



## **A. K. LABH & Co.**

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## Board Meeting : Basics.....



## Companies Act, 2013 : Section 173

- **Newly Incorporated Companies : 1<sup>st</sup> BM within 30 days of Date of Incorporation**
- **Companies (except OPC/Dormant/Small/Sec.8 Cos.) :**
  - (a) at least four meetings every year**
  - (b) maximum gap between two BMs : 120 days**  
**(COVID Exemption : may extend to 180 days during the period 01.04.2020 – 30.09.2020)**



## Companies Act, 2013 : Section 173

### ➤ OPC/Small/Dormant Companies :

(a) at least one meeting in each half of calendar year

(b) maximum gap between two BMs : not less than 90 days

### ➤ Section 8 Companies :

at least one meeting within every six calendar months



### **Secretarial Standard : SS - 1**

- (a) at least once in every calendar quarter**
- (b) at least four meetings each calendar year**
- (c) maximum gap between two BMs : 120  
days**



### Resolutions which can be transacted through Physical BM only (& not by Circulation) :

|          |   |                    |
|----------|---|--------------------|
| <b>A</b> | <b>to make calls on shareholders in respect of money unpaid on their shares</b> | <b>Section 179</b> |
| <b>B</b> | <b>to authorise buy-back of securities under Section 68</b>                     | <b>Section 179</b> |
| <b>C</b> | <b>to issue securities, including debentures, whether in or outside India</b>   | <b>Section 179</b> |

## Board Meeting ..... Resolutions



|          |  |                    |
|----------|--|--------------------|
| <b>D</b> | <b>to borrow monies</b>  | <b>Section 179</b> |
| <b>E</b> | <b>to invest the funds of the company</b><br><b>(can be delegated)</b>   | <b>Section 179</b> |
| <b>F</b> | <b>to grant loans or give guarantee or provide security</b><br><b>in respect of loans</b><br><b>(can be delegated)</b> | <b>Section 179</b> |
| <b>G</b> | <b>to approve financial statement and the Board's</b><br><b>report</b><br><b>(can be delegated)</b>                    | <b>Section 179</b> |
| <b>H</b> | <b>to diversify the business of the company</b>  | <b>Section 179</b> |
| <b>I</b> | <b>to approve amalgamation, merger or reconstruction</b>   | <b>Section 179</b> |

## Board Meeting ..... Resolutions



|          |   |                                 |
|----------|---|---------------------------------|
| <b>J</b> | <b>to take over a company or acquire a controlling or substantial stake in another company</b>  | <b>Section 179</b>              |
| <b>K</b> | <b>to make political contributions</b>  | <b>Section 179<br/>(Rule 8)</b> |
| <b>L</b> | <b>to appoint or remove key managerial personnel (KMP)</b>                                      | <b>Section 179<br/>(Rule 8)</b> |
| <b>M</b> | <b>To enter into any contract or agreement with RPTs</b>  | <b>Section 188</b>              |
| <b>N</b> | <b>Illustrative List as per Annexure – “A” attached to SS-1<br/>(21 more items/resolutions)</b> | <b>SS-1<br/>Para 1.3.8</b>      |





# **Board Meeting : VC / OAVM**



## The Companies (Meeting of Board and its Powers) Rules, 2014 :

➤ The following items are restricted to get conducted through VC or OAVM :

|          |  |
|----------|--|
| <b>A</b> | <b>the approval of the annual financial statements</b> |
| <b>B</b> | <b>the approval of the Board's report</b>              |
| <b>C</b> | <b>the approval of the prospectus</b>                  |

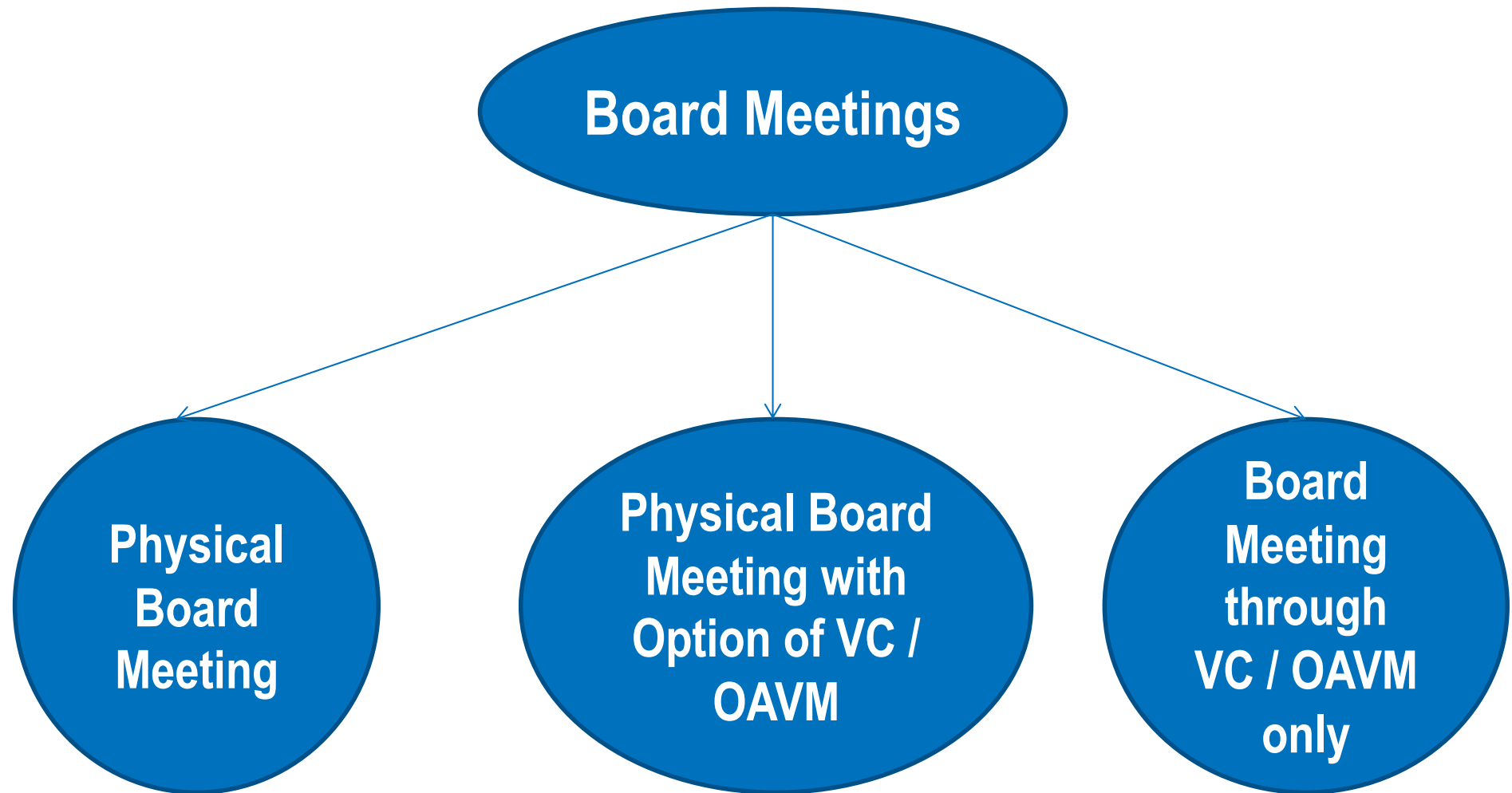


**D** the Audit Committee Meetings for consideration of financial statement including consolidated financial statement if any, to be approved by the board under sub-section (1) of Section 134

**E** the approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover



- **However, w.e.f. 07.05.2018 participation of any other director through video conferencing or other audio visual means on these five items were allowed if the requisite quorum is present by physical presence of directors.**
- **Again, in an interim relief, due to COVID pandemic, the requirement of physical presence of quorum for these five items were waived for all the BMs to be held between 19.03.2020 – 30.06.2020.**





**VC / OAVM .....??**



**“Video Conferencing (VC) or Other Audio Visual Means (OAVM)” means :**

**audio - visual electronic communication facility employed which enables all the persons participating in a meeting to communicate concurrently with each other without an intermediary and to participate effectively in the meeting**



### **“VC / OAVM” meeting technicalities :**

- a. Audio**
- b. Visual**
- c. Communicative with each other**
- d. No intermediary**
- e. Recordable**
- f. Prevent Leakage of Information / confidentiality**





### BM through VC / OAVM :

- **The notice of the meeting shall inform the directors regarding the option available to them to participate through video conferencing mode or other audio visual means, and shall provide all the necessary information to enable the directors to participate through video conferencing mode or other audio visual means.**



## **BM through VC / OAVM :**

- **A director intending to participate through video conferencing or audio visual means shall communicate his intention to the Chairperson or the company secretary of the company.**
- **If the director intends to participate through video conferencing or other audio visual means, he shall give prior intimation to that effect sufficiently in advance so that company is able to make suitable arrangements in this behalf.**



## **BM through VC / OAVM :**

- Any director who intends to participate in the meeting through electronic mode may intimate about such participation at the beginning of the calendar year and such declaration shall be valid for one year.
- However, such declaration shall not debar him from participation in the meeting in person in which case he shall intimate the company sufficiently in advance of his intention to participate in person.
- In the absence of any intimation, it shall be assumed that the director shall attend the meeting in person.



## **BM through VC / OAVM :**

- **Every Company shall make necessary arrangements to avoid failure of video or audio visual connection.**
  
- **Due and reasonable care should be taken -**
  - (a) to safeguard the integrity of the meeting by ensuring sufficient security and identification procedures;**
  
  - (b) to ensure availability of proper video conferencing or other audio visual equipment or facilities for providing transmission of the communications for effective participation of the directors and other authorised participants at the Board meeting;**



### BM through VC / OAVM :

**(c) to record proceedings and prepare the minutes of the meeting;**

**(d) to store for safekeeping and marking the tape recording(s) or other electronic recording mechanism as part of the records of the company at least before the time of completion of audit of that particular year;**

**(e) to ensure that no person other than the concerned director are attending or have access to the proceedings of the meeting through video conferencing mode or other audio visual means;**



### BM through VC / OAVM :

**(f) to ensure that participants attending the meeting through audio visual means are able to hear and see the other participants clearly during the course of the meeting :**

**However, if any person, differently abled, may make request to the Board to allow a person to accompany him.**



## **BM through VC / OAVM :**

- **At the commencement of the meeting, a roll call shall be taken by the Chairperson when every director participating through video conferencing or other audio visual means shall state, for the record, the following namely :-**
  - (a) name;**
  - (b) the location from where he is participating;**
  - (c) that he has received the agenda and all the relevant material for the meeting; and**
  - (d) that no one other than the concerned director is attending or having access to the proceedings of the meeting at the location**



### BM through VC / OAVM :

- From the commencement of the meeting and until the conclusion of such meeting, no person other than the Chairperson, Directors, Company Secretary and any other person whose presence is required by the Board shall be allowed access to the place where any director is attending the meeting either physically or through video conferencing without the permission of the Board.





## **BM through VC / OAVM :**

- **After the roll call, the Chairperson or the Company Secretary shall inform the Board about the names of persons other than the directors who are present for the said meeting at the request or with the permission of the Chairperson and confirm that the required quorum is complete.**
- **The Chairperson shall ensure that the required quorum is present throughout the meeting.**



### **BM through VC / OAVM :**

- **Venue :** With respect to every meeting conducted through video conferencing or other audio visual means authorised under these rules, the scheduled venue of the meeting as set forth in the notice convening the meeting , shall be deemed to be the place of the said meeting and all recordings of the proceedings at the meeting shall be deemed to be made at such place.



### **BM through VC / OAVM :**

- **Statutory Registers** : The statutory registers which are required to be placed in the Board meeting as per the provisions of the Act shall be placed at the scheduled venue of the meeting and where such registers are required to be signed by the directors, the same shall be deemed to have been signed by the directors participating through electronic mode, if they have given their consent to this effect and it is so recorded in the minutes of the meeting.



### **BM through VC / OAVM :**

- **Quorum :** The directors attending the meeting through VC / OAVM shall constitute quorum unless restricted by any provisions of law on any agenda items.



### **BM through VC / OAVM :**

- **Every participant shall identify himself for the record before speaking on any item of business on the agenda.**
- **If a statement of a director in the meeting through video conferencing or other audio visual means is interrupted or garbled, the Chairperson or Company Secretary shall request for a repeat or reiteration by the Director.**



## **BM through VC / OAVM :**

- **If a motion is objected to and there is a need to put it to vote, the Chairperson shall call the roll and note the vote of each director who shall identify himself while casting his vote.**
- **At the end of discussion on each agenda item, the Chairperson of the meeting shall announce the summary of the decision taken on such item along with names of the directors, if any, who dissented from the decision taken by majority.**



## **BM through VC / OAVM :**

### **➤ Minutes :**

- a) The minutes shall disclose the particulars of the directors who attended the meeting through video conferencing or other audio visual means.**
  
- b) The draft minutes of the meeting shall be circulated among all the directors within fifteen days of the meeting either in writing or in electronic mode as may be decided by the Board.**



## **BM through VC / OAVM :**

- c) Every director who attended the meeting, whether personally or through video conferencing or other audio visual means, shall confirm or give his comments in writing, about the accuracy of recording of the proceedings of that particular meeting in the draft minutes, within seven days or some reasonable time as decided by the Board, after receipt of the draft minutes failing which his approval shall be presumed.**
- d) After completion of the meeting, the minutes shall be entered in the minute book and signed by the Chairperson.**





- Provisions apply *mutatis mutandis* to the meeting of the Committees constituted by the Board.



# **AGM : Basics.....**



## Companies Act, 2013 : Section 96

- **Newly Incorporated Companies : 1<sup>st</sup> AGM within 9 months from the date of closing of first FY.**
  
- **Other Companies :**
  - (a) within a period of six months from the end of FY.**
  - (b) maximum gap between two AGMs : 15 months.**



### Companies Act, 2013 : Section 96

- **AGM should be called during business hours, i.e., between 9 a.m. and 6 p.m.**
- **AGM not to be held on National Holidays.**
- **ROC has the authority to extend the due dates for calling AGM by further three(3) months.**



## ➤ Venue :

a) Listed Companies : either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situated.

b) Unlisted Company : either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situated.

or

at any place in India if consent is given in writing or by electronic mode by all the members in advance.



## ➤ Quorum :

**a) Private Companies : 2 members**

**b) Public Companies :**

**No. of Members  $\leq$  1000.....5 members**

**No. of Members  $>1000$  but  $\leq$  5000.....15 members**

**No. of Members  $>5000$  .....30 members**



## ➤ Voting :

- a) Listed Companies : Remote e-voting is mandatory**
- b) Unlisted Companies : Remote e-voting is mandatory if number of members exceeds 1000**
- c) Voting at venue :**

**Remote e-voting : Mandatory : by ballot or venue e-voting**

**Remote e-voting : Not Mandatory : by show of hands or  
ballot**

## ➤ Due Dates :

**For all companies :**

**a) FY closing 31.03.2020 ..... by 30.09.2020**

**b) FY closing 31.12.2019 .... By 30.09.2020**

**(extended due to COVID-19 pandemic)**





# **AGM : VC / OAVM**



- **MCA vide its Circular No. 20/2020 dated 05.05.2020 allowed companies to conduct AGM through VC / OAVM.**
- **There was no amendment in the Act or Rules and in a special case this provision has been made to all AGMs held/to be held in the calendar year 2020.**



- **Circular overrides certain provisions of the Act and Rules pertaining to AGM and in a special case the provisions of Circular will supersede the provisions of the Act and Rules for this year.**
- **Rest of the compliances/procedures not specifically stated in the Circular will be followed as per the provisions of the Act and Rules related thereto.**

➤ MCA also issued following circulars for conducting EGM through VC / OAVM and these circulars stands mutatis mutandis applicable to the AGM conducted through VC / OAVM :

a. Circular no. 14/2020 dated 08.04.2020

b. Circular No. 17/2020 dated 13.04.2020



**Unlisted Companies / Companies  
having not more than 1000 members  
and which are not required and have  
not voluntary opted to provide e-voting  
facility**



**Unlisted Companies / Companies  
having not more than 1000 members  
and which are not required and have  
not voluntary opted to provide e-voting  
facility**

**Physical AGM**

**AGM through VC / OAVM  
(only if the Company is having  
e-mail-ids of at least half of its  
members constituting at least  
75% of the total voting rights)**



- **The company shall take all necessary steps to register the email addresses of all persons who have not registered their email addresses with the company.**
- **In such meetings, other than ordinary business, only those items of special business, which are considered to be unavoidable by the Board, may be transacted.**



- **The Annual Report will be sent to all the shareholders through e-mail.**
- **The notice of the AGM should also get displayed on the website (if any) of the Company.**
- **At least 3 days before sending the notice of AGM, the Company should publish notice pertaining to calling of AGM through VC/OAVM in an English and a vernacular local language newspaper having a wide circulation in that district and also preferably having electronic editions.**





- **The Company will have to ensure that all other compliances associated with the provisions relating to general meetings viz making of disclosures, inspection of related documents/registers by members, or authorizations for voting by bodies corporate, etc as provided in the Act and the articles of association of the company are made through electronic mode.**



- **Convenience of different persons positioned in different time zones shall be kept in mind before scheduling the meeting.**
- **The facility for joining the meeting shall be kept open at least 15 minutes before the time scheduled to start the meeting and shall not be closed till the expiry of 15 minutes after such scheduled time.**



- **Members attending the meeting through VC / OAVM shall be counted to the quorum of the meeting.**
- **At least one independent director (if the Company is required to appoint any) and the auditor/their representative must attend the meeting through VC/OAVM.**



- **The Company must have to provide the facility for attending the meeting through VC/OAVM at least to 500 members on FIFO basis.**
- **Apart from the above, shareholders having more than 2% shares, promoters, institutional investor, directors, KMPs, Chairperson of the Committees, auditors must be allowed to attend the meeting without any restriction.**



- **The Members are not allowed to appoint Proxies to attend the meeting through VC / OAVM.**
- **However, body corporates, institutions or legal entities are allowed to appoint authorised representatives to attend the meeting through VC / OAVM.**
- **There is no need to attach the route map to the venue of the meeting as the meeting to be held through VC/OAVM.**



### ➤ Voting :

- a) If the number of attendants are less than 50, then by show of hands, otherwise through poll wherein members shall cast their vote through their respective e-mail-ids to a designated mail-id of the Company specially meant for this purpose.
- b) In poll held & if counting takes time, the meeting may be adjourned and to be called later on to declare the result.



- **The recorded transcript of the meeting shall be maintained in safe custody by the Company.**
- **In case of public limited Company, the recorded transcript of the meeting shall also be made available on the website (if any) of the Company .**



- **The Company must provide the facility/information to the shareholders to register / update their e-mail-ids, bank details for dividend, designated e-mail-id in case of poll and all type of support to facilitate them to attend the meeting.**



- **All the resolutions passed in the AGM held through VC / OAVM must be filed with ROC within 60 days of the meeting.**

**(No form specified / However, MGT-14 can be used)**



**Listed Companies / Companies having  
more than 1000 members and which  
are required / have voluntary opted to  
provide e-voting facility**



**Listed Companies / Companies having more than 1000 members and which are required / have voluntary opted to provide e-voting facility**

**Physical AGM  
with the  
Approval of  
the  
Authorities**

**Physical AGM  
with the approval  
of the Authorities  
with Option of  
VC / OAVM**

**AGM  
through  
VC / OAVM  
only**

- In such meetings, other than ordinary business, only those items of special business, which are considered to be unavoidable by the Board, may be transacted.
- The Annual Report will be sent to all the shareholders through e-mail.



- **The notice of the AGM should also get displayed on the website (if any) of the Company.**
- **In case of listed companies, the notice of AGM also need to be served to the stock exchanges.**
- **Before sending the notice of AGM, the Company should publish notice pertaining to calling of AGM through VC/OAVM in an English and a local vernacular language newspaper having a wide circulation in that district and also preferably having electronic editions.**



- **The newspaper notice to specify :**
- a) statement that the AGM will be convened through VC or OAVM in compliance with applicable provisions of the Act read with this Circular;**
  - b) the date and time of the AGM through VC or OAVM;**
  - c) availability of notice of the meeting on the website of the company and the stock exchange, in case of a listed company;**
  - d) the manner in which the members who are holding shares in physical form or who have not registered their email addresses with the company can cast their vote through remote e-voting or through the e-voting system during the meeting;**



- e) the manner in which the persons who have not registered their email addresses with the company can get the same registered with the company;**
- f) the manner in which the members can give their mandate receiving dividends directly in their bank accounts through ECS or any other means.**
- g) any other detail (like e-voting particulars)**



- **The Company will have to ensure that all other compliances associated with the provisions relating to general meetings viz making of disclosures, inspection of related documents/registers by members, or authorizations for voting by bodies corporate, etc as provided in the Act and the articles of association of the company are made through electronic mode.**





- **Convenience of different persons positioned in different time zones shall be kept in mind before scheduling the meeting.**
- **The facility for joining the meeting shall be kept open at least 15 minutes before the time scheduled to start the meeting and shall not be closed till the expiry of 15 minutes after such scheduled time.**



- **Members attending the meeting through VC / OAVM shall be counted to the quorum of the meeting.**
- **At least one independent director (if the Company is required to appoint any) and the auditor/their representative must attend the meeting through VC/OAVM.**



- **The Company must have to provide the facility for attending the meeting through VC/OAVM at least to 1000 members on FIFO basis.**
- **Apart from the above, shareholders having more than 2% shares, promoters, institutional investor, directors, KMPs, Chairperson of the Committees, auditors must be allowed to attend the meeting without any restriction.**



- **The Members are not allowed to appoint Proxies to attend the meeting through VC / OAVM.**
- **However, body corporates, institutions or legal entities are allowed to appoint authorised representatives to attend the meeting through VC / OAVM.**
- **There is no need to attach the route map to the venue of the meeting as the meeting to be held through VC/OAVM.**



## ➤ Voting :

**a) Remote e-voting (Prior to AGM)**

**b) Venue e-voting**

**c) Poll : If the chairman is not present and the AOA of the Company does not provide for appointment of any specific person to Chair the meeting, then the Chairman need to be appointed in the AGM through Poll.**



**If Poll is required and the number of attendants are less than 50, then by show of hands, otherwise through poll to be conducted through e-voting system.**

**d) Even if the Company opts for physical meeting with the option to members to attend it through VC / OAVM also, all resolutions shall continue to be passed through the facility of e-voting system only.**



### ➤ Result :

- a) In case of listed companies, the Scrutinizer to give the result within 48 hours of the completion of the meeting;
- b) In case of other companies, within three days of the conclusion of the meeting.



- **The recorded transcript of the meeting shall be maintained in safe custody by the Company.**
- **The recorded transcript of the meeting shall also be made available on the website (if any) of the Company .**





- **The Company must provide the facility/information to the shareholders to register / update their e-mail-ids, bank details for dividend, designated e-mail-id in case of poll and all type of support to facilitate them to attend the meeting.**

- **All the resolutions passed in the AGM held through VC / OAVM must be filed with ROC within 60 days of the meeting.**

**(No form specified / However, MGT-14 can be used)**



### ➤ Service Providers for VC / OAVM :

- . NSDL
- . CDSL
- . KARVY
- . Link Intime
- . Others

