

# *An Analysis on the “Issue of Equity Shares with Differential Voting Right”*

**navneet k. arora & co.**  
COMPANY SECRETARIES

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# Proprietor 's Profile at a Glance

## Navneet K. Arora & Co., Company Secretaries

### BASIC DETAILS

- ✂ Name of the Proprietor – **CS Navneet Arora**
- ✂ Year of Passing of ICSI Final Examination – **June 1990**
- ✂ Date of becoming Associate Member of ICSI (ACS - 8421) – **3<sup>rd</sup> March 1992**
- ✂ Date of becoming Fellow Member of ICSI (FCS - 3214) – **21<sup>st</sup> July 1997**
- ✂ Date of holding Certificate of Practice (CP - 3005) – **20<sup>th</sup> November 1998**
- ✂ Experience (No. of Years) – **25 Years (15 Years in Practice)**



### EDUCATIONAL QUALIFICATION:

- ✂ Master of Commerce.
- ✂ Fellow Member of The Institute of Company Secretaries of India
- ✂ Post Graduate Diploma in Financial Management

### PROFESSIONAL ASSOCIATION / RECOGNITION / MEMBERSHIP OF CONFEDERATION BODIES:

- ✂ Member - **All India Management Association New Delhi (AIMA).**
- ✂ Professional Member - **PHD Chamber of Commerce and Industries, New Delhi.**
- ✂ Appointed as **Peer Reviewer** by ICSI to conduct peer review of Practicing Member of ICSI.
- ✂ ICSI Certified participant of **National Workshop on Diligence Report for Banks.**
- ✂ **Convener South Delhi Study Group of NIRC of the ICSI** -2011, 2012, 2013 & 2014. Also Past Governing Body Member of Kanpur Chapter of NIRC of the ICSI & Past Member of various Professional Development Committee of NIRC of the ICSI.
- ✂ Regular Participant, Speaker of Seminars / Workshop on the Professional Development Program of various Professional Management Institutes including Institute of Company Secretaries of India (ICSI), Asia Pacific Institute of Management (AIM), National Foundation for Corporate Governance (NFCG) etc.

# *Overview of Issue of Equity Shares with Differential Voting right*

- A Company can raised Capital through issue of Equity Shares. Equity Shares can be of different types such as equity shares with pari-pasu voting right or equity shares with differential voting right.
- Equity Shares with Differential Voting Rights (DVR) shares are like ordinary equity shares but with differential voting rights. They may be listed and traded in the same manner as an ordinary equity shares. However, they mostly trade at a discount as they provide fewer voting rights as compared to ordinary equity shares. Companies generally compensate DVR Shares investors with a higher dividend or with lower dividend.
- Shares with Differential Voting Rights means shares that give the holder differential rights so as to voting (either more or less voting right) as against the Ordinary shareholders of the company.
- **Section 43 of the Companies Act, 2013 and Companies (Share Capital and Debenture) Rules, 2014 specify the law and procedure regarding Issue of Equity Shares with Differential voting right.**

# ***Issue of Equity Shares with Differential Voting right –Applicable Laws & Rules***

- **Extract of the relevant provisions prescribed in Section 43 of the Companies Act, 2013 and Companies ( Share Capital and Debenture ) Rules, 2014 as under:-**
- The share capital of a company limited by shares shall be of two kinds, namely :-
  - (a) equity share capital :-
    - (i) with voting rights; or
    - (ii) **with differential rights as to dividend, voting or otherwise in accordance with such rules as may be prescribed AND**
  - (b) preference share capital
- No company limited by shares shall issue equity shares with differential rights as to dividend, voting or otherwise, unless it complies with the following conditions, namely :-
  - The articles of association of the company authorizes the issue of shares with differential rights,
  - The issue of shares is authorized by an ordinary resolution passed at a general meeting of the shareholders, Provided that where the equity shares of a company are listed on a recognized stock exchange, the issue of such shares shall be approved by the shareholders through postal ballot,

## *Applicable Rules –Contd.,*

- The shares with differential rights shall not exceed twenty-six percent of the total post-issue paid up equity share capital including equity shares with differential rights issued at any point of time,
- The Company having consistent track record of distributable profits for the last three years,
- The Company has not defaulted in filing financial statements and annual returns for three financial years immediately preceding the financial year in which it is decided to issue such shares,
- The Company has no subsisting default in the payment of a declared dividend to its shareholders or repayment of its matured deposits or redemption of its preference shares or debentures that have become due for redemption or payment of interest on such deposits or debentures or payment of dividend,
- The Company has not defaulted in payment of the dividend on preference shares or repayment of any term loan from a public financial institution or State level financial institution or scheduled Bank that has become repayable or interest payable thereon or dues with respect to statutory payments relating to its employees to any authority or default in crediting the amount in Investor Education and Protection Fund to the Central Government,
- The Company has not been penalized by Court or Tribunal during the last three years of any offence under the Reserve Bank of India Act, 1934 , the Securities and Exchange Board of India Act, 1992, the Securities Contracts Regulation Act, 1956, the Foreign Exchange Management Act, 1999 or any other special Act, under which such companies being regulated by sectoral regulators ,

## ***Applicable Rules –Contd.,***

- The explanatory statement to be annexed to the notice of the general meeting,
- The Company shall not convert its existing equity share capital with voting rights into equity share capital carrying differential voting rights and *vice-versa*.
- The Board of Directors shall, inter alia, disclose in the Board's Report for the financial year in which the issue of equity shares with differential rights was completed, the following details, namely:-
  - a) The total number of shares allotted with differential rights,
  - b) The details of the differential rights relating to voting rights and dividends
  - c) The percentage of the shares with differential rights to the total post issue equity share capital with differential rights issued at any point of time and percentage of voting rights which the equity share capital with differential voting right shall carry to the total voting right of the aggregate equity share capital;
  - d) The price at which such shares have been issued
  - e) The particulars of promoters, directors or key managerial personnel to whom such shares are issued,
  - f) The change in control, if any, in the company consequent to the issue of equity shares with differential voting rights
  - g) The diluted Earning Per Share pursuant to the issue of each class of shares, calculated in accordance with the applicable accounting standards,
  - h) The pre and post issue shareholding pattern along with voting rights in the format specified under sub-rule (2) of rule 4.

## *Applicable Rules –Contd.,*

- The holders of the equity shares with differential rights shall enjoy all other rights such as bonus shares, rights shares etc., which the holders of equity shares are entitled to, subject to the differential rights with which such shares have been issued.
- Where a company issues equity shares with differential rights, the Register of Members maintained under section 88 shall contain all the relevant particulars of the shares so issued along with details of the shareholders.

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# *Our Gamut Of Services*

- ❖ Corporate Law Advisory, Corporate Compliance Management Advisory Services for Public, Private, OPC and LLP Organization.
- ❖ Secretarial Audit / Due Diligence Audit / Corporate Governance Compliance Certification Services.
- ❖ Advisory Services for Initial Public Offer, Right Offer, Preferential Offer, Public Offer through Book-Building Process, Capital Restructuring, Public, Private & Preferential offer of Tax Free Bonds.
- ❖ XBRL Data Conversion & E-filing of Corporate Returns with MCA and other Statutory Authorities.
- ❖ Corporate Restructuring, Valuation & Strategic Advisory services Including Merger, Demerger, Amalgamation & Takeover Advisory Services.
- ❖ Project Management, Profitability Analysis Study & Financial Advisory Services.
- ❖ Implementation of Strategic Issues including preparation of documents, submission and appearances thereof before various regulatory authorities such as Ministry of Corporate Affairs, ROC, CLB, RD, NCLS etc.
- ❖ India Entry Advisory Services, FEMA Compliance Management Services, Branch / Liaison office Formation & Compliance, Joint Venture, WoS Company Incorporation & Management, Advisory services for seeking approval from Secretarial for Industrial Assistance (SIA) / Foreign Investment Promotion Board (FIPB) & E-filing Of International & Indian Corporate Returns.
- ❖ Intellectual Property Right Related Services viz Compliance Management of Trade Mark, Copy Rights & Patents.
- ❖ Other Offerings:
  - ❑ Virtual Office Management Services,
  - ❑ Accountancy, Direct And Indirect Taxation & E-filing Compliance Management Services.





*Thanking you*

*&*

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