

- (a) the provisions relating to minimum subscription;
 - (b) the provisions for minimum application value;
 - (c) the provisions requiring any statement to be made by the Board of directors in respect of the utilization of money; and
 - (d) any other provision or information which cannot be compiled or gathered by the offeror, with detailed justifications for not being able to comply with such provisions.
- (2) The prospectus issued under section 28 shall disclose the name of the person or persons or entity bearing the cost of making the offer of sale along with reasons.

⁵⁶Public offer of securities to be in dematerialised form.

⁵⁷**29.** (1) Notwithstanding anything contained in any other provisions of this Act,—

- (a) every company making public offer⁵⁸; and
 - (b) such other class or classes of public companies as may be prescribed,
- shall issue the securities only in dematerialised form by complying with the provisions of the Depositories Act, 1996 (22 of 1996) and the regulations made thereunder.

(2) Any company, other than a company mentioned in sub-section (1), may convert its securities into dematerialised form or issue its securities in physical form in accordance with the provisions of this Act or in dematerialised form in accordance with the provisions of the Depositories Act, 1996 (22 of 1996) and the regulations made thereunder.

RELEVANT RULE : RULE 9 OF THE COMPANIES (PROSPECTUS AND ALLOTMENT OF SECURITIES) RULES, 2014

Dematerialisation of securities.

Rule 9 : The promoters of every public company making a public offer of any convertible securities may hold such securities only in dematerialised form:

Provided that the entire holding of convertible securities of the company by the promoters held in physical form up to the date of the initial public offer shall be converted into dematerialised form before such offer is made and thereafter such promoter shareholding shall be held in dematerialized form only.

⁵⁹**Advertisement of prospectus.**

⁶⁰**30.**⁶¹ Where an advertisement of any prospectus of a company is published in any manner, it shall be necessary to specify therein the contents of

56. Corresponds to section 68B of the 1956 Act.

57. Enforced with effect from 12-9-2013.

58. See rule 9 of the Companies (Prospectus and Allotment of Securities) Rules, 2014.

59. Corresponds to section 66 of the 1956 Act.

60. Enforced with effect from 12-9-2013.

61. See also SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009.

(3) Where a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

⁴⁹**Issue of sweat equity shares.**

⁵⁰**54.**⁵¹ (1) Notwithstanding anything contained in section 53, a company may issue sweat equity shares of a class of shares already issued, if the following conditions are fulfilled, namely:—

- (a) the issue is authorised by a special resolution passed by the company;
- (b) the resolution specifies the number of shares, the current market price, consideration, if any, and the class or classes of directors or employees to whom such equity shares are to be issued;
- (c) not less than one year has, at the date of such issue, elapsed since the date on which the company had commenced business; and
- (d) where the equity shares of the company are listed on a recognised stock exchange, the sweat equity shares are issued in accordance with the regulations made by the Securities and Exchange Board in this behalf and if they are not so listed, the sweat equity shares are issued in accordance with such rules as may be prescribed⁵².

(2) The rights, limitations, restrictions and provisions as are for the time being applicable to equity shares shall be applicable to the sweat equity shares issued under this section and the holders of such shares shall rank *pari passu* with other equity shareholders.

RELEVANT RULE : RULE 8 OF THE COMPANIES (SHARE CAPITAL AND DEBENTURES) RULES, 2014

Issue of sweat equity shares.

Rule 8 : (1) A company other than a listed company, which is not required to comply with the Securities and Exchange Board of India Regulations on sweat equity, shall not issue sweat equity shares to its directors or employees at a discount or for consideration other than cash, for their providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called, unless the issue is authorised by a special resolution passed by the company in general meeting.

Explanation.—For the purposes of this rule—

- (i) the expressions “Employee” means—
 - (a) a permanent employee of the company who has been working in India or outside India, for at least last one year; or

49. Corresponds to section 79A of the 1956 Act.

50. Enforced with effect from 1-4-2014.

51. See also SEBI (Issue of Sweat Equity) Regulations, 2002.

52. See rule 8 and Form No. SH 3 of the Companies (Share Capital and Debentures) Rules, 2014 (For Form, see **Division Two**). See also SEBI (Issue of Sweat Equity) Regulations, 2002.

³²Investigation of beneficial ownership of shares in certain cases.

³³**90.** Where it appears to the Central Government that there are reasons so to do, it may appoint one or more competent persons to investigate and report as to beneficial ownership with regard to any share or class of shares and the provisions of section 216 shall, as far as may be, apply to such investigation as if it were an investigation ordered under that section.

³⁴Power to close register of members or debenture-holders or other security holders³⁵.

³⁶**91.**³⁷ (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 prescribed³⁸.

(2) If the register of members or of debenture-holders or of other security holders is closed without giving the notice as provided in sub-section (1), or after giving shorter notice than that so provided, or for a continuous or an aggregate period in excess of the limits specified in that sub-section, the company and every officer of the company who is in default shall be liable to a penalty of five thousand rupees for every day subject to a maximum of one lakh rupees during which the register is kept closed.

RELEVANT RULE : RULE 10 OF THE COMPANIES (MANAGEMENT AND ADMINISTRATION) RULES, 2014**Closure of register of members or debenture holders or other security holders.**

Rule 10 : (1) A company closing the register of members or the register of debenture holders or the register of other security holders shall give at least seven days previous notice and in such manner, as may be specified by Securities and Exchange Board of India, if such company is a listed company or intends to get its securities listed, by advertisement at least once in a vernacular newspaper in the principal vernacular language of the district and having a wide circulation in the place where the registered office of the company is situated, and at least once in English language in an English newspaper circulating in that district and having wide circulation in the place where the registered office of the company is situated and publish the notice on the website as may be notified by the Central Government and on the website, if any, of the Company.

32. Corresponds to section 187D of the 1956 Act. In case of Government Companies, section 90 shall not apply - Notification No. GSR 463(E), dated 5-6-2015.

33. Enforced with effect from 1-4-2014.

34. Corresponds to section 154 of the 1956 Act.

35. For relevant Case Laws, see Taxmann's Master Guide to Companies Act.

36. Enforced with effect from 12-9-2013.

37. See also SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and Table F of Schedule I.

38. See rule 10 of the Companies (Management and Administration) Rules, 2014.

⁸⁵Notice of meeting⁸⁶.

⁸⁷**101.**⁸⁸ ⁸⁹(1) A general meeting of a company may be called by giving not less than clear twenty-one days' notice either in writing or through electronic mode in such manner as may be prescribed⁹⁰:

Provided that a general meeting may be called after giving a shorter notice if consent is given in writing or by electronic mode by not less than ninety-five per cent of the members entitled to vote at such meeting.

(2) Every notice of a meeting shall specify the place, date, day and the hour of the meeting and shall contain a statement of the business to be transacted at such meeting.

(3) The notice of every meeting of the company shall be given to—

- (a) every member of the company, legal representative of any deceased member or the assignee of an insolvent member;
- (b) the auditor or auditors of the company; and
- (c) every director of the company.

(4) Any accidental omission⁹¹ to give notice to, or the non-receipt of such notice by, any member or other person who is entitled to such notice for any meeting shall not invalidate the proceedings of the meeting.

RELEVANT RULE : RULE 18 OF THE COMPANIES (MANAGEMENT AND ADMINISTRATION) RULES, 2014
Notice of the meeting.

Rule 18 : (1) A company may give notice through electronic mode.

Explanation.—For the purpose of this rule, the expression “electronic mode” shall mean any communication sent by a company through its authorized and secured computer programme which is capable of producing confirmation and keeping record of such communication addressed to the person entitled to receive such communication at the last electronic mail address provided by the member.

(2) A notice may be sent through e-mail as a text or as an attachment to e-mail or as a notification providing electronic link or Uniform Resource Locator for accessing such notice.

85. Corresponds to sections 171 and 172 of the 1956 Act.

86. For relevant Case Laws, *see* Taxmann's Master Guide to Companies Act. *See also* SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and SS-2 - Secretarial Standard on General Meetings (*see* **Division Three**).

87. Enforced with effect from 1-4-2014.

88. In case of private companies section 101 shall apply unless otherwise specified in respective sections or the articles of the company provide otherwise - Notification No. GSR 464(E), dated 5-6-2015.

89. In case of Section 8 Companies in sub-section (1) of section 101, for the words “twenty one days”, the words “fourteen days” shall be substituted - Notification No. GSR 466(E), dated 5-6-2015.

90. *See* rule 18 of the Companies (Management and Administration) Rules, 2014.

91. For meaning of the expression “accidental omission”, *see* **Appendix II**.

¹⁹**Voting by show of hands**²⁰.

²¹**107.**²² (1) At any general meeting, a resolution put to the vote of the meeting shall, unless a poll is demanded under section 109 or the voting is carried out electronically, be decided on a show of hands.

(2) A declaration by the Chairman of the meeting of the passing of a resolution or otherwise by show of hands under sub-section (1) and an entry to that effect in the books containing the minutes of the meeting of the company shall be conclusive evidence of the fact of passing of such resolution or otherwise.

Voting through electronic means.

²³**108.**²⁴ The Central Government may prescribe the class or classes of companies and manner in which a member may exercise his right to vote by the electronic means²⁵.

RELEVANT RULE : RULE 20 OF THE COMPANIES (MANAGEMENT AND ADMINISTRATION) RULES, 2014

^{25a}**[Voting through electronic means.**

Rule 20 : (1) The provisions of this rule shall apply in respect of the general meetings for which notices are issued on or after the date of commencement of this rule.

^{25b}[(2) *Every company which has listed its equity shares on a recognised stock exchange and every company having not less than one thousand members shall provide to its members facility to exercise their right to vote on resolutions proposed to be considered at a general meeting by electronic means:*

Provided that a Nidhi, or an enterprise or institutional investor referred to in Chapter XB or Chapter XC of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 is not required to provide the facility to vote by electronic means.

19. Corresponds to sections 177 and 178 of the 1956 Act.

20. For relevant Case Laws, see Taxmann's Master Guide to Companies Act.

21. Enforced with effect from 12-9-2013. In case of private companies section 107 shall apply unless otherwise specified in respective sections or the articles of the company provide otherwise - Notification No. GSR 464(E), dated 5-6-2015.

22. See also SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015; Table F of Schedule I and SS-2 - Secretarial Standard on General Meetings (see **Division Three**).

23. Enforced with effect from 1-4-2014.

24. See also Table F of Schedule I; SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and SS-2 - Secretarial Standard on General Meetings (see **Division Three**).

25. See rule 20 of the Companies (Management and Administration) Rules, 2014. See also Circular No. 20/2014, dated 17-6-2014 [E-voting procedure] (**Division Three**).

25a. Substituted by the Companies (Management and Administration) Amendment Rules, 2015, w.e.f. 19-3-2015. Prior to its substitution, rule 20, as amended by the Companies (Management and Administration) Amendment Rules, 2014, w.e.f. 23-6-2014, read as under :

'20. *Voting through electronic means.*—(1) 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 :

Provided that the company may provide the facility referred to in this sub-rule on or before the 1st day of January, 2015.