

Secretarial Standards



TOPICS COVERED

- Brief Background
- Objectives of Secretarial Standards (SS)
- Old Secretarial Standards
- Recognition under the New Law
- Applicability of New SS
- Category of Secretarial Standards
- Brief highlights of SS-1
- Brief highlights of SS-2
- Provisions Introduced through SS
- Impact and benefits



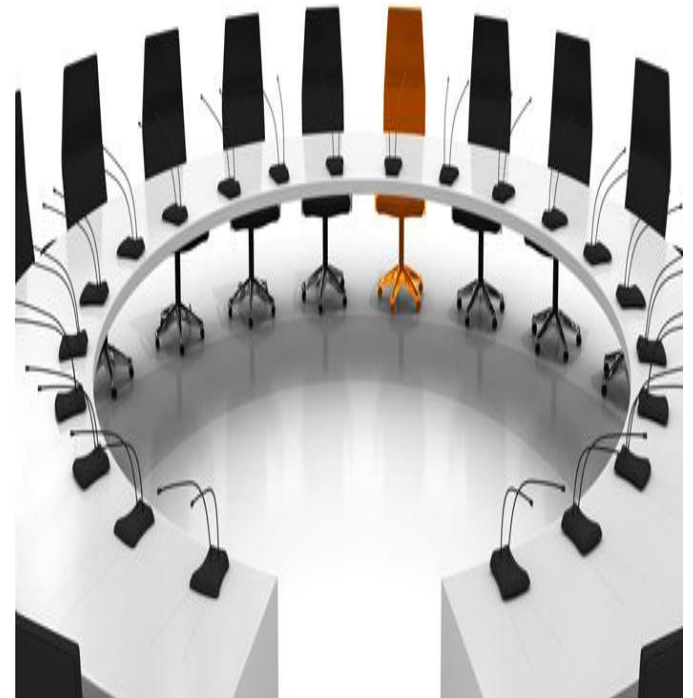
BRIEF BACKGROUND

- In order to bring harmony and unity between the secretarial practices adopted by the corporates, a need was felt to develop integration of secretarial practices;



BRIEF BACKGROUND (CONT.)

- In need of the same, the Institute of Company Secretaries of India (the ICSI) constituted Secretarial Standards Board (Board) for formulating Secretarial Standards (SS) in the year 2000-2001.



BRIEF BACKGROUND (CONT.)

The main functions of the board are:

Reviewing and updating the Secretarial Standards/ Guidance Notes at periodic intervals.

Formulating Secretarial Standards;

Issuing Guidance Notes

Clarifying issues arising out of the Secretarial Standards;

OBJECTIVES

- To integrate, harmonise and standardise diverse secretarial practices;
- To provide clarity where law is ambiguous;
- Explaining the position of Law if it has multiple meanings;



OBJECTIVES (CONT.)

- To address areas where the Law is silent;
- To envisage best Secretarial Practices;
- To recommend Good Governance practices;



OBJECTIVES (CONT.)

- Secretarial Standards do not seek to substitute or *supplant* any existing law or rules or regulations;
- Seek to *supplement* such law, rules and regulations;



OLD SECRETARIAL STANDARDS

No.	Particulars	Year(s)
1	Secretarial Standard on Meetings of the Board of Directors	2001
2	Secretarial Standard on General Meetings	2002
3	Secretarial Standard on Dividend	2003
4	Secretarial Standard on Register and Records	2005
5	Secretarial Standard on Minutes	2007
6	Secretarial Standard on Transmission	2007
7	Secretarial Standard on Passing Resolutions by Circulation	2008
8	Secretarial Standard on Affixing of Common Seal	2008
9	Secretarial Standard on Forfeiture of Shares	2008
10	Secretarial Standard on Board's Report	2009

RECOGNITION UNDER THE NEW LAW

- Many corporate houses had earlier adopted Secretarial Standards (SS) and were following the same even though they were recommendatory in nature.
- After the several recommendation and comments, the SS for General and Board Meetings were introduced and statutorily recognized in the law through Companies Act, 2013 in the form of Section 118(10).



RECOGNITION UNDER THE NEW LAW (CONT.)

- As per Section 118(10) “every company shall observe secretarial standards with respect to **General and Board meetings** specified by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980, and approved as such by the Central Government”



RECOGNITION UNDER THE NEW LAW (CONT.)

- As per Section 205(1), “*the functions of the company secretary shall include,—*

.....

- (b) *to ensure that the company complies with the applicable secretarial standards*

Explanation.—For the purpose of this section, the expression “secretarial standards” means secretarial standards issued by the Institute of Company Secretaries of India constituted under section 3 of the Company Secretaries Act, 1980 and approved by the Central Government.



RECOGNITION UNDER THE NEW LAW (CONT.)

SS as
Specified by
the ICSI



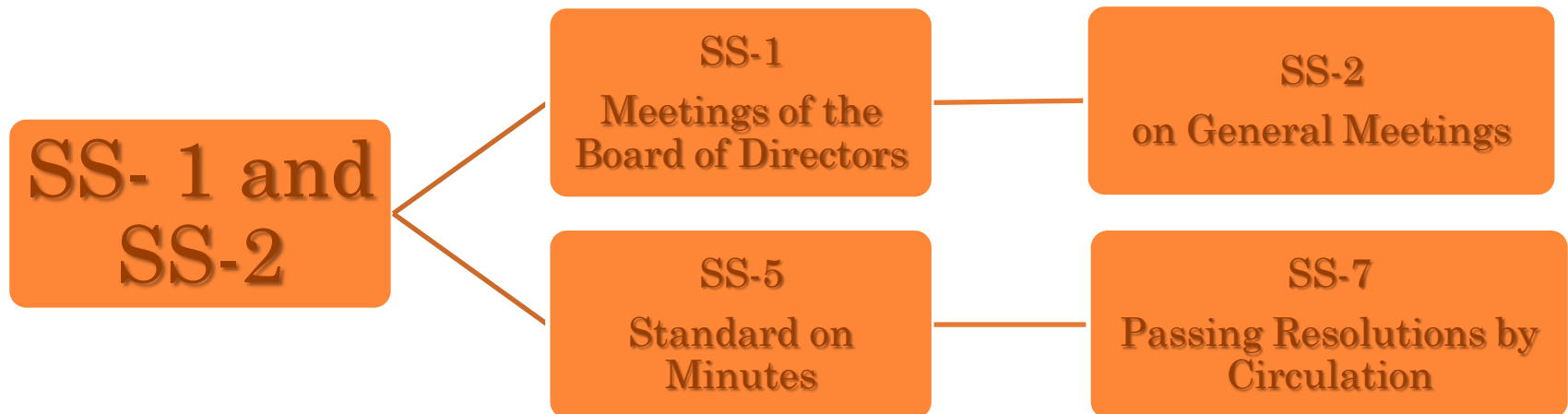
Approved as
such by the
Central
Government

{April 10, 2015}



Secretarial
Standards
notified on April
23, 2015 in the
Gazette and
effective w.e.f.
July 01, 2015

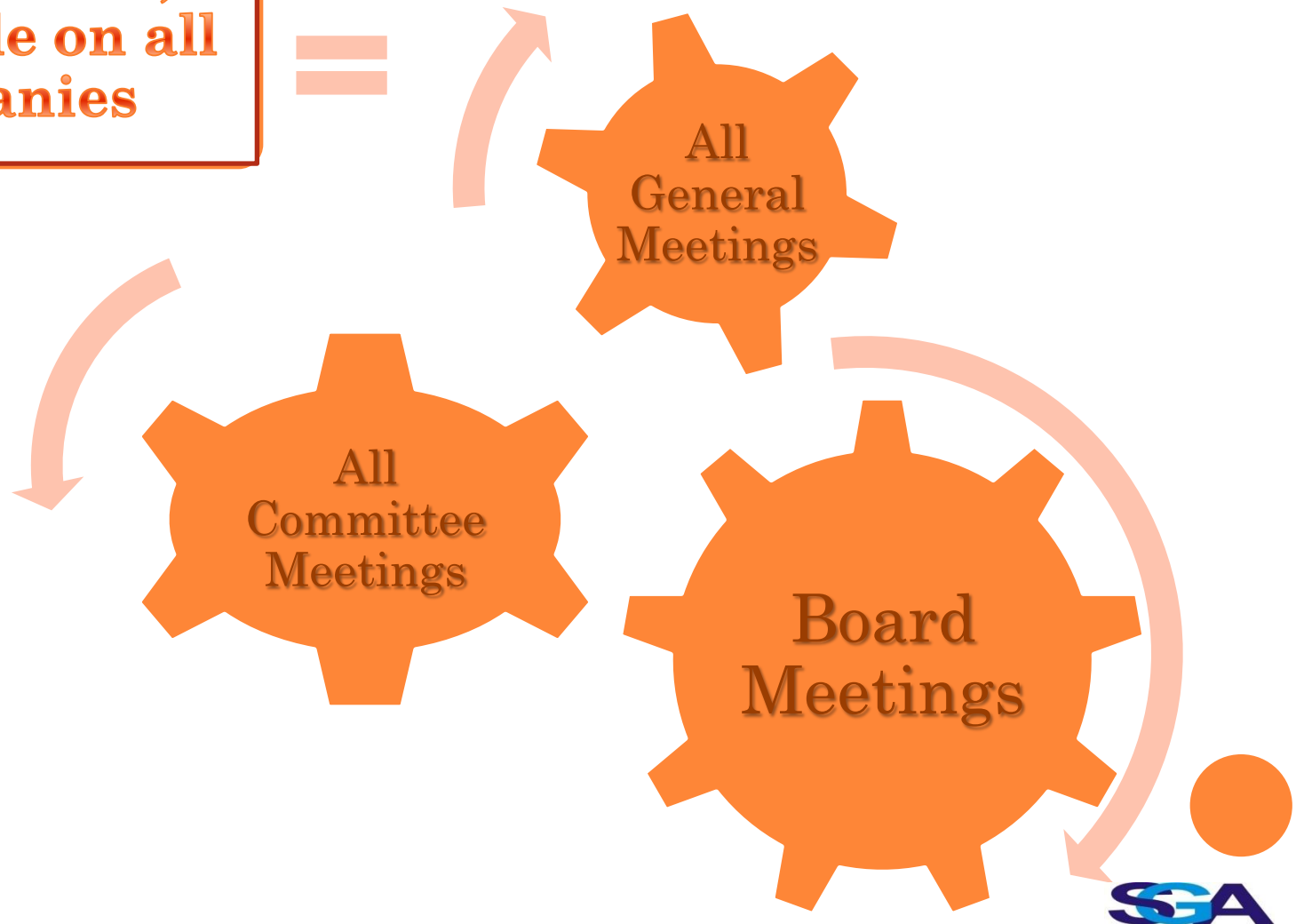
RECOGNITION UNDER THE NEW LAW (CONT.)



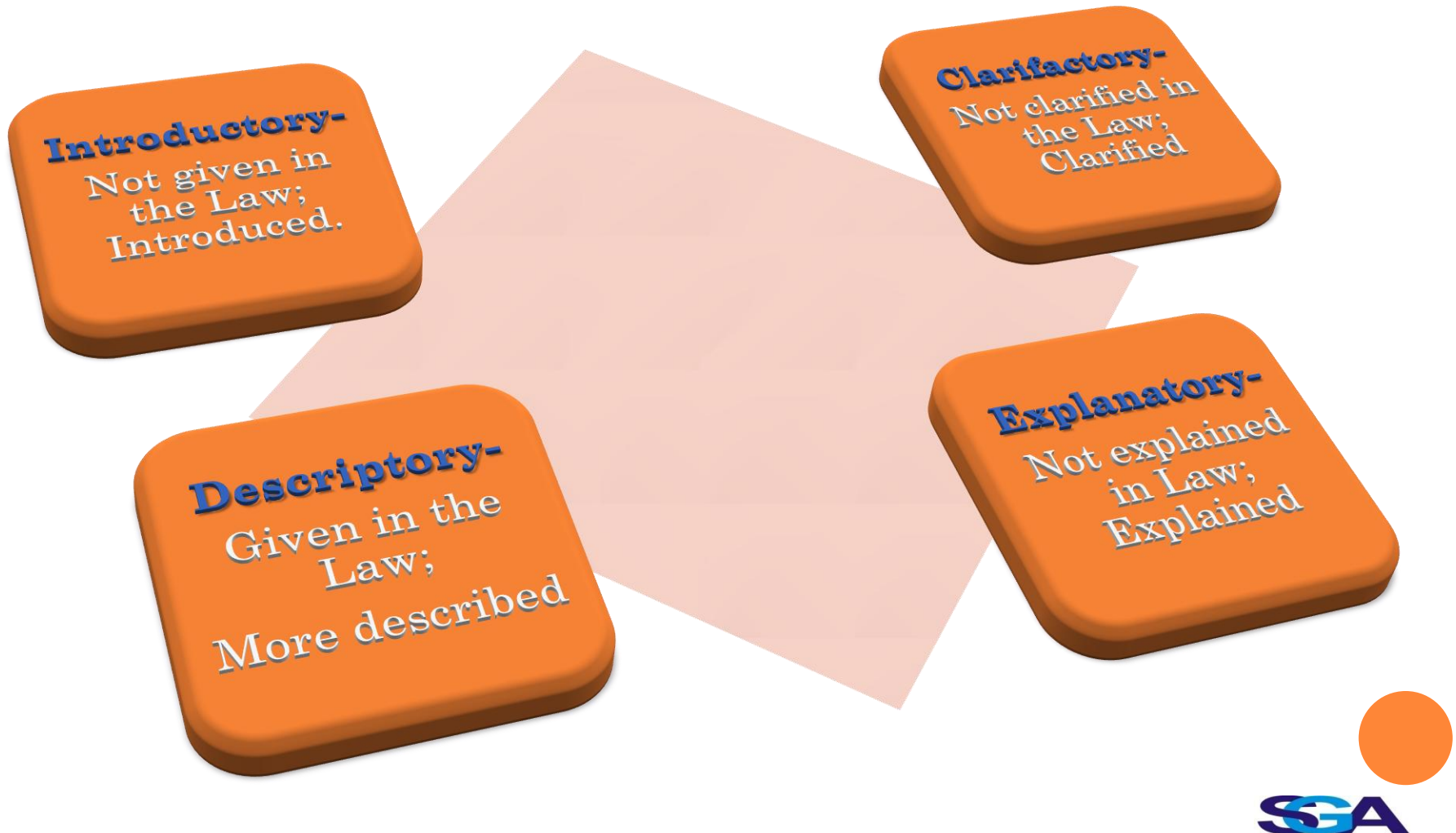
APPLICABILITY OF THE NEW SS

**Except OPCs,
applicable on all
Companies**

=



CATEGORY OF SECRETARIAL STANDARDS



BRIEF HIGHLIGHTS OF SS-1

**Authority
to call
Board
Meeting**

**Time,
Place,
Mode and
Serial
Number**

***Manner of
Notice***

**Convening
a Meeting**

BRIEF HIGHLIGHTS OF SS-1 (CONT.)

*Meetings
of the
Board*

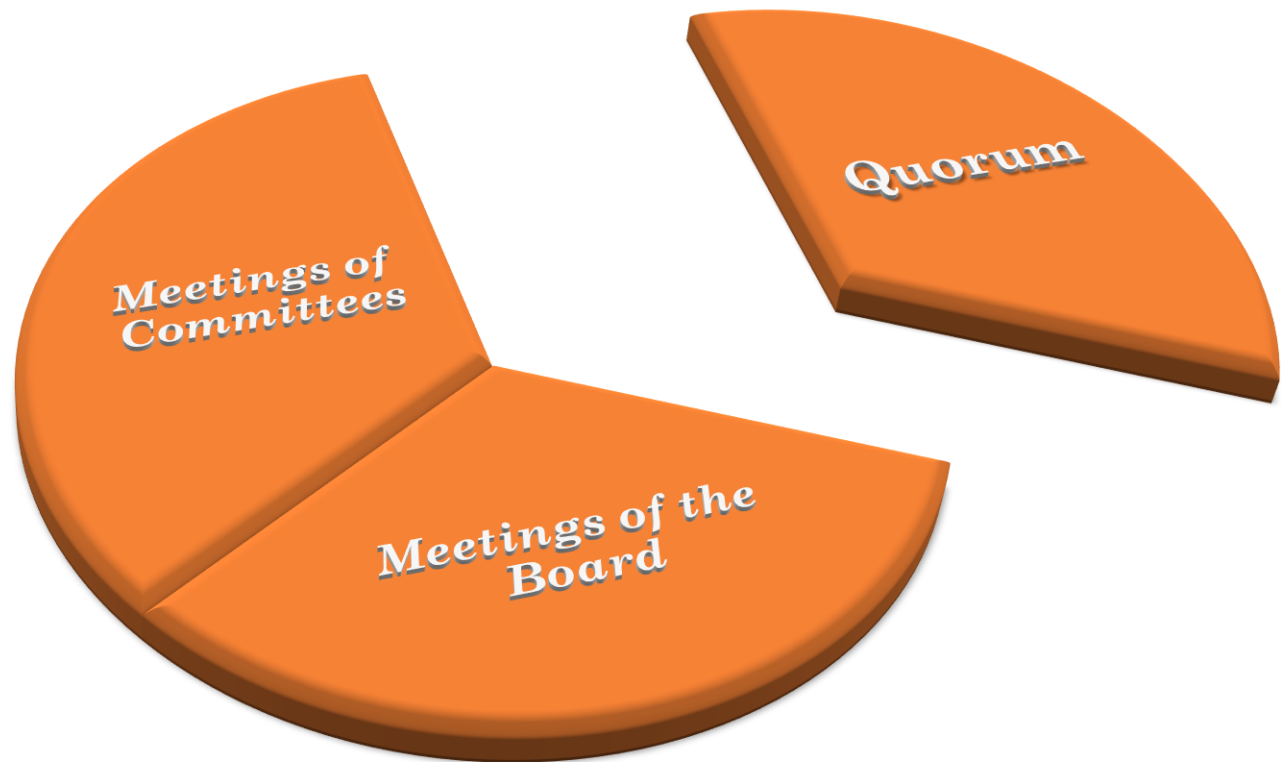
*Meetings of
Committees*

*Meeting of
Independent
Directors*

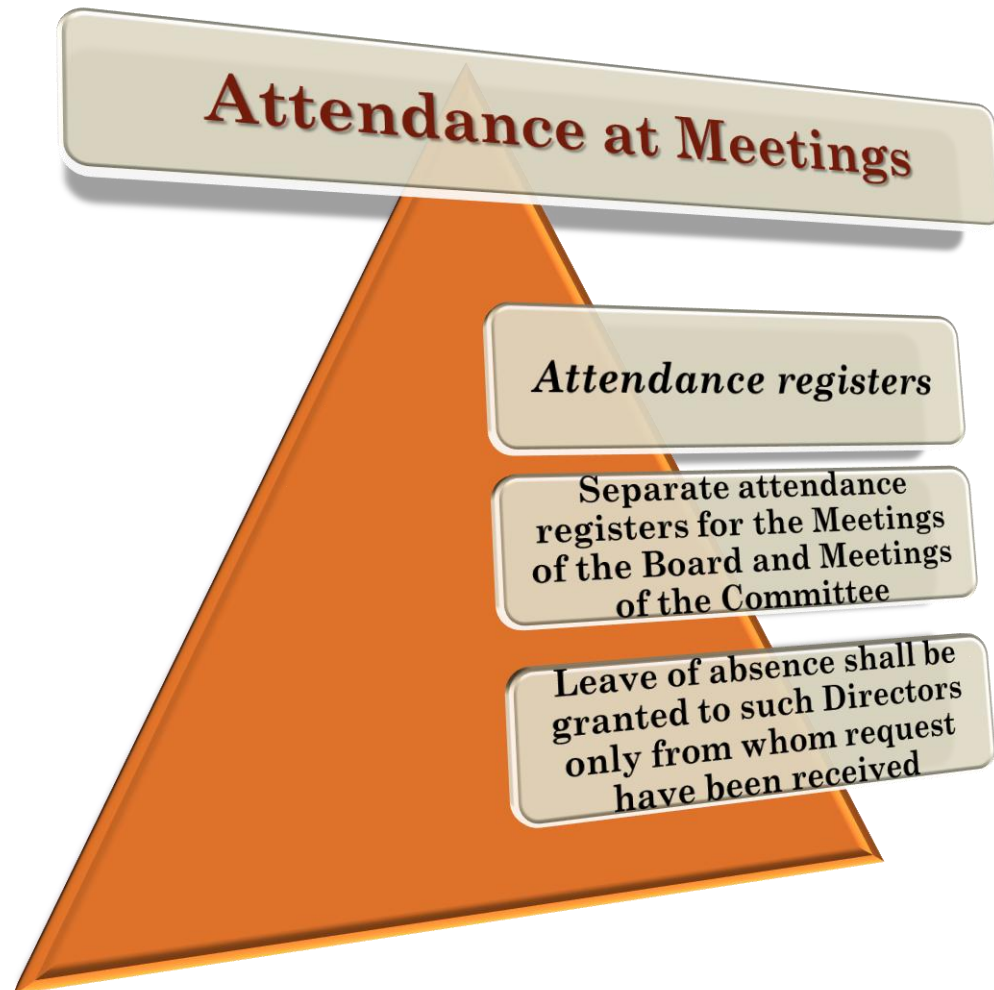
**Frequency
of Meetings**



BRIEF HIGHLIGHTS OF SS-1 (CONT.)



BRIEF HIGHLIGHTS OF SS-1 (CONT.)



BRIEF HIGHLIGHTS OF SS-1 (CONT.)

**Authority for
passing any
resolution by
circulation**

**Procedure to
be followed
for passing
any
resolution by
circulation**

**Effective
date of
passing any
resolution by
circulation**

**Recording of
resolution of
passed by
circulation in
the minutes**

BRIEF HIGHLIGHTS OF SS-1 (CONT.)

Minutes of Board
or Committees

A distinct Minutes
Book shall be
maintained for
Meetings of the
Board and each of
its Committees

Minutes may be
maintained in
electronic form
with Timestamp.



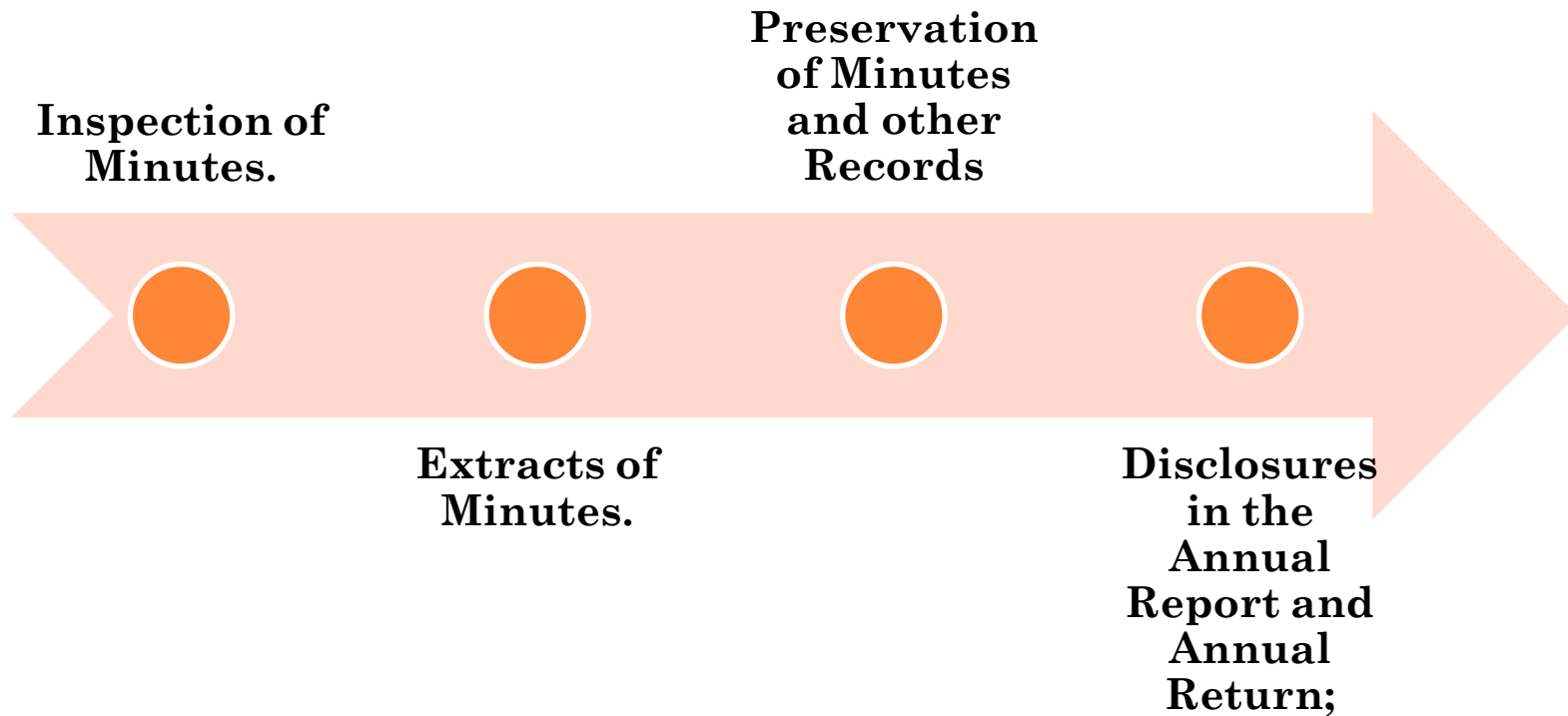
BRIEF HIGHLIGHTS OF SS-1 (CONT.)

**Entry in the
Minutes
Book**

**Contents of
Minutes**

**Finalisation
of Minutes**

BRIEF HIGHLIGHTS OF SS-1 (CONT.)



BRIEF HIGHLIGHTS OF SS-1 (CONT.)

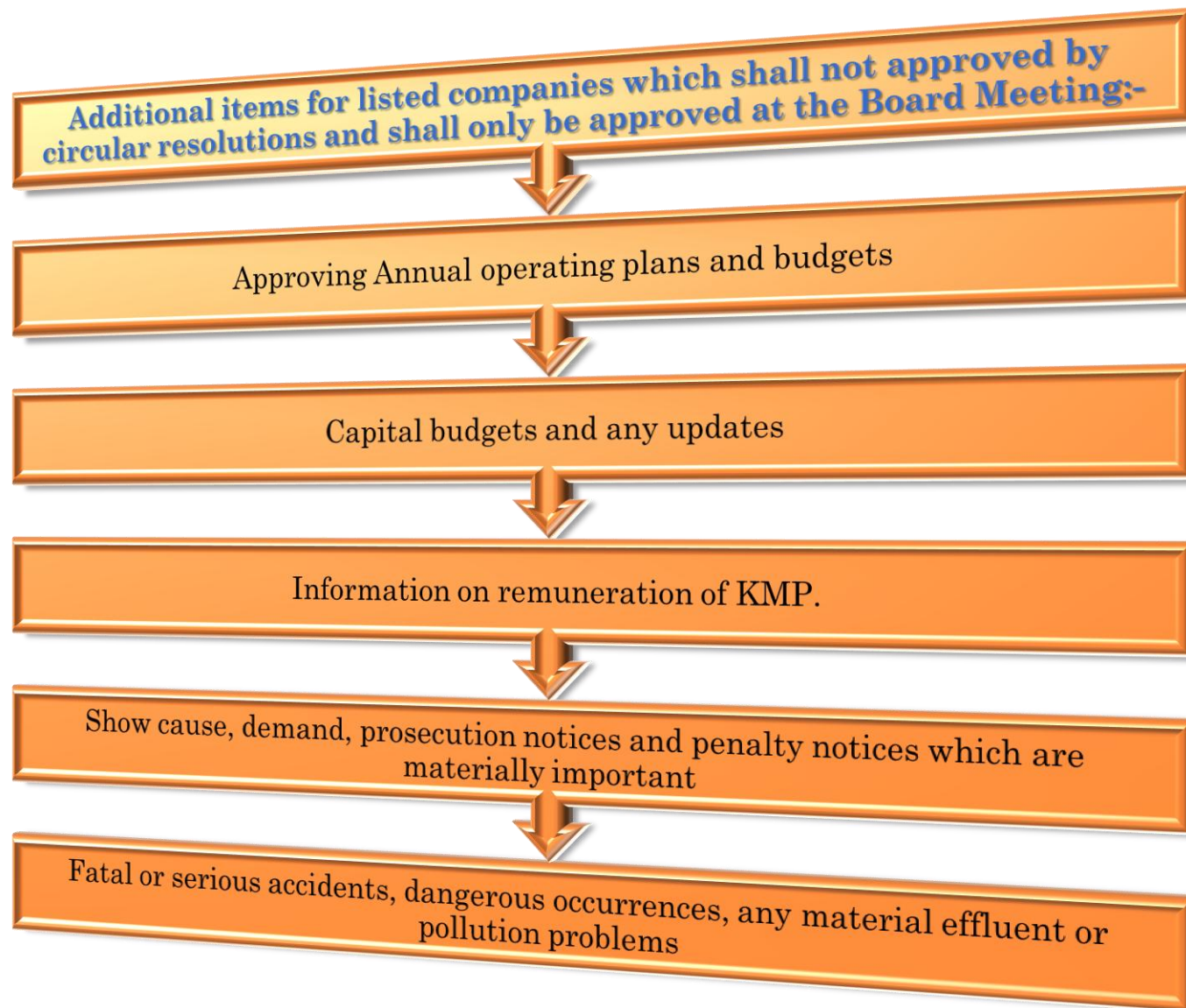
Certain items shall not be approved by circular resolutions and shall only be approved at the Board Meeting:-

General Business Items

Specific Items

Corporate Actions

BRIEF HIGHLIGHTS OF SS-1 (CONT.)




BRIEF HIGHLIGHTS OF SS-1 (CONT.)

Additional items for listed companies which shall not approved by circular resolutions and shall only be approved at the Board Meeting:-



Any material default in financial obligations to and by the company, or substantial non-payment for goods sold by the company.



Any issue, which involves possible public or product liability claims of substantial nature, including any judgement or order which, may have passed strictures on the conduct of the company or taken an adverse view regarding another enterprise that can have negative implications on the company

BRIEF HIGHLIGHTS OF SS-1 (CONT.)

Additional items for listed companies which shall not be approved by circular resolutions and shall only be approved at the Board Meeting:-

Details of any joint venture or collaboration agreement

Transactions that involve substantial payment towards goodwill, brand equity, or intellectual property

Significant labour problems and their proposed solutions. Any significant development in Human Resources/ Industrial Relations front like signing of wage agreement, implementation of Voluntary Retirement Scheme etc.

BRIEF HIGHLIGHTS OF SS-1 (CONT.)

Additional items for listed companies which shall not be approved by circular resolutions and shall only be approved at the Board Meeting:-



Quarterly details of foreign exchange exposures and the steps taken by management to limit the risks of adverse exchange rate movement, if material



Non-compliance of any regulatory, statutory or listing requirements and shareholder services such as non-payment of dividend, delay in share transfer etc.

BRIEF HIGHLIGHTS OF SS-2

General Meeting shall be convened on the authority of the Board or on a valid requisition.

Notice of the Meeting to:-

Every Member;

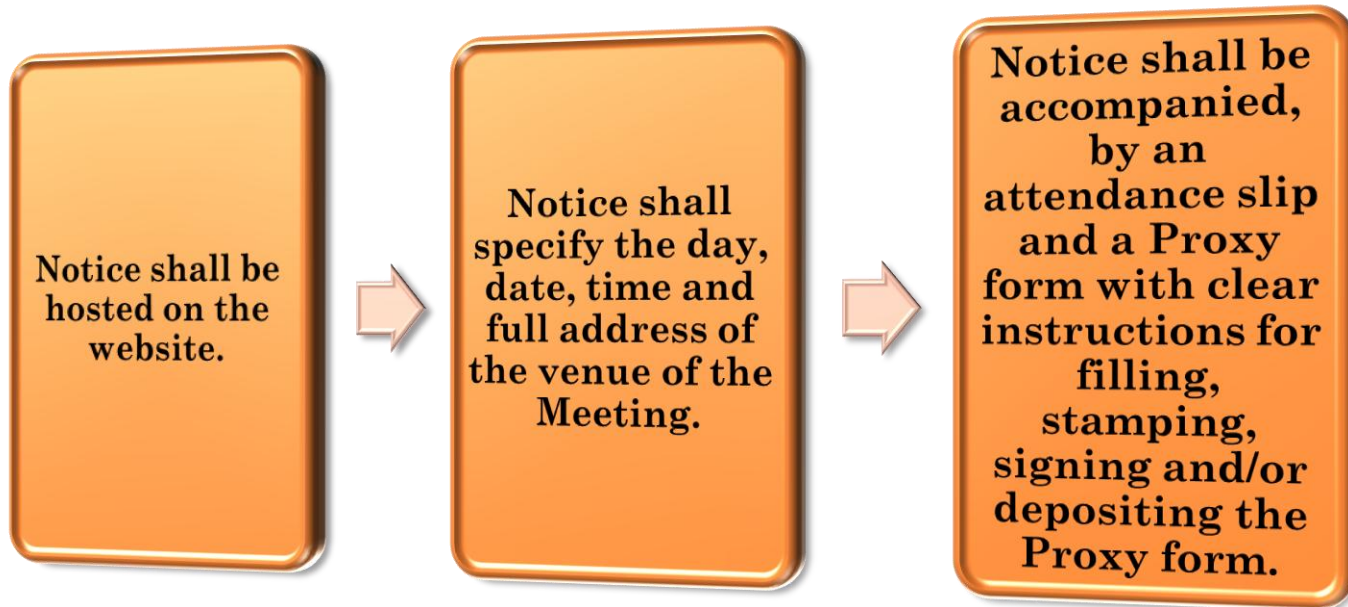
The Directors;

Auditors of the company;

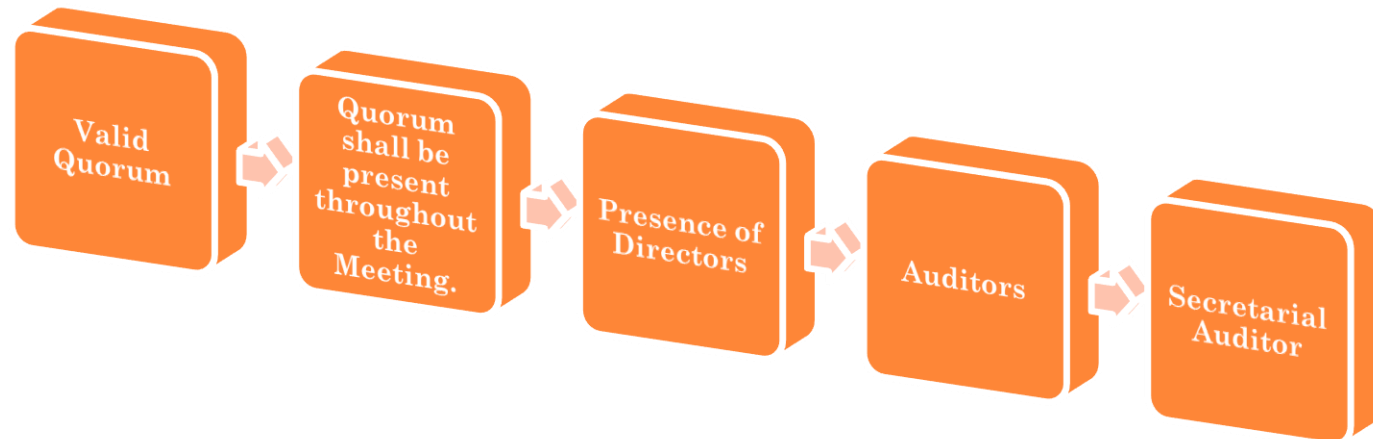
The Secretarial Auditor;

Debenture Trustees

BRIEF HIGHLIGHTS OF SS-2 (CONT.)



BRIEF HIGHLIGHTS OF SS-2 (CONT.)



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

Voting

E-voting

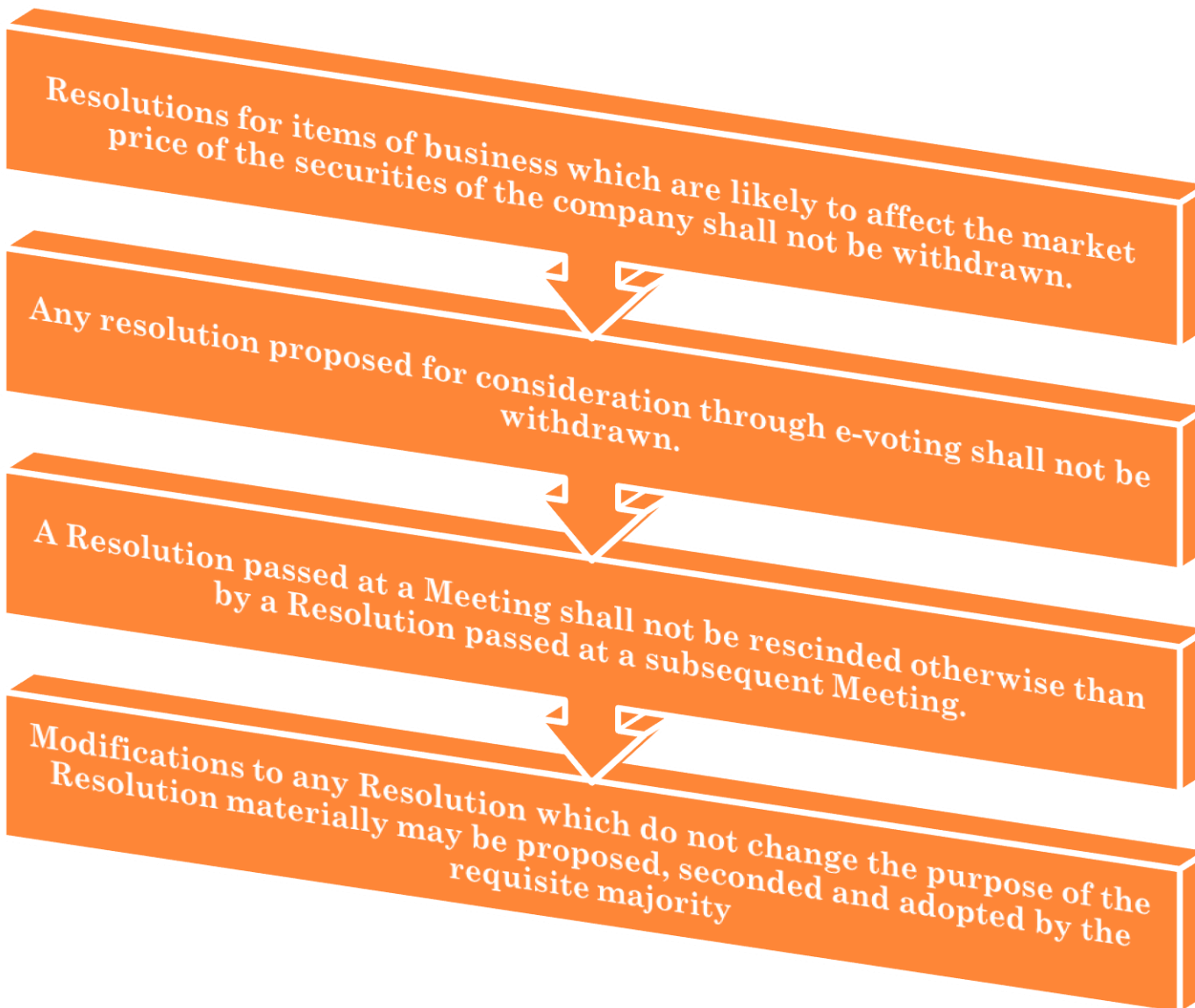
Notice shall inform the Members about procedure of Remote e-voting, availability of such facility and provide necessary information thereof to enable them to access such facility.

Every company, which has provided e-voting facility to its Members, shall also put every Resolution to vote through a ballot process at the Meeting.

Show of Hands



BRIEF HIGHLIGHTS OF SS-2 (CONT.)



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

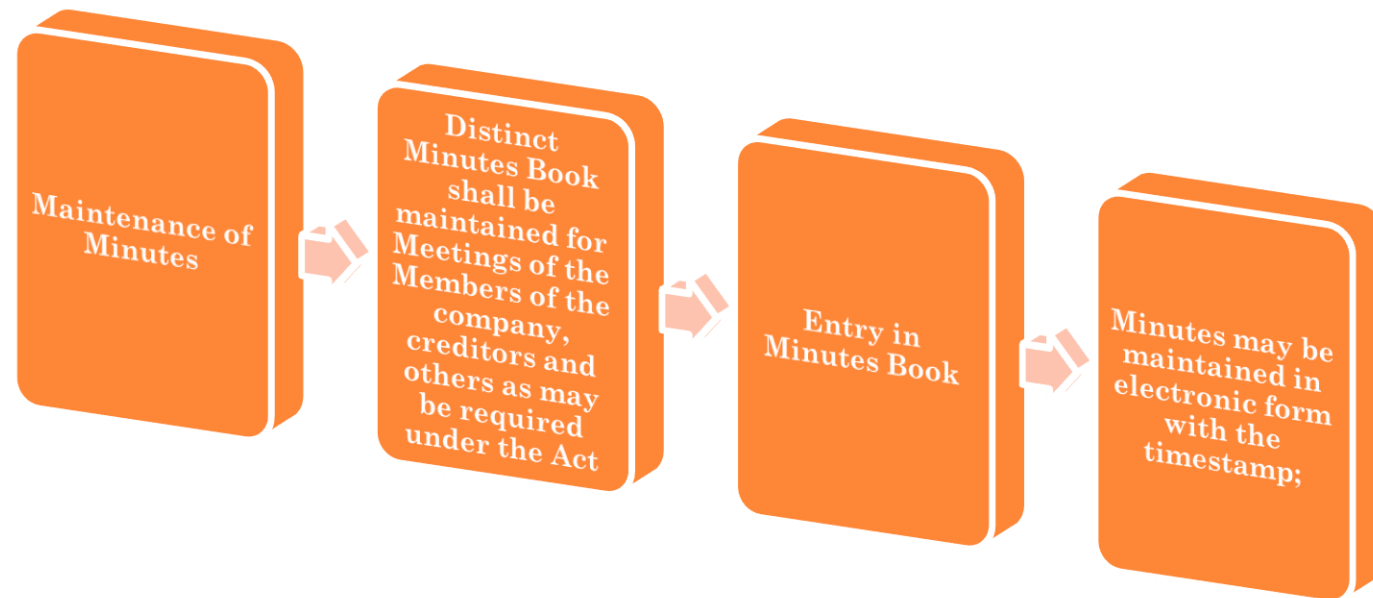


**Reading
of
Auditor's
Reports;**

**Reading of
Secretarial
Auditor's
Reports;**

**No gifts, gift coupons,
or cash in lieu of gifts
shall be distributed
to Members at or in
connection with the
Meeting.**

BRIEF HIGHLIGHTS OF SS-2 (CONT.)



BRIEF HIGHLIGHTS OF SS-2 (CONT.)



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

E - v o t i n g

- Provisions under the SS are in line with the Rule 20 of Chapter VII {as amended on March 19, 2015}.
- Every company providing e-voting facility shall offer such facility to all Members, irrespective of whether they hold shares in physical form or in dematerialized form.
- The facility for Remote e-voting shall remain open for not less than three days.
- The voting period shall close at 5 p.m. on the day preceding the date of the General Meeting.

BRIEF HIGHLIGHTS OF SS-2 (CONT.)

Notice for e-voting

- Notice of the Meeting, wherein the facility of e-voting is provided, shall be sent either by registered post or speed post or by courier or by e-mail or by any other electronic means.
- Notice shall inform the Members about procedure of Remote e-voting, availability of such facility and provide necessary information thereof to enable them to access such facility.
- Notice shall also be placed on the website of the company, in case of companies having a website, and of the Agency.



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

Content of Notice for e-voting

In additional to all other information

- ❖ Notice shall also contain contact details of the official responsible to address the grievances connected with voting by electronic means.
- ❖ Notice shall clearly specify that any Member, who has voted by Remote e-voting, cannot vote at the Meeting.
- ❖ Notice shall also specify the mode of declaration of the results of e- voting.



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

Content of Notice for e-voting

In additional to all other information

- Notice shall also clearly mention the cut-off date as on which the right of voting of the Members shall be reckoned and state that a person who is not a Member as on the cut off date should treat this Notice for information purposes only.
- Notice shall provide the details about the login ID and the process and manner for generating or receiving the password and for casting of vote in a secure manner.



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

○ Board shall:-

- ❖ Appoint one or more scrutinizers for e-voting or the ballot process;
- ❖ Decide the cut-off date for determining the Members who are entitled to vote through Remote e-voting or voting at the meeting shall not be earlier than seven days prior to the date fixed for the Meeting;
- ❖ Authorize the Chairman or in his absence, any other Director to receive the scrutinizer's register, report on e-voting and other related papers with requisite details.



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

Newspaper Advertisement for e-voting

- ❖ An advertisement shall be published, immediately on completion of dispatch of notices for meeting but at least twenty one days before the date of the General Meeting in a vernacular newspaper and in English language in an English newspaper.



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

Contents of Newspaper Notice

- ❖ A statement to the effect that the business may be transacted by e-voting;
- ❖ The date and time of commencement of remote e-voting;
- ❖ The date and time of end of Remote e-voting;
- ❖ The cut-off date as on which the right of voting of the Members shall be reckoned;
- ❖ The manner in which persons who have acquired shares and become Members after the dispatch of Notice may obtain the login ID and password;
- ❖ The manner in which company shall provide for voting by Members present at the Meeting.



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

Contents of Newspaper Notice

- Notice shall contain a statement that:-
 - ❖ Remote e-voting shall not be allowed beyond the said date and time;
 - ❖ a Member may participate in the General Meeting even after exercising his right to vote through Remote e-voting but shall not be entitled to vote again; and
 - ❖ a Member as on the cut-off date shall only be entitled for availing the Remote e-voting facility or vote, as the case may be, in the General Meeting;



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

Contents of Newspaper Notice

- Website address of the company, in case of companies having a website and Agency where Notice is displayed; and
- Name, designation, address, e-mail ID and phone number of the person responsible to address the grievances connected with the e-voting.

Such Advertisement shall also be placed on the website of the company, in case of companies having a website and of the Agency.



BRIEF HIGHLIGHTS OF SS-2 (CONT.)

Report (MGT-15) on Annual General Meeting by Listed Companies shall specify -



The day, date, time and venue of the Annual General Meeting;



Confirmation with respect to appointment of Chairman of the Meeting;



Number of Members attending the Meeting;



Confirmation of Quorum;

BRIEF HIGHLIGHTS OF SS-2 (CONT.)

Report on Annual General Meeting by Listed Companies shall specify-



Confirmation with respect to compliance of the Act and Standards with respect to calling, convening and conducting the Meeting;



Business transacted at the Meeting and result thereof with a brief summary of the discussions;



Particulars with respect to any adjournment, postponement of Meeting, change in venue; and



Any other points relevant for inclusion in the report.

PROVISIONS INTRODUCED THROUGH SS-1

- Chairman may unless dissented to or objected by the majority of Directors present at a Meeting at which a Quorum is present, adjourn the Meeting for any reason, at any stage of the Meeting.
- Every Meeting shall have a serial number.
- A Board Meeting may be convened at any time and place, on any day, other than a National Holiday.
- Where a Director specifies a particular means of delivery of Notice, the Notice shall be given to him by such means.
- Proof of sending Notice and its delivery shall be maintained by the company;
- Notice shall be issued by the Company Secretary or where there is no Company Secretary, any Director or any other person authorised by the Board for the purpose.



PROVISIONS INTRODUCED THROUGH SS-1 (CONT.)

- The Notice shall specify the serial number, day, date, time and full address of the venue of the Meeting.
- The Notice of a Meeting shall be given even if Meetings are held on pre-determined dates or at pre-determined intervals.
- Notice of an adjourned Meeting shall be given to all Directors including those who did not attend the Meeting, unless the date of adjourned Meeting is decided at the Meeting and such notice shall also be given not less than seven days before the Meeting.
- The Agenda, setting out the business to be transacted at the Meeting, and Notes on Agenda shall be given to the Directors at least seven days before the date of the Meeting



PROVISIONS INTRODUCED THROUGH SS-1 (CONT.)

- Proof of sending Agenda and Notes on Agenda and their delivery shall be maintained by the company.
- Notes on items of business which are in the nature of Unpublished Price Sensitive Information may be given at a shorter period of time than stated above, with the consent of a majority of the Directors, which shall include at least one Independent Director, if any.
- Each item of business to be taken up at the Meeting shall be serially numbered.
- item not included in the Agenda may be taken up for consideration with the permission of the Chairman and with the consent of a majority of the Directors present in the Meeting, which shall include at least one Independent Director, if any.



PROVISIONS INTRODUCED THROUGH SS-1 (CONT.)

- If there is no Quorum at the adjourned Meeting also, the Meeting shall stand cancelled.
- Unless otherwise stipulated in the Act or any other law or the Articles or by the Board, the presence of all the members of any Committee constituted by the Board is necessary to form the Quorum for Meetings of such Committee.
- Attendance register shall be signed by all the persons who have attended the meeting including such persons who has attended such meeting .
- The attendance register shall be preserved for a period of at least eight financial years and may be destroyed thereafter with the approval of the Board.
- ***Minutes shall also record the fact that the Interested Director did not vote on the Resolution.***
- Minutes in electronic form shall be maintained with Timestamp.
- ***The names of the Directors shall be listed in alphabetical order or in any other logical manner, but in either case starting with the name of the person in the Chair.***

PROVISIONS INTRODUCED THROUGH SS-1 (CONT.)

- The fact that the Meeting is being held at a shorter Notice shall be stated in the Notice.
- *If so desired by the Independent Directors (IDs), the Company Secretary shall facilitate convening and holding of the separate meeting of IDs.*
- Any document, report or notes placed before the Board and referred to in the Minutes shall be identified by initialing of such document, report or notes by the Company Secretary or the Chairman.
- Proof of sending draft Minutes and its delivery shall be maintained by the company.
- *A copy of the signed Minutes certified by the Company Secretary or where there is no Company Secretary, by any Director authorised by the Board shall be circulated to all Directors within fifteen days after these are signed.*
- *The capacity in which an Invitee attends the Meeting and where applicable, the name of the entity such Invitee represents and the relation, if any, of that entity to the company shall also be recorded.*



PROVISIONS INTRODUCED THROUGH SS-2

- Any amendment to the Notice, including the addition of any item of business, can be made provided the Notice of amendment is given to all persons entitled to receive the Notice of the Meeting at least twenty-one clear days before the Meeting.
- Notice shall be accompanied, by an attendance slip and a Proxy form with clear instructions for filling, stamping, signing and/or depositing the Proxy form.
- ***Quorum shall be present not only at the time of commencement of the Meeting but also while transacting business.***
- Members who have voted by Remote e-voting have the right to attend the General Meeting and accordingly their presence shall be, counted for the purpose of Quorum.



PROVISIONS INTRODUCED THROUGH SS-2 (CONT.)

- *A Member who is not entitled to vote on any particular item of business being a related party, if present, shall be counted for the purpose of Quorum.*
- *Every Director shall attend every General meeting and if any Director is unable to attend the Meeting, the Chairman shall explain such absence at the Meeting.*
- Directors who attend General Meetings of the company and the Company Secretary shall be seated with the Chairman.
- Unless exempted by the company, the Secretarial Auditor shall either by himself or through his authorised representative, attend the Annual General Meeting and shall have the right to be heard at such Meeting on that part of the business which concerns him as Secretarial Auditor.



PROVISIONS INTRODUCED THROUGH SS-2 (CONT.)

- *In case of public companies, the Chairman shall not propose any Resolution in which he is deemed to be concerned or interested nor shall he conduct the proceedings for that item of business.*
- *If the Chairman is interested in any item*, without prejudice to his Voting Rights on Resolutions, he shall entrust the conduct of the proceedings in respect of such item to any dis-Interested Director or to a Member, with the consent of the Members present, and resume the Chair after that item of business has been transacted.
- If a Proxy is appointed for more than fifty Members, he shall choose any fifty Members and confirm the same to the company before the commencement of specified period for inspection. In case, the Proxy fails to do so, the company shall consider only the first fifty proxies received as valid.



PROVISIONS INTRODUCED THROUGH SS-2 (CONT.)

- The Proxy-holder shall prove his identity at the time of attending the Meeting.
- All Proxies received by the company shall be recorded chronologically in a register kept for that purpose.
- The result of the poll shall be displayed on the Notice Board of the company at its Registered Office and its Head Office as well as Corporate Office, if any, if such office is situated elsewhere.
- Resolutions for items of business which are likely to affect the market price of the securities of the company shall not be withdrawn.
- Any resolution proposed for consideration through e-voting shall not be withdrawn.



PROVISIONS INTRODUCED THROUGH SS-2 (CONT.)

- A Resolution passed at a Meeting shall not be rescinded otherwise than by a Resolution passed at a subsequent Meeting.
- A Resolution passed by postal ballot shall not be rescinded otherwise than by a Resolution passed subsequently through postal ballot.
- *No gifts, gift coupons, or cash in lieu of gifts shall be distributed to Members at or in connection with the Meeting.*
- Minutes may be made in electronic form with Timestamp.



PROVISIONS INTRODUCED THROUGH SS-2 (CONT.)

- In the event any page or part thereof in the Minutes Book is left blank, it shall be scored out and initialled by the Chairman who signs the Minutes.
- There shall be a proper locking device to ensure security and proper control to prevent removal or manipulation of the loose leaves.
- Minutes shall state, at the beginning the Meeting, name of the company, day, date, venue and time of commencement and conclusion of the Meeting.

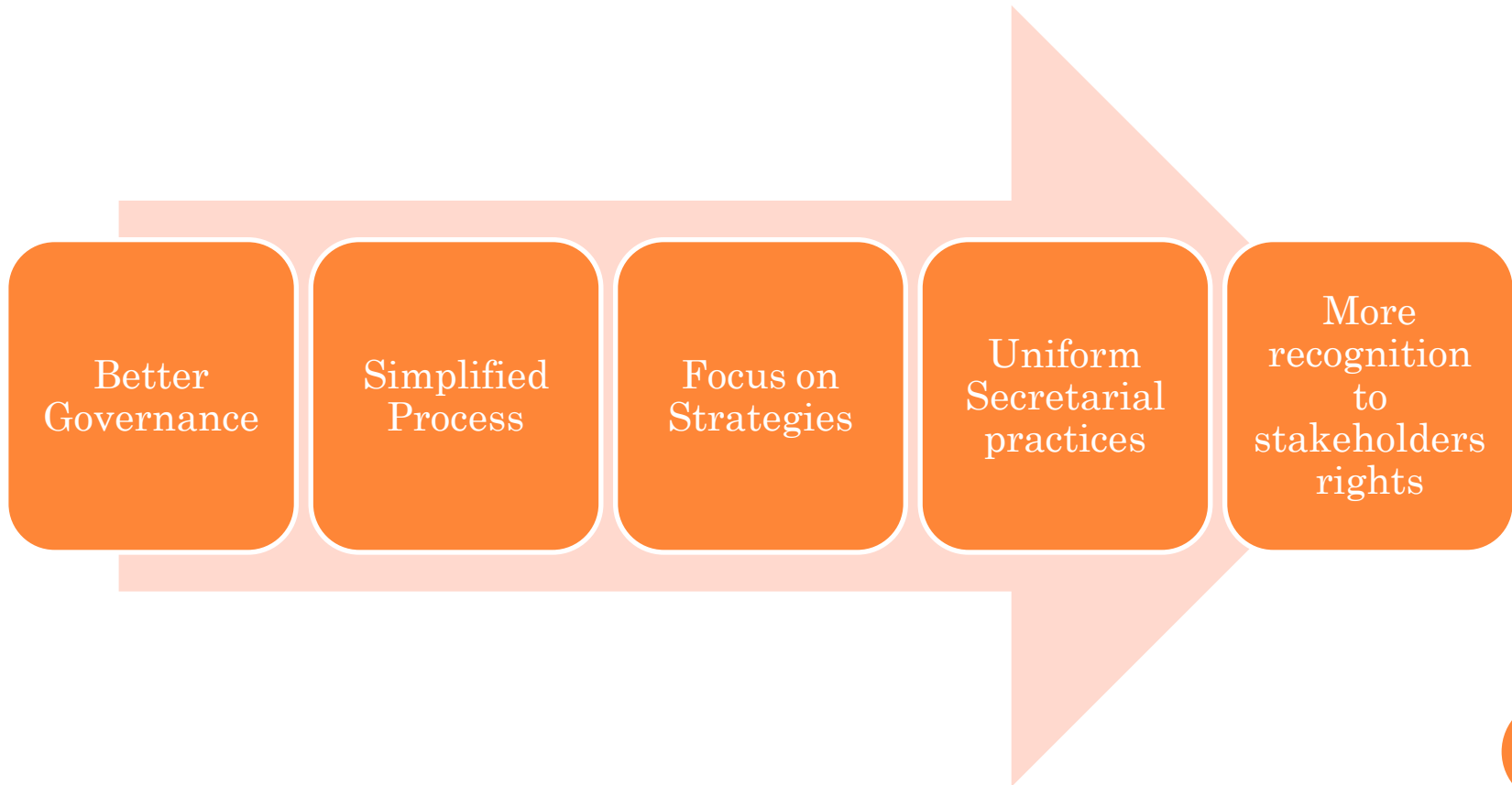


PROVISIONS INTRODUCED THROUGH SS-2 (CONT.)

- Names of the Directors shall be listed in alphabetical order or in any other logical manner, but in either case starting with the name of the person in the Chair.
- Extract of the Minutes shall be given only after the Minutes have been duly signed.
- Office copies of Notices, scrutiniser's report, and related papers shall be preserved in good order in physical or in electronic form for as long as they remain current or for eight financial years, whichever is later



IMPACT AND IMPLICATION



IMPACT AND IMPLICATION (CONT.)

BENEFIT FOR PROFESSIONALS

- Codification of things which was not part of the law;
- Reducing ambiguity in the provisions of Law
- Better governance
- Consolidated procedures for easier reference



IMPACT AND IMPLICATION (CONT.)

BENEFIT FOR STAKEHOLDERS

- Participation of the investors.
- Increased accountability of the Company
- Enhance role of stakeholders
- Consolidated procedures for easier reference
- Greater emphasis on protection of shareholder rights



IMPACT AND IMPLICATION (CONT.)

BENEFIT FOR GOVERNMENT AUTHORITIES

- Less Government more Governance;
- Stringent disclosures
- Strengthening enforcement powers and prescribing stringent penalties;
- Increased Accountability of officers of the company
- Segregating procedural aspects from substantive law;



IMPACT AND IMPLICATION (CONT.)

BENEFIT FOR COMPANIES

- Identify/Fix duties of personnel
- Strengthening Board framework-Board Composition
- Decrease in litigations and litigation cost
- Confidence of Stakeholders'
- Easy to understand law
- Adoption of best global practices



Thank You



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