

Circular Resolution

Understanding its Meaning, Process and Structure

A resolution passed by circulation, more commonly referred to as a “Circular Resolution” is a tool provided under Section 175 of the Companies Act, 2013, which enables the Board of Directors of a Company or any of its Committees to make a decision and pass a resolution without having to meet formally.

In situations where a decision is required to be made by Directors on a particular matter urgently, however a meeting may not be possible immediately or it may not make a commercial sense to have one for the said purpose, the Circular Resolutions are a handy option.

Process

Passing of a Resolution by Circulation starts with circulation of the same in its draft form to each of the directors or members of a committee either by

- **Hand Delivery or**
- **Post/Courier or**
- **Electronic Means (Email, Fax etc.)**

Further, the same is deemed to be passed if an approval is received from majority of Directors or members of the committee who are entitled to vote on the resolution.

Later, every resolution passed as above needs to be noted at a subsequent meeting of the Board or Committee.

Exclusions

If at least 1/3rd of the total directors requires a resolution to be passed at the meeting of the Board rather than by circulation, such resolution shall only be decided at the meeting.

Further, Section 179(3) of the Companies Act, 2013 read with Rule 8 of Companies (Meeting of Board and its powers) Rules, 2014 specify certain important matters that must be decided in a Board Meeting and cannot be handled by circulation. Here are some key matters affecting a Private Limited Company:

- to issue securities
- invest the funds of the Company
- to borrow monies
- to approve amalgamation
- appointment of Internal Auditor/Secretarial Auditor
- to grant loans or give guarantee or provide security in respect of loans
- to authorise buy-back of securities
- to approve financial statement and the Board's report

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