

The Companies ((Issue of Share Capital with Differential Voting Rights) Rules, 2001

G.S.R.167(E).- In exercise of the powers conferred by sub-clause (ii) of clause (a) section 86 read with

clauses (a) and (b) of sub-section (1) of section 642 of the Companies Act, 1956, the Central Government hereby makes the following rules, namely:-

1. Short title and commencement:

- (1) These rules may be called the Companies ((Issue of Share capital with differential voting Rights) Rules, 2001.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions:

- (1) In these rules, unless the contexts otherwise requires,-
 - (a) “Act” means the Companies Act, 1956 (1 of 1956);
 - (b) “differential voting rights” includes rights as to dividend or voting;
 - (c) “financial year” means financial year as defined under clause (17) of section 2 of the Act.
- (2) Words and expressions used and not defined in these rules but defined in the Companies Act, 1956 shall have the same meaning respectively assigned to them in that Act.

3. Conditions:

Every company limited by shares may issue shares with differential rights as to dividend, voting or otherwise, if-

1. the company has distributable profits in terms of Section 205 of the Companies Act, 1956 for * three financial years preceding the year in which it was decided to issue such shares.
2. the company has not defaulted in filing annual accounts and annual returns for three financial years immediately preceding * the financial year in which it was decided to issue such share.
3. the company has not failed to repay its deposits or interest thereon on due date or redeem its debentures on due date or pay dividend.
4. The Articles of Association of the company authorises the issue of shares with differential voting rights.
5. the company has not been convicted of any offence arising under, Securities Exchange Board of India Act, 1992, Securities Contracts (Regulation) Act, 1956, Foreign Exchange Management Act, 1999.
6. the company has not defaulted in meeting investors’ grievances.
7. the company has obtained the approval of share holders in General Meeting by

passing resolution as required under the provision of sub-clause (a) of sub-section (1) of section 94 read with sub-section (2) of the said section.

8. the listed public company obtained approval of share holders through Postal Ballot.
9. the notice of the meeting at which resolution is proposed to be passed is accompanied by an explanatory statement stating –
 - (a) the rate of voting rights which the equity share capital with differential voting right shall carry;
 - (b) the scale or in proportion to which the voting rights of such class or type of shares will vary;
 - (c) the company shall not convert its equity capital with voting rights into equity share capital with differential voting rights and the shares with differential voting rights into equity share capital with voting rights;
 - (d) the shares with differential voting rights shall not exceed 25% of the total share capital issued;
 - (e) that a member of the company holding any equity share with differential voting rights shall be entitled to bonus shares, right shares of the same class;
 - (f) the holders of the equity shares with differential voting rights shall enjoy all others rights to which the holder is entitled to excepting right to vote as indicated in (a) above.

4. Register:

Every company referred to in rule 3 shall maintain a register as required under section 150 of the Act containing the particulars of differential rights to which the holder is entitled to.

The principal rules were published in the Gazette of India vide number G.S.R. 167 (E) dated 9.3.2001.

* Amended vide Notification No. G.S.R. 27 (E) dated 12.01.2002.