



November 21, 2023

Dematerialization of Shares made mandatory for Private Companies

Background

- Earlier, the provisions related to the dematerialization of securities applied only to Listed Companies and Unlisted Public Companies. By introduction of new Rule 9B in the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023 (referred to as 'the Rules') these provisions have been extended to the private companies.
- It is now mandated that all private companies, except for 'small companies', must ensure that allotment, buy-back, or transfer of the company's securities are in dematerialized form after September 30, 2024.
- Dematerialisation of securities – Dematerialisation of shares is the process of converting paper form of shares into electronic share certificates. For this purpose, the company has to obtain ISIN (International Securities Identification Number) for its securities and the shareholders have to open demat account with a depository participant.

To whom these rules are not applicable

As mentioned above, this new requirement does not apply on 'small companies'. A small company is a private company which does not have paid-up share capital exceeding INR 40 million and whose turnover does not exceed INR 400 million as on March 31, 2023.

However, if the above-mentioned company is either a holding company or a subsidiary company or a company registered under section 8 (i.e., not for profit company), then it is not regarded as 'small company' and hence, falls under the requirement of dematerialisation of securities.

Timeline to comply with new rules

Every non-small private company has been given a time to comply with this new requirement of 18 months starting from the closure of the FY 2022-23 i.e., till September 30, 2024.

Further, the shareholders of such companies are also required to act for converting their physical shares into dematerialised form. After September 30, 2024, any person (shareholder) cannot subscribe to new securities or apply for transfer of existing securities in physical form.

Certain restrictions on companies unless existing securities converted into dematerialisation form

A company will not be allowed to make new offer for issue of securities or issue of bonus shares or right offer or buy-back of securities unless entire securities holding of promoters, directors, key managerial personnel converted to dematerialised form by September 30, 2024.

Compliance for companies for dematerialisation of securities

The following are the compliances which every non-small private company has to do on account of dematerialisation of securities:

1. International Security Identification Number (ISIN): Obtain an ISIN for its securities from National Securities Depository Limited (NSDL) or Central Depository Services Limited (CDSL) on or before September 30, 2024.
2. Dematerialization of securities: Facilitate dematerialization of existing securities.
3. Filing of PAS-6: File form PAS-6 with MCA within 60 days from the end of each half year i.e., within 60 days from 31st March and 30th September duly certified by a company secretary in practice or a chartered accountant in practice.
4. Issue / transfer of securities: Issue / transfer its securities only in dematerialized form after September 30, 2024.

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Contact us

GSAP & Associates LLP
H-59AB, Lower Ground Floor
Kalkaji, New Delhi 110019 India
info@gsapadvisors.com
+91 (11) 4056 0819
+91 (11) 4154 4443

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