

Recent Circulars of Ministry of Corporate Affairs on Company Meetings :: Relevance for approvals in respect of ESOPs

- The Ministry of Corporate Affairs ("MCA") in view of physical immobility caused by Covid-19 pandemic has provided temporary relief as to the manner of conducting general body meetings whether an Extra-ordinary General Meeting ("EGM") or an Annual General Meeting ("AGM").
- Vide Circulars No. 14/2020 and 20/2020 dated April 08, 2020 and May 05, 2020 respectively, MCA has allowed Companies to hold EGM and AGM by way of the Video Conferencing ("VC") or Other Audio Visual Means ("OAVM") with simplified voting through registered emails, without requiring the shareholders to physically assemble at a common venue. These relaxations shall be available till June 30, 2020.
- In view of these relaxations, companies who are planning any of the following actions with respect to their ESOP Plans will be able to seek Board and/ or Shareholder approvals through EGMs held through Video Conferencing or OAVM:
 - ✓ Grant of employee stock options ("ESOPs")
 - ✓ Introducing a new ESOP Plan.
 - ✓ Re-pricing of the underwater options
 - ✓ Modification of the terms of any existing ESOP Plan
- Whereas the Board of Directors ("Board") of a Company was already enabled to approve any resolution relating to issue of securities (which deems to include ESOPs) through VC or any OAVM under the Companies (Meetings of Board and its Powers) Rules, 2014, the only difficulty was to secure approval of the shareholders as neither physical meeting nor postal ballot is possible for the time being.
- These MCA Circulars seek to facilitate passing of necessary ESOP related resolution(s) whether at an EGM or AGM without any interruption up to June 30, 2020.

