

**CA INTERMEDIATE**



**CHANKYA**

**NITI**

**MANAGEMENT AND  
ADMINISTRATION**

**One-Shot Lecture**



**By – CA Gurpreet sir**



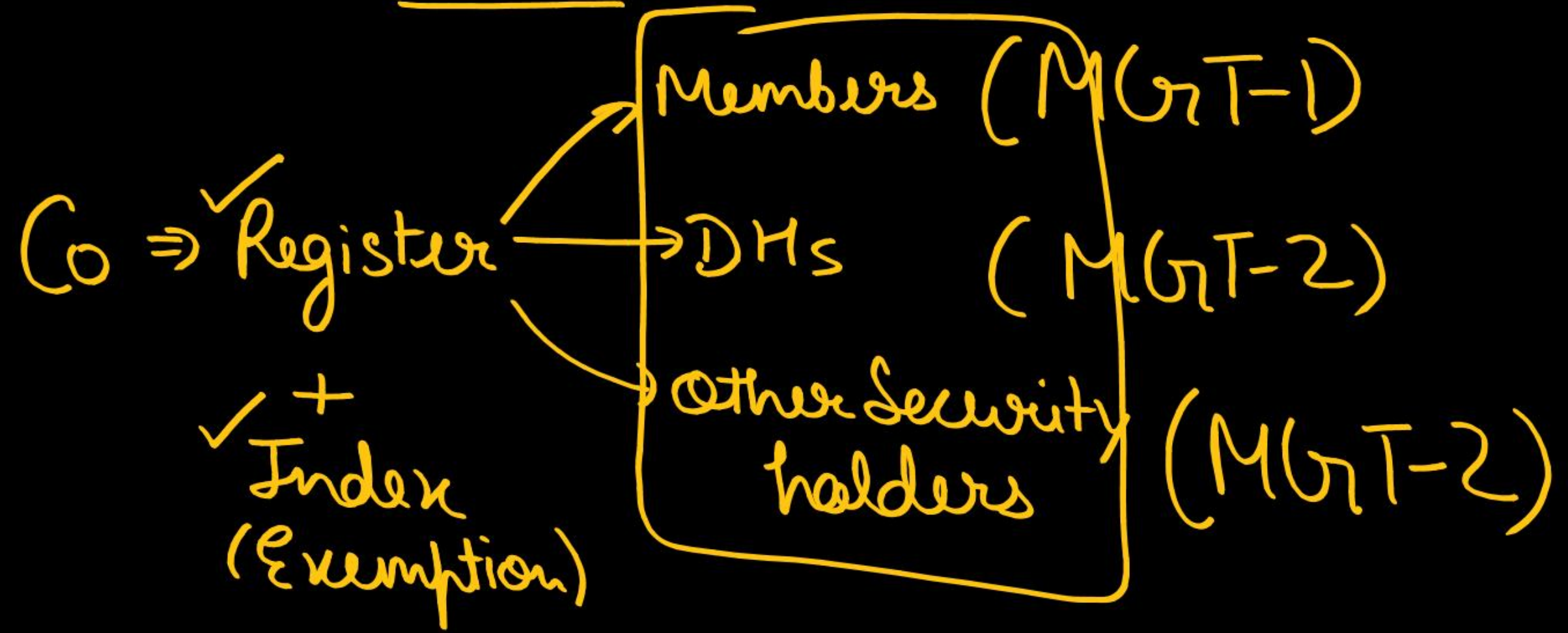
# TOPICS COVERED

➔ **COMPLETE CHAPTER**





Su 88





## Section 88 : Register of Members , etc.



1. Every Co. shall keep and maintain following Registers :

(a) Register of Members (ROM) of each class of Equity shareholders and Preference shareholders held by members in or outside India [MGT 1]

(b) Register of debenture holders [MGT 2]

(c) Register of any other securities holders [MGT 2]

2. Every register shall include an index of the names included therein

**Note :** Maintenance of index is not necessary in case the number of member < 50

3. Entries in register shall be made within 7 days

4. RoM shall be maintained at RO.

5. However, SR in GM is passed to keep register at:

Any other place within city, town or village of RO or

Any place within India in which > 1/10<sup>th</sup> of total members reside

## Place to keep Register



① RO

② Same City/Town/  
Village of RO

③ 1/10th Member  
reside

within India

foreign Register  
(optional)

≡

- Member (MGT-1)

- DHS (MGT-2)

- OSHs (MGT-2)

→ is part of Principal  
Register

→ Duplicate copy  
↳ India



#### 4. Foreign Register (FR):

- If authorized by AoA Co. may keep outside India
- A part of the register called Foreign Register (FR)
- Containing names and other particulars of members / debenture holders / other share holders or Beneficial owner residing outside India.
- Within 30 days from date of opening of FR, Co. shall file notice in form MGT-3 with RoC - Notice of situation of the office
- In event of change in situation of office or discontinuance - Intimate within 30 days in MGT-3
- FR = Deemed part of principal register
- Entry in FR is done after Board of Directors approves allotment



- ❑ Co. shall
  - (a) Transmit to RO in India a copy of every entry in any FR within 15 days of making entry
  - (b) Keep at such office a duplicate register of every FR duly entered up from time to time
- ❑ On discontinuance of FR, all entries in that register shall be transferred to:
  - Some other FR kept by the Co. outside India or
  - To the principal register
- ❑ Failure to maintain register s 88, Co. - Rs. 3 Lakhs OID - Rs. 50,000



## Note :

1. A minor's name cannot be entered in RoM. Only legal guardian's name can be entered
2. Joint SHs may request the Co. to enter their names in RoM in a certain order, or part of the holding is entered showing the name of one holder and part showing the name of another. However, it is not possible that name of only one of the joint SH is written in RoM.

A  
B  
C

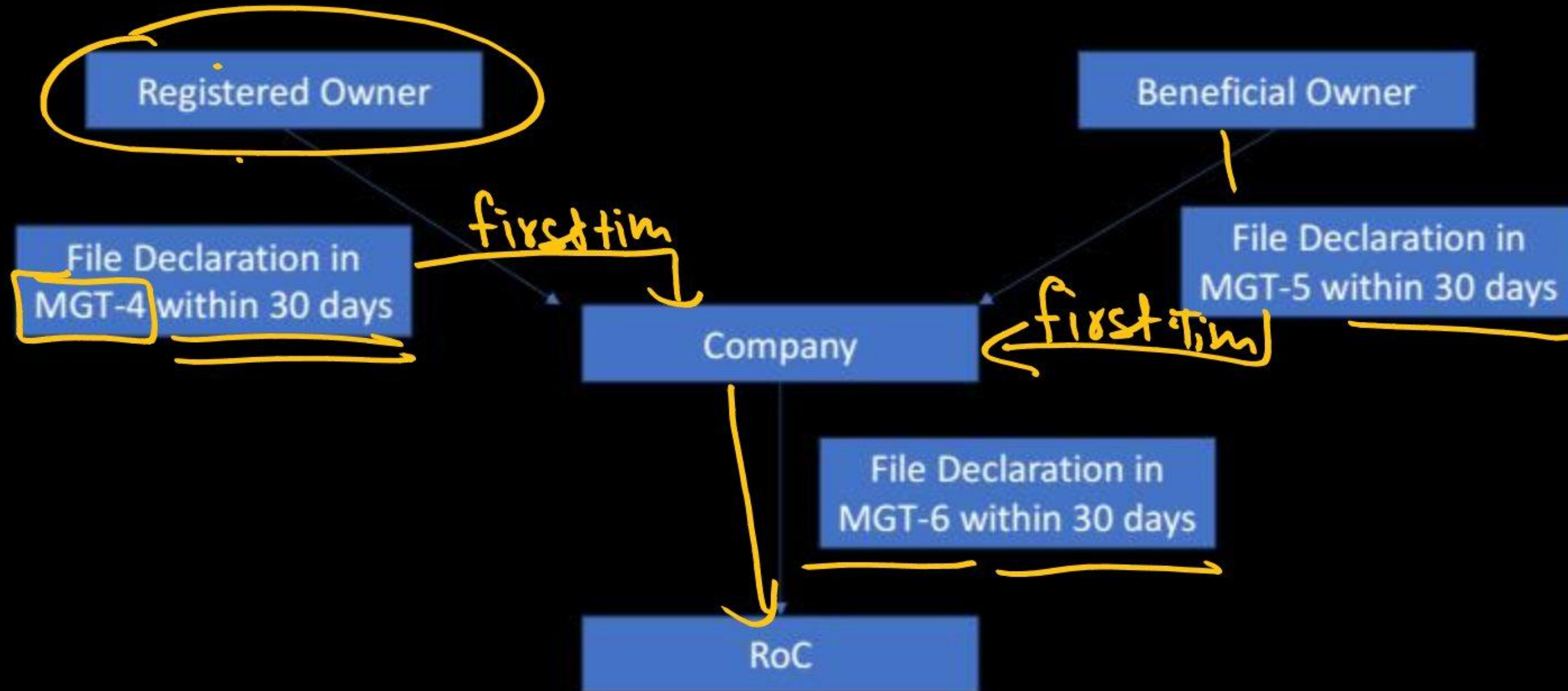
⇒ R.O.M ⇒ Name ⇒ Miss Sanyal





# Section 89 : Declaration in respect of Beneficial Interest in any share

## 1. Declaration



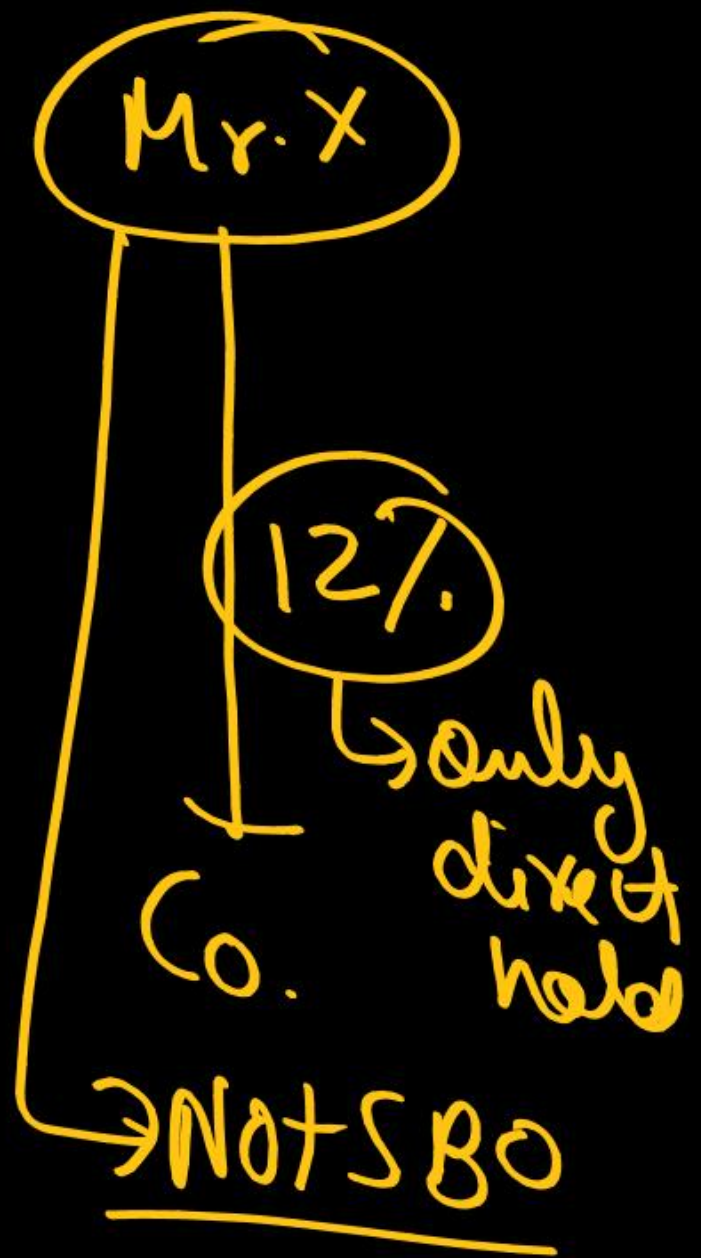


3. Where any change occurs in Beneficial interest in such shares, such person and BO shall – within 30 days from date of such change, make a declaration to the Co. in prescribed form.
4. Where declaration required under this section is not made by BO-No rights in respect of such shares shall be enforceable by him
5. Notwithstanding this section, Co. to pay dividend to members
6. Trust created to set up Mutual fund, venture capital fund or other SEBI approved fund – Need not file such declarations.
7. Penalty : RO/BO  
Failure to make declaration to Co. – Rs. 50000 + 200/day – Max 5 lakhs  
Failure of Co. to file MGT 6 – Co. + officers in default – Rs. 1000/day – Max 5 lakhs  
(Co.) and 2 lakhs (OID)

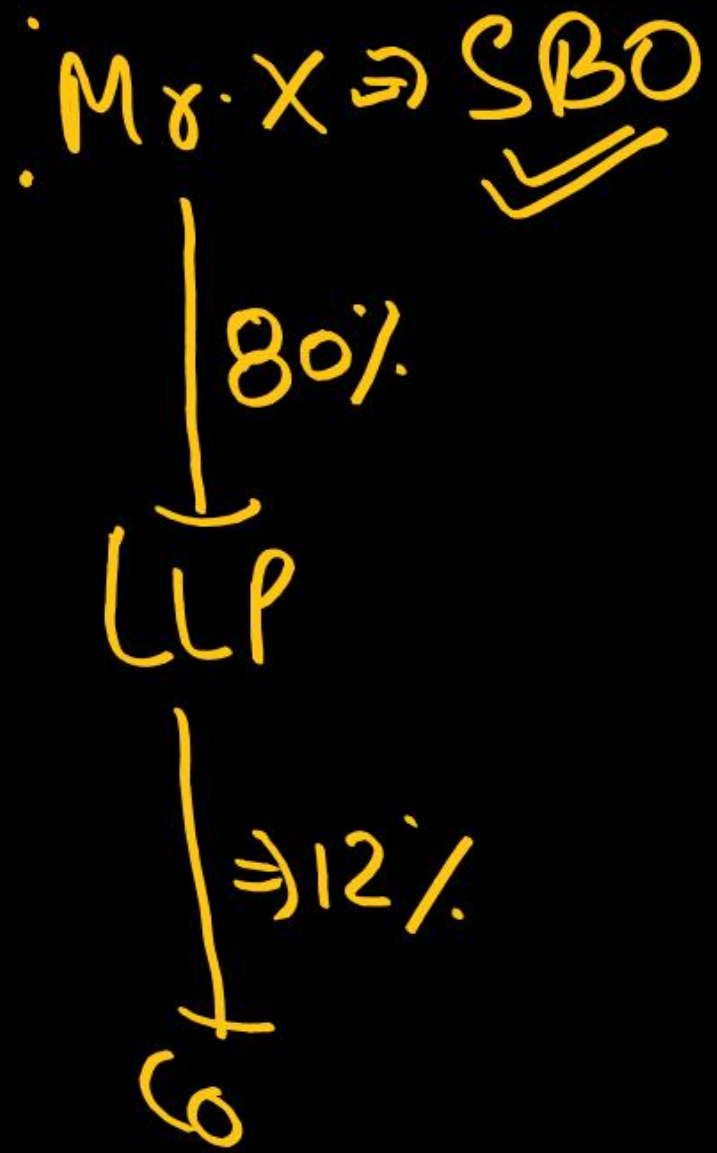


Sec 90 ⇒ Significant Beneficial Owner (SBO)

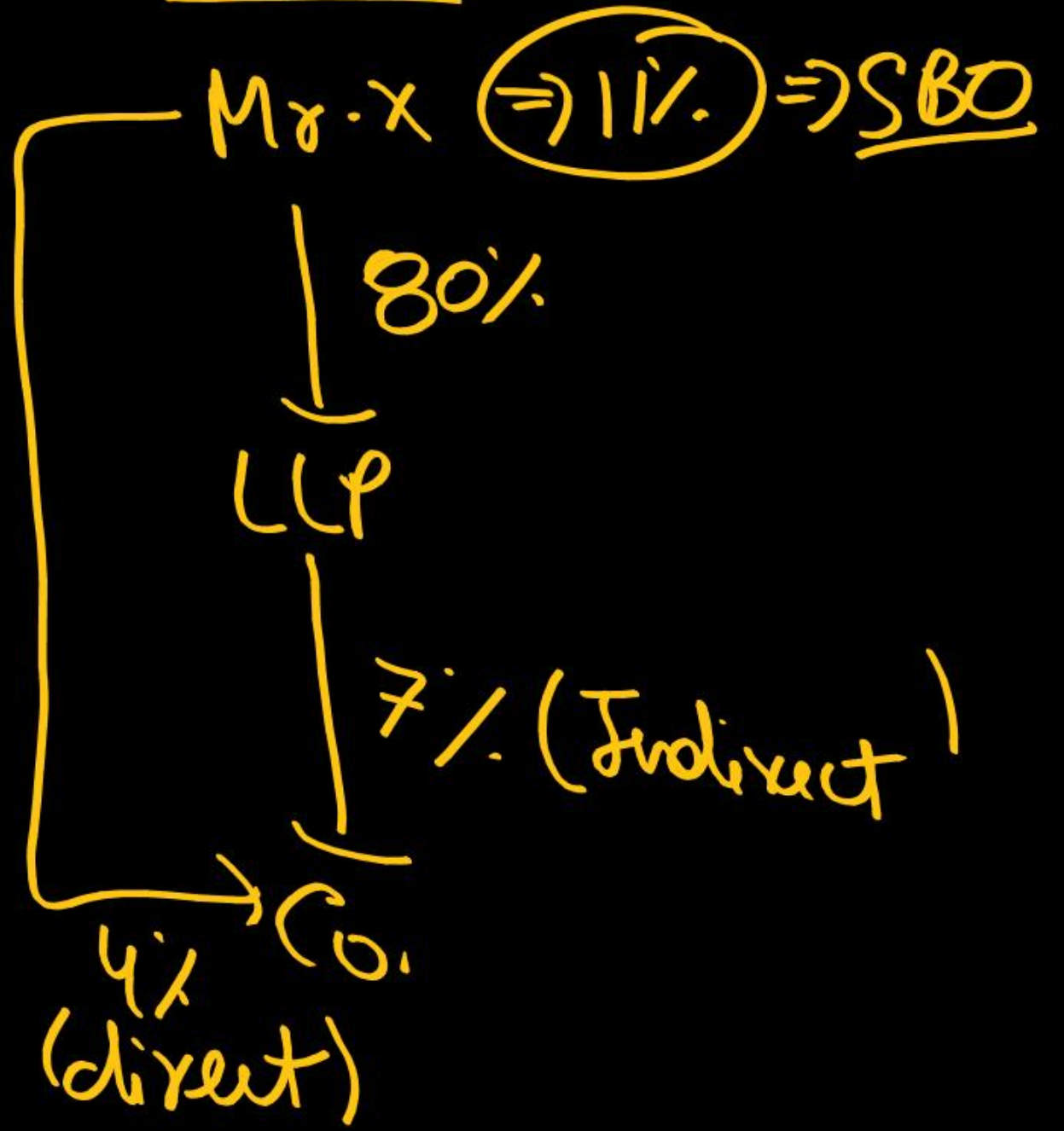
En-1



En-2



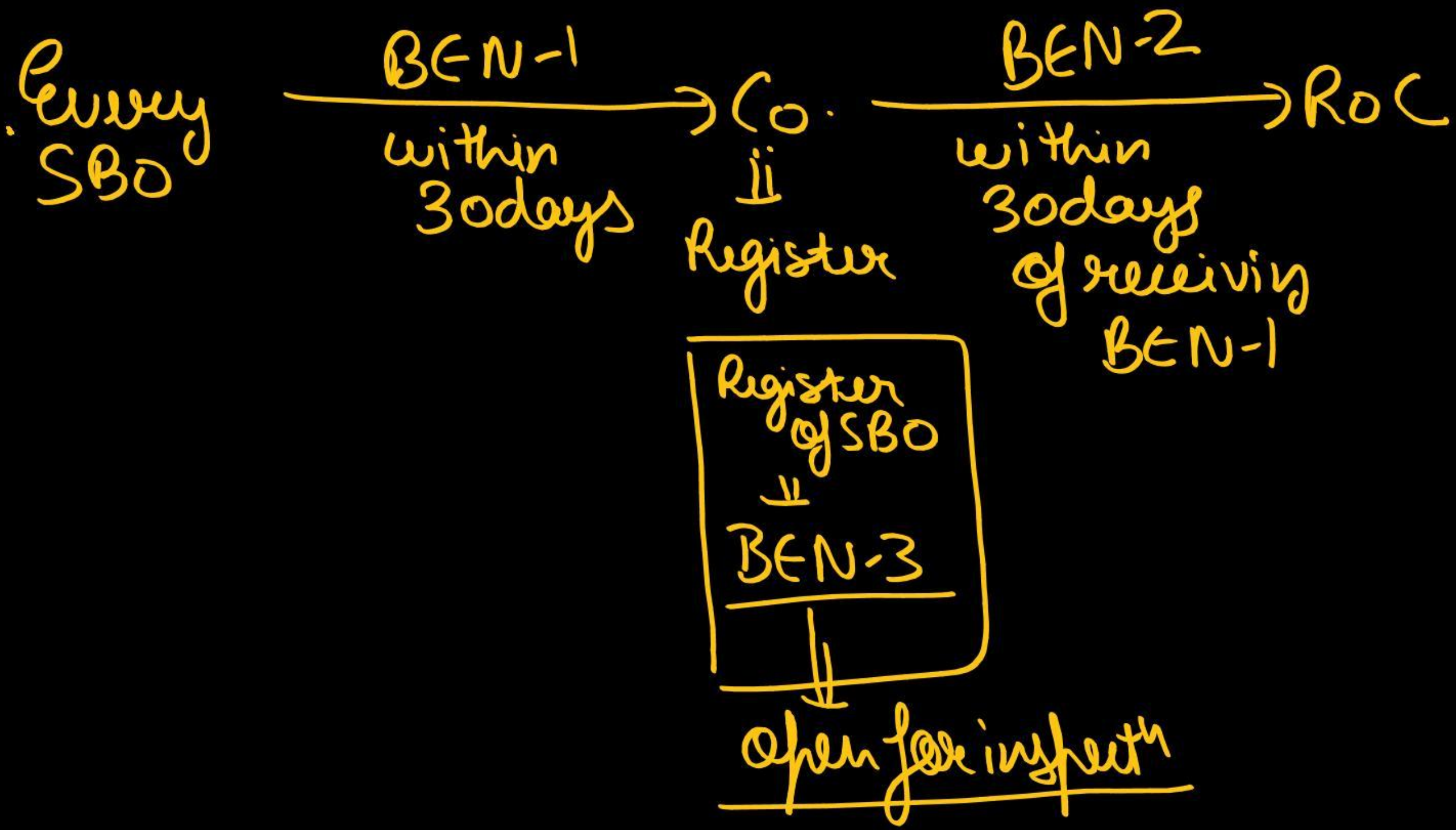
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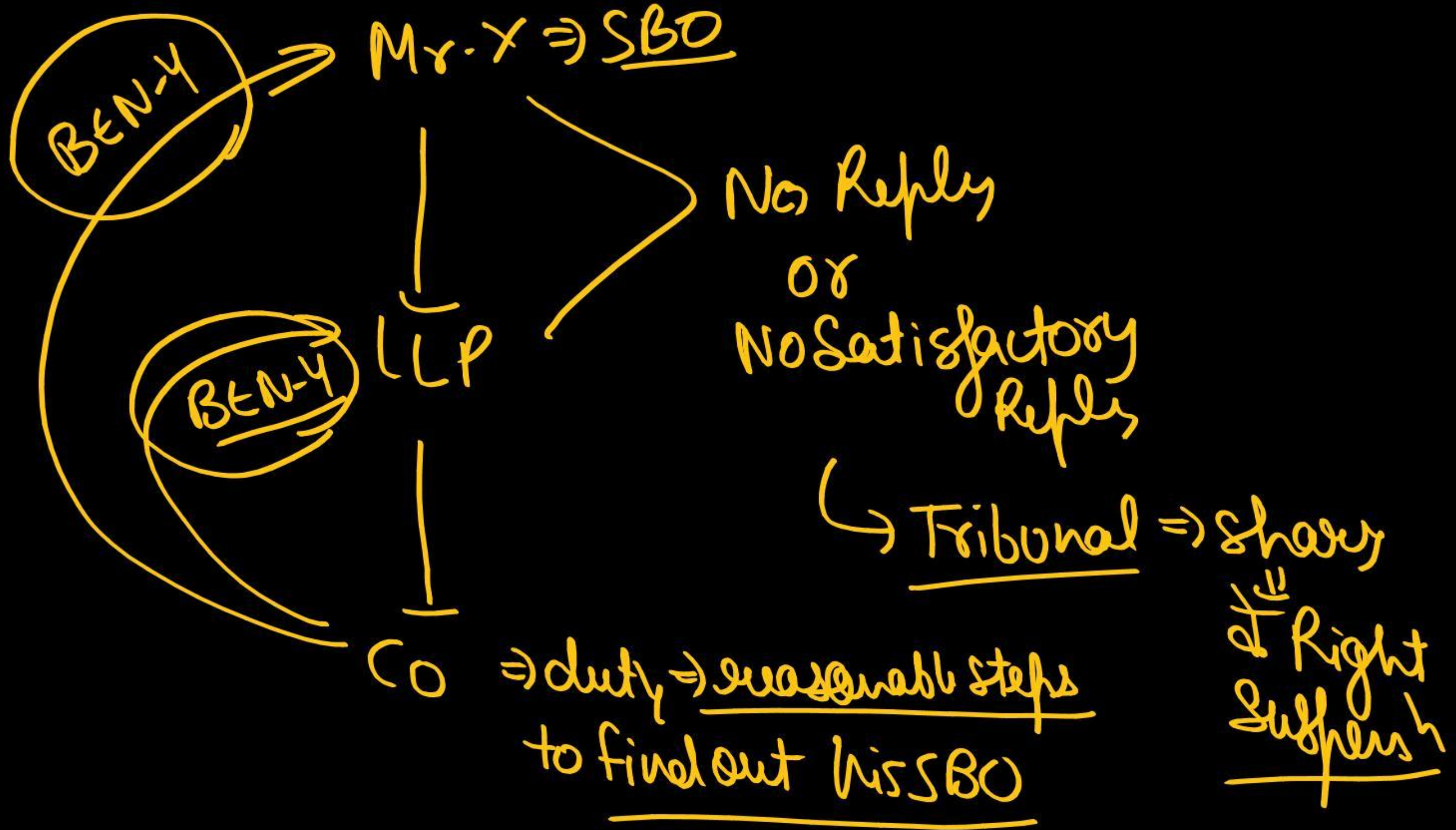




## Section 90 : Register of significant beneficial owners in a Co.

Significant Beneficial Owner means an individual holding indirectly or together with any direct holdings not less than 10 percent of beneficial interest







- ↳ Every SBO shall make a declaration to the Co. the nature of his interest and other particulars in form BEN -1 within 30 days of becoming SBO
- ↳ Every Co. shall maintain a register of SBO and changes therein in Form BEN-3 which shall include the name of individual, his date of birth, address, details of ownership and other prescribed details.
- ↳ The register shall be open to inspection during business hours, at such reasonable time of not less than 2 hours on every working day, by any member on payment of fee specified by Co. – not more than Rs. 50 for each inspection.
- ↳ Return of SBO :
  - Every Co. shall file return of SBO of the Co. and changes therein in Form BEN-2 with the RoC containing names, addresses and other prescribed details within 30 days of receipt of declaration from SBO in form BEN-1
  - Every Co. shall take necessary steps to identify an individual who is a SBO in relation to the Co. and require him to comply with the provisions of this section



- ↳ A Co. shall give notice in form BEN-4 to any person, whether or not a member) whom the Co. knows or has reasonable grounds to believe
  - (a) to be a SBO of the Co.
  - (b) to be having knowledge of identify of a SBO or another person likely to have such knowledge
  - (c) to have been a SBO of the Co. at any time during 3 years immediately preceding the date on which the notice is issued and who is not registered as a SBO with the Co. as required under this section
- ↳ Information required by notice, concerned person to give within 30 days of date of the notice.



↳ Apply to tribunal:

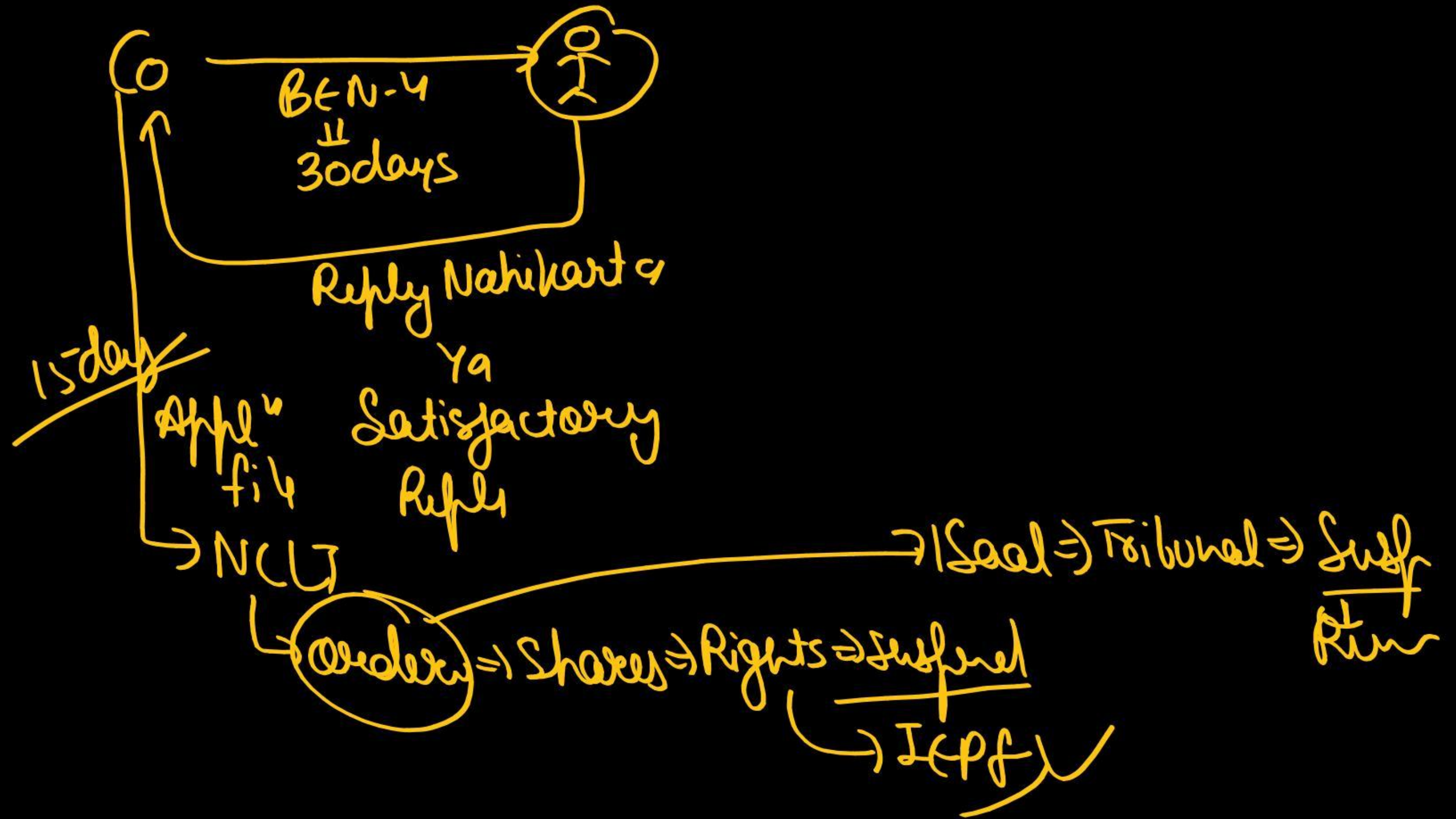
- where that person fails to give information with time specified therein or
- where information given is not satisfactory

The Co. shall apply to tribunal within 15 days of expiry of period specified in notice, for an order directing that shares in question be subject to restrictions w.r.t. transfer of interest

↳ After giving OOBH to parties concerned, Tribunal may make such order restricting the rights attached with the shares within 60 days of receipt of application.

↳ Co. or the person aggrieved by order of Tribunal may apply to Tribunal for relaxation of lifting of the restrictions placed, within 1 year from the date of such order.

↳ Provided that if no application is made within 1 year, such shares shall be transferred to IEPF Authority



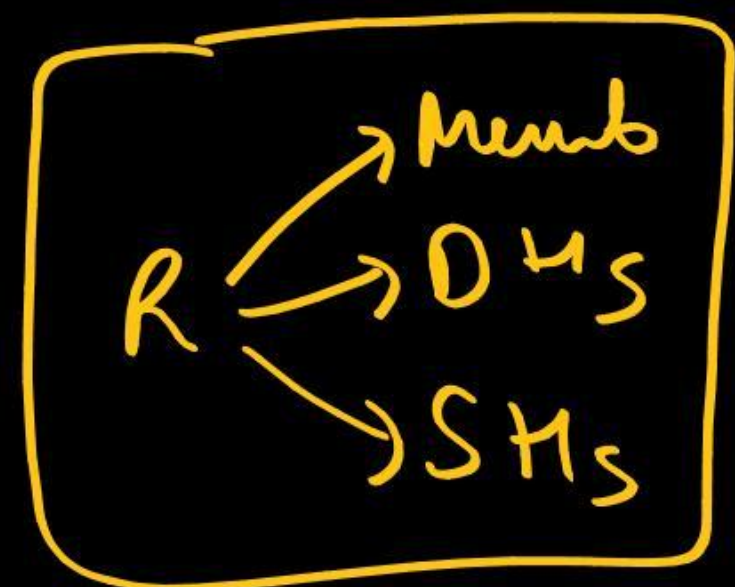


## Penalty u/s 90

- ❑ If a person fails to make declaration under sub sec 1, such person will be held liable and shall pay a penalty of Rs. 50000/-.  
For continuing failure penalty shall be Rs. 1000/day, max Rs. 2 Lakhs.
- ❑ If Co. fails to maintain register or allow inspection there of :
  - Co. shall be liable to pay penalty of Rs. 1 Lakh  
For continuing failure penalty shall be Rs. 500/ day, max Rs. 5 lakhs
  - Officer in default shall be liable to pay penalty of Rs. 25000/-  
For continuing failure penalty shall be Rs. 200/day, max Rs. 1 lakh
- ❑ If person willfully furnishes false or incorrect information or suppresses material information, then such person shall be liable for action u/s 447

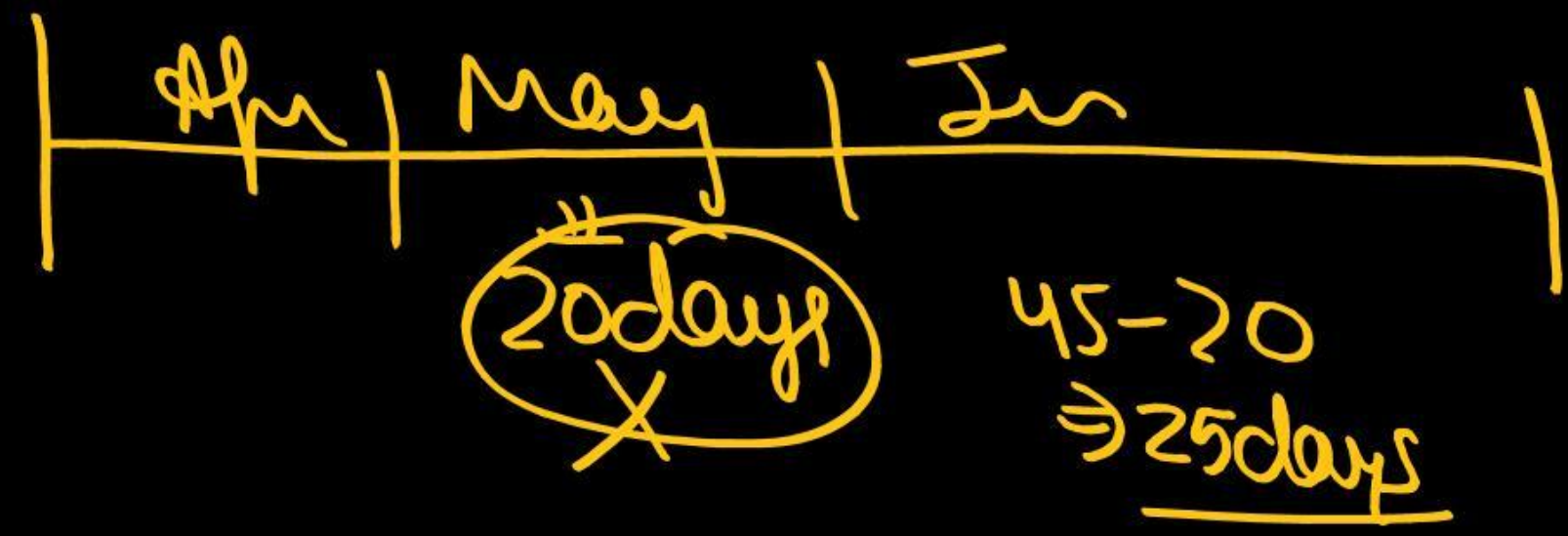


# Temporary closure of register



⇒ 1 Year ⇒ Max 45 days

⇒ One time ⇒ Max<sup>m</sup> 30 days





## Section 91 : Power to close Register of Members or Debenture Holders or Other security Holders



↳ A Co may close the RoM or register of Debenture Holders or Other security Holders for any period, subject to:

- ❑ such period shall not exceed in aggregate 45 days in each year and not exceed 30 days at any one time
- ❑ previous notice has to be given in prescribed manner of at least 7 days or such lesser period as specified by SEBI for listed companies which intend to get their securities listed.

↳ In case of contravention, Co. and officer in default - Rs. 5000 for every day during which register was closed subject to max Rs. 1 lakh

Sec 92  $\rightarrow$  Imp  $\Rightarrow$  Annual Returns





## Section 92 : Annual Return

⇒ Content of AR



Every Co. shall prepare a return containing the following details as on close of FY:

- RO Principal business activities
- Particulars of holding, associate or subsidiary (Group companies)
- Shares, debentures or other securities and shareholding pattern
- Members, Debenture Holders, Other security Holders and change since previous FY
- Promoters/Directors/Key Managerial Persons and changes since previous FY
- General meetings, BoD meetings, committee meetings and attendance details
- Remuneration of directors/key Managerial Person
- Penalty on Co., directors or officers + compounding + Appeals
- Certificate of compliance
- Details of shares held by Foreign Institutional Investors
- Other matters



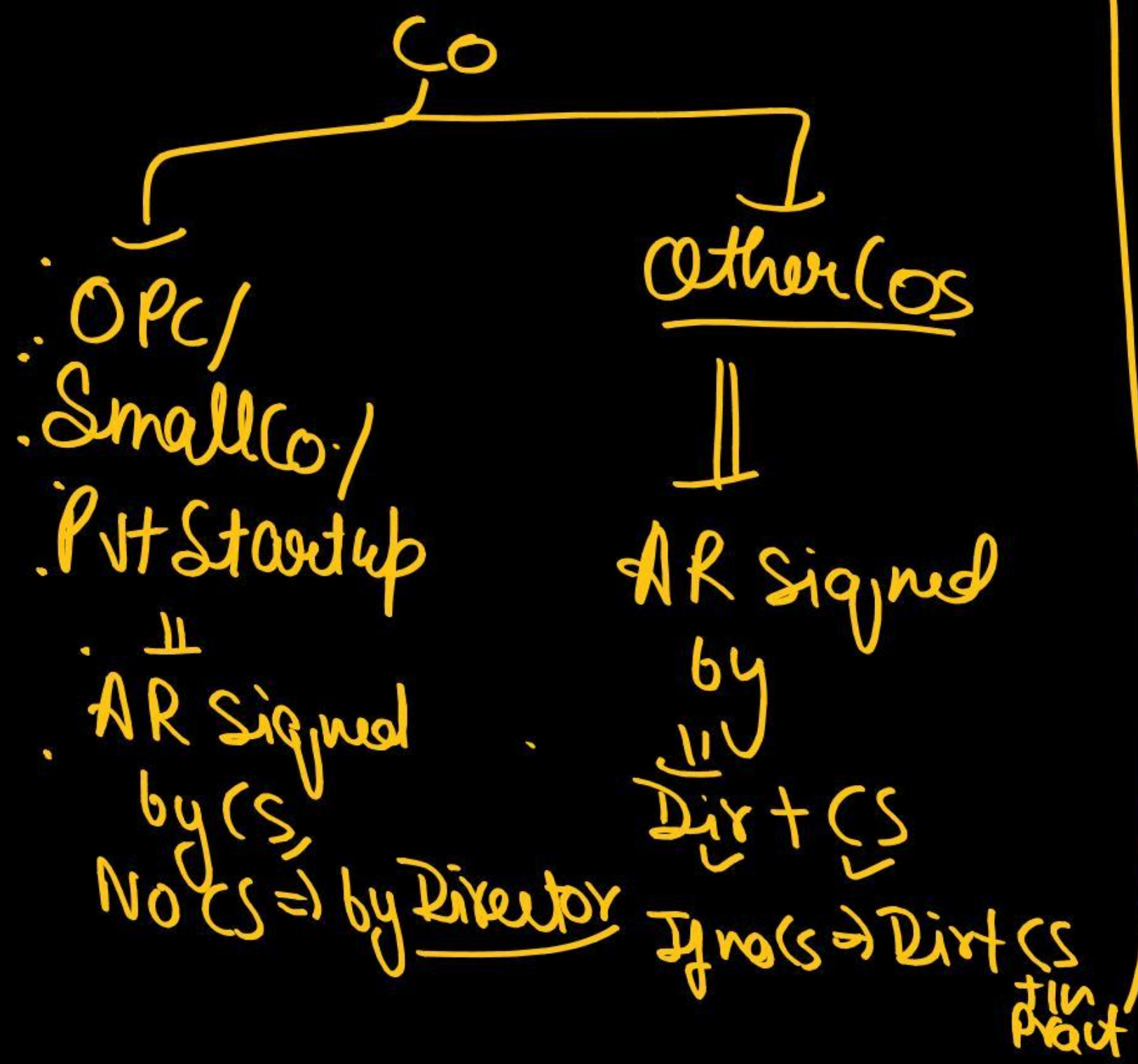
Every Co  $\xrightarrow{\text{Annual Return}}$  ROC

OPC/Small Co  $\Rightarrow$  MGT-7A

Other Co  $\Rightarrow$  MGT-7

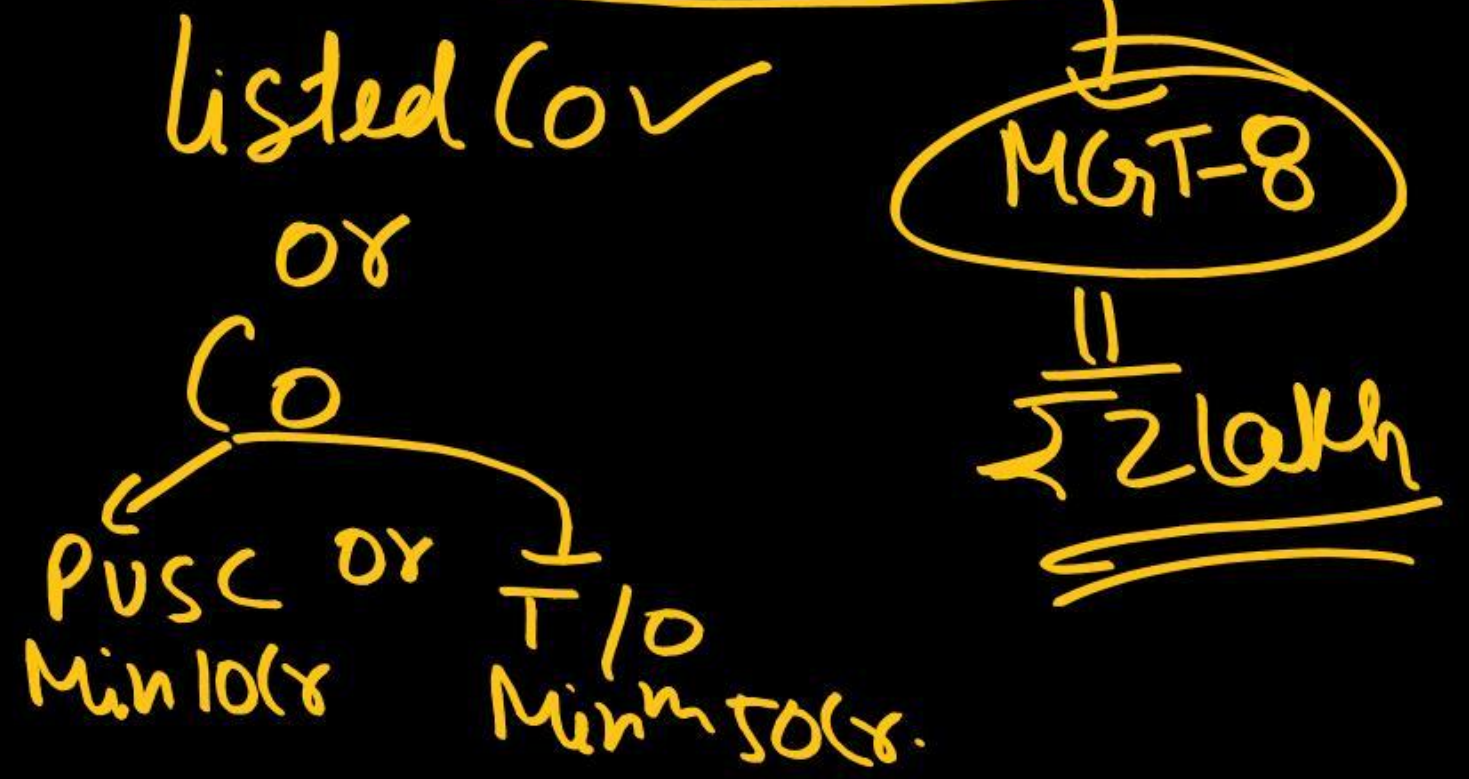


# Signing of AR



# Certification of AR by

CS in Practice





## Annual Returns:

### ↳ Sign on annual return

- ❑ OPC, Small Co., pvt start up Co.- Annual Return to be signed by CS. Where there is no CS, by director
- ❑ Other companies – By a director + CS. Where there is no CS, by CS in practice

### ↳ Form for annual return

- ❑ OPC and Small Co. – MGT – 7A
- ❑ Other companies – MGT – 7



↳ Annual return to be certified by CS in Practice

Listed Co.

Companies having PUSC not less than 10 crores or T/O not less than 50 crores

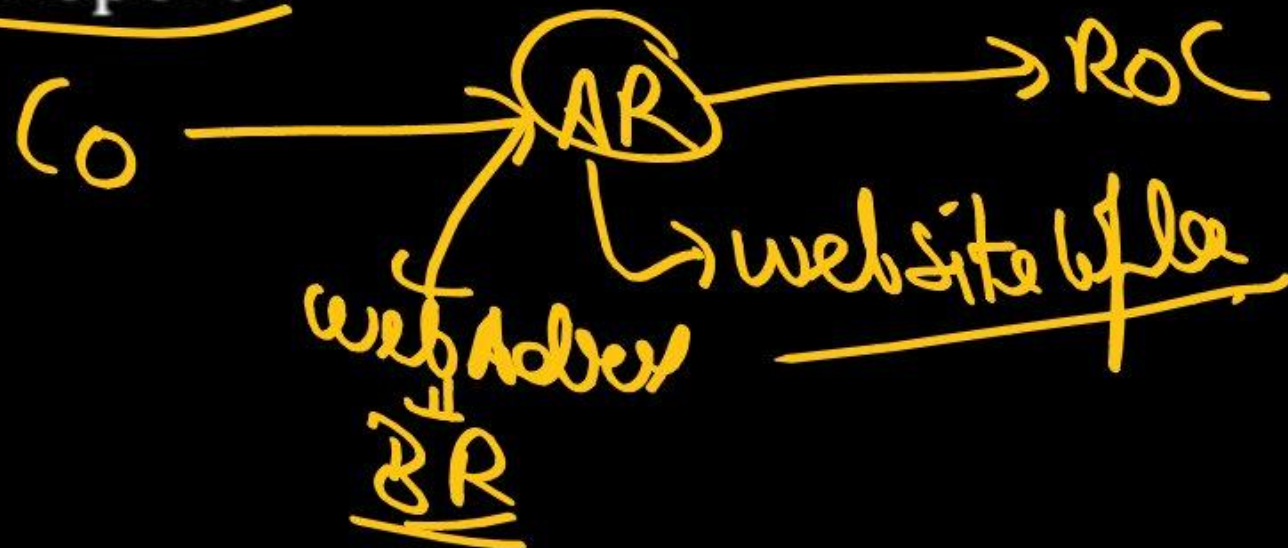
Shall be certified by CS in practice in form MGT-8 stating that:

annual return discloses the facts correctly and adequately and

Co. has complied with all the provisions of this Act

↳ Place on website

Annual return on website of Co and web-link thereof – Disclose in Board of Director's Report





# Time limit for filing AR with ROC

If AGM is held  
⇓  
within 60 days from the date of AGM

If AGM is not held  
⇓  
within 60 days from the last date on which AGM was to held  
Reasons Specifier



#### ↳ File with RoC

Every Co. shall file with RoC a copy of Annual <sup>Return</sup> ~~Report~~ + Fees:

- within 60 days from date on which AGM is held or
- where no AGM is held in any year, within 60 days from date on which AGM should have been held + specifying reason for not holding AGM

#### ↳ Penalty

Where Co. fails to file annual return within prescribed time, penalty payable:

Co. - Rs. 10000 + Rs. 100/day upto max Rs. 2 lakhs

Officer in Default - Rs. 10000 + Rs. 100/day upto max Rs. 50000

#### ↳ Penalty on CS in practice

If CS in practice certifies the Annual Return otherwise than in conformity with the requirement of this section, he shall be liable to a penalty of Rs. 2 lakhs.



period ⇒ ROM  
⊥ RODH  
Custody ROOSH  
AR



## Section 94 : Place of keeping and Inspection of Registers, Returns, etc to be preserved

- (1) Register u/s 88 and copy of annual return filed u/s 92 shall be kept at the RO
- (2) It may also be kept at any other place in India in which > 1/10<sup>th</sup> of the total number of members, as per RoM, reside, if approved by SR

<u>Register of Members</u>	<u>Permanently</u>	<u>Kept in custody of CS or any other person authorised by board</u>
<u>Register of debenture or other security holder</u>	<u>8 Years from date of redemption</u>	
<u>Foreign Register of Members</u>	<u>Permanently</u>	
<u>Foreign Register of debenture or other security holder</u>	<u>8 years from date of redemption</u>	
<u>Annual Return</u>	<u>8 Years from date of filing with RoC</u>	



Register of Memb/DH/OSH

OR

AR

⇒ Open for inspection



(2) Inspection of Registers, Indices and Annual Returns shall be open for inspection during business hours (for minimum 2 hours)

- by members, debenture holders or other security holders – without any fees
- by any other person – on payment of such fees as prescribed

(3) Any member/debenture holder/other security holder/beneficial owner/any other person may-

- take extracts from any register or index or return without payment of any fee or
- require a copy thereof on payment of fees as per AoA (not > Rs. 10 /page) Co. to provide copies within 7 days



(4) On refusal of any inspection or making extract or copy:

- Co. and every officer in default – liable for each such default, to a penalty of Rs. 1000/day subject to a max of Rs. 1 lakh during which the refusal or default continues.
- CG may also, by order, direct:
  - an immediate inspection of the document or
  - that extract required shall for the with the allowed to be taken by person requiring it.



## Section 95 : Registers, etc. to be evidence

The registers, their indices and copies of annual returns maintained u/s 88 and 94 shall be prima facie evidence.

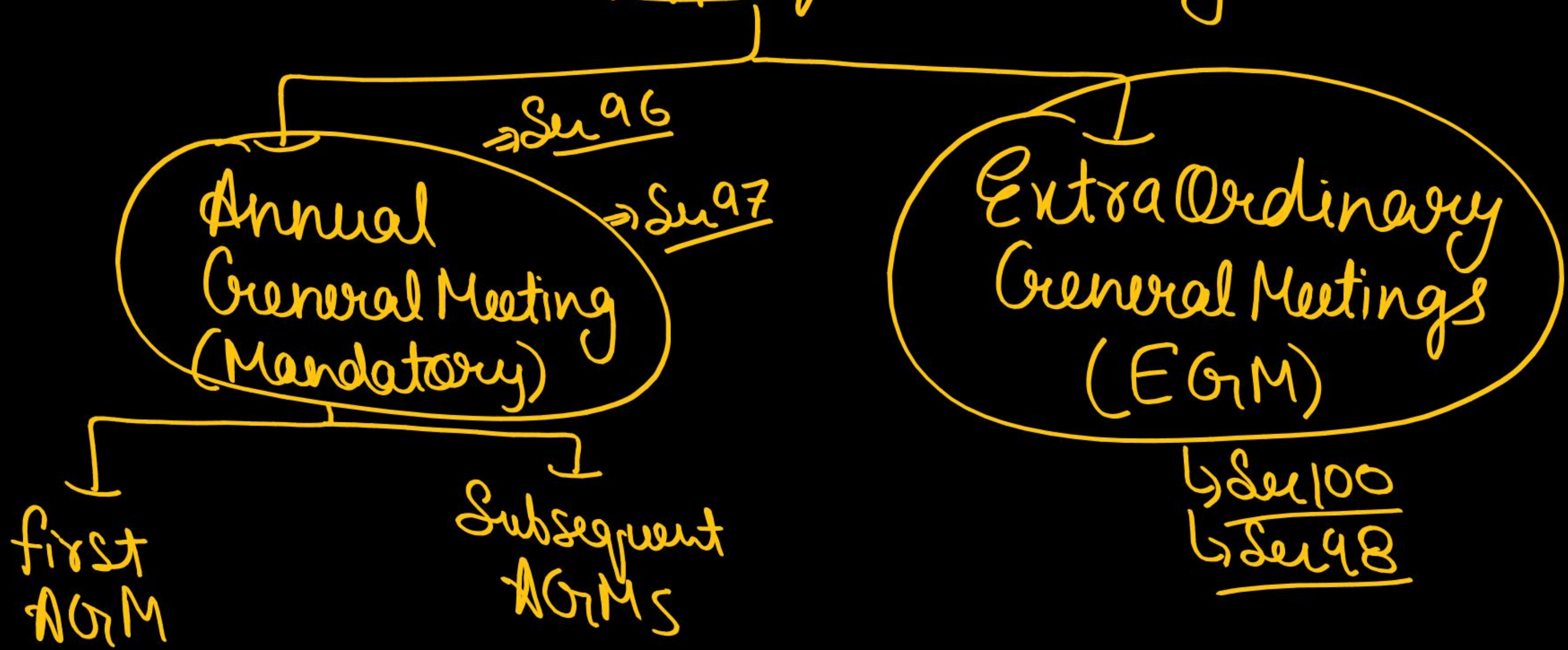


## **Section 95 : Registers, etc. to be evidence**

The registers, their indices and copies of annual returns maintained u/s 88 and 94 shall be prima facie evidence.

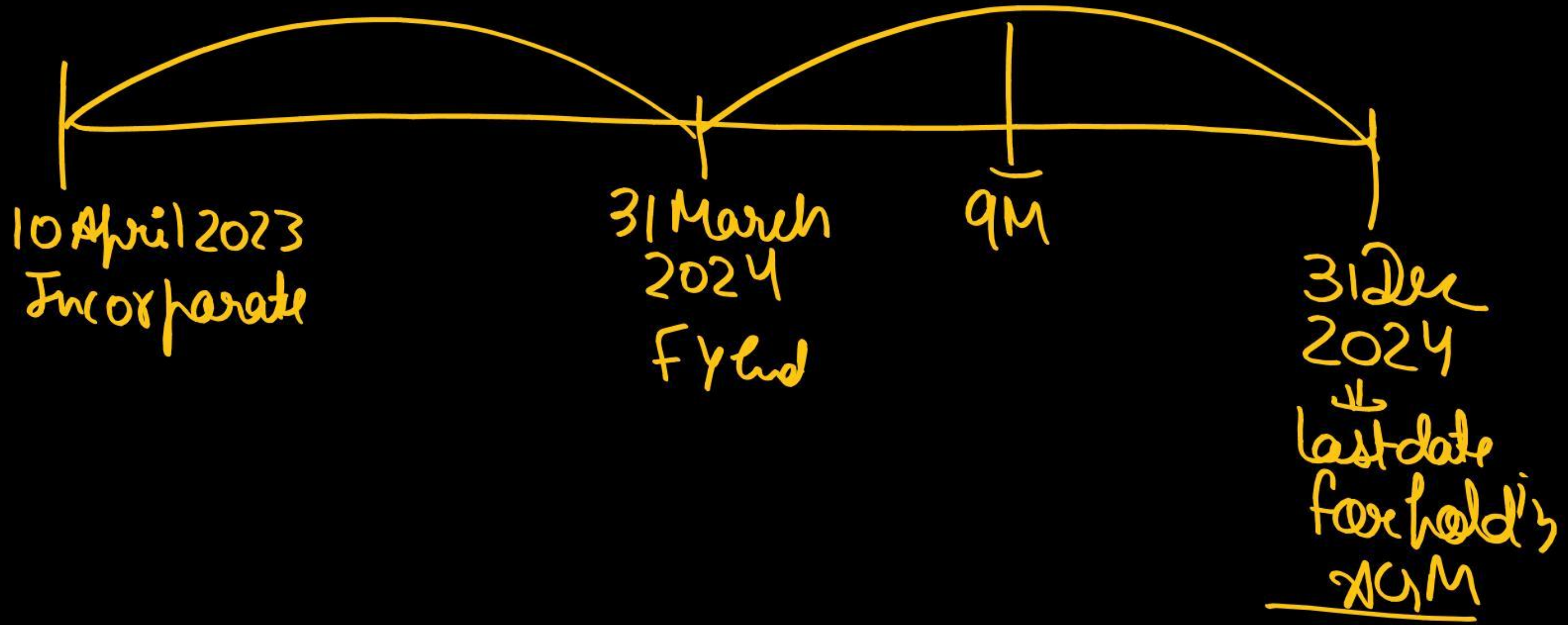


# Types of General Meeting





# First AGM







## Section 96 : Annual General Meeting



Due Date of AGM:

First AGM

Within 9 month from the end of FY

No AGM is necessary in year of incorporation

RoC has no power to grant extension for First AGM

Subsequent AGM

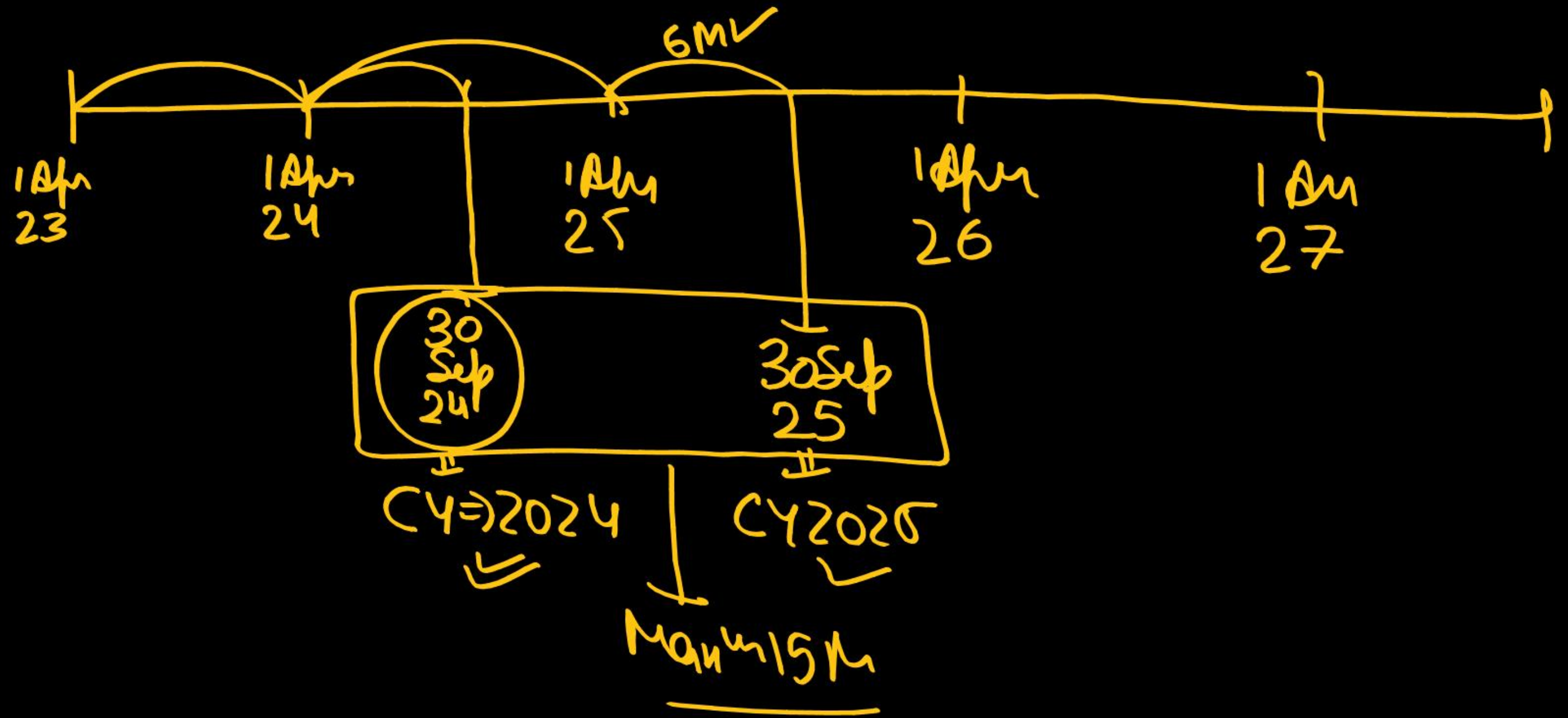
Within 6 months of closure of FY

Not more than 15 months shall elapse between 2 AGMs

AGM to be held in each calendar year

For special reason, RoC may grant extension for period upto 3 months

AGM shall be called during business hours [9 AM to 6 PM] on any day other than national holiday as declared by CG.





## Place of holding AGM:

Type of Co.	Place of Holding AGM
<u>AGM of Govt Co.</u>	<u>RO or within city/town/village where RO is situated</u> or other place approved by CG
<u>AGM of unlisted Co.</u>	Held at any place in India if consent in writing/e-mode by <u>ALL members</u> in advance
<u>AGM of other Co.</u>	Held at <u>RO</u> or <u>some other place</u> within <u>city, town/village</u> where <u>RO is situated</u>



Exempt OPC  $\Rightarrow$  Every Co  $\Rightarrow$  AGM  $\Rightarrow$  Mandatory

Sec 121  $\Rightarrow$  Report on AGM

$\hookrightarrow$  Every listed public Co



## Section 121 : Report on AGM



- ↳ Mandatory report on AGM by every listed public Co including confirmation that AGM was called, held and conducted as per provision of this Act
- ↳ Report Filed by Co. in form MGT-15 with RoC within 30 days of conclusion of AGM
- ↳ Penalty for default
  - ❑ Co. - Rs 1 lakh + Rs 500/ day after the first subject to max Rs. 5 lakhs
  - ❑ Officer in default - Not less than Rs. 25000 + Rs. 500 / day after the first subject to max Rs. 1 lakh
  - ❑ Report shall be signed and dated by chairman and CS  
In case of his inability of chairman - sign by 2 directors (1 MD, if any) and Co. secretary



□ Report shall contain following details :

- date, day, hour and venue of AGM (details)

- confirmation w.r.t. appointment of chairman of AGM

- no. of members attending AGM

- confirmation of Quorum

- Business transacted and result there of

confirmation w.r.t. compliance of the Act and Rules, secretarial standard made there under w.r.t. conducting AGM

particulars w.r.t. any adjournment, postponement of meeting, change in venue  
any other relevant points



Sec 96  $\Rightarrow$  Co  $\Rightarrow$  call AGM

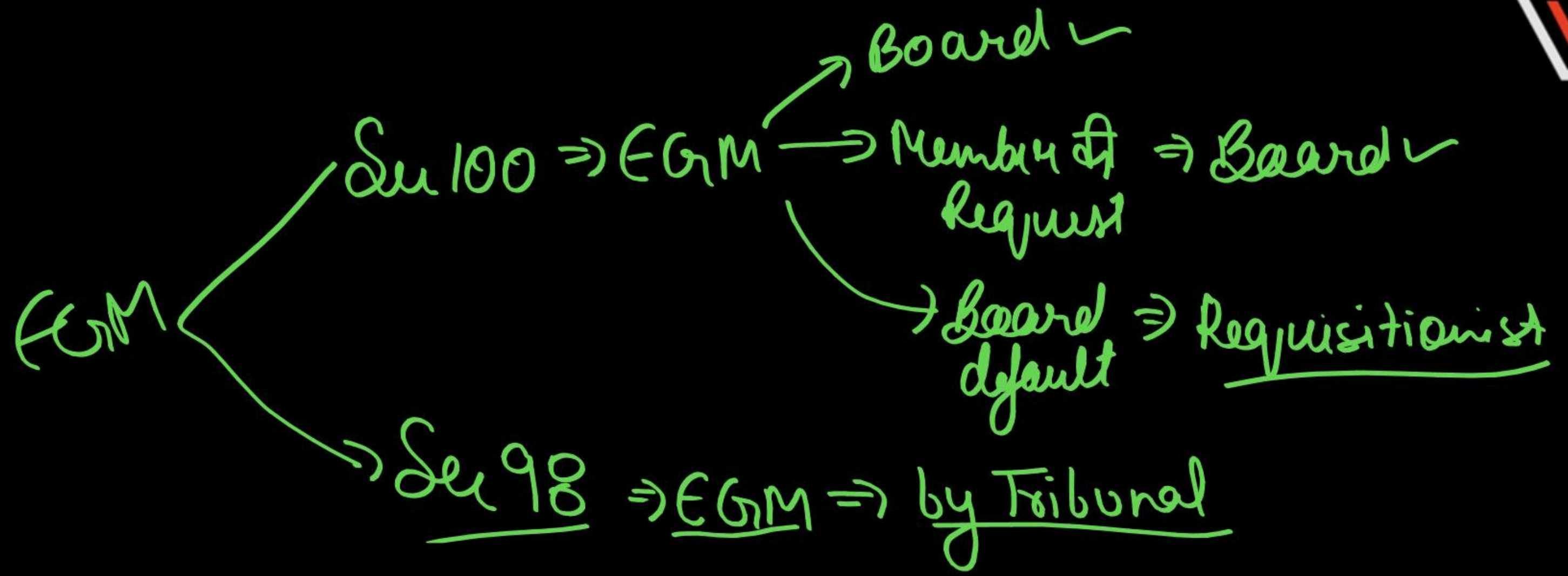
Sec 97  $\Rightarrow$  NCLT  $\Rightarrow$  call AGM



## Section 97 : Power of Tribunal to call AGM



- (a) In case of default in holding AGM u/s 96, , on application by any members of Co., Tribunal may call or direct calling of AGM and give such consequential directions.
- (b) Directions may include that 1 member present in person or proxy shall be deemed to constitute a meeting



Sec 97 ⇒ AGM by Tribunal



## Section 98 : Power of Tribunal to call EGM of members

- a) Either suo moto or on application of director or member entitled to vote at the meeting, Tribunal may order a meeting of Co. to be called, held and conducted in manner as Tribunal thinks fit and give such ancillary directions as may be expedient
- b) Directions may include that 1 member present in person or proxy shall be deemed to constitute a meeting



## Section 99 : Punishment for default u/s 96 to 98

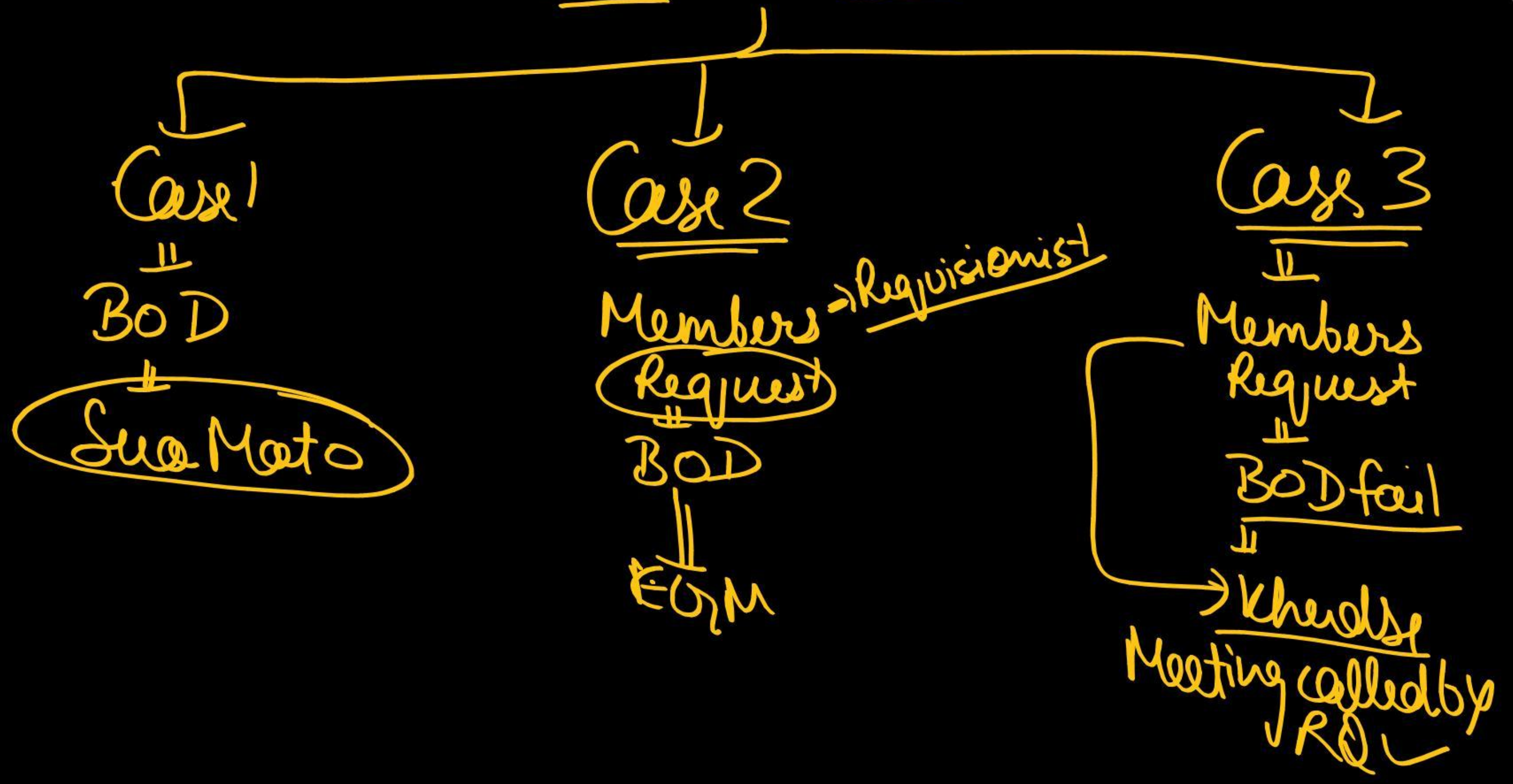


If default is made in holding meeting u/s 96 to 98 or in complying Tribunal's directions:  
Co. and officer in Default – Fine which may extend to Rs 1 lakh + continuing default –  
further Rs. 5000/day

Co → 96 X ⇒ AOM by Co  
→ 97 X ⇒ AOM by NCLT  
→ 98 X ⇒ EOM by NCLT



Su 100 ⇒ EGM





## Section 100 : Calling of Extraordinary General Meeting (EGM)



↳ Board may whenever it deems fit, call an EGM of the Co.

It shall be held at a place in India except in case of wholly owned subsidiary of Co. incorporated outside India.

↳ Board shall, at the requisition made by following Call an EGM of the Co.

Gen 2  
 Co. having share capital – Members holding not less than 1/10<sup>th</sup> of total Paid up share capital

Co. not having share capital – Members having not less than 1/10<sup>th</sup> of total voting power

↳ The requisition shall:

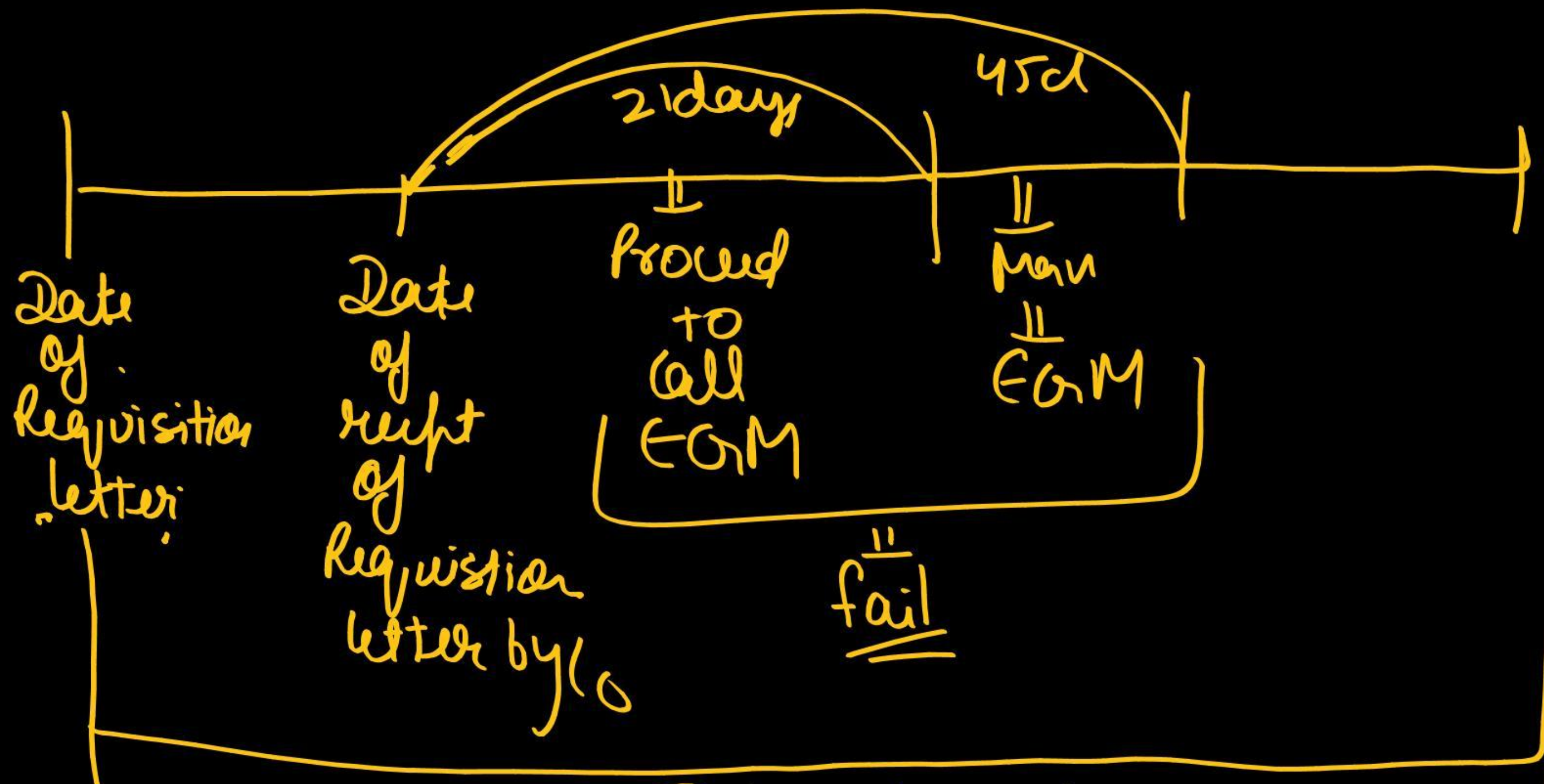
set out matters for consideration at the meeting

signed by requisitionists

sent to RO of the Co.



- ↳ The Board shall
  - ❑ call for such meeting within 21 days from receipt of valid requisition
  - ❑ meeting to be called on a day not later than 45 days from date of receipt of valid requisition.
- ↳ On failure of board to call such meeting – Requisitionists may themselves call and hold such meeting within 3 months of date of requisition
- ↳ Meeting by requisitionists to be called, held and conducted in same manner as it is called and held by Board of Directors.
- ↳ Reasonable expenses of such meeting shall be reimbursed to requisitionists by Co. and such sum shall be deducted from remuneration u/s 197 of directors who were in default in calling the meeting.

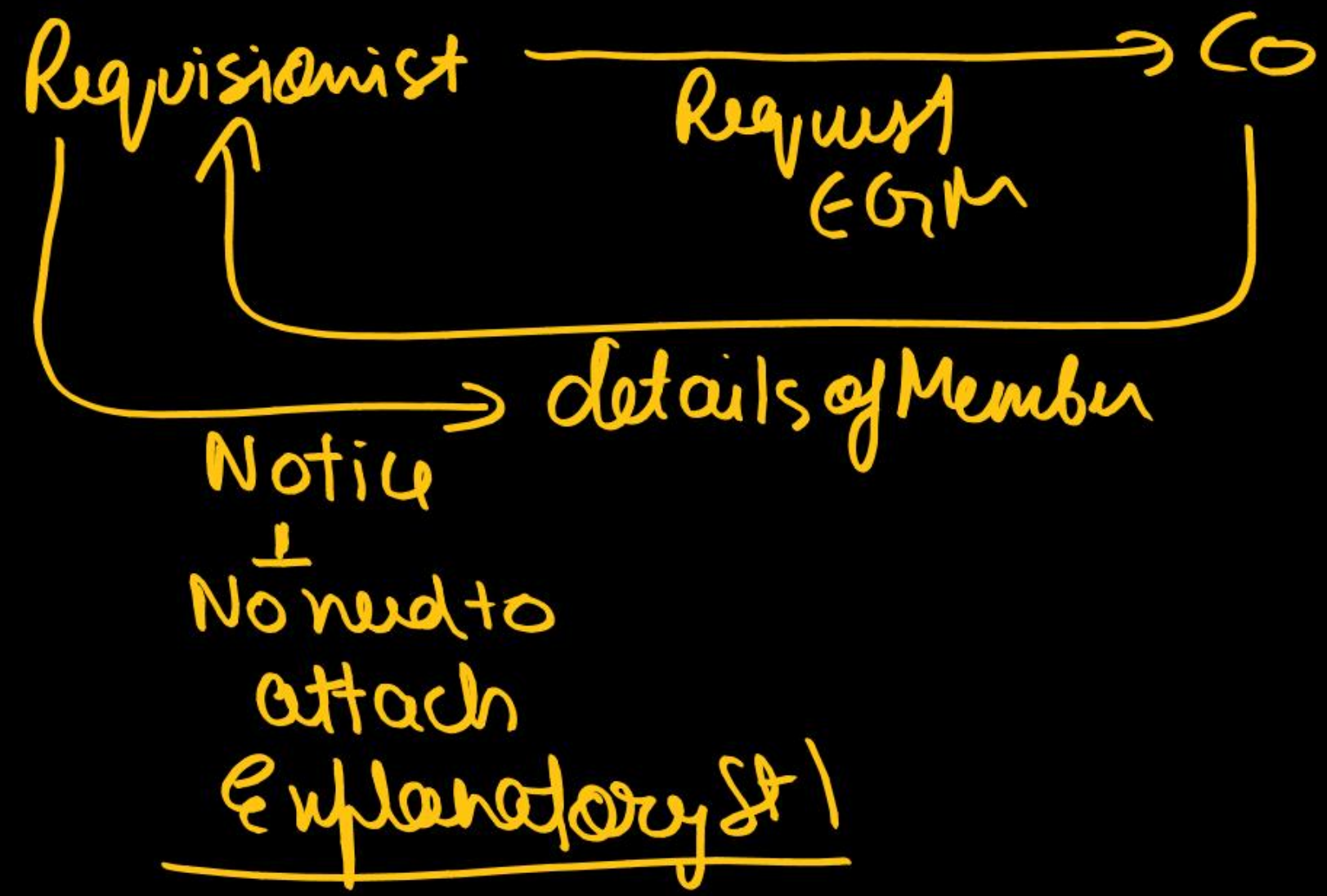


3M ⇒ Requisitionist



## **Rule 17 : Calling of EGM by requisitionists:**

- ↳ Such requisition has to be in writing or e-made at least 21 clear days prior to proposed date of EGM
- ↳ Notice to specify place, date, day and hour of meeting and contain business to be transacted thereon. The meeting shall be convened at RO or in the same city or town where Reg. office is situated on any day except national holiday
- ↳ If proposed resolution is a special Resolution – Give notice as required u/s 114 (2)
- ↳ The notice shall be signed by all requisitionists or by a requisitionists duly authorized in writing
- ↳ No explanatory statement needs to be annexed to notice for such EGM. They may disclose reasons for proposed resolutions at the meeting.

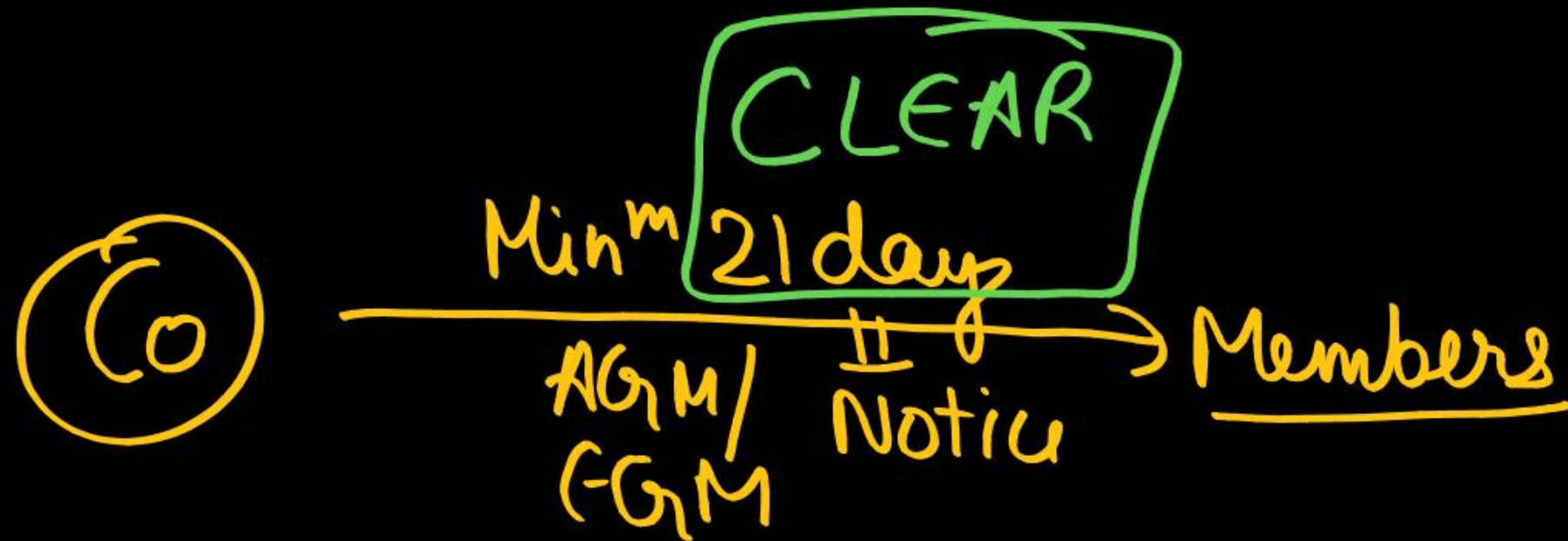




- ↳ Notice shall be given to those members whose names appear in Reg. of Members within 3 days of receipt of a valid requisition by the Co..
- ↳ Where meeting is not convened, the requisitionists shall have a right to receive:
  - list of members
  - their registered address and
  - number of shares held andthe Co. is bound to give such information as on 21<sup>st</sup> day from date of receipt of valid requisition form together with such changes, if any, before expiry of 45 days from such receipt.
- ↳ Mode of sending notice – speed post or registered post or through e-mode
- ↳ Accidental omission to give notice, or the non-receipt of such notice by, any member shall not invalidate the proceedings of the meeting



Inp  $\Rightarrow$  Notice of Meeting



Other Co  $\Rightarrow$  21 Clear days  
Sec 8 (a)  $\Rightarrow$  ~~21~~  $\Rightarrow$  14 Clear days



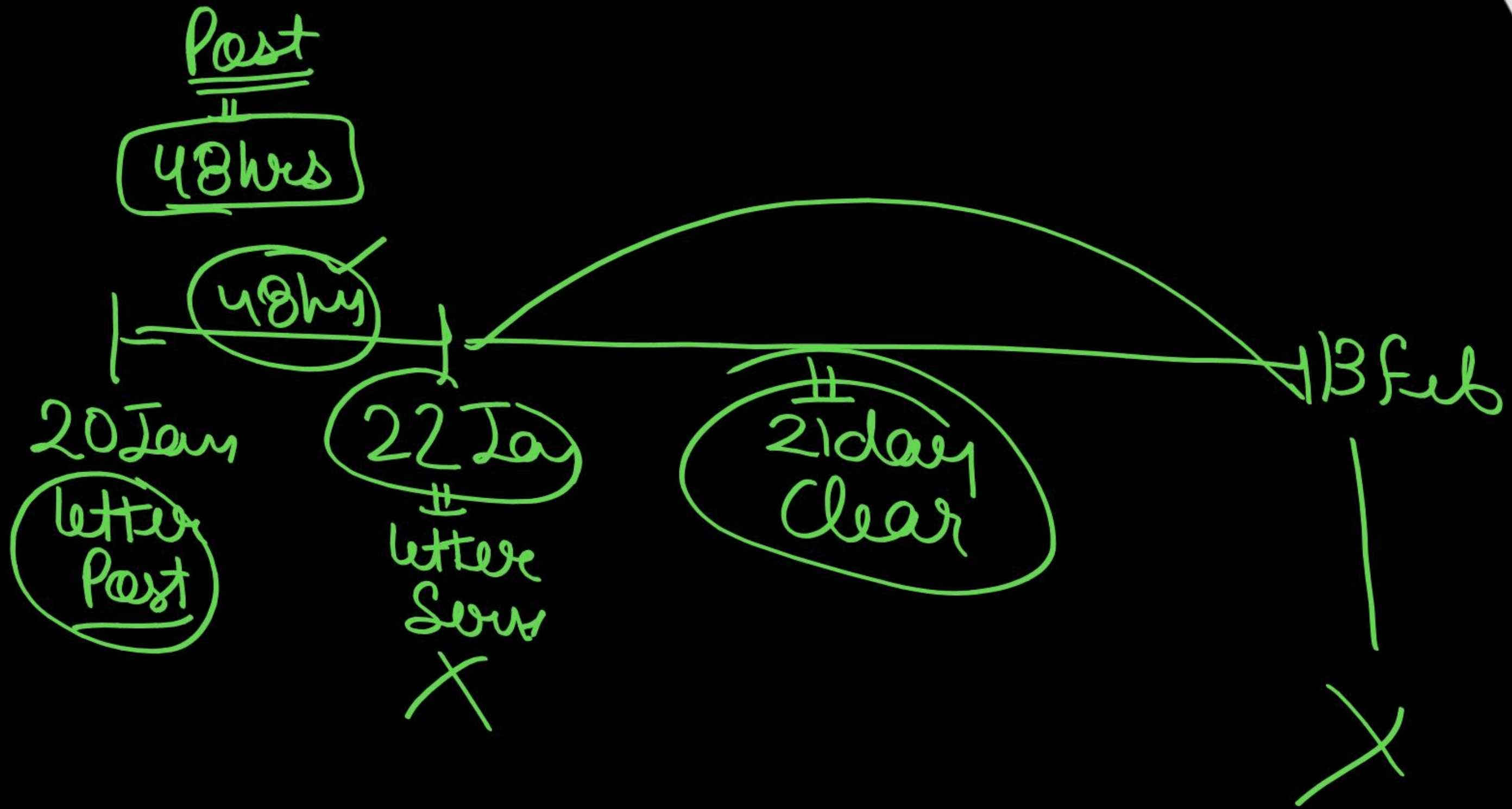
Email

22 Jan 2025 ⇒ [ 23, 24, 25, 26, 27, 28, 29, 30, 31  
1, 2, 3, 4, 5, 6, 7, 8, 9, 10  
11, 12 ]

22 Jan  
2025  
⇓  
Email  
Send  
⇓  
Day N/C

⇓  
21 day  
⇓  
Clear 21 day

13 Feb  
2025  
⇓  
Date of  
Meet  
⇓  
Not to be  
Count





$C_0 \Rightarrow$  Normally  $\Rightarrow$  21 days

$\rightarrow$  ~~21d~~  $\Rightarrow$  Shorter  
No

$\rightarrow$  20/  
18/  
17/



## Section 101 : Notice of Meeting



↳ General meeting may be called by giving not less than CLEAR 21 days notice in writing

↳ Note - Calculation of clear 21 days excludes date on which notice is served AND date of meeting.

or

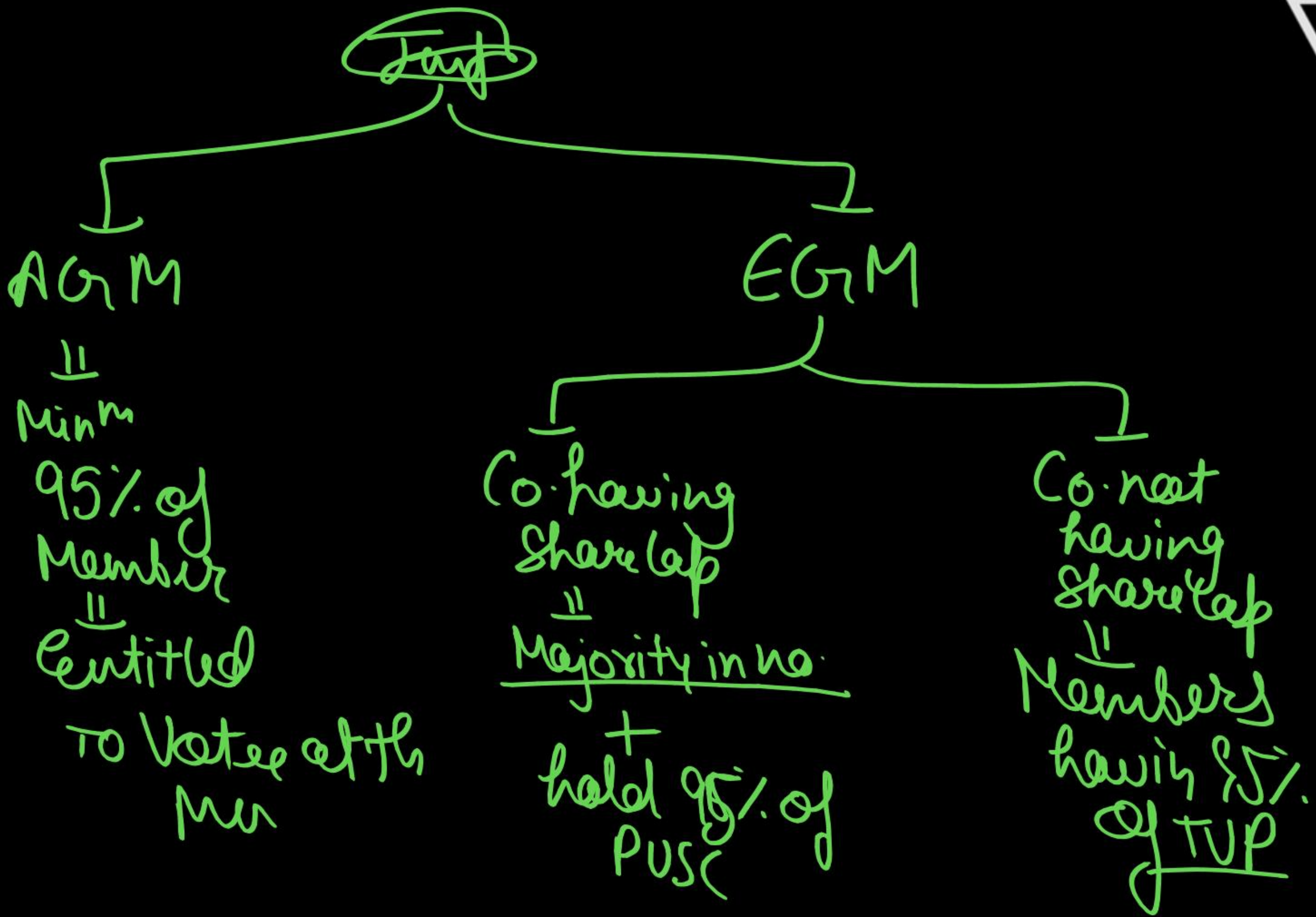
↳ General Meeting may be called after giving shorter notice if consent is given:

In case of AGM – by not less than 95% of members entitled to vote thereat

In case of any other GM:

- In case of Co. having Share Capital – Majority in numbers + representing not less than 95% of Paid up share capital

- In case of Co. not having share capital – Members having not less than 95% of total voting power





- ↳ Notice to specify place, date day and hour of meeting and contain business to be transacted thereon
- ↳ Notice to be given to every member of the Co. / legal representative of deceased member or assignee of insolvent member, auditors of the Co. and every director of the Co..
- ↳ Accidental omission to give notice to, or the non-receipt by any member shall not invalidate the proceedings of the meeting

Co → Pen ✓  
" " (X) ✗  
Nahi Mi



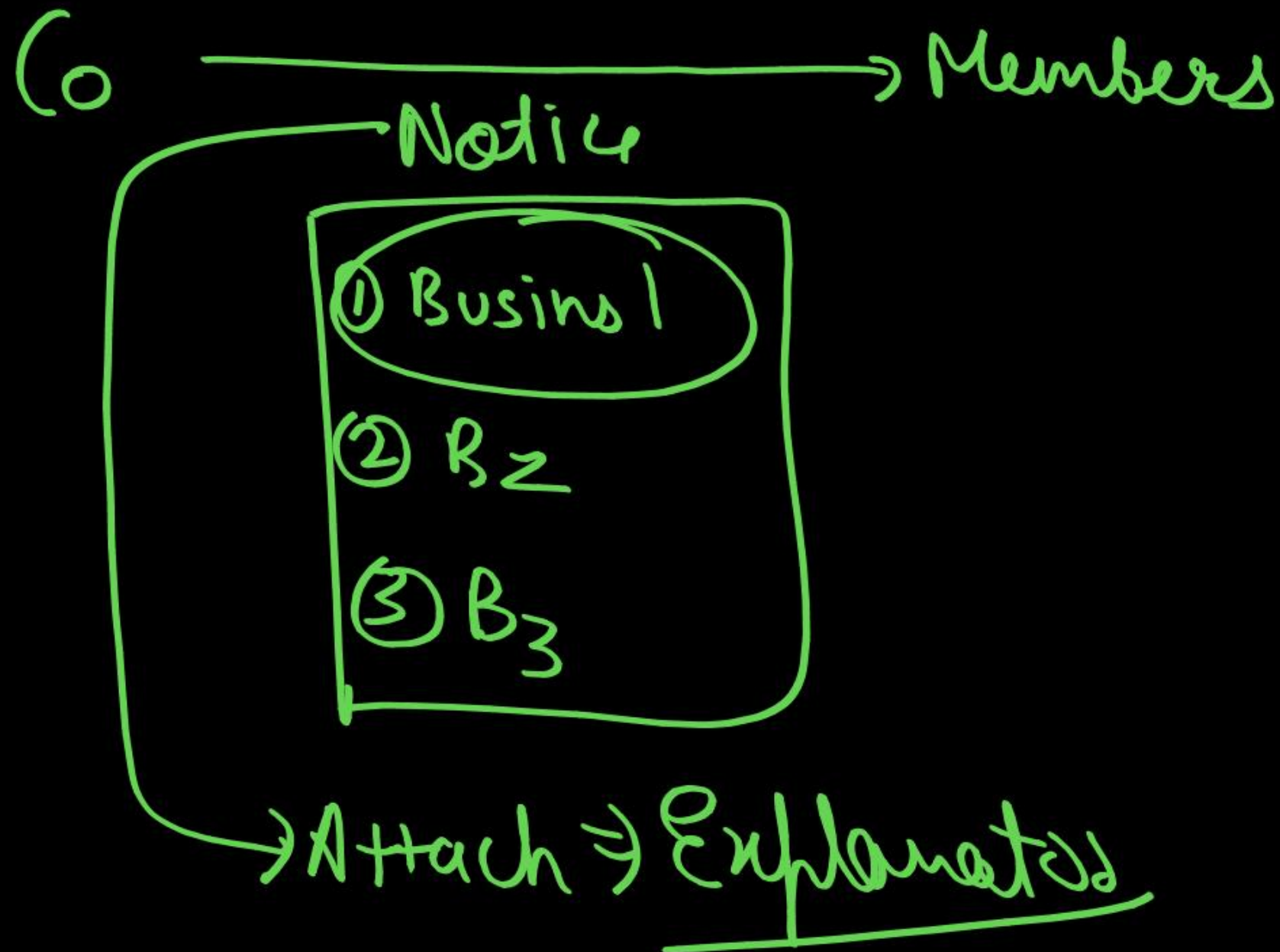
## Rule 18 : Modes of sending notice

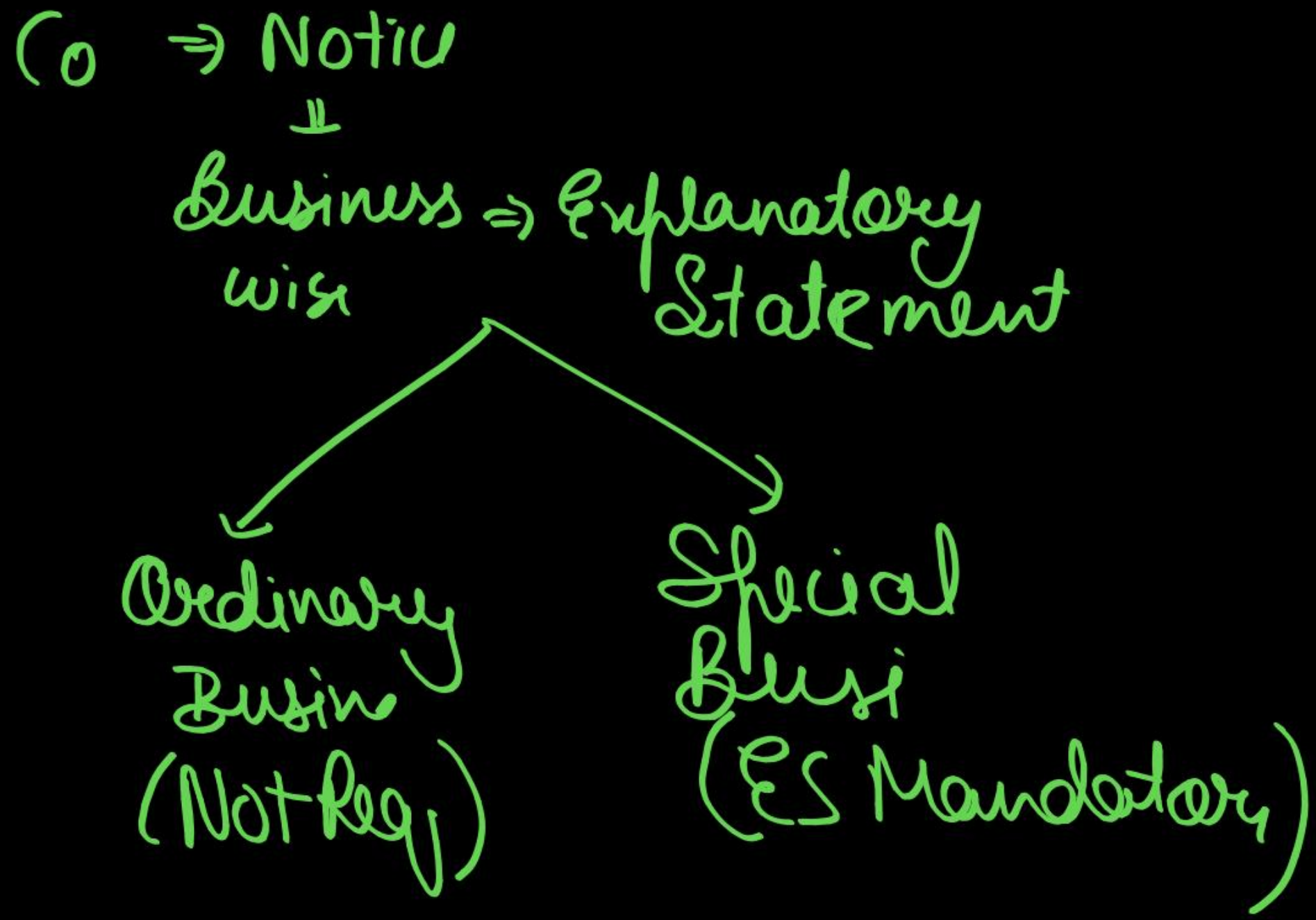
- ❑ Sending of notices through electronic mode has been statutorily recognized
- ❑ Electronic mode means :
  - any communication sent by Co. through authorized and secured computer program
  - capable of producing confirmation and
  - keeping record of such communication addressed to the person entitled to receive
  - at the last e-mail address provided by the member
- ↳ Notice may be sent through e-mail as a text, attachment or URL
- ↳ Email to be addressed to entitled person – as per records of depository.
- ↳ Co. to allow changing or adding email IDs at least once in a FY.



- ↳ Subject line of email – state the name of Co., notice of type of meeting, place and date.
- ↳ Place notice on website of the Co. and other website notified by Central Govt.
- ↳ Where notice is sent by post, it shall be deemed to be served at expiration of 48 hours after the letter containing the same is posted.

Sec 102 ⇒ Explanatory statement







## Section 102 : Statement to be annexed to notice – Explanatory statement



1. A statement setting out following Material facts concerning each item of special business shall be annexed to notice calling such meeting
  - the nature of interest (finance/otherwise) in respect of each items of every director and manager, every other KMP and their relatives.
  - other info and facts that may enable to understand meaning, scope and implication of items of business and take decisions.

Where, as a result of non-disclosure or insufficient disclosure of interest (as required above), if any benefit accrues to promoter, director, manager, KMP or their relatives. They shall hold such benefit in the trust of the Co. and liable to compensate the Co. to extent of such benefit.



## 2. Special business in AGM

In case of AGM, **all business shall be deemed special other than**

- Consideration of financial statements and reports of Board of Directors and auditors
- Declaration of dividend
- Appointing of director in place of those retiring
- Appointment of and fixing remuneration of auditors

**All business in EGM are deemed to be special business**

Provided that:

- Where any item of special business relates to or affects any other Co.
- The extent of shareholding interest in that other Co. of:



# Meeting

**AOM**

**EGM**

OB ⇒ no Explanatory State  
4 Business

Any other Business

Any business transacted

- ① Cond<sup>n</sup> of FS/AR/BR
- ② Declaration of Dividend
- ③ Appt of Dir ⇒ in plan of set
- ④ Appt of & fixing Rem of S.A

Special Business

All are Special Business

Explanatory Statement



- ❑ every promoter, director, manager, if any and
- ❑ of every other KMP of the first mentioned Co.
- shall be set out in the Explanatory statement, if not less than 2% of paid up share capital of that Co. [A Ltd]

If any default is made in complying with this section then every promoter, director, manager, KMP who is in default – Liable for penalty: Higher of – Rs. 50000 or  
- 5 times the amount of benefits accrued to such promoter, director, manager, KMP of their relative

### 3. Explanatory statement not required for transacting ordinary business



## Section 103 : Quorum for meetings

1. Unless articles provide for a larger number:

(a) In case of a public Co.:

No. of members as on date of meeting	Members personally present
Not more than 1000	5
More than 1000 but upto 5000	15
More than 5000	30

(b) In case of a private Co. – 2 members personally present



$$P_{VT}(\infty) \Rightarrow \underline{\underline{180M}}$$

$$l_{aw} \Rightarrow 2$$

$$AOA \Rightarrow 10 \checkmark$$



# Imp Quorum

Pvt Co.

⇒ Min<sup>m</sup> 2 Member Personally Present

→ 180 Members ⇒ Case 1 ⇒ 5 Members ⇒ Quorum Present

⇒ 10 Member ⇒ " "

⇒ 170 M ⇒ Q "

⇒ 1 Men ⇒ Quorum not present



2 ⇒ Quorum is not present



Public Co  
⇒ Mem ⇒ 950

Law → Q

5

$C_1 \Rightarrow 3 \text{ Mem} \Rightarrow QNP$   
 $C_2 \Rightarrow 5 \text{ Mu} \Rightarrow QP$   
 $C_3 \Rightarrow 900 \text{ M} \Rightarrow QP$

⇒ Mem ⇒ 3000

15

$C_1 \Rightarrow 4 \text{ M} \Rightarrow QNP$   
 $C_2 \Rightarrow 10 \text{ M} \Rightarrow QNP$   
 $C_3 \Rightarrow 15 \text{ M} \Rightarrow QP$   
 $C_4 \Rightarrow 2500 \Rightarrow QP$

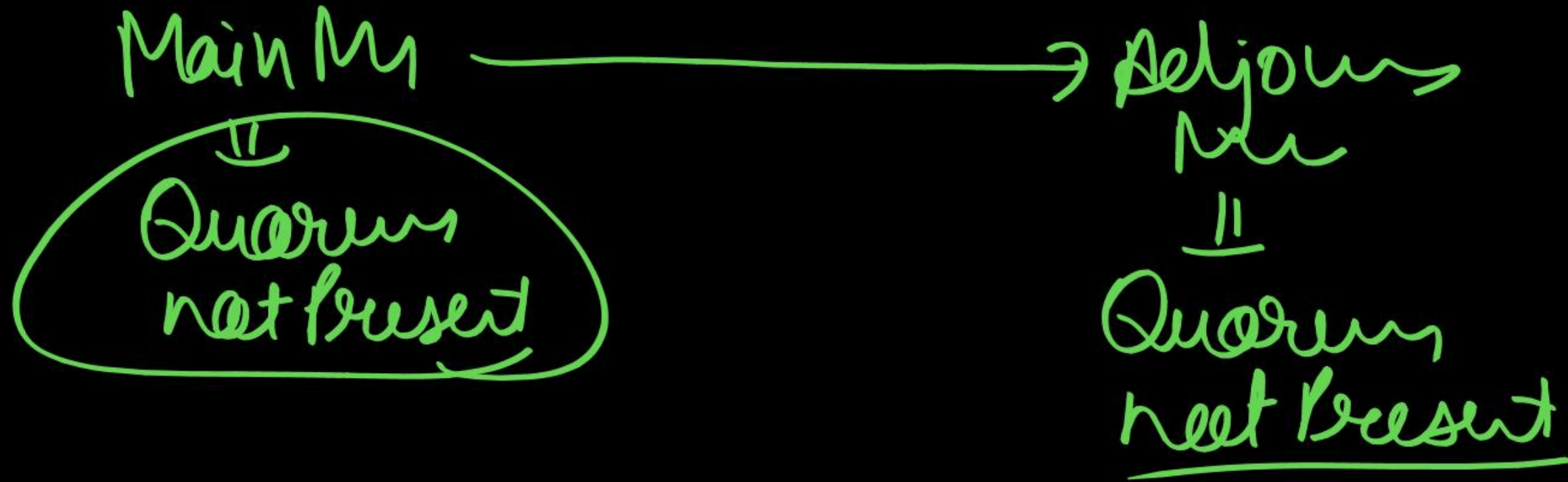
⇒ Mem ⇒ 6000

30

$C_1 \Rightarrow 20 \Rightarrow QNP$   
⇒ 30 QP



2. Proxy is not counted for purpose of quorum but Authorised representative is counted
3. Quorum shall be present throughout the meeting
4. If quorum is not present within half an hour from appointed time:
  - (a) Meeting called by requisitionist u/s 100 – stands cancelled
  - (b) Any other meetings – Adjourned to same day, next week at same time and place or such other date as board may determine.  
In case of adjourned meeting or change of day, time or place of meeting – the Co. shall give not less than 3 days notice to members either individually or publish ad in newspaper – English + Vernacular)
5. If at adjourned meeting, quorum is not present within half an hour – Members (>1) present shall be Quorum





Quorum  
is not pres  
within the

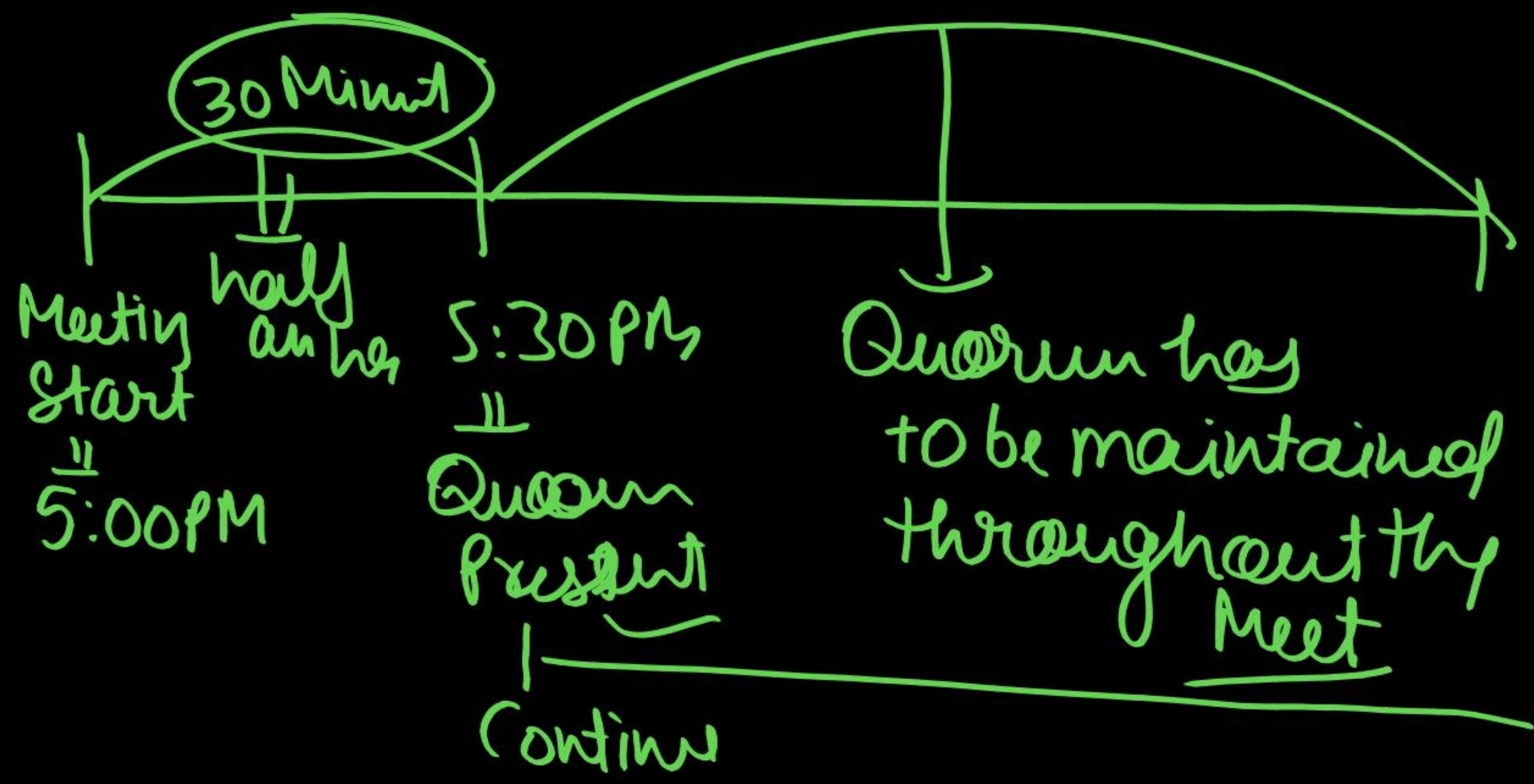
Other  
Meeting

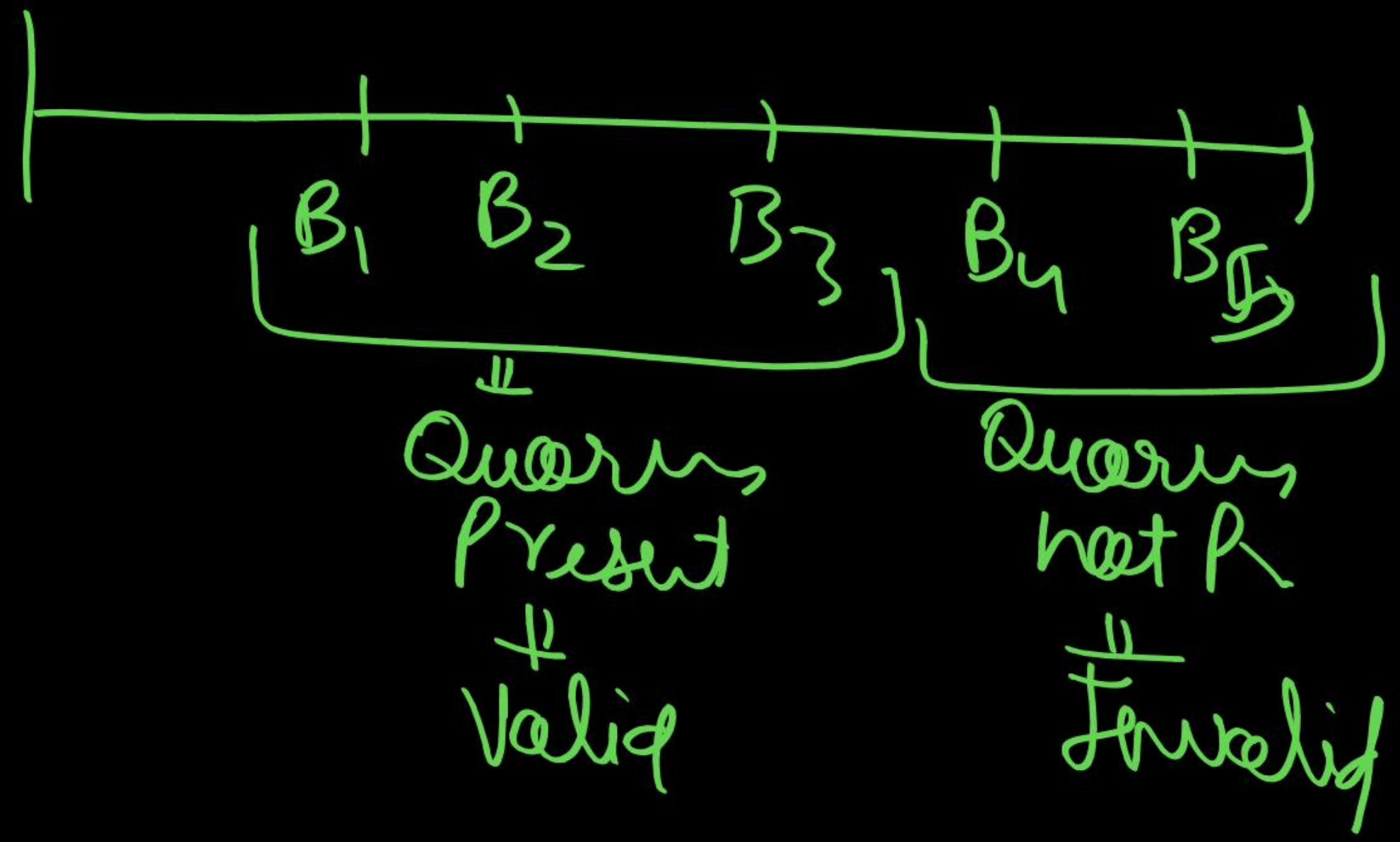
Meeting  
by  
Requisitionist

BoD  
||  
Change

||  
Adjourn,  
||  
Next time  
=> send  
=> send

↳ Cancel







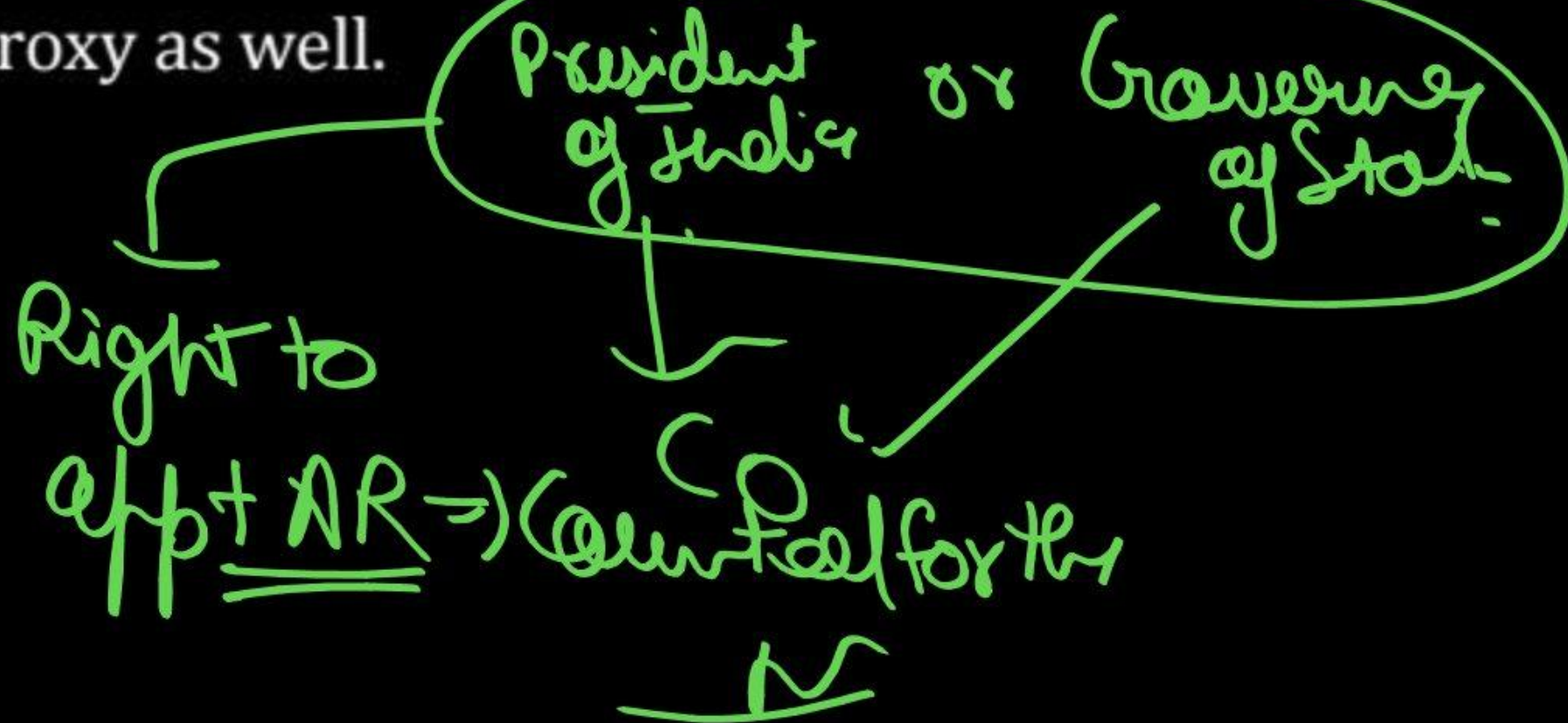
While counting of Quorum  $\Rightarrow$  Proxy is not counted

$\Rightarrow$  Authorised Representative is to be counted for the purpose of Quorum



## Section 112 : Representation of President and Governors in meetings

- ↳ The President of India or Governor of state, if he is a member of a Co., may appoint such person as he thinks fit to act as his representative at any meeting of the Co.
- ↳ Such appointed shall be deemed to be a member and shall be entitled to appoint proxy as well.





## Section 113 : Representation of Corporations at meeting of companies and of creditors

↳ A body corporate may:

If it is a member of a Co. – by Board resolution, authorise such person as it thinks fit to act as its representative at any meeting of the Co.

if it is a creditor including debenture holder – by Board resolution, authorise such person as it thinks fit to act as its representative at any meeting of any creditors

↳ Such appointed shall be deemed to be a member and shall be entitled to appoint proxy as well.



$C_0 \Rightarrow \underline{\text{Quar}} \Rightarrow \underline{\underline{5}}$

~~(A) personally~~

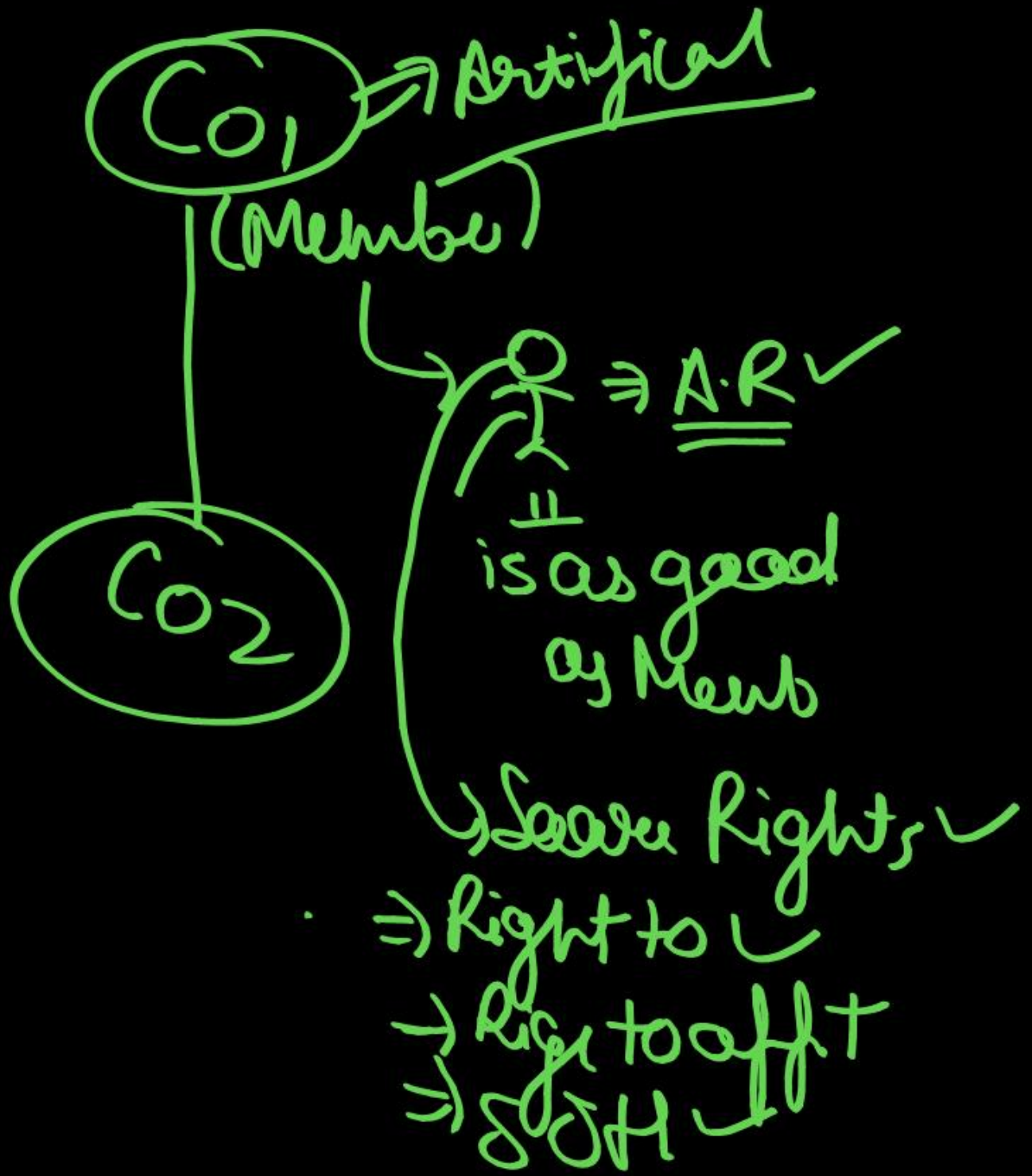
~~(B) personally~~

$(U^d/D^d/E^d) \Rightarrow Z \Rightarrow AR$

(3)



# Authorized Rep



# Proxy



$\{0\} \Rightarrow \text{Quorum} \Rightarrow 5$

Aud/Bud/Cut/Dud/E.Ltd

SBC  $\Rightarrow$  Z  $\Rightarrow$  AR

$\rightarrow$  Quorum  
NOT PERS

$\rightarrow$  Min<sup>m</sup> 2 Fern



Sec 104

Chairman of Meeting

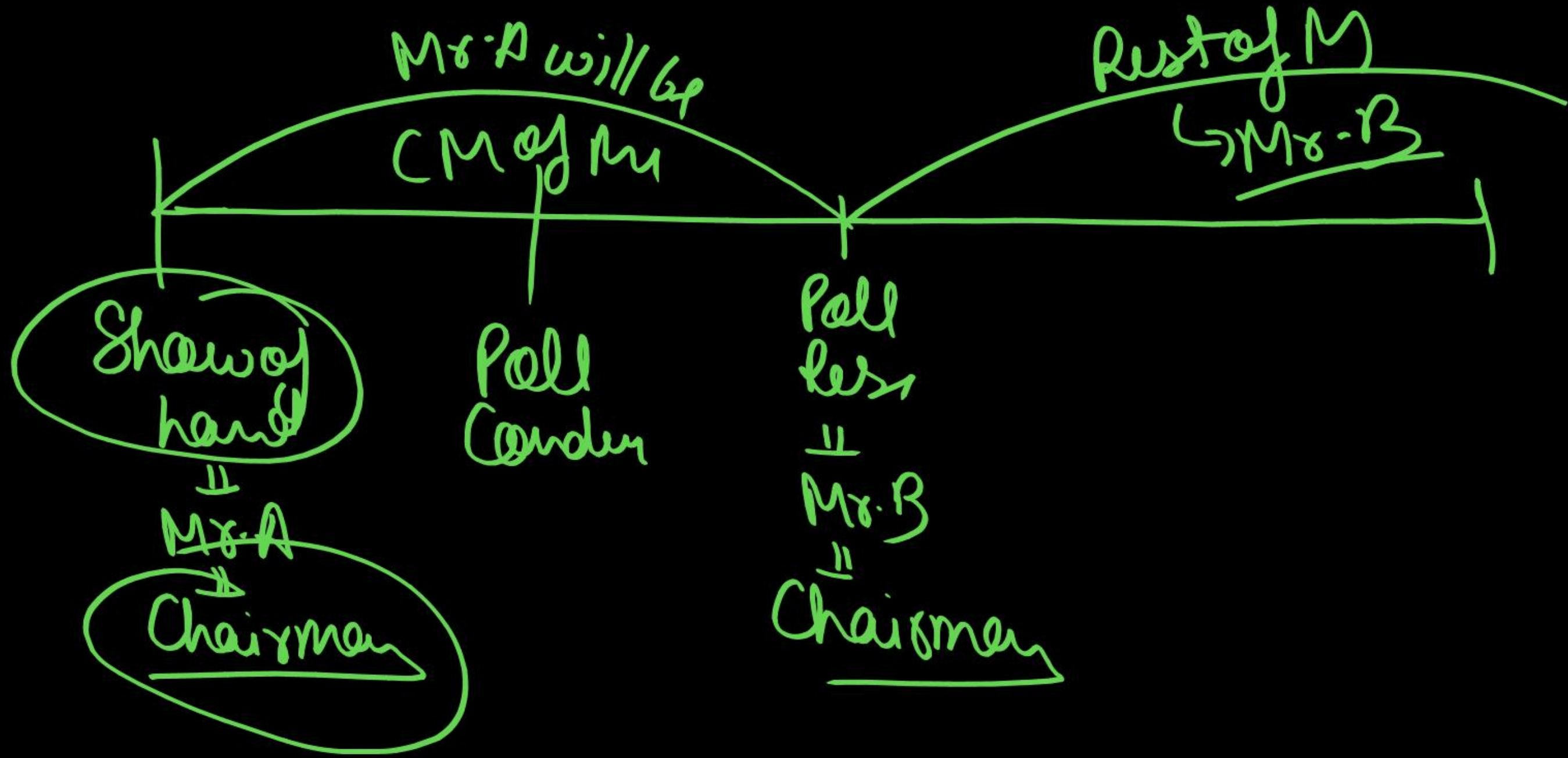
Members personally present

Unless Articles provide otherwise

Voting

Among the

1 Person  $\Rightarrow$  Meeting (M)





## Section 104 : Chairman of meetings



1. Unless AoA provides otherwise, members personally present shall elect one of themselves to be chairman on show of hands
2. If poll is demanded on election of chairman:
  - Poll shall be taken forthwith and Chairman elected under by show of hands shall continue to be chairman until some other person is elected chairman by way of poll
  - Such other person appointed by poll to be chairman for rest of the meeting
3. Other points:
  - Chairman is a person who manages meetings and ensured decorum is maintained
  - Chairman has prima facie authority to decide all questions arising in the meeting
  - If authorised by AOA Chairman has casting vote in Board Meeting and General Meeting



$$OR \Rightarrow V_f > V_A$$

$$\Rightarrow \begin{array}{c} f \\ 50 \end{array} \quad \begin{array}{c} A \\ 50 \end{array}$$

$$\frac{+1}{51}$$

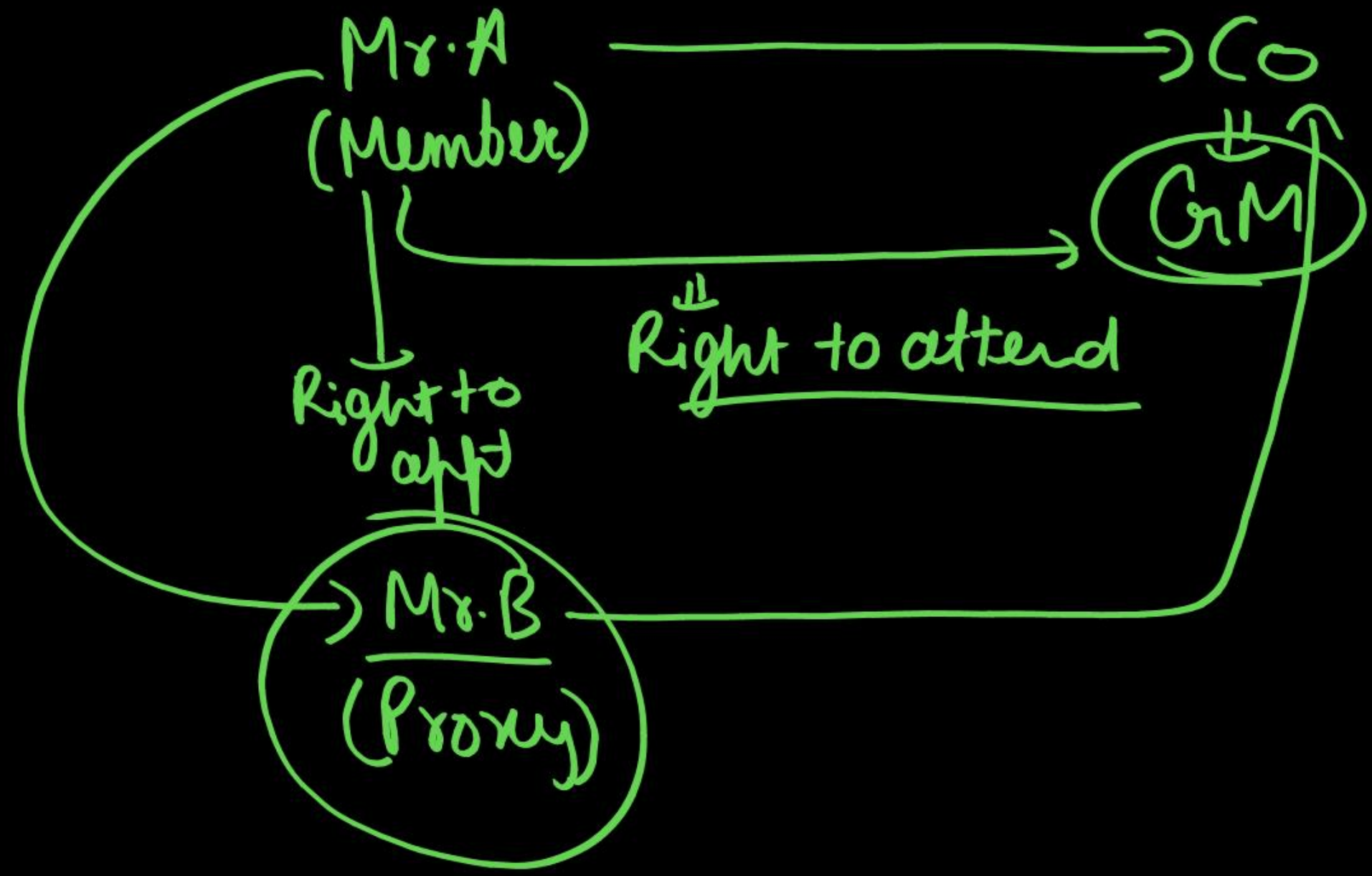
$\Rightarrow$  Pass

AOA

↳ Ment

↳ CM

||  
Cost





Normal Rule  $\Rightarrow$  Proxy need not be a member

Sec 8(C)  $\Rightarrow$  Proxy has to be a member



Max<sup>m</sup> 50 Members

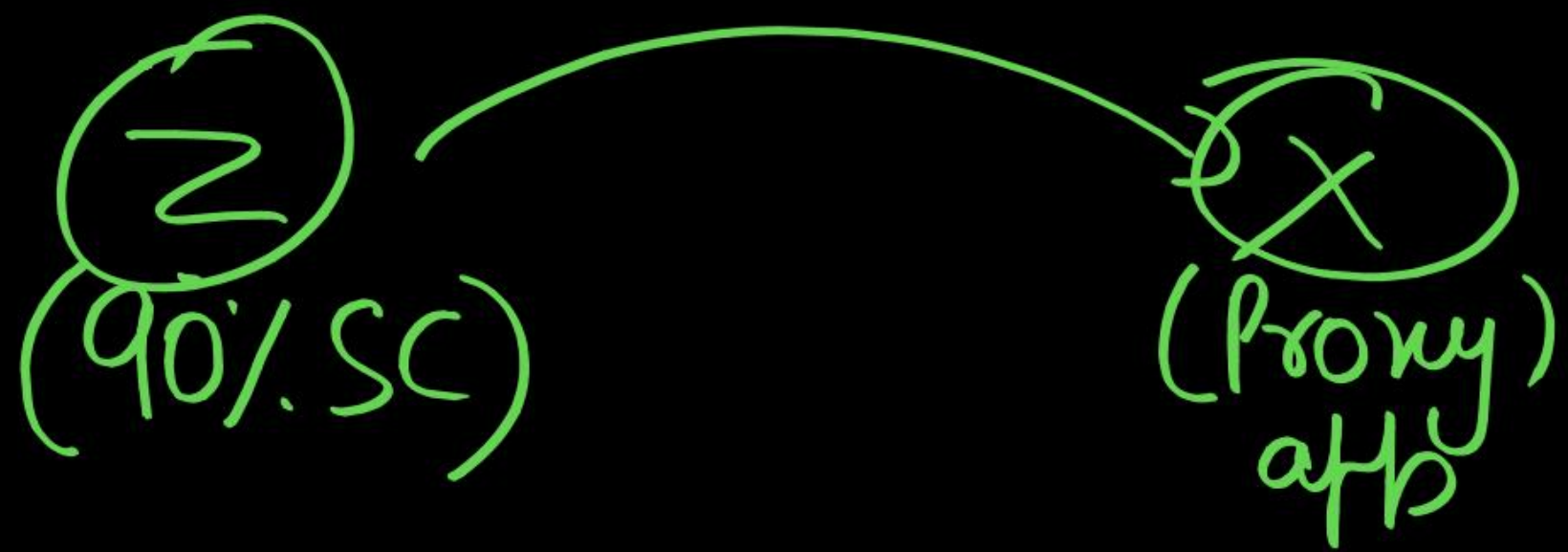
⇓  
Max<sup>m</sup>

⇓  
10% of S.C

Mr-X  
(Proxy)

⇓  
Kithu Lager  
Ka Proxy



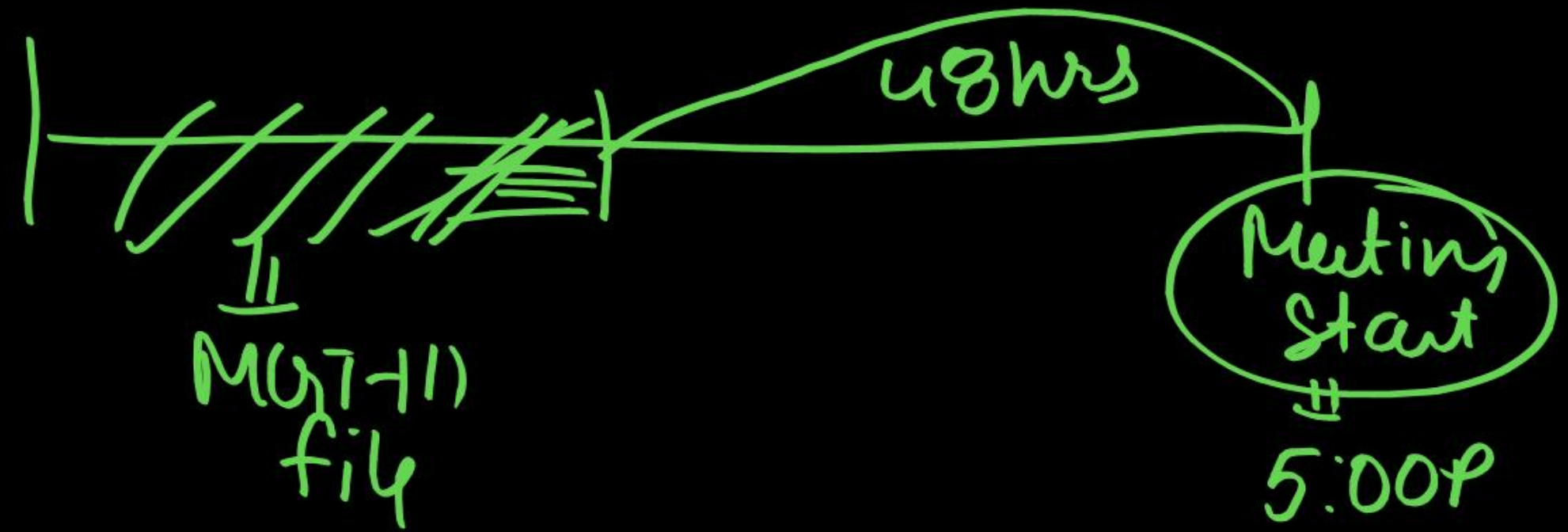




## Section 105 : Proxies

(Imp)

1. Any member may appoint proxy to attend meeting and vote on his behalf
2. Proxy need not be member of Co. (except in case of section 8 Co.)
3. Proxy shall have no right to speak at meeting
4. Proxy cannot vote on show of hands
5. Limit - A proxy can represent maximum 50 members in a meeting having not more than 10 % of total share capital.
6. However, Proxy can be appointed for a single member holding more than 10 percent of share capital but the such person cannot be appointed as proxy of any other member
7. Appointment of proxy shall be in form MGT-11
8. Proxy form must be deposited 48 hours before the meeting. This Limit cannot be increased by company through AOA



$M_u \Rightarrow 60 \text{ hrs} \Rightarrow \text{Valid}$   
 $\Rightarrow 50 \text{ hrs} \Rightarrow \text{Valid}$   
 $\Rightarrow 30 \text{ hrs} \Rightarrow \text{Functed}$

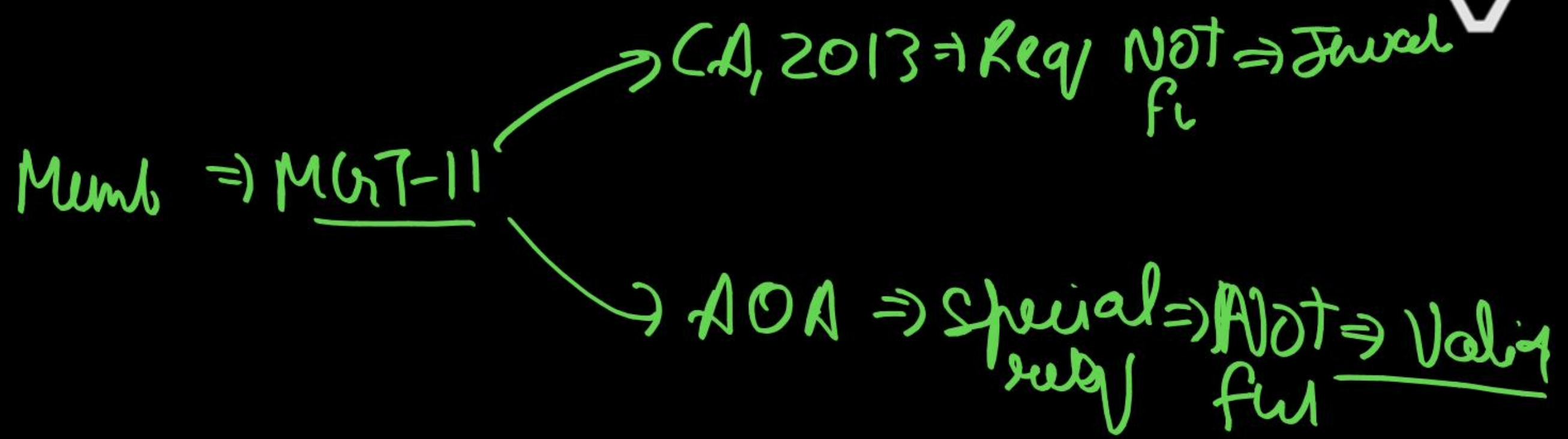


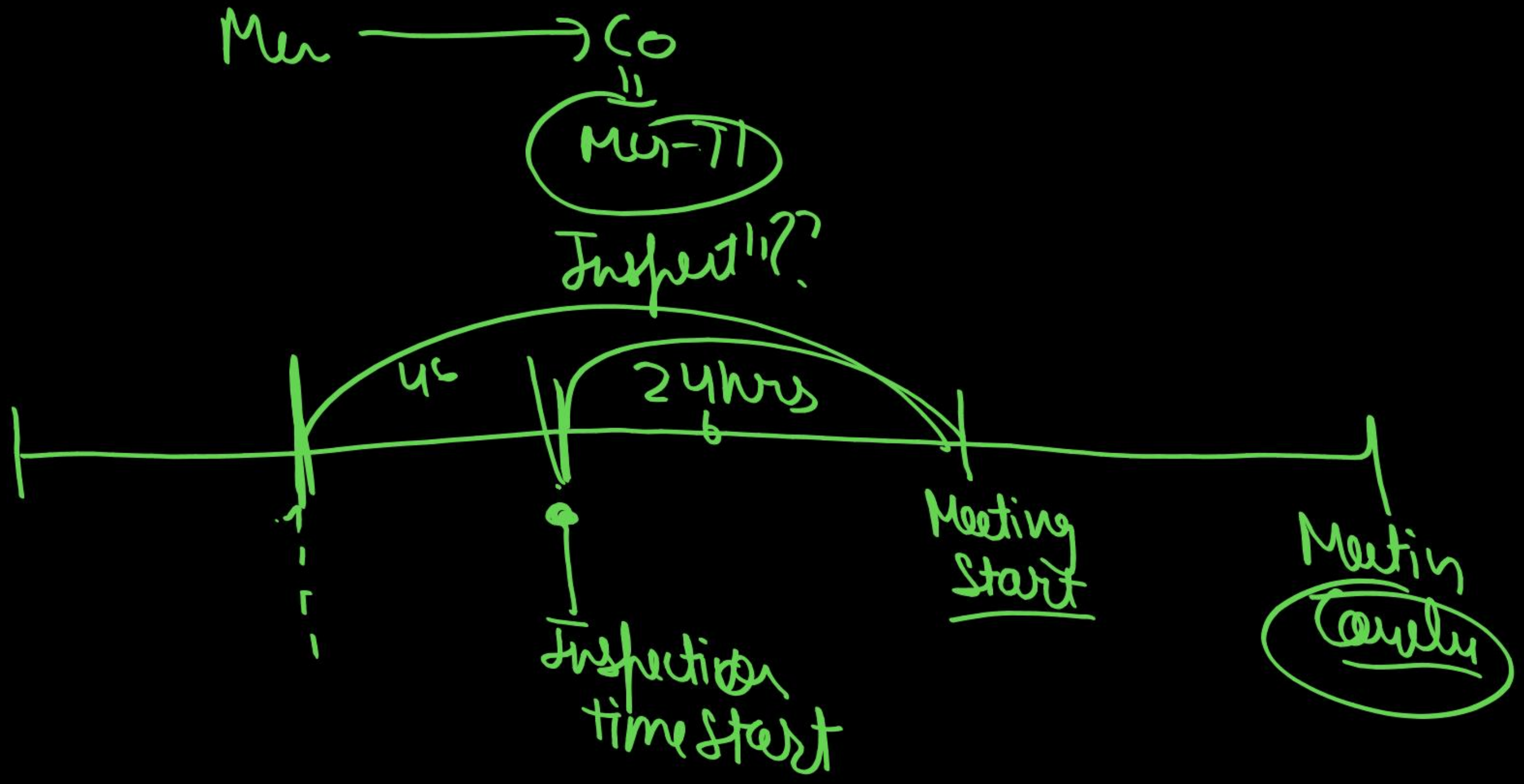
AOA  $\Rightarrow$  MUR-11  $\Rightarrow$  ~~Others~~  $\Rightarrow$  Ignore this

$\Rightarrow$  4.8m  $\Rightarrow$  ✓



5. If invitations to appoint as proxy a person are issued at the Co's expense to any member - Every officer who issues or authorized such issue - Liable for penalty of Rs. 50000 Provided that officer not liable if such issue is at the member's request in writing.
6. An instrument appointing proxy in form MGT - 11 shall not be questioned on the grounds that it falls to comply with special requirements by the AoA
7. Inspecting proxy forms by members:  
Every member entitled to vote at the meeting - entitled to inspect proxies lodged.  
Provided that:
  - Inspect during period - 24 hours before time fixed for commencement of meeting and ending with conclusion of meeting during business hours
  - Not less than 3 days notice in writing of intention given to Co..







## Sec 106

Co  $\Rightarrow$  Members की voting पर Restriction  
Nahilaga Sekhti

Except  $\Rightarrow$  2 cases

If AOA  
allowed

① If call amt or any sum is unpaid

② Co  $\rightarrow$  shares पर Right of lien



## Section 106 :Restriction on voting rights

↳ If AOA provides then **member shall not exercise voting right** in respect of shares on which:

- call or other sum is unpaid**
- Co. has exercised any right of lien**

↳ **Except as specified above, a Co. shall NOT prohibit member** from voting right **on any other ground**

↳ **In case of poll,** member need not use all his votes in same way

$G_1 \Rightarrow 100 \text{ shares}$   
 $\downarrow$   
 $100 \text{ votes}$   
 $\swarrow \rightarrow 70\%$   
 $\searrow \rightarrow 30\%$



Joint SH

$\Downarrow$

Voting

①  $\Rightarrow$  Nam ✓

B  
C



Sec 111

Normal Rule  $\Rightarrow$  <sup>General</sup> Meeting  $\Rightarrow$  Agenda  $\Rightarrow$  BOD  
 $\perp$   
decision

$\rightarrow$  Power  $\Rightarrow$  Member  $\Rightarrow$  Agend  $\Rightarrow$  New Res<sup>n</sup>

$\rightarrow$  Existing  $\Rightarrow$  States  
Rel



## Section 111 : Circulation of Members Resolution



1. The prerequisites for a valid requisition prescribed under 111(2) are as under :
  - Requisition must be made in writing & signed by :
    - Members holding >1/10<sup>th</sup> of PUSC (Co. having share capital)
    - Members holding >1/10<sup>th</sup> of total voting power (Co. not having share cap.)
  - Contains signatures of all requisitionists
  - Requisition deposited at registered office
    - > = 6 weeks before meeting (requisition requiring notice of resolution)
    - > = 2 weeks before meeting (other cases)
  - Reasonable sum of money to meet Cos expense giving effect to proposing resolution is tendered / deposited
1. On request in writing by members, Co. shall give notice to member of any resolution which may be moved & intended to be move at meeting
2. In case of default u/s 111 – penalty 25000 rs each (Co. & every person in default)



# Su 114

Ordinary Resolution

Notice  $\Rightarrow$  Valid  
 $\frac{1}{2} V_f > V_A$

$\Rightarrow$  More than  
50% inf

$\frac{1}{2}$   
If AOA  $\Rightarrow$  M  $\Rightarrow$  CP  
Casting Vote

Special Resolution

$\Rightarrow$  Min<sup>m</sup>  
75%  
infavor

Notice Valid  
Notice  $\Rightarrow$  SR  
 $V_f \geq 3 \times V_A$



## Section 114 : Ordinary and Special Resolutions



↳ A resolution shall be an Ordinary Resolution ( $V_f > V_a$ ) if:

- Notice has been duly given and
- votes cast in favour, including casting vote, if any, of chairman, by members
- Exceed the votes, if any, cast against the resolution by members

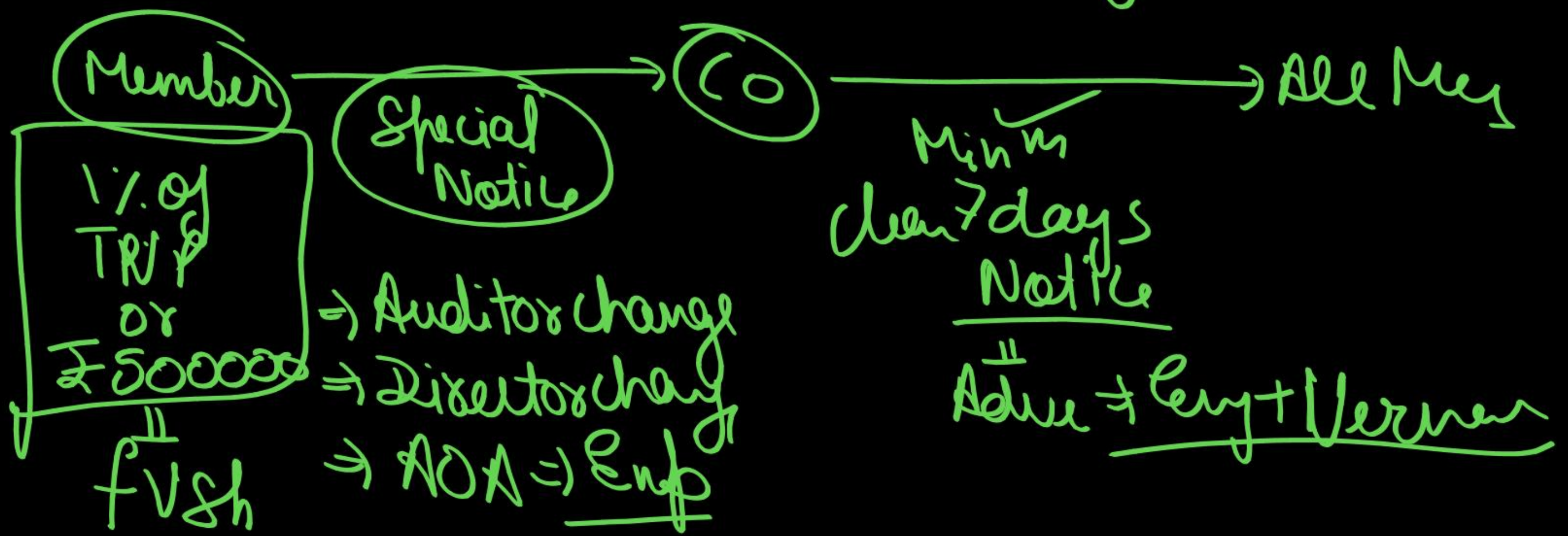
↳ A resolution shall be a Special Resolution ( $V_f \geq 3V_A$ ) if-

- (a) the intention to propose the resolution as a special Resolution has been duly specified in the notice calling the General Meeting or other intimation given to the members of the resolution
- (b) The notice required under this Act has been duly given and
- (c) The votes cash in favour by entitled members is not less than 3 times no. of votes, if any, cast against such resolution.



# Sec 115

## Special Notice by Membr





## Section 115 : Resolutions requiring Special Notice



- ↳ Special Notice shall be signed, individually/collectively, and given by such no. of members holding:
  - not <1% of total voting power or
  - holding shares on which not <Rs 5 lakhs has been paid up on the date of the notice
- ↳ Notice of meeting to be sent to Co. not earlier than 3 months but at least 14 days before date of meeting, exclusive of day on which the notice is given and day of meeting
- ↳ Immediately on receipt of notice Co. to give notice to its members of the resolution –  
at least 7 days before meeting, exclusive of date of dispatch and day of meeting



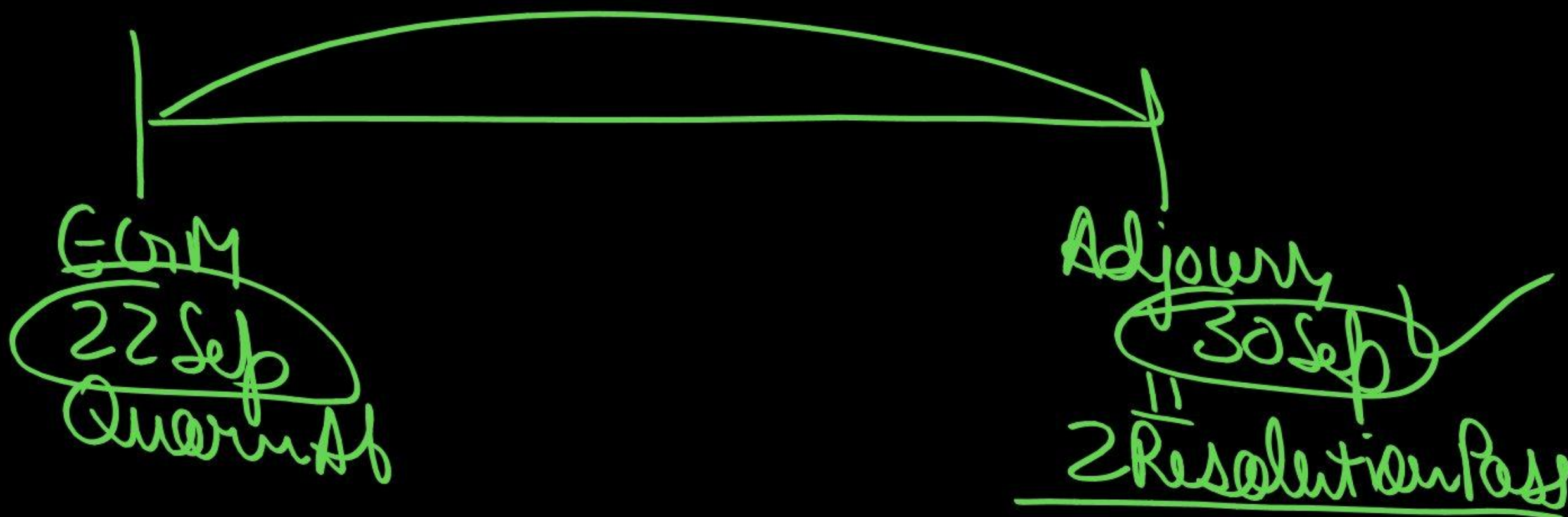
- ↳ Where it is not practicable to give notice– Publish notice in newspaper (English/vernacular) and post it on the website of Co.
- ↳ The notice shall be published at least 7 days before the meeting, exclusive of the day of publication of the notice and day of the meeting
- ↳ Special notice is required in following cases :
  - Sec 140 – Appointment of auditor other than retiring auditor
  - Sec 169 – Removal of director
  - Or Matters provided in AOA



## Section 116 : Resolutions passed at adjourned meeting

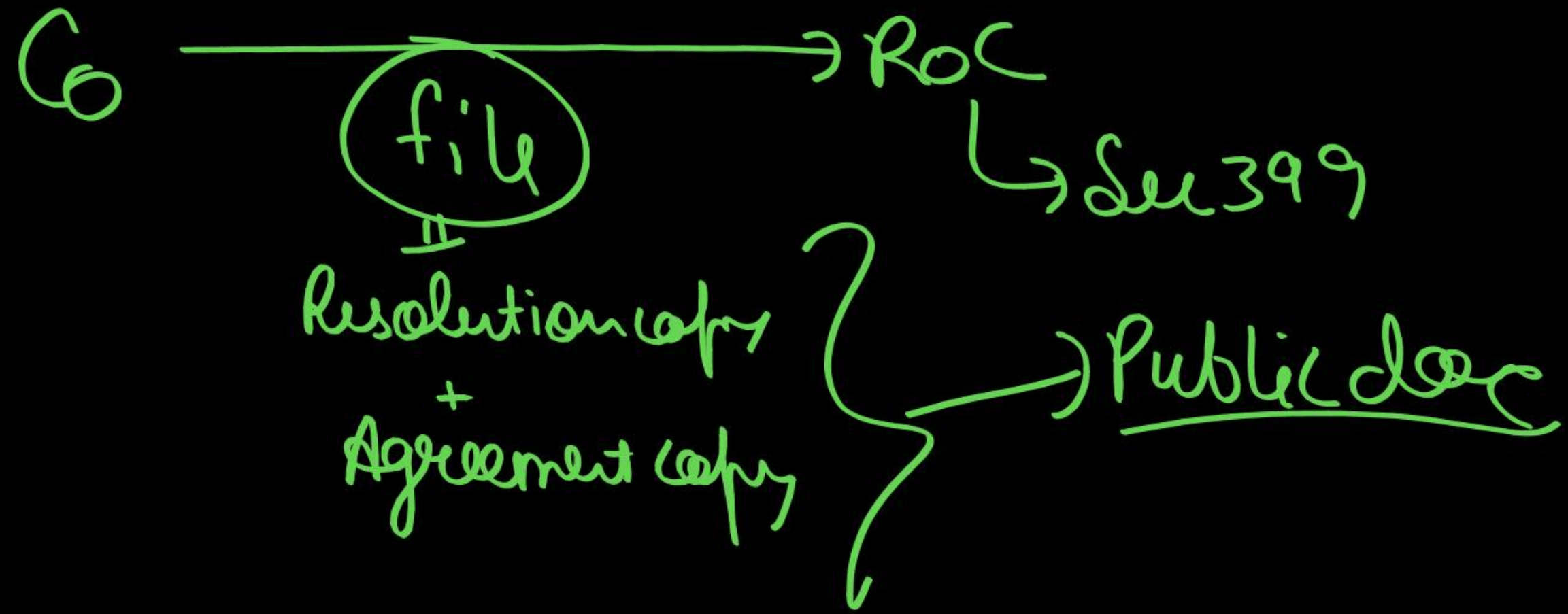
Where a resolution is passed at an adjourned meeting of Co., deemed to be passed on the date on which it was actually passed.

Ex : EGM dated 22<sup>nd</sup> Sept. Quorum absent. Adjourned - 30<sup>th</sup> Sep. Two resolutions passed in adjourned meeting. Effective date of resolution = 30<sup>th</sup> Sep and not 22<sup>nd</sup> Sept.





Sec 117





## Section 117 : Resolutions and agreements to be filed



↳ A copy of below mentioned documents with explanatory statement u/s 102 if any, File with RoC in Form MGT 14 within 30 days of passing such resolution or making such agreement

- Special Resolution
- Resolution agreed to by all the members
- Agreement executed by Co. related to appointment, re-appointment or variation of terms of Managing Director
- Any resolutions of Board of Directors
- Resolutions or agreements which have been agreed to by any class of members
- Resolution to be wound up voluntarily u/s 59 of Insolvency and Bankruptcy Code
- \*  Resolutions passed u/s 179 (3)
- Any other resolution or agreement



↳ In case of failure to make such filing with RoC, penalty shall be as follows:

Co. - Rs 10000 + Rs 100/day after first, Max. of Rs. 2 Lakhs

Officer in Default - Rs. 10000 + Rs 100 / day after first, Max of Rs. 50000



## Sec 118 ⇒ Minutes of Meetings

- ① General Meetings ✓
- ② Board Meetings ✓
- ③ Board & Committee Meetings ✓
- ④ Postal Ballot ✓



## Section 118 : Minutes of proceedings of General Meeting and resolutions passed by Postal ballot




- ↳ The Co. shall cause the minutes to be prepared, signed and kept in the minute books within 30 days of the conclusion thereof:
  - General meetings of any class of share holders or creditors
  - Board meetings or meetings of any committee thereof
  - Resolutions passed by postal ballot
- ↳ Minutes shall contain fair and correct summary of the proceedings
- ↳ Appointments made at any meetings shall be included in minutes
- ↳ In case of meeting of Board of Directors or committee thereof, the minutes shall also include names of directors present where a resolution is passed the names of dissenting directors



- ↳ Below mentioned matters shall not be included in the minutes which, in opinion of chairman:
  - reasonably be regarded as defamatory of any person
  - irrelevant or immaterial to proceedings
  - detrimental to interest of Co.
- ↳ Chairman shall exercise absolute discretion w.r.t. inclusion or exclusion of any matter
- ↳ Minutes = Evidence of the proceedings recording therein
- ↳ If any default is committed under this section, then penalty payable shall be:
  - By Co. - Rs. 25000
  - By officer in Default - Rs. 5000
- ↳ Person found guilty of tampering with minutes - Jail upto 2 years and fine of Rs. 25000 to Rs 1 lakh
- ↳ Every Co. to observe secretarial standard specified by ICSI



Particulars	Of General Meeting	Of BoD or Committee
Keep at	RO	RO or such place as BOD may decide
<u>Preserve</u>	<u>Permanently</u>	<u>Permanently</u>
<u>Custody</u>	<u>CS or director duly authorised by BOD</u>	CS or director duly authorised by BOD
Signed by 	By <u>chairman of the same meeting within 30 days</u> <u>In event of death of inability of chairman - a director duly authorised by the BOD</u>	by <u>chairman of said meeting or chairman of next succeeding meeting</u>



Sec 119 ⇒ Inspection of  
Minutes of Meeting  
→ Only G.M



## Section 119 : Inspection of minute – book of General Meeting

- ↳ Minute books of any General Meeting or of resolution by postal ballot shall be :
  - (a) Keep at RO of the Co.
  - (b) may be inspected by members during business hours (minimum 2 hrs) without any charge
- ↳ On payment of fees, Copy of minutes to be furnished to member within 7 working days
- ↳ Note :- A member who has requested for soft copy of minutes of any previous General Meeting held during immediately preceding 3 FY shall be entitled to be furnished, with the same free of cost



↳ If inspection is refused or copy of minutes is not furnished then penalty payable will be as follows:

Co. – Rs. 25000

Officer in Default – Rs. 5000

↳ In case of such refusal or default, Tribunal may by order:

direct an immediate inspection of the minutes books or

direct that the copy required shall forthwith be sent to person requiring it



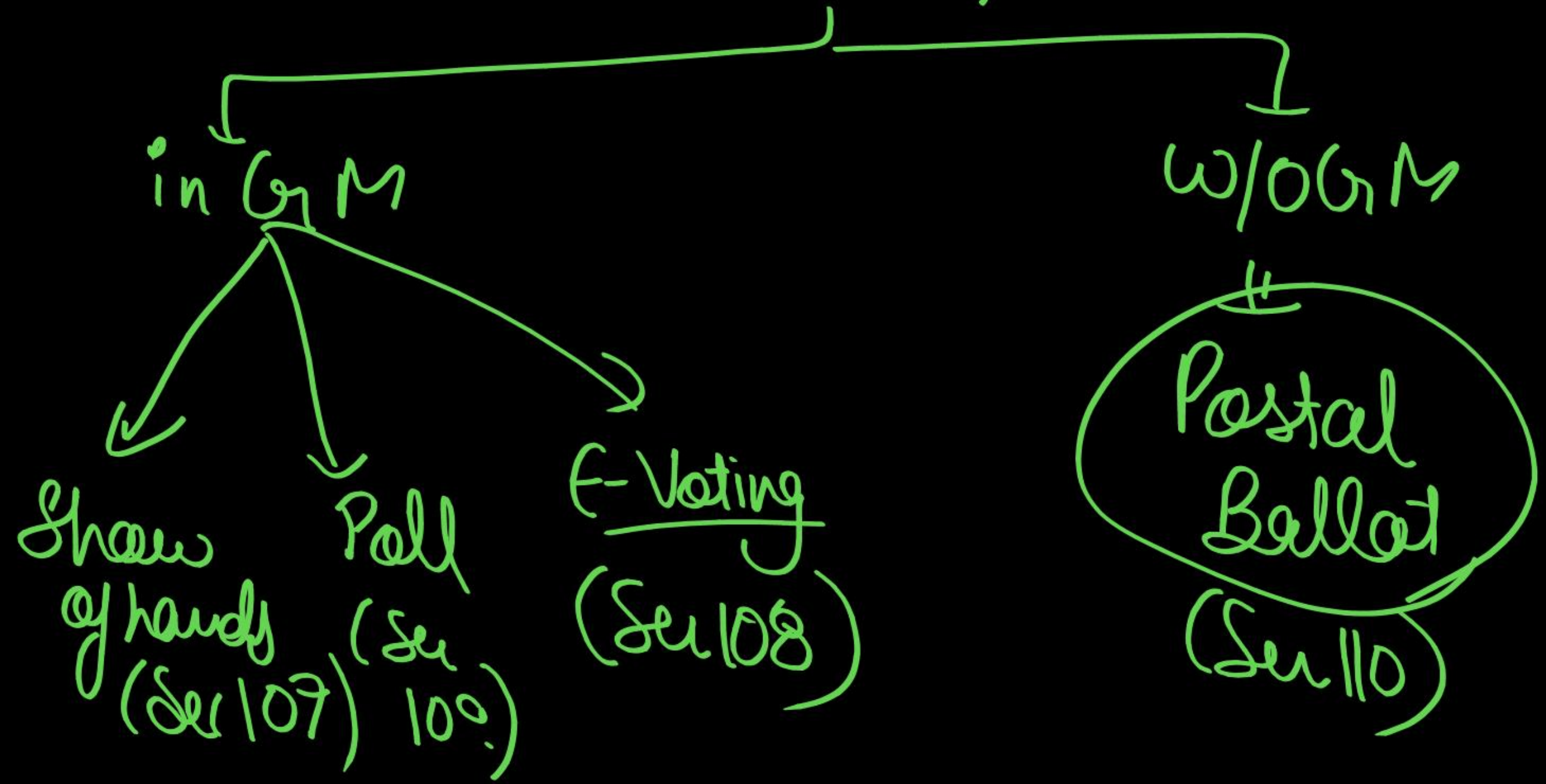
## Section 120 : Maintenance and Inspection of Documents in Electronic Form

Any document, register, record, minutes:

- Required to be kept by a Co. or
- Allowed to be inspected or copies to be given to any person by a Co. under this Act, may be kept or inspected or copies given **in e-form**



# Methods of Voting





## Section 107 : Voting by show of hands

1. Resolution in General Meeting is decided on show of hands unless Poll is demanded or e-voting
2. Following shall be conclusive evidence of fact of passing of resolution or otherwise:
  - (a) declaration by chairman of passing of such resolution and
  - (b) entry to that effect in the minutes of the meeting

→ 1 Memb ⇒ 1 Vote



## Section 108 : Voting through electronic means



(1) Mandatory E-voting facility by :

(a) every Co. having listed its equity shares in a RSE

(b) every Co. having  $\geq$  1000 members

Exempt for Nidhi Co. ✓

(2) Procedure for E-voting facility :



### Step - 1

The Board shall appoint 1 or more scrutinizer

(CS in Practice/CA in Practice/CMA in Practice/Advocate/person who is not in employment).

Such scrutinizer shall give his written consent

### Step - 2

21 clear days notice of meeting to Members, Directors and auditors

+

The notice shall also be put on the website, if any, of the company and the Agency

+

Give advertisements about e-voting in English and Vernacular Newspaper

### Step - 3

The company shall announce a cut-off date not earlier than 7 days before the date of GM



#### Step - 4

Remote e-voting shall be kept open for minimum 3 days.

Member who voted using remote e-voting cannot change its vote subsequently or cast the vote again but entitled to attend the meeting and counted for the purpose of quorum.

#### Step - 5

Remote e-voting shall conclude at 5:00 P.M. one day before GM

The facility shall be forthwith blocked

#### Step - 6

To ensure that these members do not vote again in the GM, after closure of REMOTE e-voting but before the GM, the scrutinizer shall have access to the details relating to members WHO have casted votes through e-voting, but NOT THE MANNER in which they have casted their votes.



### Step - 7

Scrutinizer shall conduct the voting in GM either by electronic means or by polling paper. ✓

### Step - 8

On conclusion of voting at GM, the scrutinizer shall immediately, FIRST count the votes cast at the meeting.  
THEREAFTER unblock the votes casted through REMOTE e-voting in the presence of at least 2 witnesses not in employment of the company

### Step - 9

The scrutinizer shall make and submit a consolidated scrutinizer's report to the Chairman or a person authorized by him in writing not later than 3 days of conclusion of the meeting



### **Step - 10**

The Chairman or a person authorized by him shall countersign the scrutinizer report

### **Step - 11**

The Chairman or a person authorized shall declare the results of the voting forthwith.

### **Step - 12**

Scrutinizer shall maintain REGISTER either manually or electronically  
The register and all other papers shall remain in safe custody of scrutinizer, until Chairman approves and signs the minutes

### **Step - 13**

Immediately after the result is declared by the Chairman, the result along with Scrutinizer's report shall be displayed on the website of the company, if any, and on website of the agency



Step - 14  
The Minutes are prepared and  
signed by the Chairman



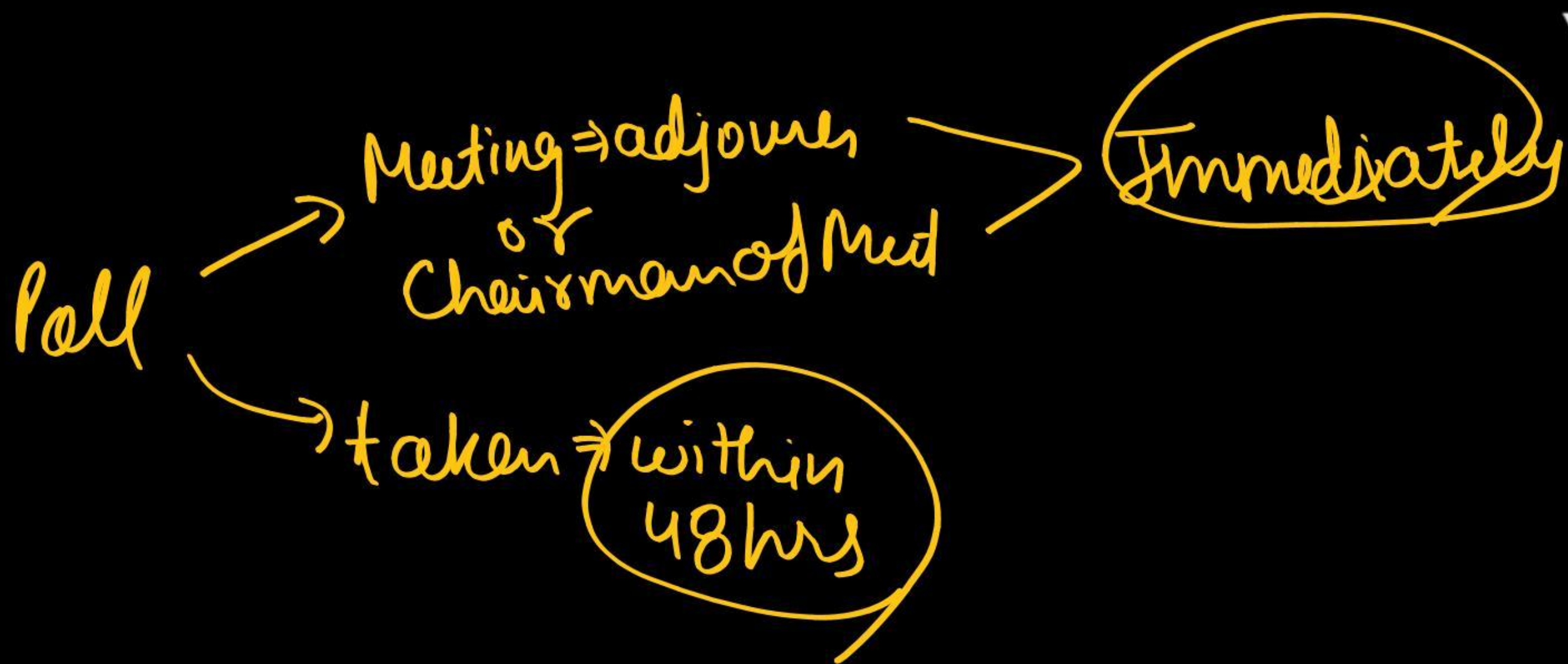
Step - 15  
Scrutinizer shall hand over his Register and  
other related papers to the Chairman of the  
company.



## Section 109 : Demand for Poll

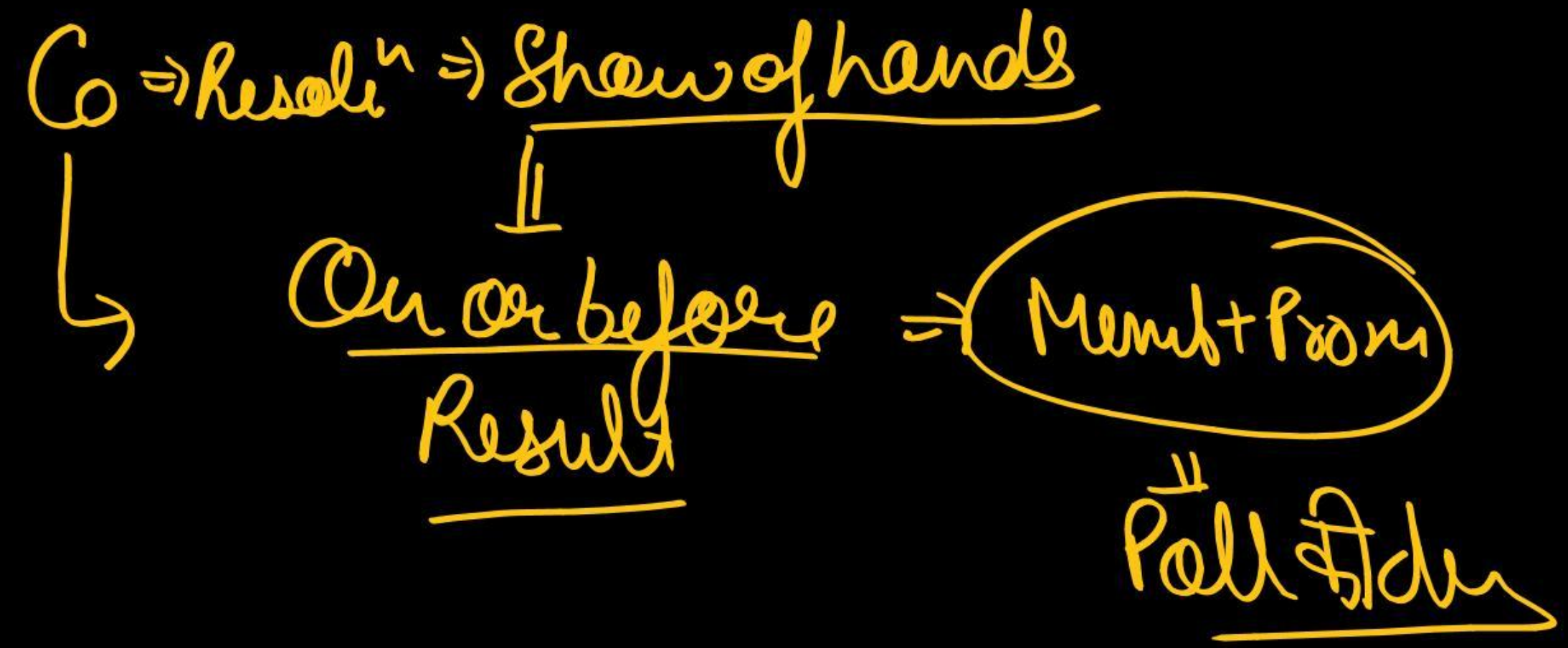


- ↳ Before or on declaration of result of voting on any resolution on show of hands:
  - ❑ A poll may be ordered to be taken by the chairman on his own motion and
  - ❑ Shall be ordered to be taken by him on a demand made in that behalf:
    - Co. having share capital – by members present in person or proxy having  $\geq 1/10^{\text{th}}$  of total voting power or holding shares in aggregate having paid up share capital  $\geq$  Rs. 5 lakhs or higher amount prescribed
    - Other companies – by members present in person or proxy having  $\geq 1/10^{\text{th}}$  of total voting power
- ↳ The demand for a poll may be withdrawn at any time by the person who made the demand
- ↳ A poll demanded for adjournment of meeting or appointment of chairman of meeting to be taken forthwith





Section 109  $\Rightarrow$  Demand for Poll





- ↳ A poll demanded on any question other than adjournment/appointment of chairman shall be taken within 48 hours from time it was demanded
- ↳ Where poll is to be taken, the chairman shall appoint such number of persons, as he deems necessary, to scrutinize the poll process and votes given on poll and to report to him in manner prescribed
- ↳ Chairman of the meeting shall have power to regulate the manner in which the poll shall be taken
- ↳ Result of poll shall be deemed to be the decision of the meeting on the resolution on which the poll was taken



## **Rule 21 : Manner in which chairman shall get the poll process scrutinized:**

Chairman of the meeting shall ensure the following:

(a) Scrutinizers are provided with:

- Register of Members, specimen signs of members, attendance and proxy register
- All documents pursuant to sec 105, 112 and 113

(b) Scrutinizers to arrange polling papers (Form MGT-12) and distribute it to members and proxies present

In case of joint share holders – Give polling paper to first named holder (in his absence – joint holder)

(c) Scrutinizers to keep record of the polling papers received in response to poll, by initialling it



- (d) Scrutinizers shall lock and seal an empty polling box in presence of members and proxies
- (e) In case of ambiguity about validity of a proxy, scrutinizers + Chairman to decide validity
- (f) Ensure that if member who has appointed proxy, has voted in person, proxy's vote disregarded
- (g) Scrutinizers shall count votes cast on poll and prepare a report addressed to the chairman. The report shall be in form MGT-13 such report shall be signed and submitted within 7 days from date of poll. Chairman to counter sign the same
- (h) Where voting is conducted by e-means u/s 108 and rules made thereunder, Co. shall provide all the necessary support, technical and otherwise, to scrutinizers in orderly conduct of voting and counting the result thereof

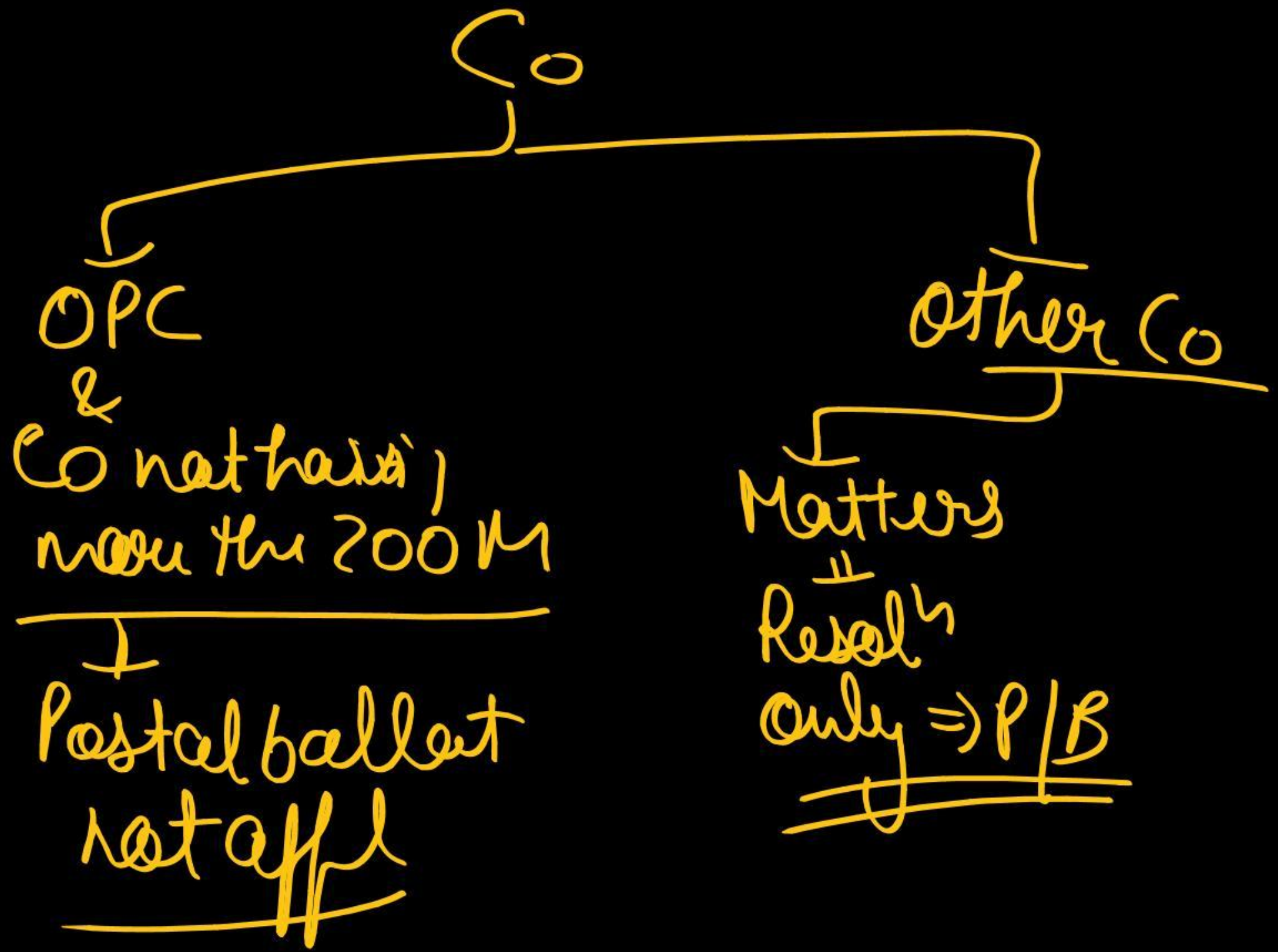


- (i) Scrutinizers report shall state total votes casted, valid votes, votes in favour and against the resolution including the details of valid polling papers and votes comprised therein
- (j) Chairman shall declare the result of voting on poll. The result may either be announced by him or a person authorised by him in writing.



Sec 110 ⇒ Postal Ballot

Co ⇒ w/o  
calling  
GM ⇒ Postal Ball





## Section 110 : Postal Ballot

1. Postal ballot can be **conducted by post or through e-mode**



1. Following items of business shall be transacted only by means of voting through a postal ballot

Sec 13 - Alteration of object clause of MoA

Sec 18 - Alteration of AoA to insert or remove provisions which u/s 2 (68) are required to be included is AoA of private Co.

Sec 12 - Change in place of Reg. office outside local limits of city/town/village

Sec 13 - Change in object for which money raised from public

Sec 43 - Issue of shares with differential rights

Sec 48 - Variation in rights attached to class of shares

Sec 68 - Buy - back of securities

Sec 151 - Election of a director applicable to Small Co.

Sec 180 - Sale of undertaking of Co.

Sec 186 - giving loans, guarantees in excess of limit

↳ OPC and companies having members upto 200 are not required to transact any business through postal ballot



2. If a resolution is assented to by the requisite majority of share holders by means of postal ballot, it shall be deemed to have been duly passed at a General Meeting convened in that behalf
3. Procedure of Postal Ballot:-



### Step - 1

The Board shall appoint one scrutiner who is not in employment of the company

Scrutiner shall give his consent

### Step - 2

Notice + draft resolution + postal ballot form along with prepaid postage reply envelope addressed to scrutiner shall be sent in writing to every member by

- Registered post or speed post, or
- By courier, or
- Through electronic means like e-mail

For facilitating assent or dissent of shareholder to the resolution within 30 days from date of dispatch of notice

### Step - 3

Advertisement in English and Vernacular newspaper is given

+

Placed on the website till last date of receipt of postal ballots from members



#### Step - 4

Postal ballot received from members shall be kept in safe custody of scrutinizer until chairman approved and signs the minutes of meeting.

No person shall deface or destroy the the ballot paper



#### Step - 5

Scrutinizer shall submit his report within 7 days after the last date of receipt of postal ballots



#### Step - 6

Scrutinizer shall maintain a register either manually or electronically.

#### Step - 7

Assent or dissent received after 30 days shall be treated as if no reply is received from the member



#### Step - 8

The scrutinizer's report + results shall be declared by placing it on the website of the company



Sec 122  $\Rightarrow$  Applicability  
of this Chapter  $\Rightarrow$  OPC

OPC  ~~$\Rightarrow$  96X (AOM)~~  
 $\Rightarrow$  97(X) AOM  
 $\Rightarrow$  98(X) EGM  
 $\Rightarrow$  99(X) Penal  
 $\Rightarrow$  100(X) EGM

100X  
101X  
102X  
103X  
104X  
105  
..... 111X



## Section 122 : Applicability of this chapter to One Person Co.

Provision of sec 98 and 100 to 111 - not applicable to OPC

Member Resolution in OPC :

resolution is communicated by member to Co.

entered in minutes - book

signed and dated by member and

such date shall be deemed to be the date of meeting for all the purposes under this Act

↳ Board Resolution in case of 1 director

the resolution entered in minutes book and

signed and dated by such director and

such date = deemed to be the date of BoD meeting for all the purposes under this Act.



OPC

⇓

1 Mem ⇒ NO AGM  
NO EGM

→ Decision??

OPC

Min<sup>u</sup>  
Dir ⇒ 1

⇓  
No Board Meeting

Man<sup>u</sup>  
Dir ⇒ 15

⇓  
Board Meeting  
(10)



# LAWS KE GOD

CORPORATE AND OTHER LAWS

- **CA Inter : Ranked 23rd in India (1st in Maharashtra)**
- **CA Final : Ranked 25th in India**
- **Specialization: Expert in teaching law with basics and with variety of examples**
- **Professional Background: Former Grade A Officer at Indian Oil Corporation Limited, a prestigious Fortune 500 company.**
- **Teaching Impact: Empowering over 50,000 CA students with practical knowledge and success strategies**



**CA GURPREET SINGH**



Thank  
you