details are included in Minutes ?
- (8) What is the purpose of voting by proxy ?
- (9) Mention the types of Resolutions.
- (10) What is a Ordinary Resolution ?
- (11) What is Special Resolution ?

4. Answer the following questions to the point :

- (1) Explain the concept of Company's meeting.
- (2) State the types of Company's meeting.
- (3) Discuss the types of shareholders' meeting.
- (4) Give details of special meetings.
- (5) Write a note on company director's meeting.
- (6) Discuss the meaning and objectives of notice for meetings.
- (7) Discuss the duties of company secretary regarding notice of meetings.
- (8) Mention the duties of company secretary regarding agenda.
- (9) Write down the provisions of company law regarding quorum.
- (10) Mention the objectives of minutes.
- (11) State the provisions of the Companies Law regarding minutes.
- (12) When can a restriction be imposed on voting ?

5. Answer the following questions in detail :

- (1) Explain in detail, the notice of a meeting.
- (2) Write a note on quorum of the meeting.
- (3) Discuss the qualifications and qualities of a chairman.
- (4) Explain the powers and duties of the chairman.
- (5) Write a note : 'Minutes of the meeting'.
- (6) Discuss the types of resolutions.
- (7) Write note : Special Resolutions.
- (8) Differentiate between ordinary resolutions & special resolutions.



What will you learn in this chapter ?

- 7.1 Meaning and Definition of Winding up of a Company
 - 7.1.1 Meaning
 - 7.1.2 Definition
- 7.2 Modes of Winding up
 - 7.2.1 Compulsory Winding up by Court/ Tribunal
 - 7.2.1.1 Meaning
 - 7.2.1.2 Ground of Compulsory Winding up by the Court/ Tribunal
 - 7.2.2 Voluntary Winding up
 - 7.2.2.1 Meaning
 - 7.2.2.2 Grounds of Voluntary Winding up
 - 7.2.3 Voluntary Winding up by the Members
 - 7.2.3.1 Meaning
 - 7.2.3.2 Procedure of Voluntary Winding up by Members
 - 7.2.4 Voluntary Winding up by Creditors
 - 7.2.4.1 Meaning
 - 7.2.4.2 Procedure of Voluntary Winding up by Members

Introduction

A Company is an artificial personality which comes into existence by Law. It is a creation of Law. Company does not have a physical existence, so it cannot be ended naturally. Day to day administration of a Company is done according to Law. The company can be ended only by due process of Law. For the winding up of a company, a dissolution process has to be carried out. If company is insolvent, it cannot be ended. A Liquidation process and legal procedure is to be followed only then the dissolution of company can be achieved. Thus winding up precedes dissolution.

7.1 Meaning and Definition of Winding up of a Company

7.1.1 Meaning : In general terms, winding up is the process of bringing to an end the life of a company. Winding up of a company means to end the legal entity of a company. Creation of Company and End of a company can be done only through a legal process.

When a company is in liquidation its corporate status and powers continue. A legal existence is there. Its assets are realized by a liquidator, and its debts are paid out of the

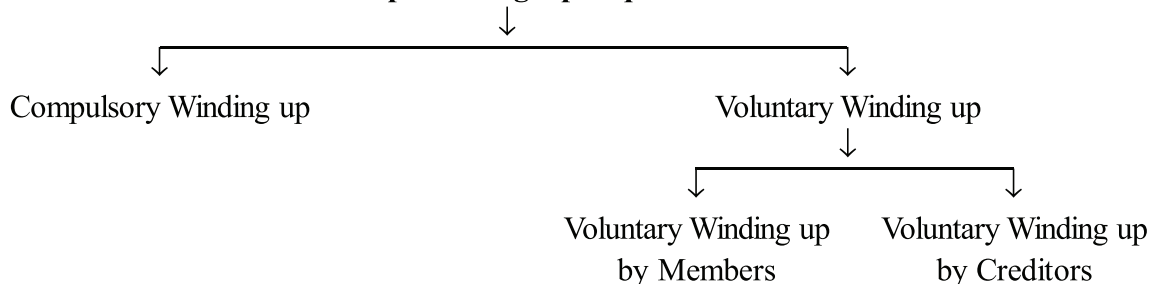
proceeds of this realization and any balance remaining, is returned to its members as per provisions of the Articles of Association.

7.1.2 Definition : As per Professor L.C.B.Gower “Winding up of a company is the process whereby its life is ended and its property administered for the benefit of its creditors and members.”

Thus, dissolution means bringing to an end the legal personality of a company. In a company winding up precedes dissolution.

7.2 Modes of Dissolution/Liquidation/Winding up of a Company

To dissolve a company a winding up process is followed. Generally, the economic condition of a company is poor and it is not in a condition to pay its debt then it is decided to close down its business or wind up. A company may be wound up under any of the following :

Modes up Winding Up/Liquidation

7.2.1 Compulsory Winding up by Court/Tribunal :

7.2.1.1 Meaning : Winding up of a company under an order of the Court/Tribunal is known as compulsory winding up.

7.2.1.2 Grounds of Compulsory Winding up by the Tribunal : A court may order for compulsory winding up of a company on the following grounds :

(1) Company Unable to Pay its Debts : If a company is unable to pay its debt, the court may order the company to be wound up. If the economic condition of the company is poor but it has no debts, in that case, court will not order for winding up. In most of the cases when Company is not able to pay its debts, then an application is made in court for compulsory winding up.

(2) By Special Resolution : If by any reason a company passes a special resolution to Windup Company by court than company may go for liquidation. Members of the company may pass special resolution in General Meeting for liquidation of company. Directors of the company are authorized to apply in court with copy of the special resolution. The Court, however, will pass an order for winding up only after it justifies the need for it.

(3) Statutory Meeting and Report of Company : As per the Companies Act it is compulsory to call a statutory meeting of the company and a report is to be submitted to the Company Registrar. If company does not fulfil this condition, then the Company Registrar or Shareholders may apply in tribunal. Company Registrar has to seek permission with the Central Government before applying for winding up. If statutory meeting is not called on a specified date, then after 14 days, shareholders and other contributors may apply for winding up.

(4) Incorporation Certificate : If a company does not commence business within one year from its incorporation or suspends its business for one year, the tribunal may order the company to be wound up. If the tribunal finds satisfactory reason for suspension, it will not order for winding up.

Under following circumstances the tribunal may find satisfactory reason for suspension and will not order for winding up.

(i) If the company has specified in the Memorandum of Association that business will be carried out in India as well as outside of India and business is suspended in India then, it cannot be wound up.

(ii) If there is a possibility to carry out business in future then winding up order will not be forced.

(5) Reduction in Number of Members : If the number of members falls below the statutory minimum, i.e. 7 in case of public company and 2 in case of a private company, the tribunal may order the company to be wound up. Usually members initiate the winding up of the company. If the company continues business after the reduction in numbers of members, for up to six months, and existing members are aware of this fact they are responsible, personally, for all debts arise.

(6) The Sovereignty and Integrity of India : If a company has acted against the interest of the sovereignty and integrity of India, or acted against the security of state, or acted against the friendly relations with foreign states, the tribunal may order to wind up company.

(7) Just and Equitable Reasons : The tribunal has wide powers on the ground of just and equitable reasons to winding up. The tribunal may order for winding up for the following reasons :

(i) If there is a total deadlock, and management of company is not possible;

- (ii) The substratum (main purpose) has been lost due to any reason;
- (iii) The company is making loss continuously;
- (iv) Where the company was formed to carry on a fraudulent or illegal business or the business of the company becomes illegal by a change in law.
- (v) If oppressions are done on minority in a company.

7.2.2 Voluntary Winding up : The Company, and the creditors or contributories, without going to the tribunal, may decide for winding up of a company. In voluntary winding up, the company and its creditors, company and its members, mutually decide on each other's rights.

7.2.2.1 Meaning : Voluntary winding up means winding up at the insistence of the members of the company, without any interference of the court.

7.2.2.2 Grounds of Voluntary Winding up/Dissolution/Liquidation :

(1) Duration of Company : A specific period has been ascribed in the Articles of Association for the formation of a company. A company may be wound up voluntarily by passing of a resolution in the General meeting on completion of this period.

(2) Occurrence : In the Articles of Association some events have been specified, on the occurrence, of such event by passing an ordinary resolution in general meeting, a company may be wound up.

(3) Special Resolution : A company can be wound up by passing a special resolution even if it is economically sound and capable of paying its debts.

7.2.3 Voluntary Winding up/Dissolution by Members :

7.2.3.1 Meaning : Where a company is solvent, it is able to pay its debts in full, the voluntary winding up takes the form of members' voluntary winding up. For this purpose 'Declaration of solvency' shall be made by Directors.

7.2.3.2 Procedure of Voluntary Winding up by Members :

(1) Declaration of Solvency : When a proposal of winding up is put forth by members, directors have to make declaration of solvency and it is to be registered with the Registrar. Majority of the directors have to make an affidavit for solvency. The declaration of solvency, not made in accordance with the law, will make all proceedings null and void.

(2) Resolution : Directors of the company calls a General Meeting to pass a resolution for winding up of a company.

(3) Announcement of Resolution : Where a company has passed a resolution for voluntary winding up, it shall, within fourteen days of the passing of the resolution, give a notice of the resolution by advertisement in the Official Gazette and also in a newspaper which is in circulation in the district where the registered office of the company is situated.

(4) Appointment of Liquidator : A liquidator is appointed to follow the whole process of liquidation. He administers the financial matters of the company.

(5) Cessation of Powers : On the appointment of Company Liquidator, all the powers of the Board of Directors, Managing Director and Managers shall cease.

(6) Notice to Registrar : The Company shall give notice to the Registrar of the appointment of a Company Liquidator with the name and other required particulars within a specified time.

(7) To Inform the Income Tax Officer : The Company shall inform the Income Tax Officer of the appointment of a company Liquidator within 30 days of appointment.

(8) Re-Appointment of Liquidator : If, due to any reason, the post of the appointed Liquidator is vacant then another person is appointed as Liquidator. Company Registrar shall be informed of new appointment.

(9) Sale of Assets : The Company Liquidator by virtue of authority vested in him, collects the assets and may sell them to facilitate smooth winding up.

(10) General Meeting of Members : Where the winding up proceedings continue for more than one year the liquidator shall call a General Meeting of the company every year.

(11) Winding up of a Company : The company Liquidator calls the General Meeting. He presents financial statements and reports of winding up. Report of the meeting is sent to the official liquidator. Official Liquidator gives report to Tribunal. The tribunal may then take proper decision for winding up.

7.2.4 Voluntary Winding Up by Creditors :

7.2.4.1 Meaning : When a company is insolvent and the directors are unable to make the declaration of solvency, voluntary winding up is carried out by the creditors. This is called Creditors' Voluntary Winding up.

7.2.4.2 Procedure of Voluntary Winding up / Dissolution by Creditors :

(1) Meeting of Members and Creditors : A company may be wound up voluntarily, the notice to the creditors and members shall be sent, at the same time by post.

(2) Appointment of Chairman : One of the directors shall be appointed as chairman to preside over the meeting of creditors.

(3) Resolution : A resolution shall be passed in the meeting of Creditors.

(4) Notice to Registrar : Notice of the resolution passed at the creditors' meeting shall be given by the company to the Registrar within a specific time.

(5) Appointment of Liquidator : The members and creditors may appoint liquidators in their meeting. The person appointed by the creditors shall carry out the winding up process. If no person is nominated by the creditors, the members' nominee shall be the Liquidator.

(6) Remuneration of Liquidator : Remuneration of the liquidator is decided by the tribunal or Committee of Inspection or in the meeting of creditors.

(7) Committee of Inspection : The creditors may appoint a committee of inspection to observe the procedure of liquidation.

(8) Cessation of Powers : On the appointment of the Company Liquidator, all the powers of the Board of Directors, Managing Director and Managers shall cease.

(9) Re-Appointment of Liquidator : If, due to any reason, post of the appointed Liquidator is vacant then another person is appointed as Liquidator. Company Registrar shall be informed of new appointment.

(10) Meeting of Creditors : Where the winding up proceedings continue for more than one year the liquidator shall call general meeting of the creditors.

(11) Winding up : When the affairs of a company are fully wound up, the liquidator shall call a meeting of the creditors and members. The liquidator shall present the report of the proceedings of winding up. Such a meeting is called by an advertisement in newspapers and Official Gazette. The liquidator shall send conclusion of the meeting to Official Liquidator. The Official Liquidator submits a report to the Court. The Court may order for dissolution from the date of report.

What you have learnt in this chapter ?

Company is an artificial personality come into existence by law. Company is created and ended only by law. To wind up company has to go through a process of winding up. In this process liquidator is appointed and management is assigned to him. The liquidation process and by the completion of procedures of law, a company is wound up.

Meaning and definition of liquidation process :

Meaning : With the completion of the Liquidation process in accordance with the procedures of law a company is wound up.

Definition : As per Professor L.C.B.Gower “Winding up of a company is the process whereby its life is ended and its property administered for the benefit of its creditors and members.”

Thus dissolution means bringing to an end the legal personality of a company.

Modes of liquidation/ winding up of a company :

(A) Compulsory winding up by the Court/Tribunal :

Meaning : Winding up of a company under an order of the Court is known as compulsory winding up.

Grounds of compulsory winding up by the court : (1) Company unable to pay its debt (2) By special resolution (3) Statutory meeting and report of company. (4) Incorporation certificate (5) Reduction in number of members (6) The sovereignty and integrity of India is violated (7) Just and equitable reasons- (i) total deadlock (ii) Main purpose has lost (iii) Making loss continuously (iv) Illegal business. (v) oppressions are done on minority.

(B) Voluntary winding up by members :

Meaning : Voluntary winding up means winding up at the insistence of the members of the company, without any interference by the tribunal.

Grounds of voluntary winding up/liquidation : (1) Completion of duration of the Company (2) Untowards occurrences (3) Special resolution

(i) Voluntary winding up by members :

Meaning : Where a company is solvent, it is able to pay its debts in full, the voluntary winding up takes the form of members' voluntary winding up.

Procedure of voluntary winding up by members : (1) Declaration of solvency (2) Resolution (3) Announcement of Resolution (4) Appointment of liquidator (5) Cessation of powers (6) Notice to Registrar (7) To inform Income Tax Officer (8) Re-appointment of liquidator (9) Sale of assets (10) General meeting of members (11) Winding up of a company

(ii) Voluntary winding up by Creditors :

Meaning : Where a Company is insolvent and the declaration of solvency is not made by the directors the voluntary winding up is decided to be carry out by creditors, this is called as creditors' voluntary winding up.

Procedure of voluntary winding up by Creditors : (1) Meeting of members and creditors (2) Appointment of president (3) Resolution (4) Notice to Registrar (5) Appointment of Liquidator (6) Remuneration of liquidator (7) Committee of Inspection (8) Cessation of powers (9) Re-appointment of liquidator (10) Meeting of creditors (11) Winding up.

Exercise

1. Select a suitable option from the options given :

- (1) Process prior to winding up means...
(A) process of amalgamation of company. (B) process of liquidation of company.
(C) process of merger of company. (D) process of incorporation of company.
- (2) Who is authorized to apply for winding up of a company with a special resolution ?
(A) Creditors (B) Contributors (C) Directors (D) Members
- (3) Which meeting is mandatory to be called as per the Companies Act ?
(A) Annual general meeting (B) Statutory meeting
(C) Extra ordinary meeting (D) Board of directors' meeting
- (4) Within how many years does a company have to start business after getting incorporated ?
(A) 1 (B) 2 (C) 3 (D) 4
- (5) For winding up, what is the minimum number of members for public company ?
(A) Less than 7 (B) Less than 2 (C) Less than 4 (D) Less than 10
- (6) For winding up, what is the minimum number of members for private company ?
(A) Less than 7 (B) Less than 3 (C) Less than 2 (D) Less than 10
- (7) Where is it mentioned that a company is incorporated for a specific period ?
(A) Memorandum of Association (B) Prospectus
(C) Articles of Association (D) Share certificate
- (8) Who is prepares the declaration of insolvency ?
(A) Directors (B) Creditors (C) Member (D) Court
- (9) Within how may days should an advertisement be given after passing resolution for liquidation ?
(A) 7 days (B) 10 days (C) 15 days (D) 14 days
- (10) To whom does the official liquidator have to report ?
(A) Director (B) Tribunal (C) Members (D) Creditors
- (11) Within how many days should the appointment of a liquidator be informed to the Income Tax Officer ?
(A) 15 days (B) 30 days (C) 7 days (D) 14 days

2. Answer the following question in one sentence :

- (1) How is a company created and how does it come to an end ?
- (2) Give the meaning of compulsory liquidation by tribunal ?
- (3) When does a company decide to close business ?
- (4) Who has the right to apply for liquidation ?
- (5) When does the management of a company becomes difficult ?
- (6) What is voluntary liquidation ?
- (7) Give the meaning of voluntary liquidation by members.
- (8) How and where has the advertisement to be given for liquidation ?
- (9) Why is an investigation committee appointed ?
- (10) Whose power is ceased after appointment of liquidator ?

3. Answer the following questions briefly :

- (1) Give the meaning and definition of liquidation by members of company ?
- (2) Write down the modes of liquidation.
- (3) Explain statutory meeting and report of company.
- (4) Write down just and equitable reasons for compulsory liquidation.
- (5) Explain advertisement of resolution in the process of voluntary winding up.

4. Answer the following questions point wise :

- (1) Discuss, in detail, the circumstances for voluntary liquidation.
- (2) Discuss, in detail, the circumstances for compulsory liquidation by tribunal.
- (3) Discuss, in detail, the procedure for voluntary liquidation.
- (4) Give the meaning and procedure of voluntary liquidation by creditors.

ABBREVIATIONS

1. ISSUE OF SHARES

ASBA	: Application Supported by Blocked Amount
SEBI	: Securities and Exchange Board of India
OFS	: Offer For Sale
IPO	: Initial Public Offer
FPO	: Follow on Public Offer
Retail Investor	: Investors whose share application money does not exceed ₹ 2,00,000
High Net Worth Inve.	: Individual investor whose share application money exceeds ₹ 2,00,000
Institutional Investor	: Institutions like Bank, Mutual Fund, Financial Institutions etc. who apply for shares and other securities.
Demat	: Dematerialised form of physical shares.
Escrow Bank Account	: Bank account opened by a bank for a specific purpose. e.g. for distribution of dividend, for issue of shares
Depository	: Institution or company which is authorised to open demat account and maintain securities in dematerised form.
Depository Participant	: Representatives of depository who are recognised by depository to open demat accounts. Generally they are recognised share brokers and financial institutions.
Lead Manager	: Intermediary who completes all legal procedures for issue of shares on behalf of the company.
Book Building	: It is a process of share issue, under which the price of shares issued is not decided in advance but bids are invited between floor price and cap price decided by the company. The price, for which highest number of bids are received, is decided as issue price of shares.
Lock-in-period	: The period during which there is restriction on free trade of shares issued.
Bid	: The issue price of shares is not decided in advance before issue of shares in a public issue made under book building process. However, the company decides the floor price and the cap price of shares. Bid is the price of share offered by bidders except retail investor at which they are willing to buy the shares is called as bid.

Syndicate members : They are members of recognised stock exchange on which the shares are proposed to be listed. They are important intermediaries in a public issue. Company appoints them for public issue of shares.

2. TRANSFER AND TRANSMISSION OF SHARE

Demat Share : Dematerialized share where physical shares are converted to electronic formation

PSU : Public Sector Unit

NSDL : National Securities Depository Limited

CDSL : Central Depository Services (India) Limited

Instruction Slip : A booklet issued by DP's agent to Demat Holder to authorize selling and purchasing of shares.

Transfer : To voluntarily waive rights of share to others.

Receiver / Administrator : In case of death, insolvency, lunacy of share holder, court appoints representative known as Receiver or Administrator.

Transmission : Compulsory transfer of share of Share

4. MEMBERSHIP

HUF : Hindu Undivided Family

5. DIRECTORS OF A COMPANY

BOD : Board of Directors

DIN : Directors Identification Number

MD : Managing Director

SHRC : Stake Holders Relation Committee

MA : Memorandum of Association

AA : Articles of Association

Listed Company : A Company registered in recognized share market

Insider Trading : Transactions are done on secret information of company

6. THE MEETINGS OF THE COMPANY

FAGM : First Annual General Meeting

AGM : Annual General Meeting

EGM : Extra Ordinary General Meeting