

PART : 2

SECRETARIAL PRACTICE

1

ISSUE OF SHARES

What will you learn in this chapter ?

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Introduction

A public company invites the general public to subscribe to its shares by an invitation through a prospectus. The Company also issues securities through private placement. In addition to this, shares are also issued by the company through Rights shares and Bonus shares. It is necessary for a company to fulfill the Provisions of Securities Contract (Regulation) Act, 1956, The Companies Act 2013 and guidelines issued by The Securities and Exchange Board of India (SEBI) under Securities and Exchange Board of India Act 1992 for public issue of shares and other securities in India. Thus, a public company raises share capital through - (1) Public Issue (2) Rights Issue (3) Bonus Issue and (4) Private Placement. Along with initial public offer, existing share holders can also offer part of their holdings to the general public through the prospectus by taking permission of the Board of Directors. This is called offer for sale. The prospectus is any kind of notice, circular, advertisement or any other document through which the company invites the public to subscribe to its securities.

The Company takes help of various intermediaries Like Lead Manager, Registrar and Transfer agent, Bankers to the issue, Underwriters, Depository, Credit Rating Agency, Stock Exchange etc. to

*** Changes made in companies Act, 2013, 15-5-2016 are included in this book.**

complete the entire process of a public issue. The company secretary initiates the process of issuing securities with the help of these intermediaries by fulfilling provision of prevailing laws. After obtaining sanction of prospectus from SEBI, the procedure of public issue can be divided into two parts :

(1) Procedure of share application and (2) Allotment of shares.

1.1 The Procedure for Share Application

The Procedure for share application can be divided into the following stages :

1.1.1 Opening of a Bank Account : Bankers to the issue are appointed by a company to make all transactions related to the issue of shares. The company can open a current account in any scheduled bank for making transactions regarding the issue of shares. For the purpose of public issue, the company opens a special bank account with the bankers to the issue which is known as Escrow Bank Account. This account is opened by presenting a copy of the resolution passed in the meeting of Board of Directors regarding opening of the account alongwith other documents. While opening this account company assures that the share application money will be deposited in this account and the total amount including share capital and premium (If shares are issued at a premium) will be transferred to the company's account, only after completion of the process for share allotment. This account is closed after the completion of the process for share allotment. As per latest guidelines of SEBI (01-01-2016), share application can be made only through ASBA (Application Supported by Blocked Amount). According to the ASBA procedure, the share application money is blocked by the bank where the applicant holds his account. The money remains blocked till the share allotment is done and the application money is transferred to the company's account. As soon as the allotment of shares is done, the amount of share allotted is transferred from the bank account of the applicant to the bank account of the company. Thus, the question of refunding, the application money on shares not allotted, does not arise.

1.1.2 Receiving Share Applications : Once the prospectus is sanctioned by SEBI, the company gives advertisement in newspapers and publically announces the period during which the public offer will remain open for public subscription. Generally this period is 3 to 5 days. All investors willing to apply for shares can obtain share application forms from share brokers, sub brokers, stock exchanges or banks recognised for the process of ASBA. Investor will deposit the duly filled in share application form alongwith all details, signature and copy of Permanent Account Number (PAN) to brokers, who manage to deposit the application forms to banks recognised for ASBA process so that the share application money can be blocked in the respective bank account of applicant. Applicants can directly approach banks recognised for ASBA process and deposit the share application for further process of blocking the application amount. No cheques are required for the process of ASBA. Under the ASBA process, it is compulsory to deposit the application form to any of the recognised branches of bank for ASBA process in which the applicant holds his bank account, because the bank requires to block the application money in the account. The process for allotment is carried out after verifying the specimen of signatures in bank account and demat account of applicant. After receiving the share applications and blocking the application money, the bank informs the same to Registrar of the Companies and only those applications, of which, the application amount is blocked are handed over to Lead manager of the company, by banks.

1.1.3 Classification of Share Applications : A statement of share application is prepared after receiving share applications. Applications with incomplete information are rejected. Applications qualifying for share allotment are classified into various categories of investors. As per SEBI guidelines, applicants are to be classified as (1) Retail Investors, (2) Non-Institutional High Networth Investors, (3) Institutional investors, (4) Employees of the Company (if shares are reserved for allotment to employees of the company.) As per SEBI guidelines, it is necessary to reserve 10 % of shares issued for retail investors.

Generally, a company discloses the reservation made for each class of investors for shares to be allotted, in its prospectus.

1.1.4 Share Application and Statement of Share Allotment : The number of applications received in each category is compared with number of shares to be allotted in their respective category. If the number of applications received in a category are more than the shares to be allotted then proportionate allotment is done. Allotment is finalised in consultation with the Company Secretary, Lead Manager to the issue and representatives of the recognised stock exchanges. A statement of allotment, containing details of the name of applicant to whom shares are allotted, number of shares allotted, demat account number, depository participant ID etc., is prepared. Depository and depository participants are informed about the shares allotted to respective applicants and shares allotted are credited to respective demat account of the applicant. The price of shares allotted is transferred from the amount blocked under ASBA to the Escrow Bank Account of the company. Applicants are informed about the shares allotted or not through SMS and email by the stock exchange and depository participant. The Company also informs about the allotment of shares to the Registrar of Companies and SEBI. The company is required to complete the entire process, from receiving share applications to allotment of shares and listing of shares on recognised stock exchange, within 15 days as per SEBI guidelines.

1.2 The Procedure of Share Allotment

1.2.1 Meaning of Share allotment : Allocation of shares issued among applications received from general public against shares offered for subscription and crediting the shares allotted to demat account of the respective applicant is called share allotment.

1.2.2 Procedure of Share Allotment : The Procedure for allotment of shares can be classified into the following stages :

(1) Receiving the share application and blocking the application amount in the bank account of the applicant by recognised bank branches for ASBA procedure and submitting the applications to syndicate members appointed by the company for the public issue.

(2) Uploading details of share applications received, like name of applicant, class of investor, number of shares applied for, bid amount or cut off price, application number, depository participant ID, demat account number, amount paid etc. by syndicate member on electronic bidding system of a recognised stock exchange.

(3) Details of applications received are sent by the syndicate member to the Registrar to the issue and recognised stock exchange.

(4) Applications received are classified into different categories of investors like Retail Investors, High Net Worth Investors, Institutional Investors and Employee of the company by the Registrar to the issue and a statement containing all details is prepared.

(5) Basis of allotment among applicants from various categories of investors is decided jointly by the Registrar to the issue, Lead manager, Syndicate member, Company Secretary and Board of Directors.

(6) Shares are allotted to various applicants on the basis of a predecided formula of the allotment.

(7) Statement of share allotment is prepared by the Registrar to the issue and sent to the recognised stock exchange, depository and SEBI.

(8) Shares are credited to demat account of applicants by depository and applicants are informed regarding shares allotted or not through SMS and e-mail by depository and recognised stock exchange. There after, lead manager takes further action to list the shares on recognised stock exchange.

1.3 Legal Restrictions and Provisions on Share Allotment

Certain restrictions are imposed on allotment of shares under The Companies Act, 2013 and guidelines issued by SEBI. Some of them are as under :

- (1) A company can not issue shares at a discount in a public issue.
- (2) A minimum of 10 % of shares issued, will be reserved for retail investors in a public issue.
- (3) All types of investors have to make applications through ASBA process only.
- (4) Entire process of public issue including opening of subscription, accepting applications, allotment of shares and listing of shares on recognised stock exchange is to be completed within 10 days. Thereafter trading of shares allotted will commence on a recognised stock exchange.
- (5) Demat account is compulsory for applying for shares and the shares will be credited into demat account of the applicant only.
- (6) Atleast 90 % of the shares issued which are not underwritten, must be subscribed. The company can not issue shares if applications received are less than 90 % of shares (minimum subscription) issued.
- (7) Company is required to issue shares through book building process if certain criteria laid down by SEBI are fulfilled by the company.
- (8) If shares are issued at fixed price; decided in advance, the company must get the prospectus sanctioned by SEBI and if shares are issued through book building process, the company must get the “Red Herring” prospectus sanctioned by SEBI.
- (9) A minimum of 5 % of the face value of a share or the amount decided by SEBI must be called up as share application money.
- (10) The company must enter into an agreement with a recognised stock exchange for the listing of shares.
- (11) The company must enter into an agreement with respective depository company to credit the shares allotted.
- (12) Minimum subscription and it's effect must be disclosed in the prospectus.
- (13) The company must have a minimum net worth as prescribed by SEBI, for making a public issue.
- (14) If promoters have also purchased shares in the public issue, they can not sell such shares for a certain of period as prescribed by SEBI. This period is known as “Lock-in-period.”

1.4 Irregular and Illegal Allotment of Shares

1.4.1 Meaning and Circumstances of Irregular Share Allotment :

Meaning : Irregular allotment of shares is when shares are allotted without fulfilling statutory provisions and restrictions.

A share allotment is known as irregular allotment under the following circumstances :

- (1) Shares are allotted without receiving minimum subscription.
- (2) A copy of prospectus is not filed with Registrar of Companies and SEBI.
- (3) The minimum 5 % of face value of share or the amount decided by SEBI is not received with application.

- (4) Escrow Bank account is not opened with a scheduled bank.
- (5) Listing agreement is not made with recognised stock exchange.
- (6) Agreement is not made with depository.
- (7) Shares are allotted without observing guidelines issued by SEBI and Provisions of Companies Act.
- (8) Information given in prospectus is misleading or incorrect.

1.4.2 Effect of Irregular Share Allotment : When allotment of shares is irregular, applicant can get the allotment cancelled at his option and can get the refund of the amount paid on shares. It is important to note that in case of irregular allotment, the applicant can get the allotment cancelled if any loss has been incurred by him due to this allotment. The time limit for the same is as under :

(1) Application for cancellation of share allotment can be made within two months of the first statutory meeting.

(2) Within two months of allotment of shares, if allotment was done after the first statutory meeting.

(3) A director is personally responsible to compensate the loss to the company or share holder if he willfully violates provisions of statutory allotment or allows others to violate them. The process of recovery of such a loss must be initiated within two years of allotment of shares.

1.4.3 Illegal Shares Allotment : Allotment of shares is considered illegal under the following circumstances :

(A) Share allotment is a contract between a share holder and the company. Such contract can be called a valid contract only, when all essential elements which are required for a valid contract are present. Any allotment made in absence of such elements is considered illegal.

Share allotment is considered illegal, from the beginning, if the following elements are absent :

- (1) **Offer :** The applicant who wants to become a share holder must have applied to the company for purchase of shares. Such application is called an offer.
- (2) **Acceptance of offer :** It is necessary that the company must accept the offer. When Directors pass a resolution for share allotment, the offer is said to be accepted by the company.
- (3) **Informing the Acceptance of Offer :** The company must inform shareholders about the acceptance of application. When an allotment letter is sent to the applicant by the company, it is said that acceptance of offer has been informed.
- (4) **Consideration :** Consideration is said to be paid when the amount specified against allotment is paid by the applicant.

(B) If shares are allotted against the provisions of Articles, the allotment is considered illegal.

(C) If shares are allotted by an individual director, it is said to be illegal. As per The Companies Act, shares can be allotted by Board of Directors only.

(D) If shares are allotted by violating essential provisions for listing of shares on stock exchange, the allotment is considered illegal.

Illegal share allotment is void from the beginning. No application is required to be made to consider it illegal. Share allotment is illegal when provisions under The Companies Act or other Acts have been violated.

1.4.4 Difference between Irregular and Illegal Allotment of Shares :

Sr. No.	Points	Irregular Share Allotment	Illegal Share Allotment
(1)	Meaning	Share allotment made by violating provisions of companies act regarding regular share allotment is called irregular share allotment.	Share allotment made by violating provisions of lawful contract under Indian Contract Act and Provisions of legal share allotment under companies act is called illegal share allotment.
(2)	Circumstances	Share allotment becomes irregular when allotment is made before registering prospectus, before receipt of minimum subscription and share allotment is made without receiving required application money on shares subscribed.	Share allotment is considered as illegal when offer is not made by an applicant, offer is not accepted, acceptance of offer is not informed by the company or there is absence of consideration.
(3)	Effect	Irregular allotment is voidable at the option of the shareholder and he is required to take certain steps within a time limit for the same.	The allottee of the shares is not required to take any step for cancellation of allotment because such allotment is void from the very beginning.
(4)	Effect on Membership	Membership ends by eliminating name of shareholder from the Register of Members if share allotment is considered void respect to irregular share allotment.	There is no question of cancellation of membership under illegal share allotment as membership has not been awarded.
(5)	Liability	Responsible officers of the company for irregular allotment are liable to compensate the loss occurred to the company and the share holders.	No such steps are required to be taken under illegal allotment of shares as there is no contract.

1.5 Renunciation of Share

A company can offer its existing shareholders additional shares called right shares. Renunciation is a process where an existing shareholder can give up, some or all shares, offered as Right Shares to him in favour of another person. The shareholder is expected to fill a form called the Letter of Renunciation for this. Companies make provisions for this in their Articles. A letter of Renunciation is enclosed with the allotment letter itself.

A letter of renunciation is divided into two parts :

(1) The first part is a letter of renunciation in which the original shareholder signs and states that he wants to renunciate some or all shares in favour of a certain persons.

(2) The second part is a request for allotment of shares. The person in whose favour shares are to be renunciated signs and requests the company to allot shares to him.

Company decides a time limit for sending the renunciation letter. If the letter is received from the original shareholders within the time limit decided by the company, the company makes appropriate notes in 'Statement of Application and Allotment' and when the list of membership is prepared the name of the other person is recorded as member.

1.6 Statement of Share Allotment

1.6.1 Meaning : Newly established companies invite the general public to subscribe to their shares, in a public issue through a prospectus. After receiving applications in response to this invitation, Board of Directors decide the basis of allotment of shares, according to prevailing rules and regulations and decides number of shares to be allotted to respective applicants. A statement, indicating number of shares allotted to each applicant, is called a share allotment statement. In such a statement, the name of applicant, address, number of shares applied for, number of shares allotted, demat account number, Depository ID, Permanent Account Number etc. are mentioned. Now a days such statements are prepared with the help of a computer software.

1.6.2 Duties of a Company Secretary with Respect to a Share Allotment : A company secretary is required to perform following duties in respect to share allotment, under the provisions of The Indian Contract Act and The Companies Act :

- (1) Opening an Escrow Bank Account with a scheduled bank by passing a resolution in the meeting of Board of Directors.
- (2) Drawing an agreement with a recognised stock exchange for the listing of shares.
- (3) Drawing an agreement with various intermediaries like Lead Manager, Registrar, Bankers to the issue, Depository, Brokers etc. for the public issue.
- (4) Fulfilling statutory provisions for withdrawal of share applications and closure of subscription list.
- (5) Preparing lists of applicants in different categories.
- (6) Arranging meetings of the Board of Directors for allotment of shares and preparing minutes of such meetings.
- (7) Informing applicants regarding share allotment (such information is given through SMS and e-mail in present times.)
- (8) Informing applicants regarding non-allotment of shares.
- (9) Filing the Share Allotment statement with Registrar of Companies.
- (10) Releasing payment of underwriting commissions, if underwriting agreement has been entered into.
- (11) Releasing payment of as agreed upon remuneration to Lead Manager, Depository, Brokers, Registrar to the issue etc.
- (12) Getting the shares listed on recognised stock exchanges after allotment.

1.7 Share Call

When a company issues shares, it may call the face value of the shares in instalments instead of a single payment of the total amount to be called, on application. Thus, call on shares means the amount payable for the shares called up by the company. When an person makes an application to purchase shares and pays the application money, he is responsible to pay the balance amount at the time of share allotment and on calls. Call on shares means the amount called up by the company from shareholders on shares not fully paid up.

It is the responsibility of shareholders to pay the amount of call on shares when called up by the company in accordance to the provisions of Articles. If such shares are on joint not individual name, the responsibility to pay the call is held jointly.

1.7.1 Provisions of The Companies Act regarding Share Call :

- (1) There should be a provision in the Articles of the company to make call on shares.

- (2) Call on the same class of shares must be uniform without any bias.
- (3) A resolution must be passed in the meetings of the Board of Directors before making a call.
- (4) Demand notice of share call must indicate the amount of call, time limit, place of payment of call, dates etc.
- (5) Share transfer and voting rights of the member can be suspended till the call money is paid.
- (6) Amount of call on shares received is deposited with a bank by opening a 'Share Call' account.
- (7) There should be an interval of atleast one month between the payment of two instalments.
- (8) The company can charge interest on call amount not received in prescribed time limit. However, Directors may waive such interest, partly or fully.

1.7.2 Procedure of Making Share Call : The Company can make call on shares by observing statutory provisions and provisions of Articles. For this purpose, the company is required to follow certain procedures, as under :

(1) Resolution Regarding Share call : A resolution for making calls is required to be passed in the meeting of Board of Directors. The resolution should contain information about amount of call per share and the last date of payment.

(2) Closure of Register of Members : The Register of Members and the Register of Share Transfer is kept closed for some days for the preparation of list of the members and for sending notice of call to shareholders. A notice should be given in newspapers 7 days before the closure of Register of Members and Register of Share Transfer.

(3) Preparation of List of Call on Shares : A call list is prepared after closing the Register of Members, which contains following details :

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|-----------------------------------------------|----------------------------------------|
| (a) Name and address of the member | (b) Number of shares |
| (c) Amount of call | (d) Amount of calls in advance, if any |
| (e) Amount payable by the member | |
| (f) Date by which the payment has to be made. | |

(4) Information to the Bank : Once the call list is ready, Secretary sends a copy of call list to the banker of the company. It is also intimated to the bank to collect the call money on behalf of the company and credit the same to the "Share call account".

(5) Sending Notice of Call : A letter informing the amount of call to be paid, is sent to every member by registered post after preparation of the list of call on shares. This letter is called notice for call. The notice must reach the member 14 days before the prescribed date of payment of call money.

(6) Payment of Call on Share : Shareholders pay the amount of call to the bank within 14 days of the receipt of notice of share call. Bank credits the call money received to the account of call on shares and retains the pay-in-slip and returns the notice and the receipt to the shareholder. Bank sends pay-in-slips to the company.

(7) Recording Call Money Received in Call List : The Secretary records the calls received in Register of Members on basis of pay-in-slips and prepares a list of calls not received. This list is then presented to the Board of Directors for further action.

1.7.3 Duties of the Secretary Regarding Share Call :

- (1) Verifying provisions in the articles of the company regarding making calls.
- (2) To get the resolution for making calls passed in the meeting of the Board of Directors.

- (3) Issuing notice in newspapers 7 days before closure of Register of Members and Register of Share Transfer before making calls.
- (4) Preparing list of the members whose calls are in arrears and sending notice to each such shareholder.
- (5) Opening a bank account for collecting amount of call on shares.
- (6) Making note of call money received in the Register of Members based on the pay in slips and preparing list of members from whom call money is not received and presenting the same before Board of Directors.

1.8 Share Forfeiture

Share on which call money is not received are forfeited by the company.

1.8.1 Meaning : Amount forfeited on shares on which call money not received is known as share forfeiture.

Definition : “Share forfeiture is the process by which the directors of a company cancel the membership of share holder and remove the name of share holder from the list of members on non receipt of call money as asked by the company in accordance with the statutory procedure laid down in the articles of the company.”

Share forfeiture is a disciplinary action taken by the directors against non payment. Articles of the company must authorise for forfeiture of shares.

1.8.2 Procedure of Share Forfeiture : Procedure of share forfeiture is given in the Articles of the company. The steps of the procedure are as under :

(1) Preparing List of Calls in Arrears : The Secretary prepares a list of calls on shares not paid by shareholders on the basis of pay in slips received from bank.

(2) Presenting List of Calls in Arrears before the Board of Directors : Once the list of calls in arrears is prepared, it is presented before the Board of Directors for further discussion and for taking decisions on share forfeiture.

(3) Sending Reminder to Members : Reminders are sent to those members who have not paid call money within the prescribed time limit and they are intimated to pay the amount of calls-in-arrears including interest within the time limit, now prescribed.

(4) Sending Final Reminder : If no response to first reminder is received, a final reminder is sent through registered post and such members are intimated to pay the due amount including interest within 14 days of receipt of the final reminder. They are also warned of forfeiture of shares on failure in paying the due amount.

(5) Resolution of Share Forfeiture : Shares of those members who do not pay the amount of call within 14 days are forfeited by passing a resolution in the meeting of Board of Directors.

(6) Sending notice of Share Forfeiture : The Secretary sends notices of share forfeiture on the basis of the resolution passed in the meeting of Board of Directors. A copy of resolution of share forfeiture is also enclosed the notice and members are intimated to surrender the share certificate to the company.

(7) Issuing Public Notice : The Secretary gives a public notice in the newspapers indicating serial numbers of shares forfeited so no transaction is carried out on such shares.

(8) Making Entries in the Register of Members : After giving a public notice, the secretary makes entries in the Register of Members regarding share forfeiture and names of members, whose shares are forfeited, are cancelled from the list.

1.8.3 Duties of the Secretary Regarding Share Forfeiture : Duties of the secretary regarding share forfeiture are as under :

- (1) Verifying provisions of Articles regarding share forfeiture.
- (2) Preparing list of members who have not paid call on shares.
- (3) Sending reminders to defaulter members as per resolution passed in the meeting of Board of Directors.
- (4) Sending final reminders to members who have not paid the calls in arrears even after sending the first reminder.
- (5) Holding meeting of the Board of Directors to pass a resolution of share forfeiture, on expiry of the time limit of the final reminder.
- (6) Sending notice to members regarding forfeiture of shares.
- (7) Giving notice in the newspaper regarding forfeiture of shares.
- (8) Making a note in the Register of Members cancelling the name of member.
- (9) Getting the resolution, regarding reissue of shares, passed in the meeting of board of directors and informing new shareholders regarding allotment of shares and entering their name in the Register of Members.

1.8.4 Effects of Share Forfeiture :

The effects of share forfeiture are as under :

- (1) Membership of the member comes to an end from the date of resolution of the share forfeiture.
- (2) Shareholder loses the amount, already paid, on the shares forfeited.
- (3) Shareholder also loses the right to receive dividend.
- (4) As soon as the shares are forfeited, the company becomes owner of the amount paid by shareholder on shares forfeited. The amount forfeited is credited by the company to a Forfeited Shares Account. After the reissue of shares, the Forfeited Shares Account is closed.
- (5) The company becomes owner of the shares forfeited and Board of Directors can deal with such shares as they deem fit.
- (6) On forfeiture of shares, share capital of the company is reduced and the company can reissue the shares forfeited.

1.9 Surrender of Share

Meaning : Surrender of share means, returning the share certificate to the company. This concept is applicable to physical certificates of shares only.

1.9.1 Circumstances of Share Surrender : Share certificates are returned to the company under following circumstances :

- (1) When share certificates are torn.
- (2) When share certificates become illegible.
- (3) When there is no space left to record an entry of share transfer.
- (4) When shares are to be consolidated.
- (5) When shares are to be subdivided.

1.10 Share Lien

Let us first understand the meaning of lien. When creditor receives the right to acquire possession of the property of the debtor and right to sell the same, in order to recover his dues, in case of the debtor failing to pay his liabilities, is called Lien.

Now let us understand the meaning of share lien.

As per the Companies Act, a company has a lien on only those shares issued, which are partly paid up for. By using a lien on share, a company can (1) restrict transfer of such shares, (2) restrict dividend, (3) restrict bonus shares, (4) restrict right to vote.

1.11 Share Dividend

A company pays tax at the end of the year out of profit earned for a year. The amount of profit left after the payment of tax is called divisible profit. A certain amount of the divisible profits is retained as a reserve by the company. The remaining profit is distributed among shareholders, and is called dividend. Thus dividend means, "The share of divisible profit distributed by the company among its shareholders on the basis of paid up share capital on shares held by them in form of cash or share or in any other form." Here it is important to note that as per the Indian Companies Act dividend can be paid only in cash. Dividend can be of two types : (i) Interim dividend and (ii) Final or Annual dividend. Interim dividend is paid semi-annually during the year. Final or annual dividend is paid at the end of the year, out of profit for the year. Dividend is paid to equity shareholders, as well as, to preference shareholders. Dividend paid on preference shares, at a fixed rate of dividend, before paying dividend on equity shares is called preference dividend. As per provisions of The Companies Act, preference shareholders have prior right over equity shareholders in terms of receiving dividend. Therefore preference dividend is paid first and then the Board of Directors recommends how much of the remaining divisible profit can be distributed as equity dividend. The equity dividend recommended by the Board of Directors is approved by shareholders in the Annual General Meeting of the company. After the approval of equity dividend in the Annual General Meeting of the company, it is paid within 60 days of such approval. Equity dividend is based on the profits of the company and need of funds for the company in future. The Board of Directors decides the rate of equity dividend by taking into consideration the need of funds for the company. Thus, it is not legally necessary for a company to declare and pay equity dividend every year and its rate may be changed year to year.

What you have learnt in this chapter

Procedure of Share Application and Share Allotment :

(1) Opening bank account (2) Receiving share applications (3) Classification of share application (4) Preparing share allotment statement

Share Allotment :

Meaning : Allocation of shares issued among share applications received and crediting the shares in demat account of applicants.

Legal Restrictions on Share Allotment :

(1) Shares can not be issued at a discount in a public issue. (2) Minimum 10 % reservation for retail investors in a public issue. (3) Share application is to be made through ASBA process only. (4) The procedure of receiving share applications, allotment of shares and listing of shares on recognised stock exchange is to be completed within 15 days. (5) Compulsory demat account required for share application. (6) 90 % of shares issued but not underwritten must be subscribed as a condition of minimum subscription. (7) For certain companies the process of book building is compulsory. (8) Prospectus is compulsory for fixed price while red-herring prospectus is compulsory for book building. (9) Minimum 5 % of face value of shares or the amount decided by SEBI must be called up with application. (10) Agreement with a recognised stock exchange. (11) Agreement with a depository. (12) Disclosure of minimum subscription in prospectus. (13) Minimum net worth necessary for public issue. (14) Share capital of promoters after the public issue must be minimum 20% of total paid up capital. (15) Shares purchased by promoters will remain in a lock in period for specified time.

Irregular Share Allotment

Meaning : When shares are allotted without fulfilling statutory provisions and restrictions, is called irregular allotment of shares.

Circumstances of Irregular Share Allotment :

(1) Allotment made without receiving minimum subscription. (2) A copy of prospectus is not filed with Registrar of Companies. (3) Minimum 5% of face value of share or the amount decided by SEBI is not received with application. (4) Escrow Bank Account is not opened with a scheduled bank. (5) Listing agreement is not made with recognised stock exchange. (6) Agreement is not made with depository. (7) Guidelines issued by SEBI and provisions of Companies Act are not observed. (8) Misleading or false information given in prospectus.

Effects of Irregular Allotment of Shares :

(1) Application for cancellation of share allotment within two months after holding of first statutory meeting. (2) Application for cancellation of share allotment within two months of allotment if first statutory meeting is held. (3) Director is personally responsible for the loss to shareholders arising due to irregular allotment.

Illegal Share Allotment

Meaning : Shares allotted in absence of essential elements of a contract is called as illegal share allotment.

Essential Elements : Proposal, Acceptance of proposal, Information of acceptance, Provision in Articles, share allotment by Board of Directors, Registration provisions

Difference between Irregular and Illegal Share Allotment :

(1) Meaning (2) Circumstances (3) Effects (4) Membership (5) Liability

Letter of Renunciation :

A letter of renunciation is presented to the company when a shareholder wants to renunciate some or all shares out of rights shares offered by the company to him in a rights issue.

Statement of Share Allotment Consists of Two Parts :

(1) Renunciation (2) Request for allotment of shares.

Statement of Share Allotment :

A statement of share allotted among share applications received in response to invitation made by the company to general public to subscribe to shares is known as share allotment statement.

Duties of Company Secretary Regarding Share Allotment :

(1) Opening Escrow Bank Account with a Scheduled bank. (2) Agreement with recognised stock exchange regarding listing of shares. (3) Agreement with various intermediaries. (4) Fulfilling statutory provisions for withdrawal of share applications and closure of subscription list. (5) Classification of share applicants. (6) Meeting of Board of Directors for allotment of shares. (7) Information to applicants regarding share allotment. (8) Information to applicants regarding non allotment of shares. (9) Filing share allotment statement with Registrar of Companies. (10) Payment of remuneration to underwriters. (11) Payment of remuneration to intermediaries. (12) Listing of shares on recognised stock exchange.

Call on Shares :

Amount called up by the company on partly paid up shares from share holders is called call on shares.

Provisions of the Companies Act Regarding Call on Shares :

- (1) Provisions in Articles (2) Making calls on justifiable and equitable basis.
- (3) Resolution in meeting of Board of Directors. (4) Details in demand notice of calls.
- (5) Restricting transfer of shares and voting right as a member till calls are not paid.
- (6) Depositing amount of call on shares received with a bank.

Procedure of Making Call on Shares :

- (1) Resolution for making call. (2) Closure of register of members. (3) Preparing list of calls to be made. (4) Informing the bank. (5) Sending notice of calls. (6) Payment of share calls. (7) Recording call money received in call list.

Duties of Secretary Regarding Call on Shares :

- (1) Verifying provisions in Articles. (2) Getting the resolution passed in the meeting of Board of Directors. (3) Issuing public notice regarding closure of Register of Members and Share Transfer Book. (4) Preparing list of members and giving notice for making calls. (5) Opening a bank account. (6) Making note of call money received in register of members. (7) To verify that amount of call does not exceed 25 % of face value of share.

Share Forfeiture :

Meaning : Share forfeiture is the process by which the directors of a company cancel the membership and the name of the shareholder from the list of members on non receipt of call money asked by the company to pay legally by observing statutory procedure laid down in Articles of the company.

Procedure of Share Forfeiture :

- (1) Preparing list of calls in arrears. (2) Presenting list of calls in arrears before Board of Directors. (3) Sending reminders to members. (4) Sending final reminders. (5) Resolution of share forfeiture. (6) Sending notice of share forfeiture. (7) Issuing public notice. (8) Entry in the Register of Members.

Duties of Secretary Regarding Share Forfeiture :

- (1) Verifying provisions in Articles. (2) Preparing list of calls-in-arrears. (3) Sending reminder notices to defaulting member. (4) Giving final notice. (5) Passing a resolution for share forfeiture. (6) Issuing notice of share forfeiture. (7) Giving public notice in newspaper. (8) Cancelling of name of member. (9) Preparing resolution of reissue of shares.

Effects of Share Forfeiture : (1) Compulsory end of membership. (2) Shareholder loses the amount paid. (3) Shareholder loses the right of dividend. (4) Ownership of amount forfeited lies with the company and forfeited shares account is closed after re-issue of shares forfeited. (5) Board of directors can deal with shares forfeited as they deem fit. (6) Share capital gets reduced. The company can re-issue the forfeited shares.

Share Surrender :

Meaning : Share surrender means returning share certificates to the company.

Circumstances of Share Surrender : (1) Share certificates are torn. (2) Share certificates become illegible. (3) There is no space left to record a share transfer entry. (4) Shares are to be consolidated. (5) Shares are to be subdivided.

Share Lien :

Meaning of Lien : When creditor receives right to acquire possession of property of the debtor and right to sell the same in order to recover his dues in case of the debtor fails to pay his liabilities to called as lien.

Meaning of Share Lien : By using lien on share a company can, (1) Restrict transfer of such shares. (2) Restrict dividend. (3) Restrict bonus shares. (4) Restrict right to vote.

Share Dividend :

The share of divisible profit distributed by the company among its shareholders on the basis of paid up share capital on shares held by them in the form of cash or kind is called as dividend. As per Indian Companies Act, 2013 dividend can be paid in cash only.

Types of Dividend :

(i) **Interim Dividend :** Interim dividend is paid during the year out of quarterly profit.

(ii) **Final Dividend :** The final dividend recommended by the Board of Directors is approved by shareholders in annual general meeting and it is paid within 60 days of the approval.

Exercise

1. Select the suitable option from the options given :

- (1) Which acts are required to be followed by a company, for issue of shares and other securities, in India ?
(A) Securities Contract Regulation Act 1956 (B) Companies Act 2013
(C) SEBI Act, 1992 (D) All of these
- (2) By which document can an invitation be made for public issue ?
(A) Memorandum of Association (B) Prospectus
(C) Articles of Association (D) Certificate of incorporation
- (3) Which allotment of share is void from the very beginning ?
(A) Irregular (B) Illegal (C) Before public issue (D) Private placement
- (4) Due to forfeiture of shares
(A) The company refunds the amount paid by the shareholder.
(B) The company does not refund the amount paid by the shareholder.
(C) Paid up share capital does not change.
(D) Authorised share capital reduces.
- (5) Minimum gap between two instalments should be
(A) 1 month (B) 2 months (C) 3 months (D) 4 months.
- (6) How is share application done in recent time ?
(A) By making application to SEBI (B) By depositing application and cheque
(C) By filling ASBA form and getting share application money blocked in the bank account of applicant.
(D) By making application to Registrar of Companies.
- (7) Right share means
(A) Shares to be allotted to employees (B) Shares to be allotted to promoters
(C) Shares to be allotted to existing shareholders
(D) Shares without consideration
- (8) What is returning of share certificates to the company by shareholder called ?
(A) Buy back of shares (B) Share surrender
(C) Share split (D) Offer for sale
- (9) Letter of renunciation is related to
(A) Share forfeiture (B) Resignation of promoters
(C) Rights share (D) Refund of share application money

2. Answer the following questions in one sentence only :

- (1) State the names of share issues.
- (2) A company takes help of which intermediaries for a public issue ?
- (3) What is offer for sale ?
- (4) What is letter of renunciation ?
- (5) What is share forfeiture ?
- (6) What is share surrender ?
- (7) What is lien on shares ?

3. Answer the following questions in short :

- (1) What is prospectus ?
- (2) What is irregular allotment of shares ?
- (3) What is illegal allotment of shares ?
- (4) State the effects of share forfeiture.
- (5) Explain, in brief, the process of share application by blocking share application amount in bank account of the applicant.
- (6) What are the reasons for share surrender ?
- (7) What is share dividend ?

4. Answer the following questions to the point :

- (1) How are share applications classified ?
- (2) State legal restrictions on allotment of shares.
- (3) Explain the effects of irregular allotment of shares.
- (4) State duties of a company secretary regarding share allotment.
- (5) State duties of the company secretary regarding share calls.
- (6) Explain the process of share forfeiture.
- (7) Under what circumstances can share allotment be considered irregular ?
- (8) Write a note on renunciation of right share.

5. Answer following questions, in detail :

- (1) Explain the process of share application.
- (2) Distinguish between irregular allotment of shares and illegal allotment of shares.
- (3) State various provisions regarding share calls.
- (4) Explain the process of making calls on shares.
- (5) Write a note on share dividend.

