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## Introduction of Secretarial Standards in India

- The statutory recognition of SS-1 and SS-2 has placed the profession of company secretaries at a higher pedestal and provided the necessary impetus for higher levels of corporate governance in companies. The ICSI is also endeavouring to get statutory recognition for several other Standards to be issued by the SSB.

The concept of Secretarial Standards was conceived by the Council of the Institute of Company Secretaries (ICSI) somewhere in the year 2000, with the intent of integrating, consolidating, harmonizing and standardizing the prevalent diverse secretarial practices. A major initiative in this regard was thereafter taken by the ICSI in setting up of a Secretarial Standards Board (SSB) comprising senior members of the profession. The ICSI took this initiative keeping in view the growth and enhanced visibility of the profession and its members. Another factor taken into consideration for setting up the SSB and for formulating Secretarial Standards was to set up an international bench mark in Secretarial Practices.

The first meeting of the SSB was held on 18th July, 2000 at New Delhi and decisions were taken on many crucial issues regarding the formulation of Standards. The second meeting was held in August 2000 at which discussions were held for preparing preliminary drafts of Secretarial Standards on Board Meetings, Annual General Meetings, Directors' Report and Investments, Loans and Guarantees. It was also decided that Secretarial Standards on Minutes, Nomination, Transfer & Transmission of Securities, Dividend and Interest should be brought out. The foremost decision taken by the SSB was to formulate and prepare a Preface to the Secretarial Standards, so as to lay down the Objectives of the SSB, its

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Scope and Functions, Need for Secretarial Standards, Scope of Secretarial Standards, Procedure for issuing Secretarial Standards and Compliance with the Secretarial Standards to be issued by the SSB. The Preface to the Secretarial Standards and the Secretarial Standard on Meetings of the Board of Directors (SS-1)

were the first two documents which were finalized by the SSB somewhere in December 2001. It took substantial time to prepare these documents as this was a maiden effort ever undertaken by any Institute in the world and there were no precedents anywhere for the preparation of Secretarial Standards. The format, language and the contents of the aforesaid documents had to be debated intensely so as to achieve the objective of international benchmarking. These two documents were well received by the profession and the authorities when they were exposed for public comments. Several comments and suggestions were received in the light of which the Preface to Secretarial Standards and the Secretarial Standard on Meetings of the Board of Directors (SS-1) were finalized. In the process, the ICSI achieved the distinction





# Article

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## ➤ Secretarial Standards do not seek to substitute or supplant any existing laws or the rules and regulations but seek to supplement such laws, rules and regulations.

of being the first body of Company Secretaries in the world to issue Secretarial Standards. The aforesaid two documents were released at the inaugural session of the 29th National Convention of the ICSI. The SSB thereafter formulated the second Secretarial Standard on General Meetings (SS-2). The same was exposed for public comments and finalized after taking into consideration the comments received. The Secretarial Standard on General Meetings (SS-2) was released by Shri Arun Jaitley, the then Union Minister of Law, Justice and Company Affairs on May 1, 2002.

The Preface to Secretarial Standards clarified that the ICSI, recognizing the need for integration, harmonization and standardization of diverse secretarial practices has constituted the SSB with the objective of formulating Secretarial Standards. It was also clarified in the Preface that the scope of the Secretarial Standards Board is to identify the areas in which Secretarial Standards need to be issued by the Council of the ICSI and to formulate such standards, taking into consideration the applicable laws, business environment and best secretarial practices. The functions of the SSB also include:-

- a) Clarifying issues arising out of the Secretarial Standards.
- b) Issuing Guidance Notes for the benefit of the members of the ICSI, corporates and other users.
- c) Reviewing and updating the Secretarial Standards / Guidance Notes at periodic intervals.

The Preface clarified that the Secretarial Standards do not seek to substitute or supplant any existing laws or the rules and regulations but seek to supplement such laws, rules and regulations. It was also clarified that Secretarial Standards, will be in conformity with the applicable laws and in case any Standard or any part thereof becomes inconsistent with such law, the provisions of the said law shall prevail. The procedure for formulating and issuing of Standards was laid down in the Preface. The procedure as contained therein is given hereunder:-

- (a) The SSB, in consultation with the Council, shall determine the areas in which Secretarial Standards need to be formulated and the priority in regard to the selection thereof.
- (b) In the preparation of Secretarial Standards, the SSB may constitute Working Groups to formulate preliminary drafts of the proposed Standards.

- (c) The preliminary draft of the Secretarial Standards prepared by the Working Group shall be circulated amongst the members of the SSB for discussion and shall be modified appropriately, if so required.
- (d) The preliminary draft will then be circulated to the members of the Central Council as well as to Chairmen of Regional Councils/Chapters of the ICSI, various professional bodies, Chambers of Commerce, regulatory authorities such as the Ministry of Corporate Affairs, the Department of Economic Affairs, the Securities and Exchange Board of India, the Reserve Bank of India, the Department of Public Enterprises and to such other bodies / organizations as may be decided by the SSB, for ascertaining their views and specifying a time-frame within which such views, comments and suggestions are to be received.

A meeting of the SSB with the representatives of such bodies/ organizations may then be held, if considered necessary, to examine and deliberate on their suggestions.

- (e) On the basis of the preliminary draft and the discussion with the bodies / organizations referred to in (d) above, an Exposure Draft will be prepared and published in the "Chartered Secretary", the journal of the ICSI, and also put on the Website of the ICSI to elicit comments from members and the public at large.
- (f) The draft of the proposed Secretarial Standard will generally include the following basic points:
  - (i) Concepts and fundamental principles relating to the subject of the Standard;
  - (ii) Definitions and explanations of terms used in the Standard;
  - (iii) Objectives of issuing the Standard;
  - (iv) Disclosure requirements; and
  - (v) Date from which the Standard will be effective.
- (g) After taking into consideration the comments received, the draft of the proposed Secretarial Standard will be finalized by the SSB and submitted to the Council of the ICSI.
- (h) The Council will consider the final draft of the proposed Secretarial Standard and finalize the same in consultation with the SSB. The Secretarial Standard on the relevant subject will then be issued under the authority of the Council.

A paragraph with regard to compliance with the Secretarial Standards was also added in the Preface. It was explained that the Secretarial Standards would be recommendatory for the time being. However, the Institute, would endeavour to educate the users about the utility and the need for compliance with such Standards and also request the authorities to enforce these Standards so that diverse practices followed by various companies are standardized.

Over the years, the SSB has grown in strength and has been given



➤ It is a matter of great satisfaction for the SSB and the ICSI that the Companies Act, 2013, has recognized the importance of two Standards viz. Secretarial Standard on Meetings of the Board of Directors (SS-1) and Secretarial Standard on General Meetings (SS-2) as issued by the ICSI. These Standards were revised by the Secretarial Standards Board in line with the provisions of the Companies Act, 2013 and have been approved by the Government of India.

due recognition by various regulators as a body of experts. The following Standards have been issued by the Secretarial Standards Board since it was set up:

SS-1: Secretarial Standard on Meetings of the Board of Directors
SS-2 : Secretarial Standard on General Meetings
SS-3 : Secretarial Standard on Dividend
SS-4 : Secretarial Standard on Registers and Records
SS-5 : Secretarial Standard on Minutes
SS-6 : Secretarial Standard on Transmission of Shares and Debentures
SS-7 : Secretarial Standard on Passing of Resolutions by Circulation
SS-8 : Secretarial Standard on Affixing of Common Seal
SS-9 : Secretarial Standard on Forfeiture of Shares
SS-10 : Secretarial Standard on Board's Report

It is a matter of great satisfaction for the SSB and the ICSI that the Companies Act, 2013, has recognized the importance of two Standards viz. Secretarial Standard on Meetings of the Board of Directors (SS-1) and Secretarial Standard on General Meetings (SS-2) as issued by the ICSI. These Standards were revised by the Secretarial Standards Board in line with the provisions of the Companies Act, 2013 and have been approved by the Government of India vide its letter dated 10th April, 2015. Pursuant to the provisions of Section 118(10) of the Companies Act, 2013, and the notification of these two standards, it is now mandatory for companies to comply with these two Standards and the Secretarial Audit Report to be issued under section 204 of the Companies Act, 2013 is required to report on such compliance.

The SSB has also issued Guidance Notes on various subjects over the years. The remaining Standards and the Guidance Notes are in the process of revision by the SSB so as to bring the same in

line with the provisions of the Companies Act, 2013. Apart from the revision of the existing Standards and Guidance Notes, the Secretarial Standards Board has a voluminous and important agenda for this year. Various new topics have been identified for issue of Secretarial Standards and Guidance Notes. Some of these are Corporate Social Responsibility, Loans & Investments, Key Managerial Personnel, Charges, Mergers Acquisitions & Corporate Restructuring, Deposits, etc.

The statutory recognition of SS-1 and SS-2 has placed the profession of company secretaries at a higher pedestal and has provided the necessary impetus for higher levels of corporate governance in companies. It is understood that the international community has also approached the ICSI to provide necessary guidance for the preparation of Secretarial Standards in accordance with the law of such countries. The ICSI is also endeavouring to get statutory recognition for several other Standards to be issued by the SSB. The objective of setting up of the SSB would truly be achieved when all the Standards issued by the ICSI are given statutory recognition and compliance with them by companies is made compulsory. CS

**File No. PFA/63/2007-CLB  
COMPANY LAW BOARD  
GOVERNMENT OF INDIA**

**3rd Floor, B-Block  
Paryavaran Bhawan  
C. G. O. Complex, Lodhi Road,  
New Delhi-110003 Dated: 26.3.2015**

### **ORDER**

In view of the fact that despite directions of the Hon'ble Chairman, both on the Administrative and Judicial side, Shri Kanthi Narahari, Member (Judicial) continues to refrain hearing matters pertaining to the States of Telangana and Andhra Pradesh and considering the serious dislocation of judicial work pertaining to the States of Telangana and Andhra Pradesh due to such refusal, it is ordered that upon refusal by Shri Kanthi Narahari, Member (J), Chennai Bench to hear the urgent mentioning matters pertaining to the States of Telangana and Andhra Pradesh, such urgent matters may be mentioned before Shri B.S.V.Prakash Kumar, Member(J), New Delhi Bench at New Delhi on any working day at 2.30 PM after prior notice to the other side and to the Bench Officer, New Delhi Bench.

2. This Order shall come into force with effect from 26.3.2015.

By Order of the Company Law Board  
(P. K. Malhotra) Secretary  
Company Law Board  
Tel. No. 24363451