

BYE-LAWS AND RULES FOR CONDUCTING ELECTION THROUGH EVOTING
Bye-Laws to facilitate the Nomination of Vice President of CAPEXIL
For the year 2019-20

In terms of Para 2.92 of the Handbook of Procedure (2015-20) as well as subsequent letter no. 12/2/2013-E&MDA dated 7th December, 2015 issued by the Ministry of Commerce & Industry, Govt. of India, Electronic Voting would be mandatory for election to the posts of Vice Chairman/Vice President and Executive Committee members with a view to ensuring wider participation.

1. DEFINITIONS:

In these rules, unless the context otherwise requires:

- a. **"Act"** means the Companies Act, 2013 and includes any statutory modification or re-enactment thereof, for the time being in force;
- b. **"Article"** means an Article forming part of Articles of Association of the Council;
- c. **"President"** means the President of the Council and including Chairman of the Committee as per the definition of the existing AoA of the CAPEXIL;
- d. **"Vice-President"** means Vice-President of the Council and Vice-Chairman of the Committee as defined in the existing AoA of the CAPEXIL;
- e. **"Executive Director"** means the Executive Director of the Council and includes any officer of the Council performing the functions of Executive Director;
- f. **"Secretary"** means the Secretary of the Council and includes any officer of the Council performing secretarial functions;
- g. **"Committee of Administration"** or **"Committee"** means the Committee of Administration of the Council, constituted, as such, under Articles of Association of the Council.
- h. **"Council"** means CAPEXIL ;
- i. **"Member"** means a member of the Council for the time being whose name has been duly entered on the Register of Members in accordance with these Articles and who has not ceased to be a member;
- j. **"Office"** means the registered office for the time being, of the Council ;
- k. **"Prescribed"** means prescribed by the Committee, by virtue of a power conferred by these articles ;
- l. **"Panel"** means a panel of the Council, constituted under these articles;
- m. **"Product"** means any goods or services in regard to which the Council has been recognized for the time being by the Central Government; under the relevant provisions of the Export-Import Policy of the Central Government; as in force for the time being;
- n. **"Rules"** means the rules of the Council, for the time being in force, made under the Articles of Association or under any enactment for the time being in force;
- o. **"Election Authority"** means any authority or person entrusted to conduct the election which includes "Election Authority / Returning Officer" appointed either by the Committee of Administration of CAPEXIL or by the Government of India.
- p. **"Ordinary Member"** shall mean Ordinary Member of the Council as defined in article 3.3.
- q. **"Year"** means the financial year beginning with the 1st April and ending with the 31st March of the following year.
- r. **'Email' or 'Email Address'** means E-mail address of the member as provided by the member and available with the CAPEXIL and displayed on CAPEXIL website against the name of the member in the "Electoral Roll."
- s. **"Competent Authority"** Competent authority means "Committee of Administration". However the Committee of Administration may authorise any designated officer of CAPEXIL to perform the role of competent authority for the purpose of conducting election. In such an event decision taken by the designated officer is final and binding.

2. ELIGIBILITY TO VOTE AT THE ELECTION :

- 1) Only an Ordinary member of Council shall have the right to vote and elect Vice President of the Council by participation in e-Voting provided they don't have any outstanding membership subscriptions for the previous years and they have also paid their membership subscription for the financial year (i.e. in the year of voting is held) on or before the 30th April and are continuing as members of the Council.
- 2) The eligibility of Ordinary Members is also subject to fulfilment of Articles 3 and 4 of CAPEXIL.



- 3) Each Eligible Ordinary Member of the Council shall have only one vote.
- 4) An Ordinary Member has to furnish their export turnover of CAPEXIL's products for the immediately three preceding financial years (i.e. for the F.Y. 2016-17, 2017-18 and 2018-19) as well as self certified payment particulars of membership subscription for the financial years 2018-19 and 2019-20 specifying Cheque/DD No./NEFT, Date, Amount etc within the stipulated time. Kindly note that in the event of non-receipt of the aforesaid self certified statement, the Council will be compelled not to include their names in the ordinary members list of the Council and they shall not be eligible to participate in the e-Voting process.

3. ELECTORAL ROLL:

- 1) The members included in the Lists of Voters are hereinafter referred to as "Voter Members". Once the said Lists of Voters are finalized, the Council shall notify to all members primarily through the Council's Website and / or by sending the message to the e-mail ids' available with the Council that such Lists of Voters have been prepared containing their respective mailing addresses, e-mail ids etc. and the same will be available for inspection in the website and also at Head office of the Council. Only an Ordinary Member of the Council is entitled to vote and no other category of members - Associate, Affiliate and / or Nominated member shall have any voting right for the purpose of election of Vice President of CAPEXIL.
- 2) Any eligible member not included in the List of Voters or if any change is required in the contact details of an eligible member may, within **1 (One) day** from the date of the aforesaid notification made in the website of the Council, apply to the Executive Officer in the CAPEXIL's Head Office at Kolkata for inclusion in the relevant List of Voters and enclose authentic proof of payment of annual subscription and CA Certificate as aforesaid. The Competent Authority will verify the reasons for such omission and would dispose of the application accordingly within **1 (One) day** from the date of receipt of such application.

However, the last date for receiving the Nomination will remain the same for that member if it gets included in the Electoral Roll.

4. ELECTION AUTHORITY/RETURNING OFFICER:

The Committee of Administration of CAPEXIL, in consultation with the Government or otherwise shall appoint any individual, firm or institution, as the Election Authority / Returning Officer to conduct the election for the post of Vice-President. The Election Authority / Returning Officer has all the powers related to conduct of election and declaration of result and his decision shall be final and binding.

5. COMMITTEE OF ADMINISTRATION:

The Committee of Administration of CAPEXIL shall consist of the members as detailed in the Article 18 and Article 27.3 of the Articles of Association of the Council.

6. FILING OF NOMINATIONS FOR CONTESTING ELECTION FOR THE POST OF THE VICE-PRESIDENT OF THE COUNCIL:

(i) Nomination: The Election Authority/Returning Officer shall issue notice inviting nomination to each of the eligible members of the CoA for sending their nomination in respect of the post of Vice-President. The notice inviting nomination along with a Nomination Form as per **Annexure-A** together with its annexures (instructions) hereto, shall be dispatched by Speed Post / Blue Dart as well as by email. It is also hosted at CAPEXIL website. Omission of service of such a notice shall not, however, invalidate the election proceedings. In the notice inviting nomination, the Election Authority/ Returning Officer will also mention about the availability of the Rules for the election of the Vice President of the Council (2019-20) on the Council's Website and also at the Head office of the Council.

(ii) Eligibility criteria for contesting election for the post of Vice President: The candidate must satisfy the following conditions namely:



- 1) A candidate must be a member of CoA other than President, Co-opted member, Govt. nominee and be representative of an entity which is an Ordinary Member of the Council having exports of CAPEXIL's items (FOB value) and services not less than (i) Rs. 50 Lakhs for MSMEs and (ii) Rs. 2 Crore for Others to his or its credit during the financial year immediately preceding the year for which the election is being held, shall be eligible to contest for the post of Vice President of the Council provided such member appears in the Electoral Roll. For example, if the Election takes place for the year 2019-20, the preceding year for this purpose will be Financial Year 2018-19.
- 2) The nominations shall conform to the proforma prescribed by the Election Authority/Returning Officer.
- 3) A Nomination sent by fax/e -mail to the Election Authority/Returning Officer will be treated as invalid.

(iii) A valid Nomination: A Nomination to be valid must satisfy and fulfil the following conditions to be supported within the following documents:-

- 1) An **Original Nomination Form** as per Annexure 'A' duly filled up properly has to be submitted.
- 2) CA Certificate has to be submitted by the contestant as **Annexure A-1 and**
- 3) Undertaking for DEL status on the letter head as **Annexure A-2.**
Company in DEL list will not be considered.

The duly filled-up Nomination Form, signed, stamped and completed in all respects along with all the above requisite documents must reach **the Office of Election Authority/ Returning officer** within **9 (Nine) days** from the date of the Notice inviting Nomination. Nomination should also be attested by banker of the Member-organization concerned along with Seal / Rubber Stamp of the Banker.

(iv) Clearance of doubts, rejection and publication of valid Nominees

- 1) In case the Election Authority/Returning Officer has any reason to doubt the veracity of any of the particulars / information contained in any Nomination Form received by him, he may call for particulars / information from the designated officer of the Council. He will also be at liberty to call for the export performance of the member concerned as per the record of the Council, from the designated officer of the Council.
- 2) The Election Authority, upon receiving nominations, shall enter the names of the nominees in a Register and after due scrutiny prepare a list of valid nominations received and also a list of invalid nominations received, thereafter display the same on the Notice Board placed in the office of the Election Authority. Election Authority shall also send copies thereof to the Council for arranging display in the Website and also its offices across India.
- 3) With regard to the invalid nominations, the Election Authority/ Returning Officer shall cite the reason for rejecting the same.
- 4) Last date /day for filing of objection regarding the lists of nomination before the Election Authority/Returning Officer is **2 (Two) days** from the date of display of lists and the Election Authority/Returning Officer will dispose off the objections so received within 1 (one) day there from.

(v) Withdrawal of Nominations: Nomination can be withdrawn by the candidate and/or person who had signed the nomination form by a letter within a period of **4 (Four) days** from the date of aforesaid display of the list of valid nominations by the Election Authority/Returning Officer as stated in point no 6 (iv) 2. Withdrawal of nominations by e-mail/fax will not be considered or accepted. Once the Nomination is withdrawn, no subsequent request for rescinding such withdrawal shall be entertained by the Election Authority/Returning Officer.

7. MODE OF ELECTION

- i. As directed by the Ministry of Commerce & Industry, vide letter dated 22nd February 2012, and as per the provisions of the Foreign Trade Policy, 2015-2020 the Council's election process will be conducted in electronic format in the phased manner. The system of Electronic Voting will be audited by independent third party Security Auditor(s)/ Scrutinizer(s) appointed by the Council, at the time of election process in order to ensure inter alia that the e-voting process has been properly implemented and is free of errors, that secrecy is maintained in voting process and that the entire process is secure and that sufficient safeguards such as encryption etc. have been incorporated in the voting process to prevent any manner/ mode of manipulation/mischief such as hacking etc.



- ii. In case only one valid nomination is received, there will be no election and the nominee will be declared as elected unopposed Vice President of the Council and there is no need to issue letter for withdrawal.

- ii. Each Voter member in the Electoral Roll shall follow the procedure of Electronic Voting as per the instruction specified in the Notice to cast its vote. All Voter members in the Electoral Roll shall be entitled to cast their respective votes online as per prescribed procedures during a period of **3 (Three) days** (upto 5.00 P.M. on the last day).

- iii. The electronic votes cast by the members shall be stored in a secure server. Only the Election Authority/ Returning Officer or Scrutinizer(s) shall be allowed access to the said votes.

- iv. The person receiving the highest number of votes will be declared as elected Vice President of the Council. In the case of a tie, the result will be determined by draw of lots by the Election Authority/ Returning Officer. The Election Authority/Returning Officer shall declare the election result stating the names of elected candidate for the post of Vice President. The decision of the Election Authority/Returning Officer in this regard shall be final and binding on all concerned. The Election results will be displayed on the Notice Board maintained at the office of the Election Authority/ Returning Officer and shall be communicated to the Council. The Election Authority/Returning Officer shall declare the result in the following manner:-
 - (a) Total number of Votes received;
 - (b) Number of Votes rejected/ invalid;
 - (c) Number of Votes secured by the contesting candidates;
 - (d) The name of candidate securing the highest number of votes and declared elected.

- v. The Election Authority/Returning Officer shall arrange to communicate to all contesting members of the Council, the results of Elections and also notify the same to the Council.

8. ARBITRATION/DISPUTES

All disputes with regard to any matter arising out of the election of the Committee of Administration of the Council shall be subject to the jurisdiction of the Courts at Kolkata.

