

BYE-LAWS AND RULES FOR CONDUCTING ELECTION OF VICE CHAIRPERSON OF CAPEXIL FOR THE YEAR 2023-24 & 2024-25 THROUGH EVOTING

In exercising of the powers conferred by Article 9 of Articles of Association of CAPEXIL hereby makes the following Bye-Laws and Rules to facilitate the nomination for the post of Vice Chairperson of the Council. In terms of Para 2.78 of the Handbook of Procedure (2023) 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, and as per the Companies Act, 2013 and the applicable Rules made thereunder, Electronic Voting would be mandatory for election to the posts of Vice Chairperson 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. "Auditors" means persons having requisite qualification and eligibility as prescribed under the Companies Act 2013 and includes any statutory modification or re-enactment thereof for the time being in force appointed, as such, for the time being by the Council;
- d. "Chairperson" means the Chairperson of the Committee and including Chairperson of the Committee as per the definition of the existing AoA of the Council;
- e. "Vice-Chairperson" means Vice-Chairperson of the Committee and including Vice-Chairperson of the Committee as per the definition of the existing AoA of the Council;
- f. "Executive Director" means the Executive Director of the Council and includes any officer of the Council performing the functions of Executive Director;
- g. "Secretary" means the Secretary by the Council and includes any officer of the Council performing secretariat functions;
- h. "Committee of Administration" or "Committee" means the Committee of Administration of the Council, constituted, as such, under Articles of Association of the Council.

- i. "Council" means CAPEXIL;
- j. "Extraordinary General Meeting" means an extraordinary general meeting of the members of the Council other than its Annual general meeting referred to in article 31.2;
- k. "General Meeting" means a general meeting of the members of the Council;
- l. "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;
- m. "Office" means the registered office for the time being of the Council;
- n. "Panel" means a panel of the Council (Specified under a group of products, under CAPEXIL) and constituted under Articles of association of the Council;
- o. "Prescribed" means prescribed by the Committee, by virtue of a power conferred by these articles;
- p. "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;
- q. "Regional Committee" means a Regional Committee constituted under the Articles of Association of the Council;
- r. "Regional Chairman" means a Regional Chairman holding office under the Articles of Association of the Council;
- s. "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;
- t. "MSME" means micro, small and medium enterprise as defined in the Micro, Small and Medium Enterprises Development Act, 2006 including its subsequent amendment, modification, re-enactment, or successor;
- u. "Election Authority" means any authority or person entrusted to conduct the election appointed either by the Committee of Administration of CAPEXIL or by the Government of India.
- v. "Ordinary Member" shall mean Ordinary Member of the Council as defined in article 3.3.
- w. "Year" means the financial year beginning with the 1st April and ending with the 31st March of the following year.
- x. "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."
- y. "Key No." for the purposes of the election shall mean the membership number of the Member displayed on CAPEXIL website against the names of the member in the "Electoral Roll".

z. "Electronic Agency" means the team/ agency appointed by the Council and duly approved and authorized by the Election Authority of the Council to conduct the Voting by Electronic Means under the Election Rules.

aa. "Email Password" – Email Password, which is generated by the member himself/herself to access his/her own e-mail from time to time. The member is responsible for maintaining the secrecy, security and confidentiality of this password.

bb. "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:

i) In terms of Clause no. 13 of Articles of Association of CAPEXIL read with Clause no. 11 and 12 of the Articles of Association of CAPEXIL,

(a) **Ordinary members shall have the right to vote.**

(b) **Associate members having completed 3 continuous years, and not fulfilling the eligibility criteria for Ordinary Member, however, having average exports of Rs. 2.5 Lakhs to their credit during the preceding three financial years, shall also have the right to vote and elect Vice Chairperson in the Council by participation in e-Voting provided that they have already paid their upto-date membership subscription by the 30th June, of the year for which it has become due and are continuing as members of the Council.**

Therefore, the due date would be 30st June, 2024 for payment of membership subscription for FY 2024-25.

ii) The eligibility of Ordinary / Associate Members is also subject to fulfilment of **Articles 3 and 4 of CAPEXIL.**

iii) Each Eligible Ordinary / Associate Member of the Council shall have only **one vote for every single representation/seat** for the respective Panels.

iv) An Ordinary / Associate member **has to furnish their export turnover of CAPEXIL's products for the immediately three preceding financial years including NIL exports (i.e. for the F.Y. 2021-22, 2022-23 & 2023-24) as well as self-certified payment particulars of membership subscription for the financial years 2022-23, 2023-24 and 2024-25 specifying Cheque/Draft No. /NEFT/RTGS/IMPS/Others, Date, Amount etc. within the stipulated time through ONLINE ONLY.** Kindly note that in the event of non-receipt of the aforesaid self-certified statement (as per ANNEX-1) & only on-line submission of Export Return for the immediately three preceding financial years (i.e. for the F.Y. 2021-22, 2022-23 & 2023-24), 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. **No earlier submission of ANNEX-1 to be referred for consideration.**

3. ELECTORAL ROLL:

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 all members through the Council’s Website and / or by sending communication to the e-mail ids’ available with the Council that such Lists of Voters have been prepared inter alia containing their respective mailing addresses and e-mail ids and the same will be available for inspection in the website and also at Head office of the Council. Only an Ordinary & Associate Member of the Council is entitled to vote subject to fulfilling the above conditions and no other category of members –Affiliate and / or Nominated member shall have any voting right for the purpose of election of Vice Chairperson.

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 4 (Four) days** from the date of the aforesaid notification made in the website of the Council, apply to the Election Authority/Competent Authority 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 Election Authority/Competent Authority will verify the reasons for such omission and would dispose of the application accordingly **within 2 (Two) days** from the date of receipt of such application.

If it is found that the omission is due to a change in the panel classification of the member from the Panel to which the member belonged to, then the matter along with the relevant documents submitted by the eligible member in question for this purpose, would be referred to the Competent Authority, which, in turn, would dispose of such application **within 2 (Two) days** from the last date of receiving such application. Upon such disposal, the Competent Authority shall intimate his decision to such concerned member and shall prepare the final Lists of Voters and notify the same on the Council’s website for information to the Voter Members. **Thereafter no request for changes in the electoral roll will be entertained.**

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 of Vice Chairperson. The Election Authority / Returning Officer have 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 16 and Article 24.2 of the Articles of Association of the Council.

6. CONDUCT OF ELECTION:

In the 36th Meeting of Committee of Administration (CoA) (2023-24) of CAPEXIL held on 20th March, 2024 in New Delhi, the Competent Authority has decided to conduct election for the post of Vice Chairperson

7. FILING OF NOMINATIONS FOR CONTESTING ELECTION FOR THE POST OF THE VICE- CHAIRPERSON 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-Chairperson. 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 / Courier 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 Chairperson of the Council (2023-24 & 2024-25) 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 Chairperson:** The candidate must satisfy the following conditions namely:

- 1) A candidate must be a member of CoA other than Chairperson, Co-opted member, Govt. nominee and be representative of an entity which is an **Ordinary Member** of the Council having **average exports of CAPEXIL's items (FOB value) not less than Rs.2.50 Crores to his or its credit during the two financial years immediately preceding the year for which the election is being held**, shall be eligible to contest for the post of Vice Chairperson of the Council provided such member appears in the Electoral Roll. For example, if the Election takes place for the year 2024- 25, the preceding years for this purpose will be Financial Year 2022–23 & 2023-24.
- 2) A certificate issued by a Chartered Accountant shall be required for the purposes of above paragraph.
- 3) The nominations shall strictly conform to the proforma prescribed by the Election Authority / Returning Officer.

(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 Scanned copy of duly filled-up in Nomination Form, (signed, stamped and completed in all respects) along with all the above requisite documents **must be forwarded to JDGFT official email ID within 8 (Eight) days** from the date of the Notice inviting Nomination. Nomination should also be attested by the banker of the Member-organization concerned along with Seal / Rubber Stamp of the Banker. However, nominee may submit Original Nomination form along with Annexures to the Office of the Additional JDGFT, Kolkata (Election Authority/Returning Officer) within aforesaid

stipulated time in case they have not submitted these documents via email.

(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 **6 (Six) days** from the date of aforesaid display of the list of valid nominations by the Election Authority/ Returning Officer as stated in point no 7 (iv) 2. Withdrawal of nominations by e-mail in JDGFT email ID under copy to vicepresident@capexil.in & secretary@capexil.in will 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.

8. NO CHANGE IN PANEL AND/ OR ADDRESS REGISTERED WITH COUNCIL DURING ELECTORAL PROCESS

No member shall be permitted to change their Panel and/ or their address registered with the Council for the purpose of membership after the publication of final electoral rolls and until the declaration of results of the elections.

9. 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, 2023, and as per the Companies Act, 2013 and the applicable Rules made thereunder, the Council's election process will be conducted in electronic format. 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 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 Chairperson 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 Chairperson 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 Chairperson. 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.
- (e) 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.

10.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.
