

Holding of Board Meetings through Electronic Mode-Video Conferencing

Finally, Indian Corporate regulators have recognized the mode of holding the company meetings through electronic mode. Going forward meetings held through such mode shall now be duly accepted and recognized in court of law. The Ministry of Corporate Affairs vide its Circular no.28/2011 issued on May 20, 2011 in continuity of its green initiatives in ensuring corporate governance decided to permit corporate to hold meetings of board/committee of directors through electronic mode under the Companies Act, 1956 subject to adherence of certain prescribed parameters.

Although business decisions have been taking place using this mode, but decisions taken through this mode were not protected under Indian laws in case of disputes and judiciaries have struck down attempts to take shelter of such modes in defiance of provisions contained under the Companies Act, 1956. However, this clarification from the Corporate Regulator will go a long way in putting at ease Indian corporate and in its business managers to take key decisions sitting anywhere.

These recognitions were being demanded since a decade in the light of introduction of Information Technology Act, 2000 in India and incidental amendments to Indian Evidence Act, 1872.

This clarification has made continuity of Section 313 in relation to Appointment and term of office of under the Companies Act, 1956 subject to review.

Following additional requirements for holding meeting of board/committee in addition to prescribed under the Companies Act, 1956:

Electronic mode has been specified as audio-visual communication facility which enables persons participating in the meeting to communicate with each other without any intermediary;

A person attending the meeting through above mode, should ensure that he/she attends one of the meeting through his personal presence once in a financial year;

It shall be the responsibility of the chairman of the meeting and secretary of the company to ensure following

- Safeguarding integrity of such meeting;
- Presence and availability of video-conferencing facility;
- Preparation of minutes of such meeting;
- Attendance of the meeting by the one authorized to attend;
- Repetition of the statements made by the participants, if there is a need to do so

Notice calling meeting should specify option of attending meeting through such mode, manner of accessing the facility, seek confirmation from director regarding mode of attending the meeting and contact details of the secretary etc.

Presumption to attend meeting by personal presence, in case of no confirmation.

Vivek Sethia, Dubai
viveksethiacs@hotmail.com

Roll call shall be taken at the commencement of the meeting by the chairman/secretary and all directors/persons attending should state their full name, location, confirmation about visibility and communicability with each other. After this quorum will be ascertained by the chairman/secretary. For reckoning quorum, attendance of the directors/persons through electronic mode shall also be considered and roll call can be done again, if required since quorum in case of board meeting/committee are required throughout the continuity of the meeting.

The place of the meeting for the purpose of Section 288 of the Companies Act, 1956 shall be the place, where chairman of the meeting is present and all statutory registers as are required to be placed under the Companies Act, 1956 shall be placed where chairman is present.

Apart from above there are some more procedural requirements for duly conducting the meeting of the board/committee.