



## Corporate Laws

*In a general meeting of a private company, can a proxy vote by show of hands?*

Section 105 of the Companies Act, 2013 relates to 'Proxy'. According to sub-section (1) of section 105, any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person as a proxy to attend and vote at the meeting on his behalf. However, the proxy shall not have the right to speak at such meeting and shall not be entitled to vote except on a poll. Therefore, proxy can vote only in case of poll. Pursuant to MCA Notification [No. GSR 464 (E) dated June 5, 2015, as amended by MCA Notification No. GSR 464(E) dated June 13, 2017], the provisions of section 105 of the Act shall apply unless otherwise specifically provided for in the Articles of Association of the company. In order to answer the poser specifically, it is necessary to check and confirm the provisions of Articles of Association as well.

*Can one person be appointed as a proxy for multiple shareholders?*

Section 105 of the Companies Act, 2013 relates to 'Proxy'. According to sub-section (1) of section 105, any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person as a proxy to attend and vote at the meeting on his behalf. The provisions further state that the Central Government may prescribe a class or classes of companies whose members shall not be entitled to appoint another person as a proxy. A person appointed as proxy shall

*(Contributed by CS Gaurav Pingle)*

act on behalf of such member or number of members not exceeding 50 and such number of shares as may be prescribed. Rule 19(2) of the Companies (Management & Administration) Rules, 2014 states that a person can act as proxy on behalf of members not exceeding 50 and holding in the aggregate not more than 10% of the total share capital of the company carrying voting rights. It is further provided that a member holding more than 10% of the total share capital of the company carrying voting rights may appoint a single person as proxy and such person shall not act as proxy for any other person or shareholder. Such provisions shall be complied with at the time of appointment of multiple proxies.

*Can whole-time director be appointed by passing Circular Resolution?*

Section 197 of the Act relates to 'Appointment of managing director, whole-time director or manager'. According to Sub-clause (4) of section 197 of the Act, a Managing Director, Whole-time director or Manager shall be appointed and the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors at a meeting which shall be subject to approval by a resolution at the next general meeting of the company and by the Central Government in case such appointment is at variance with the conditions specified in Part I of that Schedule. As the appointment is required to be approved by the board of directors at its meeting, the whole-time director cannot be appointed by passing a Circular Resolution.

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