

Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023

October 27, 2023

Disclaimer - This document is neither a legal interpretation nor a statement of the MCA Notification. All information is posted merely for educational and informational purposes. It is not intended as a substitute for professional advice. Should you decide to act upon any information in this document, you do so at your own risk.

BACKGROUND

On **October 27, 2023**, the Central Government hereby makes the following Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023 (hereinafter referred to as "new rule") further to amend **the Companies (Prospectus and Allotment of Securities) Rules, 2014**.

BRIEF

1 Compulsory conversion of share warrants not converted into shares for public companies:

- 1) Every public company which issued share warrants prior to commencement of the **Companies Act, 2013** and not converted into shares shall:-
 - Inform the **ROC** about the details of such share warrants in Form **PAS-7** within **3 months of this notification**.
 - Within **six months** of the commencement of this new rule, the share warrant bearer must surrender such warrants to the company and get the shares dematerialized in their account and for this purpose the company shall place a notice for the bearers of share warrants in **Form PAS-8 on the website of the company**, if any and shall also publish the same in a newspaper.
 - In case any bearer of share warrant does not surrender the share warrants within the period specified, the company shall convert such share warrants into dematerialized form and transfer the same to the **Investor Education and Protection Fund established under section 125 of the Act**

2**Dematerialized of securities by private companies**

- 1) **The rule 9B of new rule mandates** that private limited companies that are not small companies as per the financial year ended on **March 31, 2023, are required to get their securities dematerialized within 18 months** from the closure of the said financial year i.e., up to **September 30, 2024.**
- 2) Once the dematerialization process is complete all offers, and transfer of securities shall be done in dematerialized mode only. The company must facilitate the dematerialization of all its securities **in accordance with the provisions of the Depositories Act.**

Notes:-

- a. The provisions of dematerialization rule shall not apply in the case of a Government company
- b. Definition of Small Company
A small company is a company that is not classified as a public company and **must meet the following criteria:-**
 - **Paid-up Share Capital:** The paid-up share capital of the company should be equal to or **below Rs.4 crore**
 - **Turnover:** The company's turnover must be equal to or below **Rs. 40 crore**
- c. The concept of small companies does not apply to the following types of companies:-
 - Holding or Subsidiary Company
 - Companies Registered Under Section 8
 - Companies Governed by Special Acts

IMPACT

Requiring private companies to convert physical securities into Demat form is a big step towards modernization and transparency in India. Even though there might be some costs and changes associated at first, but this will bring better transparency, smoother share management, and stronger corporate governances

SOURCE : Gazette No CG-DL-E-28102023-249772