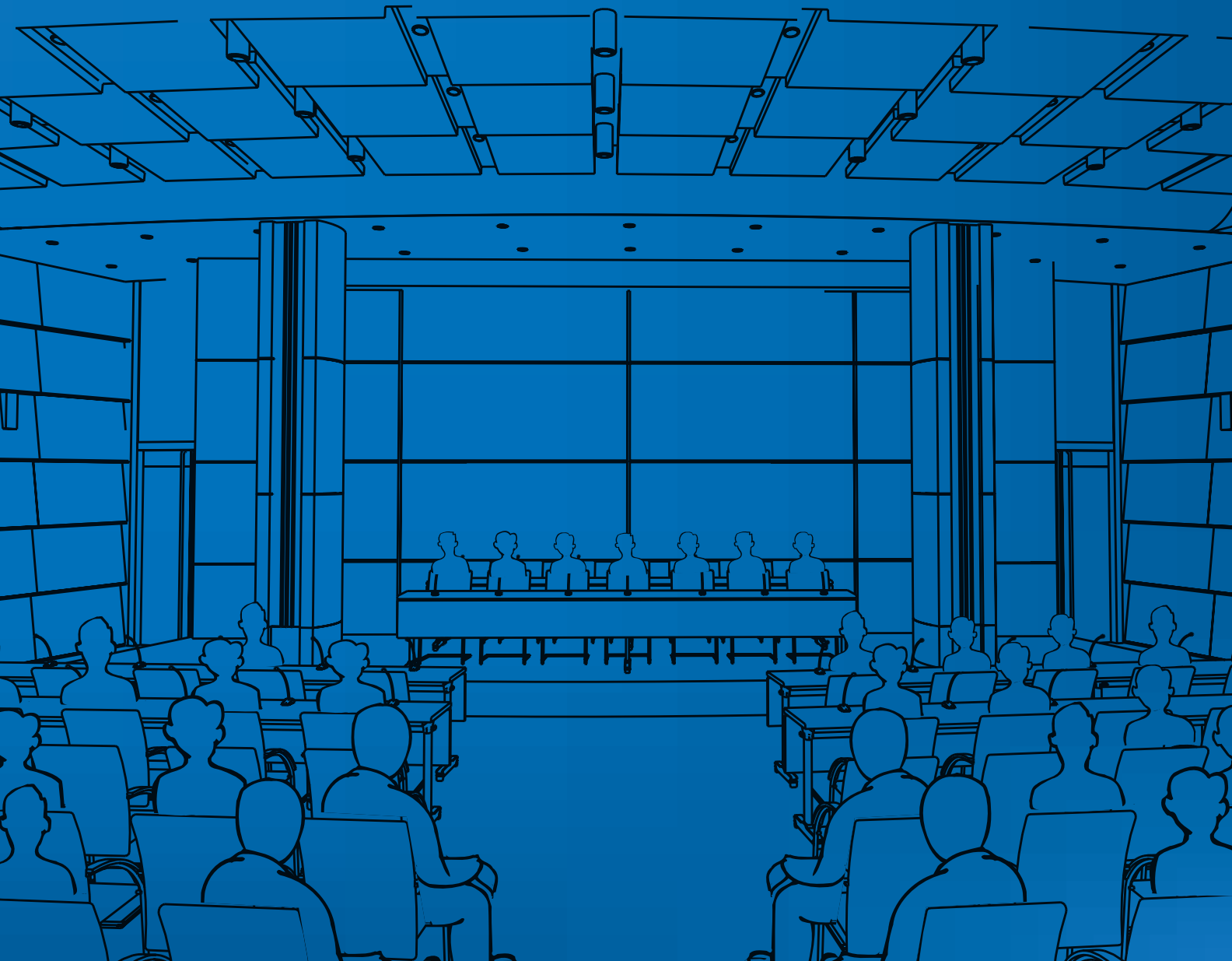




Securities and Exchange
Commission of Pakistan

MEMBERS MEETINGS & RESOLUTIONS GUIDE



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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Introduction

The meetings of members of a company are a pivot around which the concept of corporate democracy revolves. The members meetings have a particular role and significance in the functioning and administration of companies. All important decisions in case of companies are generally taken at the members meetings. Since the members do not directly participate in the day-to-day operations of the company, therefore, the members meetings provide a forum to align themselves with the management of the company by giving their approval at the time of making important decisions. It is very important that at the time of seeking approval from the members the management of the company discloses to the members in the notice of meeting and its annexure the material facts related to the business that is to be resolved by them. The effective disclosures are paramount to safeguard the interests of the members of a company.

The present guide titled “Members Meetings and Resolutions Guide” is aimed at assisting the personnel tasked with secretarial responsibilities in successfully carrying out pre-meeting preparations and conducting structured and purposeful meetings.

This guide answers many frequently asked questions (FAQs) providing guidance regarding members meetings in line with the relevant provisions of the Companies Ordinance, 1984 (Ordinance). The templates of various resolutions have been added through appropriate illustrations which may be used while drafting resolutions to be passed in general meetings of the company. The templates are for illustrative purposes and may therefore not be taken as exhaustive information. Other resolutions may be passed by the members in their meeting where the subject matter is presumed important to be put forth in the members meetings. In addition, requirements with regard to a specific resolution have also been provided. In the end of the guide a checklist is provided regarding approvals and authorities involved for ease of reference.

This document is aimed at providing guidance to companies and should at all times be read in the light of the prevailing law. In case of any conflict between the law and this document, the law shall prevail.

Frequently Asked Questions

Q1. What is a resolution?

A. A resolution is an agreement or decision made by the members, a class of members, or the directors of a company to carry out certain changes. The day-to-day decisions are normally taken at Board of Directors meetings, however, in certain cases these decisions are to be approved by the members in their general meetings.

Q2. What is an ordinary business?

A. Consideration of the accounts, balance sheets and the reports of the directors and auditors, the declaration of a dividend, the appointment and fixing of remuneration of auditors and election or appointment of directors are ordinary businesses.

Q3. What is a special business?

A. Business other than consideration of the accounts, balance sheets and the reports of the directors and auditors, the declaration of a dividend, the appointment and fixing of remuneration of auditors and election or appointment of directors.

Q4. What is an ordinary resolution?

A. An ordinary resolution of the members of a company means a resolution that is passed by a simple majority.

Q5. What is a special resolution?

A. A resolution that has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy at a general meeting of which not less than twenty one days notice specifying the intention to propose the resolution as a special resolution has been duly given. Provided that, if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting for which not less than twenty one days notice has been given. Not all special businesses require special resolution, special resolution is required in business transacted under Section 21, 28, 39, 86, 92, 95A, 96, 112, 192, 202, 208, 252, 305 and 358 of the Companies Ordinance, 1984 ("Ordinance").

Q6. What is the manner of casting vote and how is a resolution passed?

A. At any general meeting, a resolution put to the vote of the meeting shall, unless a poll is demanded, be decided on a show of hands. In case of a company having a share capital, every member shall have votes proportionate to the paid-up value of the shares or other securities carrying voting rights held by him in accordance with the entitlement of the class of such shares or securities, as the case may be. In case of company limited by guarantee having no

share capital every member thereof shall have one vote. The resolution is passed when the majority required for the passing of the resolution is reached (e.g. 75% of the members for a special resolution changing the company's name). If the necessary majority is not obtained, then the proposed resolution fails.

Q7. Which meetings of the company are the general meetings?

A. The following are the general meetings of the company.

Statutory meeting.

Annual general meeting.

Extra ordinary general meeting.

Q8. What is a statutory meeting?

A. Every company limited by shares and every company limited by guarantee and having a share capital shall, within a period of not less than three months, nor more than six months, from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called "the statutory meeting".

Q9. What are the requirements of holding annual general meeting?

A. Every company shall hold, in addition to any other meeting, a general meeting, as its annual general meeting, within eighteen months from the date of its incorporation and thereafter once at least in every calendar year within a period of four months following the close of its financial year and not more than fifteen months after the holding of its last preceding annual general meeting.

Q10. What is an extra ordinary general meeting?

A. All general meetings of a company, other than the annual general meetings and the statutory meeting shall be called extraordinary general meetings.

Q11. How is a general meeting called and what is the notice period for members meetings?

A. The notice of meeting shall be sent to the members at least twenty-one days before the date of the meeting and, in the case of a listed company, such notice, in addition to its being dispatched in the normal course, shall also be published at least in one issue each of a daily newspaper in English-language and a daily newspaper in Urdu-language having a respectable circulation in the province in which the stock exchange on which the company is listed is situate.

Q12. How can members notify resolution to be considered at a general meeting?

A. The members having not less than ten per cent voting power in the company may give notice of a resolution and such resolution

together with the supporting statement, if any, which they propose to be considered at the meeting, shall be forwarded so as to reach the company-

- (a) in the case of a meeting requisitioned by the members, together with the requisition for the meeting;
- (b) in any other case, at least fifteen days before the meeting; and the company shall forthwith circulate such resolution to all the members.

Q13. Can annual general meeting be held anywhere?

A. An annual general meeting shall, in the case of a listed company, be held in the town in which the registered office of the company is situate: Provided that the Securities and Exchange Commission of Pakistan (“Commission”), for any special reason, may, on the application of such company, allow the company to hold a particular meeting at any other place.

Q14. What are the requirements of statement of material facts under Section 160 of the Ordinance?

A. Where a special business is to be transacted at a general meeting, there shall be annexed to the notice of the meeting a statement setting out all material facts concerning such business, including, in particular, the nature and extent of the interest, if any, therein of every director, whether directly or indirectly, and, where any item of business consists of the according of an approval to any document by the meeting, the time when and the place where the document may be inspected shall be specified in the statement. The material information to be supplied in term of Section 196 and Section 208 of the Ordinance has been prescribed by the Commission under SRO 1227(1)/2005 dated December 12, 2005 and SRO 27(1)/2012 dated January 16, 2012 respectively.

Q15. To whom notice of general meeting is circulated?

A. The notice of the general meeting is issued to the following;

- Members of the company
- Successor or heir or nominee of the deceased member (if the interest of such person is known to the company)
- Auditors of the company
- Commission/registrars of companies
- Relevant stock exchange (in case of listed companies)

Q16. What are the contents of notices of the general meeting?

A. Notice of a general meeting of a company must state—

- The time and date of the meeting,
- The place of the meeting.
- General and special nature of the business to be dealt with at the general meeting including the text of the resolution in case of

special business.

- The notice shall prominently set out the members right to appoint a proxy and the right of such proxy to attend, speak and vote in the place of the member at the meeting and every such notice shall be accompanied by a proxy form.

Q17. What is the manner of forwarding notice of general meeting?

A. The notice of an general meeting shall be sent to the shareholders at least twenty-one days before the date fixed for the meeting and, in the case of a listed company, such notice, in addition to its being dispatched in the normal course, shall also be published at least in one issue each of a daily newspaper in English language and a daily newspaper in Urdu language having circulation in the Province in which the stock exchange on which the company is listed is situate. A notice may be given by a company to any member either personally or by sending it by post to him to his registered address or, if he has no registered address in Pakistan to the address, if any, within Pakistan supplied by him to the company for the giving of notices to him.

Q18. How to notify Commission regarding general meeting of a listed company?

A. The notice of annual general meeting or extra ordinary general meeting must be faxed to 051-9218592 or emailed at general.meetings@secp.gov.pk to the Commission marked "Attention to Head of Department (Enforcement)" along with statement of material facts under Section 160 of the Ordinance in case of special business, as usual on the same date on which it is sent to the members. The copies of the newspapers both English and Urdu in which the notice of general meeting is published is required to be sent to the Commission within seven days of its publication.

Q19. What is quorum of a general meeting?

A. The quorum is the presence of a minimum number of members for a valid meeting. The quorum of a general meeting is as follows:

- For public listed company, unless the articles provide for a larger number, not less than ten members present personally representing not less than 25% of total voting power either of their own account or as proxies.
- For other companies (non-listed public/private companies), unless the articles provide for a larger number, two members present personally representing not less than 25% of the total voting power either of their account or as proxies.
- For single-member company a single member present in person or by proxy

Q20. What are the requirements of filing of special resolution?

A. A printed or typed copy of every special resolution on Form 26 shall, within fifteen days from the passing thereof, be filed with the registrar duly authenticated by the chief executive or secretary of the company.

Q21. Is auditor entitled to attend general meetings?

A. The auditor of a company shall be entitled to attend any general meeting of the company, and to receive all notices of, and any communications relating to, any general meeting which any member of the company is entitled to receive, and to be heard at any general meeting which he attends on any part of the business which concerns him as an auditor. Provided that, in the case of a listed company, the auditor or a person authorised by him in writing shall be present in the general meeting in which the balance-sheet and profit and loss account and the auditor's report are to be considered.

Q22. Who may call extraordinary general meeting?

A. An extraordinary general meeting may be called by directors at any time on or on the requisition of members representing not less than one-tenth of the voting powers and by the requisitionists or majority of them in value may themselves if the directors do not proceed within twenty-one days from the date of the requisition being so deposited to cause a meeting to be called.

Q23. Can "any other business" be transacted by the company in general meeting without giving prior notice to the members?

A. All businesses before their notification in the notice of general meeting require prior approval of the Board of Directors. Moreover, special businesses also require material information disclosure to be annexed with the notice, as a result of this; the company shall be required to disclose the special business as agenda item in the said notice. Therefore, other businesses cannot be transacted in the general meeting without giving prior notice to the members.

Q24. What are the requirements regarding proxies?

A. Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person, as his proxy to attend and vote instead of him, and a proxy so appointed shall have such rights as respects speaking and voting at the meeting as are available to a member:

Provided that--

- (a) This shall not apply in the case of a company not having a share capital;

- (b) A member shall not be entitled to appoint more than one proxy to attend any one meeting;
- (c) If any member appoints more than one proxy for any one meeting and more than one instruments of proxy are deposited with the company, all such instruments of proxy shall be rendered invalid; and
- (d) A proxy must be a member unless the articles of the company permit appointment of a non-member as proxy.

Q25. What are the requirements regarding representation of corporations at general meetings?

A. A company which is a member of another company may, by resolution of the directors, authorise any of its officials or any other person to act as its representative at any meeting of that other company, and the person so authorised shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company.

Q26. What are the requirements regarding representation of federal government at general meetings?

A. The federal government, or a provincial government, as the case may be, if a member of a company, may appoint such person as it thinks fit to act as its representative at any meeting of the company or at any meeting of any class of members of the company. A person appointed to act as aforesaid shall, for the purpose of this Ordinance, be deemed to be a member of such a company and shall be entitled to exercise the same rights and powers, including the right to appoint proxy, as the federal government or the provincial government, as the case may be, may exercise as a member of the company.

Notice Template

Notice of Annual General Meeting / Extra Ordinary General Meeting:

Notice is hereby given that the [number of meeting] annual general meeting/extra-ordinary general meeting of [name of company] will be held at [place of meeting], on [date of meeting], at [time of meeting] to transact the following business:

A. Ordinary Business

1. Consideration of the accounts, balance sheets and the reports of the directors and auditors.
2. Declaration of a dividend.
3. Appointment and fixation of remuneration of auditors.
4. Election of directors.

B. Special Business

5. To -----

By the order of board
[Name of company secretary]
Company Secretary

Notes:

1. Closure of share transfer books:

Share Transfer Books will remain closed and no transfer of shares will be accepted for registration from [date] to [date] (both days inclusive).

2. Participation in the annual general meeting:

A member entitled to attend and vote at this meeting is entitled to appoint another member/any other person as his/her proxy to attend and vote.

3. Duly completed instrument of proxy, and the other authority under which it is signed, thereof, must be lodged with the secretary of the company at the company's registered office [address] at least 48 hours before the time of the meeting.

4. Change in address:

Any change of address of Members should be immediately notified to the company's share registrars, [name] [address].

5. The CDC account holders will further have to follow the under-mentioned guidelines as laid down by the Securities and Exchange Commission of Pakistan:

A. For attending the meeting:

- i) In case of individuals, the account holder or sub-account holder and / or the person whose securities are in group account and their registration details are uploaded as per the Regulations, shall authenticate his identity by showing his original computerized national identity card (CNIC) or original passport at the time of attending the meeting.
- ii) In case of corporate entity, the Board of Directors' resolution/power of attorney with specimen signature of the nominee shall be produced at the time of the meeting.

B. For appointing proxies:

- i) In case of individuals, the account holder or sub-account holder and/or the person whose securities are in group account and their registration details are uploaded as per the Regulations, shall submit the proxy form accordingly.
- ii) The proxy form shall be witnessed by two persons whose names, addresses and CNIC numbers shall be mentioned on the form.
- iii) Attested copies of CNIC or the passport
- iv) The proxy shall produce his/her original CNIC or original passport at the time of meeting.
- v) In case of corporate entity, the Board of Directors' resolution / power of attorney with specimen signature shall be submitted along with proxy form to the company.

6. Accounts of the company for the year ended [date] has been provided on the website [company's website address]

Members Meetings & Resolutions

This part of guide provides user with information to be annexed with the notice of general meeting and illustrations which provides helping tool for drafting resolution requiring members' approval.

1. Alteration of Memorandum (Section 21 of the Ordinance):

A company may amend its Memorandum by special resolution.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. The material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly, reasons and effects of addition or amendment made in the provisions of Memorandum.

Illustration

To change the registered office of the company from [one province to another], or from [one city or town in a province to another], or from [a part of Pakistan not forming part of a province to a province] or from a [province to a part of Pakistan not forming part of a province], and to consider and if thought fit, to pass with or without modification, the following resolutions as an special resolution;

RESOLVED THAT, “the Clause No. [number] of the Memorandum of Association of the company be and is hereby amended to read as follows:

The registered office of the company is located in the [name of province/city/town]

2. Alteration of Article (Section 28 of the Ordinance):

A company may amend its articles of association by special resolution.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly, reasons and effects of addition or amendment made in regulations contained in the articles of association.

Illustrations

Alteration in Authorized share capital of the company

To consider and if thought fit, to pass with or without modification, the following resolutions as an special resolution;

RESOLVED THAT, “the Paragraph [number] of Article [number] of the Articles of Association of the company be and is

hereby amended to read as follows:

“The authorized share capital of the company is Rs. [denomination] divided into [number of shares] ordinary shares of [denomination per share] each.”

Substitution of article of association

To consider and if thought fit, to pass with or without modification, the following resolutions as an special resolution;

RESOLVED THAT, “to amend the articles of association in order to make them compliant with the amendments in the Companies Ordinance, 1984 made from time to time.

FURTHER RESOLVED THAT, “to revise the numbering order of the amended article of Association.

3. Change of name by a company (Section 39 of the Ordinance):

A company may, by special resolution and with the approval of the registrar signified in writing, change its name. Provided that no such approval shall be required where the only change in the name of a company is the addition thereto or, as the case may be, the deletion there from, of the parenthesis and word "(Private)" consequent on the conversion in accordance with the provisions of this Ordinance of a public company into a private company or of a private company into a public company.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly, reasons and effects of change of name by the company.

Illustration

To consider changing the name of the company from [old name] to [new name] and if thought fit to pass the following special resolution with or without modifications:

RESOLVED THAT, “the change in name of the company from [old name] to [new name], be and is hereby approved for sanction by Securities and Exchange Commission of Pakistan.”

FURTHER RESOLVED THAT, “the name of the company wherever appearing in the Memorandum and Articles of Association and all other documents of the company be and is hereby altered to read as [new name].”

FURTHER RESOLVED THAT, “the [name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents

as may be necessary or incidental for the purpose of implementing the aforesaid resolution.”

4. Terms of contract mentioned in prospectus or statement in lieu of prospectus not to be varied (Section 58 of the Ordinance):

A company shall not, at any time, vary the terms of contract referred to in the prospectus or a statement in lieu of prospectus except subject to the approval of, or except on authority given by, the company in general meeting through ordinary resolution.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly, reasons and effects of change of term mentioned in prospectus.

Illustration

To consider and if thought fit, to pass with or without modification, the following resolutions as an ordinary resolution.

Clause [number] of the Prospectus of the company be and is hereby amended to read as follows;

RESOLVED THAT, “the net proceeds of the issue, will be used by the company for capital expenditure and to augment the working capital requirements of the company.”

5. Issue of shares at discount to existing members as a right issue (Section 84 of the Ordinance):

A company can issue shares at discount to its existing members as a right issue. The issue of shares at a discount must be authorized by resolution passed by the members in the general meeting of the company and must be sanctioned by the Commission.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the minimum may include the following:

- A statement stating that the funds in question are essentially required and directors of the company have explored all other avenues of funding available and shares at a discount are being issued as a last resort.
- The detail of issue of shares at par or at a discount in the last five years stating purpose, utilization of funds and benefits arisen to the company and its members. The amount of capital injected thereby and the increase in profit before tax in consequence thereof shall be stated.

- A copy of financial plan, projections and others information as listed in rule 5(ii) of the Companies (Issue of Capital) Rules, 1996 alongwith the schedule of discount amortization.
- Break-up value of the company's share at the end of last financial year
- Details of advances/loans to the associated companies and directors during preceding three years and justification thereof.
- Turnover details and market share price of company's share during preceding 6 months.

Illustration

To consider and approve the issuance of [number of shares] shares to existing members at a discount of Rs. [denomination] per share at a price of Rs. [denomination] in accordance with sections 84 and 86 of the Companies Ordinance, 1984 and to pass the following resolution with or without modification, as ordinary resolution, and as may be directed by the Securities and Exchange Commission of Pakistan.

RESOLVED THAT, "subject to the sanction of the Securities and Exchange Commission of Pakistan, [number of shares] ordinary shares of the par value of Rs. [denomination] each be offered and issued to the existing members at a discount of Rs.[denomination] per share at a price of Rs. [denomination] per share by way of right issue under Sections 84 and 86 of the Companies Ordinance,1984."

FURTHER RESOLVED THAT, "these right shares shall from the date of their allotment, rank pari passu in all respect with the then existing fully paid shares of [company name] and the members receiving such shares shall enjoy similar rights and entitlements in respect of the Right Shares as in respect of their previously held shares from the date of allotment."

FURTHER RESOLVED THAT, "the [name with designation of authorized person], be and are hereby authorized, jointly and severally, to take all necessary steps, ancillary and incidental for the issuance of the right shares at a price of Rs. [denomination] (at a discount of Rs.[denomination] and to obtain the regulatory approvals from the Securities and Exchange Commission of Pakistan, and the Stock Exchanges.

FURTHER RESOLVED THAT, "the [name with designation of authorized person] be and are hereby authorized, jointly and severally, to submit application to Securities and Exchange Commission to obtain relaxation of certain provisions and rules under Section 84 of the Companies Ordinance, 1984, Companies (Issue of Capital) Rules, 1996 and other guidelines of the Commission with respect to issue of right shares at discount."

FURTHER RESOLVED THAT, "the fraction of the right share shall be consolidated into a marketable lot which shall be

disposed off in accordance with the approval of the Board.”

6. Further issue of shares otherwise than right (Section 86 of the Ordinance):

A company can issue shares other than right with the authority of special resolution and after taking approval from the Commission.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the minimum may include the following information with regards to issue of further shares without rights to the existing members:-

- Justification as to why proposed shares are to be issued otherwise than rights and not as rights shares;
- Name of the person(s) / organization(s) / company(s) etc. to whom shares will be issued;
- Price at which the proposed shares will be issued. Justification, with details of the latest available market price and breakup value per share, if such price differs from par value;
- Detail of asset(s), if proposed shares are to be issued for consideration otherwise than cash ;
- Purpose of the issue, utilization of the proceeds of the issue and benefits to the company and its members with necessary details;
- Existing shareholding of the person(s) / organization(s) / company(s) etc. to whom the proposed shares will be issued (in number as well as percentage vis-à-vis to existing paid up capital of the company);
- Total shareholding of the person(s) / organization(s) / company(s) etc. after the proposed issue of shares (in number as well as percentage vis-à-vis to increased paid up capital of the company);
- Whether the person(s) / organization(s) / company(s) etc. has provided written consent to the company for purchase of such shares;
- The fact that these shares will rank pari passu in all respects with the existing shares of the company. Details if there is any change.
- The fact that this issue of shares is subject to approval of the Commission.

Illustration

To consider and if thought fit, to pass with or without modification, the following resolutions as special resolution.

RESOLVED THAT, “the approval of the members of the company be and hereby accorded under the provision of Section 86(1) of the Companies ordinance, 1984, and subject to the sanction of the Securities and Exchange Commission of Pakistan for issuance of [number of shares] shares of the

company at Rs. [denomination per share] each, total amounting to Rs.[denomination], by way of other than right, to [name of person/group/entity].”

FURTHER RESOLVED THAT, “these right shares shall from the date of their allotment, rank pari passu in all respect with the then existing fully paid shares of the company and the members receiving such shares shall enjoy similar rights and entitlements in respect of the Right Shares as in respect of their previously held shares from the date of allotment.”

FURTHER RESOLVED THAT, “the [name with designation of authorized person]be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolution.”

7. Issue of shares otherwise than right at a discount (Section 84 and 86 of the Ordinance):

A company can issue shares other than right at a discount with the authority of special resolution and after taking approval from the Commission.

Annexure to Notice:

All the information as mentioned above with the resolutions of issue of shares at discount and issue of shares other than right.

Illustration

To consider and approve the issuance of [number of shares] shares to [name of person/group/entity] at a discount of Rs. [denomination] per share at a price of Rs. [denomination] in accordance with sections 84 and 86 of the Companies Ordinance, 1984 and to pass the following resolution with or without modification, as special resolution, and as may be directed by the Securities and Exchange Commission of Pakistan.

RESOLVED THAT, “subject to the sanction of the Securities and Exchange Commission of Pakistan, [number of shares] ordinary shares of the par value of Rs. [denomination] each be offered and issued to [name of person/group/entity] at a discount of Rs.[denomination] per share at a price of Rs. [denomination] per share by way of other than right issue under Sections 84 and 86 of the Companies Ordinance,1984.”

FURTHER RESOLVED THAT, “these right shares shall from the date of their allotment, rank pari passu in all respect with the then existing fully paid shares of the company and the members receiving such shares shall enjoy similar rights and entitlements in respect of the Right Shares as in respect of their previously held shares from the date of allotment.”

FURTHER RESOLVED THAT, “the [name with designation of

authorized person]be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolution.”

8. Issue of preference shares:

A company limited by shares may have more than one kind of share capital and may have different classes of shares under each kind. Where a company intends to have different kinds of share capital and classes of shares therein, it shall specifically so provide in its memorandum and articles. Each kind of share capital of a company and class or classes of its shares, if any, as specified in the memorandum and articles may have different rights and privileges, which shall be provided in the articles. The variation in the rights and privileges of the shareholders in a kind of share capital or class or classes therein may be of the nature, including the following, namely:-

- (a) Different voting rights; voting rights disproportionate to the paid up value of shares held; voting rights for specific purposes only; or no voting rights at all;
- (b) Different rights for entitlement of dividend, right shares or bonus shares or entitlement to receive the notices and to attend the general meetings; and
- (c) Rights and privileges for indefinite period, for a limited specified period or for such periods as may from time to time be determined by the members through special resolution.

A company can issue preference shares with the authority of special resolution and after taking approval from the Commission.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the minimum may include the following information with regards to Issue of preference shares to the existing members:-

- Justification for issuance of preference shares and for not issuing ordinary shares;
- Price at which the proposed shares will be issued. Justification, with details of the latest available market price, if any of the previous issue of preference shares is already listed on the Stock Exchange;
- Purpose of the issue, utilization of the proceeds and benefits to the company and its shareholders with necessary details;
- Rate of preference dividend;
- Specific rights and privileges attached to the proposed preference shares such as voting rights, participation in future

issue of rights shares and bonus shares etc.;

- Whether the preference shares will be listed on Stock Exchange(s);
- Nature of preference shares i.e. redeemable or otherwise, cumulative or otherwise, participatory, convertible etc.

If Redeemable:

- Maximum number of preference shares which will be redeemed;
- Period after which preference shares will be redeemed;
- Mechanism / scheme for redemption clearly describing the modus operandi for both call and put options whichever is applicable;
- Specific time period during which redemption of preference shares will be made;
- What remedy is available to either party i.e. company or the preference shareholder, if the shares could not be redeemed within the specified period;
- Whether the preference shareholders will be entitled to participate in the surplus available for shareholders in the event of winding up of the company;

If Irredeemable:

- What precise exit is available to Irredeemable preference shareholders;
- Whether the preference shareholders will be entitled to participate in the surplus available for shareholders in the event of winding up of the company.

If Cumulative:

- The circumstances in which the company will be authorized to cumulate the preference dividend;
- Revised rate of preference dividend in case of accumulation;
- Scope / limit of maximum accumulations;
- Whether at the time of redemption / conversion the accumulated preference dividend will also be redeemed or converted;
- If the company fails to redeem or convert the preference shares on specified date, whether preference dividend will be accrued till the final redemption / conversion.

If convertible:

- Maximum number, along with percentage, of preference shares which will be converted into other kinds and classes of shares of the company;
- Present status of the kinds and classes of the shares (total issued capital, listing status, market price etc.) in which conversion of preference shares is proposed;

- Period after which the preference shares will be eligible for conversion;
- Event on the occurrence of which conversion option can be exercised by any of the two parties i.e. the company or the preference shareholders;

If preference shares are proposed to be issued otherwise than rights then all the information as mentioned above with the resolutions of issue of shares other than right may also be consulted.

Illustration

To consider and if thought fit to pass the following resolution as special resolution with or without any amendments

RESOLVED THAT “[number of shares] cumulative, convertible, redeemable/irredeemable and non-participatory preference shares of Rs.[denomination] each in the ratio of [ratio] on terms and condition described herein below be offered to the existing shareholders of the company as right shares at par value of Rs.[denomination] per share aggregating Rs.[amount] in accordance with Section 86 of the Companies Ordinance, 1984 and the Companies (Issue of Capital) Rules, 1996 subject to approval of Securities and Exchange Commission of Pakistan under Rule 5 of the Companies Share Capital (Variation in Right and Privileges) Rules, 2000.”

FURTHER RESOLVED THAT, “the fractional rights shares entitlements be consolidated be consolidated and sold and the sale proceed be distributed to the shareholders in accordance with the entitlement.”

FURTHER RESOLVED THAT, “the unsubscribed portion of the right issue may be allotted to the underwriters or any other person as the director thinks fit on the same terms and conditions.”

FURTHER RESOLVED THAT, “the [name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolution.”

9. Power of a company limited by shares to alter its share capital (Section 92 of the Ordinance):

A company limited by shares, if so authorised by its articles, may alter the conditions of its memorandum so as to-

- (a) Increase its share capital by such amount as it thinks expedient;
- (b) Consolidate and divide the whole or any part of its share capital into shares of larger amount than its existing shares;

- (c) Sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum; or
- (d) Cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled:

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly, reasons and effects of alteration of share capital.

Illustration

To approve increase in the Authorised share capital of the company and consequential changes in the Memorandum of Association (MOA) and Articles of Association (AOA) of the company, and to consider and if thought fit, to pass with or without modification, the following resolutions as special resolution.

RESOLVED THAT, “the Authorized Share Capital of the company be and is hereby increased from Rs.[amount] divided into [number] Ordinary Shares of Rs.[amount] each to Rs.[amount] divided into [amount] Ordinary Shares of Rs.[amount] each by the creation of [amount] additional Ordinary Shares at nominal value of Rs.[amount] each to rank pari passu in every respect with the existing Ordinary shares of the company.”

FURTHER RESOLVED THAT, “the Memorandum and Articles of Association of the company be and are hereby altered for increase in Authorized Share Capital to read as follows;

- [Clause number of MOA] [newly altered clause]
- [Article number of AOA] [newly altered article]

FURTHER RESOLVED THAT, “The name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolution.”

10. Power of company to purchase its own shares (Section 95A of the Ordinance):

A company can purchase its own shares, the purchase shall be authorized by a special resolution which shall indicate maximum number of shares to be purchased, the maximum price at which the shares may be purchased; and the period within which the purchase is to be made. The purchase shall be made only under the

authority of the special resolution.

Annexure to Notice

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include reason and effects of buy back of shares, Justification of maximum price, debt-equity and current ratios certified by the auditor as per the Companies (Buy-Back of Shares) Rules, 1999.

Illustration

To consider and if thought fit, to pass with or without modification, the following resolutions as special resolution.

RESOLVED THAT, “the approval of the members of the company be and hereby accorded under Section 95A of the Companies Ordinance, 1984 to buy back [number of shares] ordinary shares of the company at Rs. [denomination per share] each from [opening date] to [closing date].”

FURTHER RESOLVED THAT, ‘the [name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolution.’

11. Reduction of share capital (Section 96 of the Ordinance):

Subject to confirmation by the Court, a company limited by shares, if so authorised by its articles, may by special resolution reduce its share capital in any way, and in particular and without prejudice to the generality of the foregoing powers may-

- (i) Extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or
- (ii) Either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or
- (iii) Either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the needs of the company;

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly, reason and effects of reduction of share capital.

Illustration

To approve reduction of company's share capital subject to confirmation by the Court of Law, and if thought fit, to pass with or without modification, the following resolutions as special resolution.

RESOLVED THAT, "the Paid up share capital of the company be and is hereby reduced from Rs.[amount] divided into [number] Ordinary Shares of Rs.[amount] each to Rs.[amount] divided into [amount] Ordinary Shares of Rs.[amount] each by the cancellation of [amount] Ordinary Shares at nominal value of Rs.[amount] each to rank pari passu in every respect with the existing Ordinary shares of the company.

FURTHER RESOLVED THAT, "The Memorandum of the company be and are hereby altered for reduction in paid up capital to read as follows;

[Clause number of MOA] [Newly altered clause]

FURTHER RESOLVED THAT, "the [name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolution."

12. Special resolution of a limited company making liability of directors unlimited (Section 112 of the Ordinance):

A limited company, if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors or of any director.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include reasons and effects of making liability of directors unlimited.

Illustration

To consider and if thought fit, to pass with or without modification, the following resolutions as special resolution.

RESOLVED THAT, "the clause [number] of the Memorandum of Association of the company be and is hereby amended to read as follows;

"The liability of the directors is unlimited".

FURTHER RESOLVED THAT, "the [name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of

implementing the aforesaid resolution.”

13. Procedure for election of directors (Section 178 of the Ordinance):

The directors of a company shall subject to section 174 of the Ordinance, fix the number of elected directors of the company not later than thirty-five days before the convening of the general meeting at which directors are to be elected, and the number so fixed shall not be changed except with the prior approval of a general meeting of the company.

Election of the directors is an ordinary business, the notice of the meeting at which directors are proposed to be elected shall among other matters, expressly state-

- (a) The number of elected directors fixed;
- (b) The names of the retiring directors;

Any person who seeks to contest an election to the office of director shall, whether he is a retiring director or otherwise, file with the company, not later than fourteen days before the date of the meeting at which elections are to be held, a notice of his intention to offer himself for election as a director: Provided that any such person may, at any time before the holding of election, withdraw such notice.

All notices received by the company shall be transmitted to the members not later than seven days before the date of the meeting, in the manner provided for sending of a notice of general meeting in the normal manner or in the case of a listed company by publication at least in one issue each of a daily newspaper in English language and a daily newspaper in Urdu language having circulation in the Province in which the stock exchange on which its securities are listed is situate.

Illustration

To elect directors of the company for a three year term. The board of the directors in the meeting held on February 16, 2011, fixed the number of directors at seven. The term of the following seven directors will expire on April 18, 2011;

- | | | |
|------------|------------|------------|
| 1. Mr. ABC | 2. Mr. DEF | 3. Mr. GHI |
| 4. Ms. JKL | 5. Ms. MNO | 6. Mr. PQR |
| 7. Mr. STU | | |

14. Removal of directors (Section 181 of the Ordinance):

A company may by resolution in general meeting remove a director appointed under Section 176 or Section 180 or elected in the manner provided for in Section 178 of the Ordinance.

Provided that a resolution for removing a director shall not be deemed to have been passed if the number of votes cast against it is equal to, or exceeds;

- (i) The minimum number of votes that were cast for the election of a director at the Immediately preceding election of directors, if the resolution relates to removal of a director elected in the manner provided in sub-section (5) of section 178; or
- (ii) The total number of votes for the time being computed in the manner laid down in sub-section (5) of section 178 divided by the number of directors for the time being, if the resolution relates to removal of a director appointed under section 176 or section 180.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include name and reason of removal of director.

Illustration

To approve removal of Mr. [name], director of the company, appointed/elected under Section [section reference].

RESOLVED THAT, “Mr. [name], hereby, removed as director of the company in accordance with Section 181 of the Companies Ordinance, 1984.

15. Power of directors (Section 196 of the Ordinance):

The directors of a public company or of a subsidiary of a public company shall not except with the consent of the general meeting either specifically or by way of an authorisation, do any of the following things, namely.-

- (a) Sell, lease or otherwise dispose of the undertakings or a sizeable part thereof unless the main business of the company comprises of such selling or leasing; and
- (b) Remit, give any relief or give extension of time for the repayment of any debt outstanding against any person specified in sub-section (1) of section 195.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly, reason and effects relief and extension of repayment of debt.

Commission’s S.R.O. 1227/2005 dated December 12, 2005, requires material facts as under:

- (1) In case of sale, lease or disposal of sizeable part of undertaking;
 - i) Detail of asset to be disposed of i.e. its description, cost, revalued amount (if available), book value and approximate current market price/fair value. In case of disposal of land location and area proposed to be sold shall be disclosed.
 - ii) The proposed manner of disposal of said assets.
 - iii) Reason of the sale, lease or disposal of assets and the benefits expected to accrue to the share holders there from.
- (2) In case of sale or disposal of the entire undertaking, the following information shall be provided in addition to the information as required in Para 1 above.
 - i) Future business plan of the seller company.
 - ii) Total cost of the proposed future business plan and means of financing.
 - iii) Expected time of completion of the proposed project.
 - iv) The mode of disposal in this case shall be through tender in newspapers.
 - v) Subsequent to execution of the sale transaction, a report regarding sale proceeds and its utilization shall be submitted to the Commission on quarterly basis.
 - vi) Nothing contained herein shall enable listed companies to sell or otherwise dispose of the entire undertaking for closure of business operation or winding up of the company.

Illustrations

- (a) To consider and if thought fit, to pass with or without modification, the following resolutions as an ordinary resolution for authorizing sale of land and building of the company:

RESOLVED THAT, “the approval of the members of the company be and hereby accorded in term of Section 196 of the Companies Ordinance, 1984 for sale of land and building of the company situated at [location name and address] through tender in the newspapers.”

FURTHER RESOLVED THAT, “the [name with designation of authorized person] be and are hereby authorized to take any and all actions and sign any and all such documents as may be required from time to time to give effect to the above resolution and to implement and complete the sale of the aforesaid land and building of the company .”

- (b) To consider and if thought fit, to pass with or without modification, the following resolutions as an ordinary resolution for authorizing grant of extension of time for the repayment of any debt outstanding against [name of person as specified in Section 195{1} of the Ordinance]:

RESOLVED THAT, “grant of extension of time for the repayment of debt [remaining amount] outstanding against [name of person as specified in Section 195{1} of the Ordinance] aggregating [number] years be and is hereby approved.”

FURTHER RESOLVED THAT, “the [name with designation of authorized person] be and are hereby authorized to take any and all actions and sign any and all such documents as may be required from time to time to give effect to the above resolution and to implement and complete the recovery of the debt outstanding against [name of person as specified in Section 195{1} of the Ordinance].”

16. Investment in associated companies and undertakings (Section 208 of the Ordinance):

A company shall not make any investment in any of its associated companies or associated undertakings except under the authority of a special resolution which shall indicate the nature period and amount of investment and terms and conditions attached thereto. The expression ‘investment’ shall include loans, advances, equity, by whatever name called, or any amount, which is not in the nature of normal trade credit. Whereas, exemption from above requirements are available to private companies and some other companies as mentioned in S.R.O. 704(1)/2011 dated July 13, 2011.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. In term of Companies (Investment in Associated Companies or Associated Undertakings) Regulations, 2012 notified through S.R.O. 27(1)/2012 dated January 16, 2012 following information should be given in statement of material facts, namely;

- (a) In case of investment in securities of its associated companies or associated undertakings,-
- i. name of the associated company or associated undertaking along with criteria based on which the associated relationship is established;
 - ii. Purpose, benefits and period of investment;
 - iii. Maximum amount of investment;
 - iv. Maximum price at which securities will be acquired;
 - v. Maximum number of securities to be acquired;

- vi. Number of securities and percentage thereof held before and after the proposed investment;
 - vii. In case of investment in listed securities, average of the preceding twelve weekly average price of the security intended to be acquired;
 - viii. In case of investment in unlisted securities, fair market value of such securities determined in terms of regulation 6(1) of the Companies (Investment in Associated Companies or Associated Undertakings) Regulations, 2012;
 - ix. Break-up value of securities intended to be acquired on the basis of the latest audited financial statements;
 - x. Earning per share of the associated company or associated undertaking for the last three years;
 - xi. Sources of fund from which securities will be acquired;
 - xii. Where the securities are intended to be acquired using borrowed funds,-
 - (I) Justification for investment through borrowings; and
 - (II) Detail of guarantees and assets pledged for obtaining such funds;
 - xiii. Salient features of the agreement(s), if any, entered into with its associated company or associated undertaking with regards to the proposed investment;
 - xiv. Direct or indirect interest of directors, sponsors, majority members and their relatives, if any, in the associated company or associated undertaking or the transaction under consideration;
 - xv. Any other important details necessary for the members to understand the transaction; and
 - xvi. In case of investment in securities of a project of an associated company or associated undertaking that has not commenced operations, in addition to the information referred to above, the following further information, is required, namely,-
 - (I) Description of the project and its history since conceptualization;
 - (II) Starting and expected date of completion of work;
 - (III) Time by which such project shall become commercially operational; and
 - (IV) Expected time by which the project shall start paying return on investment;
- (b) In case of loans and advances,-
- i. Name of the associated company or associated undertaking along with criteria based on which the

- associated relationship is established;
- ii. Amount of loans or advances;
 - iii. Purpose of loans or advances and benefits likely to accrue to the investing company and its members from such loans or advances;
 - iv. In case any loan has already been granted to the said associated company or associated undertaking, the complete details thereof;
 - v. Financial position, including main items of balance sheet and profit and loss account of the associated company or associated undertaking on the basis of its latest financial statements;
 - vi. Average borrowing cost of the investing company or in case of absence of borrowing the Karachi Inter Bank Offered Rate for the relevant period;
 - vii. Rate of interest, mark up, profit, fees or commission etc. to be charged;
 - viii. Sources of funds from where loans or advances will be given;
 - ix. Where loans or advances are being granted using borrowed funds,-
 - (I) Justification for granting loan or advance out of borrowed funds;
 - (II) Detail of guarantees / assets pledged for obtaining such funds, if any;
 - (III) Repayment schedules of borrowing of the investing company;
 - x. Particulars of collateral security to be obtained against loan to the borrowing company or undertaking, if any;
 - xi. If the loans or advances carry conversion feature i.e. it is convertible into securities, this fact along with complete detail including conversion formula, circumstances in which the conversion may take place and the time when the conversion may be exercisable;
 - xii. Repayment schedule and terms of loans or advances to be given to the investee company;
 - xiii. Salient feature of all agreements entered or to be entered with its associated company or associated undertaking with regards to proposed investment;
 - xiv. Direct or indirect interest of directors, sponsors, majority members and their relatives, if any, in the associated company or associated undertaking or the transaction under consideration;
 - xv. Any other important details necessary for the members to understand the transaction; and

- xvi. In case of investment in a project of an associated company or associated undertaking that has not commenced operations, in addition to the information referred to above, the following further information is required, namely,-
 - (I) A description of the project and its history since conceptualization;
 - (II) Starting date and expected date of completion;
 - (III) Time by which such project shall become commercially operational;
 - (IV) Expected return on total capital employed in the project; and
 - (V) Funds invested or to be invested by the promoters distinguishing between cash and non-cash amounts;
- (c) In case of investment through transfer of liabilities from associated company or associated undertaking,-
 - i. Name of the associated company or associated undertaking along with criteria based on which the associated relationship is established;
 - ii. Description of liabilities to be transferred and consideration to be received by the company for assuming liabilities of associated company/undertaking;
 - iii. Book value of liabilities to be transferred;
 - iv. Purpose of such transfer of liabilities;
 - v. Period, if any, for which such transfer of liabilities is to be made;
 - vi. Salient features of all agreements entered into with the associated company or associated undertaking or with the financial institution(s) with regards to proposed transfer of liabilities;
 - vii. Direct or indirect interest of directors, sponsors, majority members and their relatives in the associated company or associated undertaking or the transaction under consideration; and
 - viii. Any other important details necessary for the members to understand the transaction.
- (d) Other information to be disclosed to the members
 - i. If the associated company or the associated undertaking in which the investment is being made or any of its sponsors or directors is also a member of the investing company the information about interest of the associated company or associated undertaking and its sponsors and directors in the investing company shall be disclosed in the notice of general meeting called for seeking members approval pursuant to section 208 of the Ordinance.

- ii. In case any decision to make investment under the authority of a resolution passed pursuant to provisions of section 208 of the Ordinance is not implemented either fully or partially till the holding of subsequent general meeting(s), the status of the decision must be explained to the members through a statement having the following details namely,-
 - a) Total investment approved;
 - b) Amount of investment made to date;
 - c) Reasons for not having made complete investment so far where resolution required it to be implemented in specified time and ; and
 - d) Material change in financial statements of associated company or associated undertaking since date of the resolution passed for approval of investment in such company.

Illustrations

To consider and if thought fit, to pass with or without modification, the following resolutions as special resolution.

RESOLVED THAT, “the approval of the members of the company be and is hereby accorded in term of Section 208 of the Companies Ordinance, 1984 for investment up to Rs. [denomination] in ABC company, an associated company, for subscribing at par, fully paid up [number of shares] ordinary shares of Rs[denomination per share] each of ABC company as per term and conditions disclosed to the members.”

RESOLVED THAT, “the approval of the members of the company be and is hereby accorded in term of Section 208 of the Companies Ordinance, 1984 for investment up to Rs. [denomination] in the form of loan to [name of associate], an associated company, for a period of [number of years], at the mark up rate of [markup rate], and as per other terms and conditions of the agreement in writing and as disclosed to the members.”

FURTHER RESOLVED THAT, “the [name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolutions.”

17. Rights of holding company’s representatives and members (Section 239 of the Ordinance):

A holding company may, by resolution, authorise representatives named in the resolution to inspect the books of account kept by any of its subsidiaries; and the books of account of any such subsidiary shall be open to inspection by those representatives at any time during business hours.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly and reasons of inspection.

Illustration

To consider and if thought fit, to pass with or without modification, the following resolutions as an ordinary resolution for authorizing representatives, Mr.[name] and Mr.[name] to inspect books of accounts kept by [name of subsidiary(ies)] subsidiary(ies).

RESOLVED THAT, Mr. [name] and Mr.[name] hereby authorized to inspect books of accounts kept by [name of subsidiary(ies)].

FURTHER RESOLVED THAT, “the authorized representatives of the company be and are hereby authorized to take any and all actions and sign any and all such documents as may be required from time to time to give effect to the above resolution and to implement and complete the inspection of all the books of accounts and documents of the subsidiary(ies).”

18. Appointment of auditors (Section 252 & 253 of the Ordinance):

Every company shall at each annual general meeting appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting. The remuneration of the auditors of the company shall be fixed by the company in the general meeting or in such manner as the general meeting may determine. Appointment of auditors is an ordinary business.

Illustration

To consider and if thought fit, to pass with or without modification, the following resolutions as an ordinary resolution;

RESOLVED THAT “[name of the auditor] hereby appointed as auditors of the company for the Year [20XX] and remuneration for the audit will be Rs.[denomination].”

19. Removal of auditors (Section 252 & 253 of the Ordinance):

An auditor or auditors appointed in a general meeting may be removed by the members before conclusion of the next annual general meeting through a special resolution.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance

shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly and reasons of removal of the auditor.

Illustration

To consider and if thought fit, to pass with or without modification, the following resolutions as special resolution;

RESOLVED THAT, “[name of the auditor] auditors of the company appointed for the year [] is hereby removed from his office.”

20. Investigation of company’s affairs in other cases (Section 265 of the Ordinance):

Without prejudice to its power under section 263, the Commission shall appoint one or more competent persons as inspectors to investigate the affairs of a company and to report thereon in such manner as the Commission may direct, if the company, by a resolution in general meeting, declares that the affairs of the company ought to be investigated by an inspector appointed by the Commission.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly and reasons of investigation.

Illustration

To consider and if thought fit, to pass with or without modification, the following resolutions as an ordinary resolution;

RESOLVED THAT, “the affairs of the company ought to be investigated by an inspector appointed by the Commission.

FURTHER RESOLVED THAT, “the [name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolutions.”

21. Circumstances in which company may be wound up by the Court (Section 305 of the Ordinance):

A company may be wound up by the Court if the company has, by special resolution, resolved that the company be wound up by the Court.

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly and reasons of winding up of the company.

Illustration

To consider and if thought fit, to pass with or without modification, the following resolutions as a special resolution;

RESOLVED THAT, “the company be wound up by the Court under Section 305 of the Companies Ordinance, 1984.”

FURTHER RESOLVED THAT, “the [name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolutions.”

22. Circumstances in which company may be wound up voluntarily (Section 358 of the Ordinance):

A company may be wound up voluntarily-

- a) when the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily;
- b) if the company resolves by special resolution that the company be wound up voluntarily;

Annexure to Notice:

Statement of material facts under Section 160 of the Ordinance shall be annexed with the notice of the meeting. Material information to the members at the very minimum shall include the nature and extent of the interest, if any, therein of every director, whether directly or indirectly and reasons of winding up of the company.

Illustrations

- a) The period fixed for the duration of the company by the articles expires, therefore, to consider and if thought fit, to pass with or without modification, the following resolutions as an ordinary resolution;

RESOLVED THAT, “the company be wound up voluntarily under Section 358 of the Companies Ordinance, 1984.”

FURTHER RESOLVED THAT, “the [name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolutions.”

- b) To consider and if thought fit, to pass with or without modification, the following resolutions as a special resolution;

RESOLVED THAT, “the company be wound up voluntarily under Section 358 of the Companies Ordinance, 1984.”

FURTHER RESOLVED THAT, “the [name with designation of authorized person] be and is / are hereby authorized to do all acts, deeds and things, take any or all necessary actions to complete all legal formalities and file all necessary documents as may be necessary or incidental for the purpose of implementing the aforesaid resolutions.”

Checklist - Approvals and Authorities

Sr. No.	Resolution	Board of Directors	Members	SECP	Court
1	Alteration of Memorandum (Section 21)	✓	✓*	✓	✗
2	Alteration of Article (Section 28)	✓	✓*	✗	✗
3	Change of name by a company (Section 39)	✓	✓*	✓	✗
4	Terms of contract mentioned in prospectus or statement in lieu of prospectus not to be varied (Section 58)	✓	✓	✗	✗
5	Issue of shares at discount to existing members as a right issue (Section 84)	✓	✓	✓	✗
6	Further issue of shares otherwise than right (Section 86)	✓	✓*	✓	✗
7	Issue of shares otherwise than right at a discount (Section 84 and 86)	✓	✓*	✓	✗
8	Issue of preference shares	✓	✓*	✓	✗
9	Power of a company limited by shares to alter its share capital (Section 92)	✓	✓*	✗	✗
10	Power of company to purchase its own shares (Section 95A)	✓	✓*	✗	✗
11	Reduction of share capital (Section 96 of the Ordinance)	✓	✓*	✗	✓
12	Special resolution of a limited company making liability of directors unlimited (Section 112)	✓	✓*	✗	✗
13	Procedure for election of directors (Section 178)	✓	✓	✗	✗
14	Removal of Directors (Section 181)	✓	✓	✗	✗
15	Power of directors (Section 196)	✓	✓	✗	✗
16	Investment in associated companies and undertakings (Section 208)	✓	✓*	✗	✗
17	Rights of holding company's representatives and members (Section 239)	✓	✓	✗	✗
18	Appointment of auditors (Section 252 & 253)	✓	✓	✗	✗
19	Removal of auditors (Section 252 & 253)	✓	✓*	✗	✗
20	Investigation of company's affairs in other cases (Section 265)	✓	✓	✓	✗
21	Circumstances in which company may be wound up by the Court (Section 305)	✓	✓*	✓	✓
22	Circumstances in which company may be wound up voluntarily (Section 358)	✓	✓*	✗	✗

Further information

The statutory guides are available, on SECP's website, <http://www.secp.gov.pk> These guides briefly describe procedures of important matters relating to the Ordinance and the rules and regulations made thereunder.

DISCLAIMER

This guide has been published with the intention to create an awareness of the concept of the relevant matters. However, the guide does not tell everything and the opinions or legal interpretations, contained in the guide are circumstantial and may vary under different situations. If the reader is in doubt or dealing with any specific condition, it is recommended to refer to the Ordinance and allied laws and consult an adviser for seeking professional advice.

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Securities and Exchange Commission of Pakistan

Enforcement Department

N.I.C Building, Jinnah Avenue, Islamabad - Pakistan

Tel: 051-9207091- 4 Fax: 051-9218592

Website: www.secp.gov.pk, E-mail: enquiries@secp.gov.pk