

COMPANY LAW

UNIT 4 : Management and Meetings

TOPIC- COMPANY MANAGEMENT

COMPANY MANAGEMENT

A company, being an artificial person, has no mind, or body or soul. Therefore, it must act through human agency. **The persons through whom the company acts and does its business are called as its directors. Directors collectively are called as " Board of Directors".** The board of directors is the top administrative organ of the company. As per Sec.2(34) of the Companies Act, 2013, a director means a **director appointed to the Board of a company.**

Directors are those persons who are responsible for directing, governing or controlling the policy \ management of the company. Since directors are at the helm of affairs of a company, if they are irresponsible , dishonest and unscrupulous, interest of countless persons in the capacity of shareholders, employees, creditors etc. will be adversely affected. Therefore, **Companies Act has made stringent provisions regarding their appointment, powers and functions.**

Legal Position of Directors It is difficult to define the exact legal position of the directors of a company. Directors are described sometimes as agents, sometimes as trustees and sometimes as managing partners. But none of these expressions is exhaustive of their powers and responsibilities. In fact directors play different roles at different points of time. Let's examine their legal position in detail.

DIRECTORS AS AGENTS

Why can directors be regarded as agents	Why can't directors be regarded as agents
Directors represent the company just like agents represent the principal	Agents are appointed but directors are elected
Directors have to act within their scope of their authority just like agents	Agents work for commission whereas directors do not always work for commission. eg. small shareholders director doesn't get anything in return
Directors enter into contracts and put signatures on behalf of company just as agents do on behalf of principal	
Acts of directors within the scope of their authority are acts of the co. and co. is liable on them just as principal is liable for the acts of the agent.	

DIRECTORS AS MANAGING PARTNERS

Why can they be regarded as managing partners	Why can't they be regarded as managing partners
If company is visualised like a large partnership, directors are like active partners and share holders as dormant partners	They don't bind other directors whereas each partner binds other partners for his acts
They perform all proprietorial functions like allotments, calls, forfeiture , raising loans, investment of funds etc.	Directors are subject to retirement whereas partners rarely retire

DIRECTORS AS TRUSTEES

Why can they be regarded as trustees	Why can't they be regarded as trustees
Like trustee, directors occupy fiduciary position in the company i.e. position of trust and confidence	Director cannot contract in his own name whereas trustee can
Just as a trustee works for the benefit of beneficiary and , a director also administers the assets and exercises those powers for the benefit of the company & not for own interest	Director does not hold any property in trust for the co. as company is the owner but trustee contracts with third parties in relation to trust property as owner subject only to an obligation to account to the beneficiaries
Directors are liable to make good moneys they have misapplied same way as trustees have to .	Director can neither sue nor be sued on contracts while acting intravires whereas trustees can sue or be sued in their own name.

Thus we can conclude that directors are neither agents nor managing partners nor trustees, in the full sense of the term. They combine in themselves all the three positions. They stand in fiduciary position towards the company and can best be termed as ‘officers’ of the company.

Composition of Board of Directors

- **Directors must be individuals only**- The individual must be competent to contract, must have a DIN and should not be disqualified u/s 164. A firm, association or company cannot be appointed as director.
- **Minimum No. of directors** required in a company are -1 in case of OPC; 2 in case private company; 3 in case of public company
- **Maximum No of directors**-Every co. shall have ≤ 15 directors. This limit can be increased by passing SR in the general meeting.
- **Woman Director**- There must be at least 1 women director in the Board of every
 - ✓ listed public company or
 - ✓ every unlisted public company having paid up share capital $\geq ₹100$ crore or turnover $\geq ₹300$ crore
- **Resident Director**- Every co. shall have at least 1 director who has stayed in India for a period of ≥ 182 days during the financial year. For a newly incorporated co., the requirement of 182 days shall apply proportionately in the year of incorporation.
- **Independent Director**- There must be presence of Independent Directors also in the Boards of the prescribed companies to ensure adherence to good corporate governance standards. They must be men of outstanding merit and integrity having no pecuniary relationship with the company so that they can act independently without any influence or pressure from promoters or management. The number of independent directors shall be as follows
 - ✓ In case of listed public co.- at least $1\frac{1}{3}$ of total number of directors must be independent (any fraction to be rounded up)
 - ✓ In case of unlisted public company having paid up share capital $\geq ₹10$ crores or turnover $\geq ₹100$ crores or aggregate outstanding loans, debenture and deposits $\geq ₹50$ crores, at least 2 directors in Board must be independent directors.
- **Small Shareholders' Director (Sec.151)**-A listed co. may have 1 director elected by small shareholders from amongst themselves. Only small shareholders can vote on the election of small shareholder director and such a director himself should be a small shareholder. Small shareholder is one holding shares of nominal value $\leq ₹20,000$.
 - ✓ Having small shareholders director in the BOD is optional. The company may decide to have small shareholders director either suo-moto or upon written notice from at least 10% of total small shareholders or 1000 shareholders, whichever is less, proposing the name of a small shareholder for directorship.
 - ✓ The tenure of such a director shall be ≤ 3 years and on expiry of his term he is not eligible for reappointment
 - ✓ A small shareholder director shall not retire by rotation.
 - ✓ A person cannot be small shareholders director in more than 2 companies simultaneously.
 - ✓ Election of small shareholders director shall be conducted only by means of **voting through postal ballot**.

INDEPENDENT DIRECTORS (ID)(Sec.149, Sec.150)

The concept of "Independent Director" was introduced for the first time in Companies Act, 2013 to ensure adherence to good corporate governance standards. They must be men of outstanding merit and integrity having no pecuniary relationship with the company so that they can actually act fearlessly and independently and don't blindly follow what promoters or management dictate. Important provisions relating to IDs -

- Every listed public company shall have at least $\frac{1}{3}$ of the total number of directors as independent directors. Unlisted public companies having paid up share capital ≥ 10 crores / turnover ≥ 100 crore / aggregate loans & borrowings ≥ 50 crores, shall have minimum 2 directors as independent directors. Private companies are not required to have IDs. A person shall not serve as ID in more than 7 listed companies.
- An independent director may be selected from a data bank of IDs after exercising due diligence by the company. This databank is maintained by IICA (Indian Institute of Corporate Affairs, Manesar) and it contains details like- names, addresses, qualifications etc. of persons eligible and willing to act as IDs. For this IICA conducts online proficiency self assessment tests and to pass such test minimum 50% must be scored.
- The appointment of ID shall be approved by the company shareholders in the general meeting and the explanatory statement annexed to the notice of this general meeting shall indicate the justification for choosing the appointee as independent director.
- The ID shall at the first meeting of the Board in which he participates as director and thereafter in every financial year's first Board meeting, give a declaration that he meets the criteria of independence given in Sec.149(6)
- Independent director shall hold office for a term up to 5 consecutive years. The provisions of retirement by rotation are not applicable to IDs.
- He shall be eligible for reappointment after performance evaluation by the entire Board, on passing of a special resolution by the company, and disclosure of such appointment in the Board's report.
- No ID shall hold office for more than 2 consecutive terms. Such ID shall be eligible for appointment after the cooling period of 3 years and during this 3 year period, he should not be associated with the company in any capacity whether directly or indirectly.
- The Independent director may receive sitting fee, reimbursement of expenses for participating in Board Meetings and profit related commission as may be approved by the members. They may be given stock options but only of an unlisted co.
- An ID shall be liable only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through board processes with his consent or where he had not acted diligently.
- ID have to follow Code of Conduct as specified in Schedule IV of the Companies Act.

Director Identification Number (DIN)(Sec.153- Sec.159)

Sec.152 provides that a company cannot appoint or reappoint any individual as a director unless he has been allotted a DIN. Director Identification Number (DIN) is a unique identification number for lifetime allotted by CG to any individual who intends to become a director in a company. A single DIN is required for an individual irrespective of number of directorships held by him. The same DIN will remain with the person even if he resigns from a company or joins another company . All the directorships of a person would be mapped in the database through that DIN and this way it will help the government to keep track of people who run companies. Sec.153 to Sec.159 of the Act contain provisions regarding the allotment of DIN-

- An individual who wants to become a director in a company shall make an application to CG for allotment of DIN , in prescribed form (DIR-3) along with prescribed fees and documents such as photograph, proof of identity, proof of residence, specimen signatures etc. In case of a new company to be incorporated, maximum of 3 individuals may be allotted DIN through SPICE+ (INC 32) itself. (Sec.153)
- On receipt of application for DIN, if the CG finds the documents in order then, it shall allot DIN to the applicant within 1 month from receipt of application. If the CG finds any discrepancy in such application, it shall intimate the applicant by email directing him to rectify/remove such defect and resubmit the application within a period of 15 days . (Sec.154)
- An individual, who already has a DIN cannot apply, obtain or possess another Director Identification Number.(Sec.155)
- Every existing director shall ,within 1 month of receipt of DIN, intimate his DIN to the company\ companies wherein he is a director. (Sec.156)
- Every company shall, within 15 days of receipt of DIN from its director, furnish this DIN to the Registrar of Companies (Sec.157)
- Every person \ company shall have to quote the DIN while furnishing any return, information, particulars etc .required under the Act (Sec.158)
- Whosoever contravenes the above provisions of Sec.152, Sec.155 and Sec.156, shall be punishable with imprisonment for ≤ 6 months or fine $\leq ₹50,000$ and where contravention is a continuing one, with a further fine up to ₹ 500\ day .(Sec.159)
- The CG or Regional Director can cancel or deactivate the DIN of any person if they find out that DIN was obtained by him in a wrongful manner or by fraudulent means or when DIN is found to be duplicated in respect of same person or when that person dies/is declared unsound or insolvent. But before cancellation or deactivation , an opportunity of being heard shall be given to the concerned individual.

Appointment of Directors (Sec.152)

The directors of a company are appointed by- the **Shareholders** generally, or by the **Board of Directors** or by the **Tribunal** under certain circumstances. Every person appointed as director of the company must

- Furnish his DIN no.
- Give a Declaration that he is not disqualified to become director under the Act
- Give his written consent to act as director in the company

First Directors

- Where AOA of a company provide the names or method of appointing the first directors, the persons so named or so appointed shall be the first directors of the co.
- Where there is no provision in AOA for appointment of the first directors, the subscribers to MOA who are individuals shall be deemed to be the first directors
- Such directors shall retire at the 1st AGM of the company and thereafter subsequent directors will be duly appointed as per sec.152(6)
- In case of OPC, where director is not appointed by AOA, the individual member shall be deemed to be the first director until a director (s) are duly appointed by the member.

Subsequent Directors

- Unless the Articles provide for the retirement of all the directors at every AGM, at least $\frac{2}{3}$ of total number (any fraction to be rounded off as one) of directors of a public company shall be **rotational directors** i.e. liable to retire by rotation and shall be **appointed by the shareholders in the general meeting by ordinary resolution**. Total number of directors shall not include Independent Directors. This means that directors liable to retire by rotation shall be at least $\frac{2}{3}$ of non- independent directors.(Sec.152)
- The remaining directors , not exceeding $\frac{1}{3}$ of total number, in case of any such company may be appointed on a non - rotational basis for such duration and in such manner as provided in the articles of the company. Here the power to appoint directors can be conferred by the articles on third parties e.g. debenture holders, specified creditor, and such nominee directors maybe appointed for any duration . In the absence of any regulations in this regard in the articles, even these directors shall also be appointed by shareholders in the general meeting.(Sec.152)
- At every subsequent AGM , out of $\frac{2}{3}$ directors liable to retire by rotation , $\frac{1}{3}$ or the number nearest to $\frac{1}{3}$ must retire. The directors longest in office shall retire in the first place , but as between persons who became directors on the same day, those who are to retire shall be determined by lots, if there is no agreement among them.

Subsequent Directors

- The vacancies caused by the retirement of directors should be filled up at the same meeting either by appointing the retiring director or some other person .
- ✓ Retiring directors are eligible for re election and reappointment
- ✓ If a new person is interested in becoming director, a notice in writing along with security deposit of ₹1 lakh must be given by that person \any member proposing his name for directorship, to the company atleast 14 days before the meeting. The company will then be required to inform the members about such candidature. This security deposit will be refunded to the depositor in case the candidate gets elected as director or secures more than 25% of total valid votes cast on such resolution, otherwise it would be forfeited by the company.(**Sec.160**)

If the vacancies caused by retirement are not filled up in the same meeting , the meeting shall be adjourned for a week. If at the reassembled meeting also, the places of retiring directors are not filled up, the retiring directors shall be deemed to have been re- elected automatically unless :

- ✓ it is resolved not to fill the vacancy, or
- ✓ a resolution for his re-election is lost, or
- ✓ he has expressed in writing his unwillingness to continue, or
- ✓ he has incurred a disqualification, etc.
- At a general meeting, where two or more directors are to be appointed, they cannot be appointed by a single resolution i.e. several directors cannot be appointed enbloc.(**sec.162**)
- **In case of private companies, the directors may be appointed in accordance with the provisions of the company's articles. If the articles provide for their appointment by third persons such as debenture holders or creditors, they may be so appointed , otherwise in the absence of any regulations in this regard, these directors shall also be appointed by shareholders in the general meeting.Sec.160 and Sec.162 do not apply to private companies. This means in case of private companies there is no requirement of 14 days notice or of any security deposit . Also private companies are free to appoint their directors through a single resolution or "enbloc".**

Appointment of Directors by the Board (Sec.161)

- Additional director- If the AOA authorise, the BOD may appoint any person as additional director, who shall hold office up to the date of next AGM. But they cannot appoint such person as additional director who fails to get appointed as a director in a general meeting (Sec.161(1))
- Alternate director-If the AOA authorise, the BOD may appoint any person as alternate director for a director during his absence for more than 3 months from India . Alternate director shall hold office till expiry of the original directors term or on the return of the original director to India.(Sec.161(2))
- Nominee director-Subject to the articles, the BOD may appoint such person as director who has been nominated by any Financial Institution/ CG/State Govt.in pursuance of any agreement/ any provision in law to ensure that finance provided by them is put to best use .Such director shall be appointed for such duration as may be prescribed by the nominators.(Sec.161(3))
- Casual vacancy- In case a casual vacancy arises because of death/ resignation etc of a director, then the BOD may fill it up and get it subsequently approved by members in the immediate next general meeting.. The director, so appointed, shall hold office till the expiry of the original directors term.(Sec.161(4))

Appointment by the Tribunal(Sec.242)

- If an application is made to the NCLT complaining of oppression and mis-management in the company affairs, the Tribunal if satisfied, may appoint director or directors on Board as a relief measure.

Disqualifications of directors (Sec.164)

The Companies Act doesn't prescribe any academic or shareholding qualifications for a director. AOA of the companies usually provide for certain minimum share qualifications for being a director. Technical/special/nominee directors are exempted even from possessing qualification shares ,if any. But disqualifications for directors have been specifically provided. So a person is not eligible to be appointed as a director in a company ,if

- he has been adjudged to be of unsound mind
- he is an undischarged insolvent
- he has applied to be adjudged insolvent
- he has been convicted for an offence involving moral turpitude & sentenced to at least 6 months imprisonment & 5 years haven't expired from date of expiry of the sentence
- he has been convicted of an offence and sentenced to imprisonment for a period of 7 years or more
- he had been convicted of an offence dealing with 'related party transactions' u/s 188 at any time during preceding 5 years
- he has failed to pay any call on his shares for 6 months
- he had not been allotted Directors Identification Number
- he holds directorships in more than 20 companies at the same time
- he has been disqualified by a Court\ Tribunal for appointment as a director
- he is or has been a director of a company which has defaulted (i.e such company has not filed financial statements or annual returns for continuous 3 years with Registrar or has failed to repay\ redeem its deposits\ debentures on maturity or failed to pay due interest\ declared dividends and such failure continues for one year or more), then such director cannot be appointed as director in that company or any other public company for a period of 5 years from the date of default committed by the company.
- A private company can add any other additional disqualifications in its Articles for appointment as a director.

Number of Directorships (Sec.165)

- A person cannot become director of more than 20 companies at the same time.
- However, the maximum number of public companies in which he can be director cannot exceed 10.
- The members of a company can ,by special resolution, reduce this limit of 20 companies.

A person who acts as director in contravention of these provisions shall be liable to penalty of ₹2000 every day during the period of contravention subject to maximum of ₹ 200,000.

Duties of Directors(Sec.166)

- **To comply the legal provisions** i.e. Companies Act ,Company Rules, MOA and AOA
- **Duty to attend Board's meetings**
- **To act in good faith** for the benefits of shareholders as a whole
- **To act in best interest of the company** and various stakeholders like., its employees, ,community, investors and environment.
- **Duty of reasonable care, skill and diligence**
- **Duty to exercise independent judgement**
- **Duty not to Involve himself in conflicting situation-** he should avoid situations where his personal interest clashes with the interests of the company.
- **Duty not to make any undue gain-** he should not attempt to obtain any undue advantage for self, relatives or friends at the cost of the company
- **Duty not to assign his office**
- **Duty to perform duties personally** and not to delegate power to some other person.

Vacation of office of director (Sec.167)

- He incurs any of the disqualifications specified in Sec.164
- He absents himself from all meetings of the Board held during a period of 12 months
- He acts in contravention of Sec.184 (failure to disclose his interest)
- He becomes disqualified by an order of a Court or the Tribunal
- He is convicted by a court of any offence and sentenced to imprisonment ≥ 6 months
- He is removed in pursuance of the provisions of this Act
- He ceases to hold the office\employment in the holding\ subsidiary\ associate by virtue of which he was appointed as the director in this company.
- A private company can provide any other additional ground for vacation of the office of the director, in its Articles.
- If a person keeps functioning as director despite knowing that he his office has vacated because of any of the above reasons, he shall be punishable with fine ranging from 1 lakh to 5 lakh rupees.

Resignation of director(Sec.168)

- A director may resign from his office by giving a notice in writing to the company.
- The company shall intimate the Registrar about the resignation in a prescribed manner
- BOD to take note of this resignation & place this fact in the following general meeting .
- Director may forward his resignation copy + reasons to ROC ≤ 30 days of resignation
- The resignation shall take effect from the date on which the notice of resignation is received by the company or date specified for resignation in the notice, whichever is later
- The director who has resigned shall be liable even after his resignation for the offences which incurred during his tenure.

Removal of Directors before expiry of his term (Sec.169)

Removal by shareholders

- A company may , by **ordinary resolution**, remove a director , before the expiry of his term after giving him a reasonable opportunity of being heard. However , the shareholders, cannot remove the director appointed by the Tribunal u/s 242
- A **special notice(14 days notice)** is required to be given by the mover of the resolution whenever any resolution is to be passed to remove a director or to appoint somebody in place of such director .
- On **receipt** of notice of resolution to remove a director, , the company shall send a copy thereof to the director concerned and he shall have a right to make a representation in writing to the company and request the same to be notified to the members of the co.
- The company shall then send a copy of representation to every member of the company if it is possible otherwise ensure that it is being read out in the meeting .The tribunal may however, exempt the company from this if it is satisfied that this exercise is being used to secure needless publicity of the defamatory matter.
- The director removed can claim compensation for the termination of this appointment which shall be calculated on the basis of his lost income from the office of the director.
- A vacancy so created may either be filled at the same meeting provided special notice of the intended appointment has been given or it may be filled as a casual vacancy.

Removal by Tribunal(Sec.242)

- The Tribunal has the power to remove a director on an application made to it for prevention of oppression or mismanagement. (Sec.242)
- The person so removed is not allowed to hold any managerial office in the company for a period of 5 years .
- Further, he cannot claim any compensation for the termination of his appointment.

Powers of Directors(Sec.179)

GENERAL POWERS

- Individual directors have no authority to bind the company and they have to act as Board in a meeting to exercise their powers.
- The Board shall be entitled to do all such acts as the company is authorised to do. While doing such acts, the Board shall be subject to the provisions of the Companies Act , the MOA and the AOA.
- Once the articles set out their powers , only directors may exercise them and the shareholders cannot interfere provided the directors act within the scope of their authority and in the best interest of the company. If the shareholders are unhappy with the way the directors are working , they can alter the articles to restrict their powers or refuse to re-elect them but cannot seize those powers as are vested in the directors.
- However, in the following exceptional circumstances, the majority of shareholders in a general meeting may intervene and exercise the powers vested in the Board-
 - ✓ **Malafide**- When directors act for their own personal interests in complete disregard to the interests of the company
 - ✓ **Board Incompetent**-When all the directors are interested in a dealing.
 - ✓ **Deadlock**-When directors are not on speaking terms with each other so that they can't discuss, decide and act.

POWERS TO BE EXERCISED BY MEANS OF BOARD RESOLUTIONS ONLY

- To make calls on shares
- To authorise buyback of securities u/s 68
- To issue shares or debentures
- To borrow monies
- To invest the funds of the company etc.
- To approve Corporate Social Responsibility Policy
- To make following appointments of directors- casual\alternative\ additional
- To recommend the rate of dividend
- To make the following appointments of auditors- first auditors\ casual vacancy
- To make contribution to political party etc.

RESTRICTIONS ON THE POWERS OF DIRECTORS (Sec.180)- The BOD shall exercise the following powers only with the consent of the company by a special resolution -

- To sell \ lease\dispose of the whole\ substantially the whole of the undertaking of co.
- To invest compensation amount received as a result of merger or amalgamation in securities other than trust securities
- To borrow money exceeding the aggregate of paid up capital, free reserves and securities premium .
- To remit, or give time for repayment of, any debt due from a director.

KEY MANAGERIAL PERSONNEL

As per Sec.2(51), Key Managerial Personnel (KMP) in relation to a company means:

- the CEO or Managing Director or Manager
- the Whole Time Director i.e. director in whole time employment of the company.
- the Company Secretary
- the Chief Financial Officer
- such other officer in the whole- time employment of the company as is designated as KMP by the Board(such an officer should not more than one level below the director) and
- such other officer as may be prescribed

Important points

- **KMPs are appointed by means of Board Resolution on the recommendation of Nomination and Remuneration Committee.**
- **Any vacancy in the office of KMP is to filled up by the BOD within 6 months from the date of vacancy**
- **Every listed company and every other public co .having paid up share capital of Rs. 10 crore or more shall have wholetime KMPs namely MD\ Mgr\ CEO\ WholeTime Director + CS+ CFO. A whole time KMP cannot hold office in more than 1 company (except in the subsidiary of the company)**
- **KMP is considered as ' Officer who is in default' implying that along with the company, he shall be held liable for any penalty or punishment by way of fine, imprisonment or otherwise imposed for non- compliance of the provisions of the Act.**

Difference between MD and Manager

Managing Director	Manager
Has substantial powers of management of the affairs of the company	Has management of whole or substantially whole of the affairs of the company
MD must be a director in the company	A Mgr need not be director in the co.
There may be more than 1 MD in a co. ,each in charge of only a division of the business	There cannot be more than one manager in a company
His powers are restricted compared to Manager.	He has more powers compared to MD
When there are more than one MD, the maximum remuneration payable to them cannot exceed 10% of net profits	Maximum remuneration payable to him cannot exceed 5% of net profits.

Difference between MD and Whole time Director

Managing Director	Whole time Director
He is entrusted with substantial powers of management	He exercises powers as per the terms of his employment which are generally not as wide as that of MD
A MD cannot coexist with a Mgr	A WTD can coexist with a Mgr/MD
A person can be MD of more than 1 company at the same time	A WTD, being a whole time employee of the co., can't t be WTD of any other company

As per section 149(6) ,Independent Director in relation to a company means a director other than MD\WTD\Nominee

a) who in the opinion of the board is a person of integrity, and possesses relevant expertise and experience

b) who is neither the promoter nor related to any promoter \ director of the company \ its holding\ subsidiary\ associate company

c) who has no pecuniary relationship with the company \ its holding\ subsidiary\ associate company\their promoters or directors during the two immediately preceding FYs or during the current FY.

However, the following is allowed.

- the person can have remuneration as a director
- he can have transactions $\leq 10\%$ of his total income with the co.

d) none of whose relatives- is holding any security or interest in \ is indebted to \has given guarantee in connection with indebtedness of a third person to\ has any other pecuniary interest in -the company \ its holding\ subsidiary\ associate company\their promoters or directors during the two immediately preceding FYs or during the current FY.

- relative may hold security\ interest in the co. of face value ≤ 50 lakhs or 2% of paid up capital of the company\.....
- relative may be indebted \ may give guarantee up to ₹ 50 lakhs in the company\.....
- relative may have transactions of value $< 2\%$ of its gross turnover\ total income

e) who neither himself or nor any of his relatives is\was KMP\ employee in the company \.... or is\was employee\ proprietor \partner in the audit firm \ legal firm\ consulting firm having transactions amounting to $\geq 10\%$ of its gross turnover with the company\...in any 3 preceding FYs \ who together with relatives holds $\geq 2\%$ voting power in the company \is CEO of any nonprofit organization that receives 25% or more of its receipts from the company\.... or that holds $\geq 2\%$ voting power of the company.

f) who possesses such other qualifications as may be prescribed.