

capital stock, or of any increased capital stock of the company, to the shareholders of the company, the directors may count as shares issued and outstanding all the voting shares included in the offer to its shareholders.

(2) Subject to paragraph (a) of subsection (1), where an offer of voting shares of the original unsubscribed capital stock, or of any increased capital stock, of a constrained-share company is made to its shareholders, the directors may accept any subscription

- (a) if the terms of the offer contain provisions to the effect that in the case of a voting share offered to a shareholder who, at the time fixed for determining the shareholders to whom the offer is made, is not, to the knowledge of the directors, a member of the constrained-class, a subscription will not be accepted if the voting share is to be recorded in the name of a member of the constrained-class;
- (b) if the subscription is accompanied by a declaration by the subscriber stating that the person in whose name the voting share is to be recorded is not a member of the constrained-class; and
- (c) if, on the basis of such declaration, the acceptance of the subscription is not contrary to the terms of the offer.

4. Default in complying with section 2 or 3 of these provisions does not affect the validity of a transfer of a share of the constrained-share company that has been made or recorded in the register of the company or the validity of the acceptance of a subscription for a share of the company.

5. (1) Except as otherwise provided by section 7 of these provisions, where a person who is not a member of the constrained-class holds shares of a constrained-share company in the right of or for the use or benefit of a member of the constrained-class, such person shall not, in person or by proxy, exercise the voting rights pertaining to these shares.

(2) Except as otherwise provided by section 7 of these provisions, if the proportion of the shares of a constrained-share company held by or for a member of the constrained-class exceeds the net prescribed percentage for the company, no person shall, in person or by proxy, exercise the voting rights pertaining to any shares held in the name of the member of the constrained-class.

(3) Where it appears from the register of the company that the total par value of shares, or the total number of shares, of the company held by a shareholder is not more than the value or number specified for the purpose in the letters patent or supplementary letters patent by which the company became a constrained-share company, a person acting as proxy for the shareholder at a general meeting of the company is entitled to assume that the shareholder holds the shares in his own right and for his own use and benefit, unless the knowledge of the person acting as proxy is to the contrary.