

RIGHTS AND PRIVILEGES OF SHAREHOLDERS

OBJECTIVES

The chief purpose and objective of corporate governance is the continued creation and maintenance of long-term shareholder value. While stressing the rights of shareholders as the legitimate owners of a corporation - as reinforced by the recommendations of various committees - this chapter outlines the processes and mechanism of investor protection.

Introduction

Corporate governance is needed to create a corporate culture of consciousness, transparency and openness. It refers to a combination of laws, rules, regulations, procedures and voluntary practices to enable companies maximise shareholders' long-term value.

Theoretical Basis - Agency Costs

The most fundamental theoretical basis of corporate governance is agency costs. Shareholders are the owners of joint-stock, limited liability company, and are its principals. By virtue of their ownership, the principals define the objectives of the company. The management, directly or indirectly selected by shareholders to pursue such objectives, are the agents. While the principals might assume that the agents will invariably do their bidding, it is often not so.

Two broad instruments that reduce agency costs and hence, improve corporate governance, are

- **Financial and non-financial disclosures**
- **Independent oversight of management, which consists of two aspects - The first relates to the role of the independent, statutory auditors and the second aspect of independent oversight is the board of directors of a company**

Rights of Shareholders

A Shareholder of a Company

- 1. has a right to obtain copies of the Memorandum of Association, Articles of Association and certain resolutions and agreements on request on payment of prescribed fees (Section 39);**
- 2. has a right to have the certificate of shares held by him within 3 months of the allotment;**

Rights of Shareholders (contd.)

- 3. has a right to transfer his shares or other interests in the company subject to the manner provided by the Articles of the Company;**
- 4. has a right to appeal to the Company Law Board if the company refuses or fails to register the transfer of shares;**
- 5. has the preferential right to purchase shares on a *pro-rota* basis in case of a further issue of shares by the Company. Moreover, he/she also has the right of renouncing all or any of the shares in favour of any other person;**

Rights of Shareholders (contd.)

- 6. has a right to apply to the Company Law Board for the rectification of the register of members;**

- 7. has the right to apply to the Court to have any variation or abrogation to his/her rights set aside by the Court;**

- 8. has the right to inspect the register and the index of members, annual returns, register of charges, and register of investments not held by the Company in its own name without any charge. He/she can also take extracts from any of them;**

Rights of Shareholders (contd.)

- 9. is entitled to receive notices of general meetings and to attend such meetings and vote thereat either in person or by proxy;**

- 10. is entitled to receive a copy of the statutory report;**

- 11. is entitled to receive copies of the annual report of the directors, annual accounts and auditors' report;**

Rights of Shareholders (contd.)

- 12. has the right to participate in appointment of auditors and the election of directors at the annual general meeting of the Company;**
- 13. has a right to make an application to the Company Law Board for calling annual general meeting if the Company fails to call such a meeting within the prescribed time limits;**
- 14. can require the directors to convene an extraordinary general meeting by presenting a proper requisition as per the provisions of the Act and hold such a meeting on refusal;**

Rights of Shareholders (contd.)

- 15. can make an application to the Company Law Board for convening an extraordinary general meeting of the company where it is impracticable to call such a meeting either by the directors or by the members themselves;**

- 16. is entitled to inspect and obtain copies of minutes of proceedings of general meetings;**

- 17. has a right to participate in declaration of dividends and receive his/her dividends duly;**

Rights of Shareholders (contd.)

18. has a right to demand poll;

19. has a right to apply to the Company Law Board for investigation of the affairs of the Company.

20. has the right to remove a director before the expiry of the term of his office;

Rights of Shareholders (contd.)

- 21. has a right to make an application to the Company Law Board for relief in case of oppression and mismanagement;**
- 22. can make a petition to the High Court for the winding up of the Company under certain circumstances;**
- 23. has a right to participate in passing of a special resolution that the company be wound up by the Court or voluntarily; and**
- 24. has a right to participate in the surplus assets of the company, if any, on its winding up.**

Shareholders' Responsibilities

- **To remain informed**
- **To be vigilant**
- **To participate and vote in general meetings**
- **To exercise one's rights on one's own, or as a group.**

Grievance Redressal (contd.)

Avenues always available to the investor to seek redressal of his complaints are :

- (i) Complaints with stock Exchange, SEBI and Dept. of Company Affairs.**
- (ii). Complaints with Consumers Disputes Redressal Forums**
- (iii). Suits in the Court of Law.**