

## INDEPENDENT DIRECTORS

The Ministry of Corporate Affairs has enacted the Companies Act, 2013 ("Act") which has replaced the Companies Act, 1956.

Pursuant to provisions of Companies Act, 2013 every Public Company having a Paid up share capital of Rs. 10 Crores or more as on the last date of latest audited financials shall have atleast two Directors as Independent Directors on its Board.

### WHO IS AN INDEPENDENT DIRECTOR:

As per the provisions of Section 149 (6) of the Act, An Independent Director in relation to a Company, means a Director other than a managing Director or a whole-time Director or a nominee Director—

- a) Who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience;
  - (i) who is or was not a promoter of the Company or its holding, subsidiary or associate Company;
  - (ii) Who is not related to promoters or Directors in the Company, its holding, subsidiary or associate Company;
- b) who has or had no pecuniary relationship with the Company, its holding, subsidiary or associate Company, or their promoters, or Directors, during the two immediately preceding financial years or during the current financial year;
- c) None of whose relatives has or had pecuniary relationship or transaction with the Company, its holding, subsidiary or associate Company, or their promoters, or Directors, amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;
- d) Who, neither himself nor any of his relatives—
  - (i) holds or has held the position of a key managerial personnel or is or has been employee of the Company or its holding, subsidiary or associate Company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;
  - (ii) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of—
    - (A) a firm of auditors or Company secretaries in practice or cost auditors of the Company or its holding, subsidiary or associate Company; or
    - (B) any legal or a consulting firm that has or had any transaction with the Company, its holding, subsidiary or associate Company amounting to ten per cent. or more of the gross turnover of such firm;
  - (iii) Holds together with his relatives two per cent. or more of the total voting power of the Company; or
  - (iv) Is a Chief Executive or Director, by whatever name called, of any nonprofit organisation that receives twenty-five per cent or more of its receipts from the Company, any of its promoters, Directors or its holding, subsidiary or associate Company or that holds two per cent. or more of the total voting power of the Company; or
- e) Who possesses such other qualifications as may be prescribed.

**TERMS OF AN INDEPENDENT DIRECTOR:**

As per the provisions of Section 150 an Independent Director may be selected from a data bank containing names, addresses and qualifications of persons who are eligible and willing to act as Independent Directors, maintained by any body, institute or association, as may be notified by the Central Government, having expertise in creation and maintenance of such data bank and put on their website for the use by the Company making the appointment of such Directors. The responsibility of exercising due diligence before selecting a person from the data bank shall lie with the Company making such appointment.

While selecting Independent Directors the NRC (Nomination and Remuneration Committee) and the Board to ensure that there is appropriate balance of skills, experience and knowledge in the Board so as to enable the Board to discharge its functions and duties effectively.

The Company and Independent Directors shall abide by the provisions specified in Schedule IV of the Companies Act, 2013. Every Independent Director shall adhere to these standards and fulfill their responsibilities in a professional and faithful manner and promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of Independent Directors.

An Independent Director shall be held liable, only in respect of such acts of omission or commission by a Company which had occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently.

As per the provisions of Section 149 retirement of Directors by rotation shall not be applicable to appointment of Independent Directors.

As per the provisions of Section 161, if any alternate Director is to be appointed in place of Independent Director then he must also be qualified as an Independent Director.

As per the provisions of Section 173 (3) there shall be minimum of one Independent Director to be present at Board Meeting of the Company.

The terms and conditions of appointment of Independent Director are to be open for inspection at the registered office of the Company by any member during normal business hours.

**TENURE:**

As per the provisions of Section 152, an Independent Director shall hold office for a term upto five consecutive years on the Board of the Company. He shall be eligible for reappointment for another term of 5 consecutive years by passing of a special resolution and the same shall be disclosed in the Board's report. No Independent Director shall hold office for more than two consecutive terms i.e. for a period of 10 years. An Independent Director shall become eligible for appointment after expiration of three years of ceasing.

The re-appointment of Independent Director shall be on the basis of report of performance evaluation.

It is proposed that the tenure for the Independent Directors of the Company be 3 years each (2 terms of 3 years), if approved by the Board and Shareholders. The Independent Director shall not, during the said period of three years, be appointed in or be associated with the Company in any other capacity, either directly or indirectly.

**FEES:**

An Independent Director shall not be entitled to any stock option. An Independent Director may receive remuneration by way of sitting fee, reimbursement of expenses for participation in the Board and other meetings and profit related commission as may be approved by the members.

As per the provisions of The Companies (Appointment and remuneration of Managerial Personnel) Rules, 2014 the sitting fees shall not exceed one lakh rupees per meeting of the Board or Committee thereof and that the sitting fees paid to Independent Directors shall not be less than the sitting fee payable to other Directors.

As per Article 18(d) of the Articles of Association the maximum sitting fees payable to the Directors for attending the Board and Committee meetings is Rs. 7500/- per meeting.

**DIRECTORS AND OFFICERS POLICY:**

Directors and Officers (D&O) Policy covers liability insurance payable to the directors and officers of a Company, or to the organization(s) itself, as indemnification (reimbursement) for losses or advancement of defence costs in the event an insured suffers such a loss as a result of a legal action brought for alleged wrongful acts in their capacity as directors and officers. Such coverage can extend to defence costs arising out of criminal and regulatory investigations/trials.

**SEPARATE MEETINGS:**

As per the provisions of Schedule IV of the Act, the Independent Directors of the Company shall hold at least one meeting in a year, without the attendance of non-Independent Directors and members of management.

All the Independent Directors of the Company shall strive to be present at such meeting and meeting shall:

- a) Review the performance of non-Independent Directors and the Board as a whole;
- b) Review the performance of the Chairperson of the Company, taking into account the views of executive Directors and non-executive Directors;
- c) Assess the quality, quantity and timeliness of flow of information between the Company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

**GUIDELINES OF PROFESSIONAL CONDUCT:**

An Independent Director shall:

- (1) Uphold ethical standards of integrity and probity;
- (2) act objectively and constructively while exercising his duties;
- (3) exercise his responsibilities in a *bona fide* manner in the interest of the Company;
- (4) Devote sufficient time and attention to his professional obligations for informed and balanced decision making;
- (5) not allow any extraneous considerations that will vitiate his exercise of objective Independent judgment in the paramount interest of the Company as a whole, while concurring in or dissenting from the collective judgment of the Board in its decision making;
- (6) Not abuse his position to the detriment of the Company or its shareholders or for the purpose of gaining direct or indirect personal advantage or advantage for any associated person;
- (7) Refrain from any action that would lead to loss of his independence;

- (8) Where circumstances arise which make an Independent Director lose his independence, the Independent Director must immediately inform the Board accordingly;
- (9) Assist the Company in implementing the best corporate governance practices.

#### **ROLE AND FUNCTIONS:**

The Independent Directors shall:

- (1) Help in bringing an Independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments and standards of conduct;
- (2) bring an objective view in the evaluation of the performance of board and management;
- (3) scrutinize the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
- (4) satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible;
- (5) safeguard the interests of all stakeholders, particularly the minority shareholders;
- (6) Balance the conflicting interest of the stakeholders;
- (7) determine appropriate levels of remuneration of executive Directors, key managerial personnel and senior management and have a prime role in appointing and where necessary recommend removal of executive Directors, key managerial personnel and senior management;
- (8) Moderate and arbitrate in the interest of the Company as a whole, in situations of conflict between management and shareholder's interest.

#### **DUTIES:**

The Independent Directors shall:

- (1) Undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the Company;
- (2) Seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the Company;
- (3) strive to attend all meetings of the Board of Directors and of the Board committees of which he is a member;
- (4) participate constructively and actively in the committees of the Board in which they are chairpersons or members;
- (5) strive to attend the general meetings of the Company;
- (6) Where they have concerns about the running of the Company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the Board meeting;
- (7) keep themselves well informed about the Company and the external environment in which it operates;
- (8) Not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board;
- (9) Pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the Company;
- (10) Ascertain and ensure that the Company has an adequate and functional vigil mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;
- (11) Report concerns about unethical behavior, actual or suspected fraud or violation of the Company's code of conduct or ethics policy;

- (12) Acting within his authority, assist in protecting the legitimate interests of the Company, shareholders and its employees;
- (13) not disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the Board or required by law.

**RESIGNATION OR REMOVAL:**

- (1) The resignation or removal of an Independent Director shall be in the same manner as is provided in Sections 168 and 169 of the Act.
- (2) An Independent Director who resigns or is removed from the Board of the Company shall be replaced by a new Independent Director within a period of not more than one hundred and eighty days from the date of such resignation or removal, as the case may be.
- (3) Where the Company fulfils the requirement of Independent Directors in its Board even without filling the vacancy created by such resignation or removal, as the case may be, the requirement of replacement by a new Independent Director shall not apply.

**EVALUATION MECHANISM:**

- (1) The performance evaluation of Independent Directors shall be done by the entire Board of Directors, excluding the Director being evaluated.
- (2) On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the Independent Director

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