

Voting through electronic means (Sec 108) – Part-2

(Continued from Geeta Saar 54th edition)

6. Appointment of scrutiner

The Board shall appoint one or more scrutiners, after taking his prior consent, who may be a company secretary in practice or a chartered accountant in practice or a cost accountant in practice or an advocate or any other person of repute who is not in the employment of the company and who can, in the opinion of the board, scrutinise the e-voting process or the ballot process, as the case may be, in a fair and transparent manner.

Such scrutiner so appointed may take assistance of a person who is not in employment of the company and who is well-versed with the e-voting system. Such scrutiner shall help the Chairman in conducting the voting using ballot or electronic voting.

7. Notice of the meeting

The notice of the meeting where the facility of voting by electronic means is proposed to be provided shall be sent to all members, directors, auditors either by registered or speed post or by sending the same to e-mail ID of the recipient or courier service. The notice shall also be placed on the website of the company and the agency (which shall be NSDL or CDSL or other approved agency).

Such notice shall clearly state that electronic voting facility is being provided, that the members not exercising their rights may do so at the meeting and the members who have exercised their votes may attend the meeting. The notice shall further indicate the process by which the member can exercise his rights.

After sending of the notices of the meeting as above but before at least 21 days of the meeting, a public notice by way of advertisement shall be published. Such notice shall be published in the principal vernacular language of the district in least one vernacular newspaper which has wide circulation in the district of registered office and one in English language in English newspaper having country-wide circulation. Such advertisement shall contain the matters specified in rule 20 (4) (v).

8. Facility for remote e-voting

The facility for remote e-voting shall remain open for at least 3 days once the same is opened. A member entitled to vote may choose to cast his vote at any time when the facility is open. It is to be closed at 5 p.m. on the date which precedes the date of general meeting. Once the facility is closed, it shall be blocked. However, company may opt to provide the said facility for the members who have not cast their votes remotely for casting their votes at the meeting.

9. Counting of votes and declaration of result

After casting of votes at general meeting, scrutiniser shall count the votes at the meeting. After counting the same, he shall unblock the votes cast through remote e-voting in presence of 2 witnesses. He shall make a consolidated scrutiniser's report not later than three days from the meeting. Such report shall be made to the Chairman and shall be countersigned either by the Chairman or a person authorised by him. The result shall be declared forthwith. The resolution, if it gets required number of votes, will be deemed to be passed on the date of the general meeting.

It should be noted that the listed company as per regulation 44(3) of SEBI (LODR), 2015 shall submit to the Stock Exchange, within 48 hours of conclusion of general meeting, detail regarding voting result in the format prescribed by the SEBI therefore the listed entity the result shall be declare within 48 hours from the conclusion of the general meeting.

Until the votes are cast at the meeting, the manner of voting (in favour or against) shall not be available to Chairman, scrutiniser or other person. Only that the vote has been exercised will be intimated. To ascertain the fact of voting, the scrutiniser shall have access to requisite details of members but not the manner.

A register of details of exercise of voting rights including name, address, folio number, number of shares, nominal value and whether shares are of a differential nature. Once the Chairman signs the minutes, the register and relevant papers are to be given to the company by the scrutiniser. After declaration of result by the chairman, the result shall be hosted on the website of the company, of the agency and in case of listed companies, it shall be forwarded to stock exchange which shall host the same on its website.

10. Calendar events E-voting process (Nut-shell)

Day	Event/document/process
0	<ul style="list-style-type: none"> • Draw the list of shareholders for dispatch of notice
	<ul style="list-style-type: none"> • Appointment of scrutinizer with his consent who shall be available for ascertaining the requisite majority
	<ul style="list-style-type: none"> • Appointment of agency to provide e-voting facility
1 Day	<ul style="list-style-type: none"> • Intimation to stock exchange (Applicable to equity listed companies)
	<ul style="list-style-type: none"> • Dispatch the general meeting notice to all the members, directors and auditors:
	<ul style="list-style-type: none"> ➤ by registered post, or
	<ul style="list-style-type: none"> ➤ by Speed Post, or
	<ul style="list-style-type: none"> ➤ by courier, or
	<ul style="list-style-type: none"> ➤ Through electronic means to registered e-mail ID
	<ul style="list-style-type: none"> • Content of notice of General meeting:
	<ul style="list-style-type: none"> ➤ availability of remote e-voting facility including its manner time schedule, ballot paper or other method for those members at meeting

ICSI-CCGRT

	who don't exercise remote e-voting
	➤ businesses to be transacted through e-voting
	➤ availability of physical meeting for all members including those exercise remote e-voting
	➤ No available to voting at meeting for those members exercise remote e-voting.
	➤ details of login ID, process and manner of generation or receiving of password to the members who opt for e-voting
	• Publish public notice in vernacular language in the wide circulated vernacular language news-paper of district of where registered office situated and English in a country-wide circulated English New Paper
	• Content of Public Notice:
	➤ availability of remote e-voting facility including its manner time schedule, ballot paper or other method at meeting for those members who don't exercise remote e-voting
	➤ cut-off date (any day not more seven days before meeting)
	➤ businesses to be transacted through e-voting
	➤ availability of physical meeting for all members including those exercise remote e-voting
	➤ No voting available at meeting for those members exercises remote e-voting.
	➤ Obtaining login ID, process and manner of generation or receiving of password for e-voting to the members who become members after dispatch of general meeting notice.
	➤ Details of website of company, if any or agency where notice meeting is displaced.
	➤ Details of responsible person to address grievance associated e-voting
	• Display of copy of general meeting notice together with resolution and public notice at website of the Company, if any and agency
	• Intimation to stock exchanges (Applicable to equity listed companies).
Any day before 18 th Day	• Cut-off date (Not more than 7 days before the date of general meeting)
	• Draw the list of eligible shareholders and provide same to agency to load the data at e-voting website.
21 st Day	• Commencement of remote E-voting
24 th Day	• Conclusion of the remote E-voting at 5 P.M. Blocking of e-voting facility
	• Date of the General Meeting-conduct the meeting discussion on business as scheduled
	• Get the list of shareholders who have cast their votes through remote e-voting
	• Allow the shareholders, who have not opted for remote e-voting, to vote through electronic voting system or ballot or poll paper at the general meeting
	• Immediately after conclusion of meeting, scrutinizer to count the votes cast at meeting and unblock the votes cast at remote e-voting in the

	presence of two witnesses (who are not in employment of the company) and prepare a consolidated report of e-voting.
	<ul style="list-style-type: none"> • Scrutinizer to maintain the register to record the e-voting • Effective date of resolutions passed shall be relevant general meeting.
28th Day	<ul style="list-style-type: none"> • Submission of scrutinizer report to Chairman or a person authorized by chairman. The report is required to be counter signed by the chairman or a person authorized by chairman
	<ul style="list-style-type: none"> • Declaration of results by the Chairman or a person authorized by chairman
	<ul style="list-style-type: none"> • Place the results declared together with scrutinizer report on the website of the company, if any, and on the website of the agency
	<ul style="list-style-type: none"> • Prepare the minutes of the general meeting
	<ul style="list-style-type: none"> • Chairman of the meeting to consider, approve and sign the minutes
	<ul style="list-style-type: none"> • Handing over the register and all other poll papers by the scrutiniser

11. Punishment and Compoundability

11.1 Contravention of section

This section does not prescribe any penal provision for contravention of the section. Hence, section 450 of the Act will be applicable. Accordingly, the punishment for contravention, the company and every officer of the company who is in default shall be punishable with a fine upto Rs. 10,000, where the contravention is a continuing one then the fine shall be rupees 1,000 for every day of contravention.

11.2 Contravention of rule

As per rule 30 of Companies (Management and Administration) Rules, 2014 contravention of rules made under this section, the company and every officer of the company who is in default are punishable with a fine upto Rs.5,000, where the contravention is a continuing one then the fine shall be rupees 500 for every day of contravention.

The offenses committed under this section and rule are compoundable under section 441 of the Act.

(Concluded)

Contents of Geeta Saar, as extracted from ICSI Premier on Company Law, is as per notified law as on 30th September, 2016.