Due to the Pandemic situation, the MCA has granted certain exemptions to the Companies. This includes the extension of the time gap in between two Board meetings.

As per the provisions of Sec. 173, the gap in between the two Board meetings cannot be exceed 120 days. However the MCA through a General circular dated 25th March, 2020 has specified that the mandatory requirement of holding meetings of the Board of the companies within the intervals of 120 days stands extended by a period of 60 days till next two quarters i.e., till 30th September, 2020. Accordingly, as a one - time relaxation the gap between two consecutive meetings of the Board may extend to 180 days till the next two quarters, instead of 120 days as required in the CA-13.

Due to this circular now the meeting in the quarter of April May June, 2020 can get extended till 30th September, *however it would be necessary to calculate the period of 180 days from the earlier* *board meeting which must have been held in the quarter of January, February March, 2020.*

However, the meetings can be still held through the video conferencing facility.

This note is an attempt to explain the necessary provisions of the Companies Act in relation to holding of the Board meeting through video conferencing.

**List of Matters which cannot to be dealt in a meeting through video conferencing or other audio visual means**-

1. the approval of the annual financial statements;
2. the approval of the board’s report;
3. the approval of the prospectus;
4. the audit committee meetings for consideration of financial statements including consolidated financial statement, if any, to be approved by the board under sec 134(1) of the Act; and
5. the approval of the matters relating to amalgamation, merger, demerger, acquisition and takeover

**However the MCA through a General circular dated 19th March, 2020 has specified that for the period beginning from the 19th March, 2020 and ending on the 30th June 2020, the meetings on matters referred above may be held through video - conferencing or other audio visual means**

The term “video conferencing or other audio visual means” means audio-visual electronic communication facility employed which enables all the persons participating in a meeting to communicate concurrently with each other without an intermediary and to participate effectively in the meeting.

A company will be required to comply with the following procedure, for convening and conducting the Board meetings through video conferencing or other audio visual means.

**Procedure for holding of meeting through video conferencing**

|  |  |
| --- | --- |
| 1 | **Compliances before the Board meeting** |
| (i) | **Notice of a Board Meeting** The notice of the Board meeting to be sent to all the directors shall inform the directors regarding the option available to them to participate through video conferencing mode or other audio visual means, and shall provide all necessary information to enable the directors to participate through video conferencing mode or other audio visual means. |
| (ii) | **Intimation by a director of his intention to participate through video conferencing** – After receipt of the above notice, a director intending to participate through video conferencing or audio visual means shall communicate his intention to the Chairperson or the Company Secretary of the company. Such intimation shall be given sufficiently in advance so that company is able to make suitable arrangements in this behalf.The director, who desires to participate in all Board Meetings through the video conferencing mode, may intimate his intention of participation through the electronic mode at the beginning of the calendar year and such declaration shall be valid for one calendar year.In the absence of any such intimation, it shall be assumed that the director shall attend the meeting in person. |
| (iii) | **Arrangements for video conferencing** – There shall be all necessary arrangements for the recording of the meeting through video conferencing including the arrangements to avoid failure of video or audio visual connection. |
| 2 | Compliances at the time of the meeting  |
| (i) | The Chairperson of the meeting and the company secretary, if any, shall take due and reasonable care: 1. to safeguard the integrity of the meeting by ensuring sufficient security and identification procedures;
2. to ensure availability of proper video conferencing or other audio visual equipment or facilities for providing transmission of the communications for effective participation of the directors and other authorised participants at the Board meeting;
3. to record proceedings and prepare the minutes of the meeting;
4. to store for safekeeping and marking the tape recording(s) or other electronic recording mechanism as part of the records of the company at least before the time of completion of audit of that particular year;
5. to ensure that no person other than the concerned director are attending or have access to the proceedings of the meeting through video conferencing mode or other audio visual means; and
6. to ensure that participants attending the meeting through audio visual means are able to hear and see the other participants clearly during the course of the meeting: Provided that the persons, who are differently abled, may make request to the Board to allow a person to accompany him.
 |
| (ii) | At the commencement of the meeting, the Chairperson shall take a roll call and ensure that every director participating through video conferencing or other audio visual means is stating/informing, for the record, the following details -1. Name;
2. The location from where he is participating;
3. Confirmation that he has received the agenda and all the relevant material for the meeting;
4. Confirmation that no other person than the concerned director is attending or having access to the proceedings of the meeting at the location from where the director is participating through Video conferencing mode.
 |
| (iii) | If any person is present for the meeting, who is not a director, then the Chairperson or the Company Secretary shall inform the Board about the names of such persons who are present for the said meeting at the request or with the permission of the Chairperson and confirm that the required quorum is complete. |
| (iv) | The Chairperson shall ensure that the required quorum is present throughout the meeting. |
| (v) | If a statement of a director in the meeting through video conferencing or other audio visual means is interrupted or garbled, the Chairperson or Company Secretary shall request for a repeat or reiteration by the Director. |
| (vi) | If a motion is objected to and there is a need to put it to vote, the Chairperson shall call the roll and note the vote of each director who shall identify himself while casting his vote |
| (vii) | At the end of discussion on each agenda item, the Chairperson of the meeting shall announce the summary of the decision taken on such item along with names of the directors, if any, who dissented from the decision taken by majority. Unless otherwise provided in the Articles, in case of an equality of votes, the Chairman shall have a second or casting vote. |
| (Viii) | Every participant shall identify himself for the record purpose before speaking on any item of business on the agenda. |
| (ix) | Signing of an attendance register in case of a meeting held through video conferencing The attendance register shall be deemed to have been signed by the Directors participating through electronic mode, if their attendance is recorded by the Chairman or the Company Secretary in the attendance register and the minutes of the meeting. |
| **3** | **After the Meeting** |
|  | Prepare the draft of proceedings of the meeting within 15 days of the date of the meeting, and ensure that the draft minutes of the meeting shall be circulated among all the directors within 15 days of the meeting by hand or by speed post or by registered post or by courier or by e-mail or by any other recognized electronic means. |