

COMPANIES ACT, 2013

DIVIDEND



**THE INSTITUTE OF
Company Secretaries of India**
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

DIVIDEND

1. Meaning of Dividend

The term 'dividend' has been defined under Section 2(35) of the Companies Act, 2013. The term "Dividend" includes any interim dividend. It is an inclusive and not an exhaustive definition. According to the generally accepted definition, "dividend" means the profit of a company, which is not retained in the business and is distributed among the shareholders in proportion to the amount paid-up on the shares held by them.

Dividends are usually payable for a financial year after the final accounts are ready and the amount of distributable profits is available. Dividend for a financial year of the company (which is called 'final dividend') are payable only if it is declared by the company at its annual general meeting on the recommendation of the Board of directors. Sometimes dividends are also paid by the Board of directors between two annual general meetings without declaring them at an annual general meeting (which is called 'interim dividend').

The companies having licence under Section 8 of the Act are prohibited by their constitution from paying any dividend to its members. They apply the profits in promoting the objects of the company.

2. Dividend under the Companies Act, 2013

The Companies Act, 2013 lays down certain provisions for declaration of dividend, which are:

- (i) Section 51 permits companies to pay dividends proportionately, i.e. in proportion to the amount paid-up on each share when all shares are not uniformly paid up, i.e. pro rata. Pro rata means in proportion or proportionately, according to a certain rate. The Board of Directors of a company may decide to pay dividends on pro rata basis if all the equity shares of the company are not equally paid-

up. However, in the case of preference shares, dividend is always paid at a fixed rate.

The permission given by this section is, however, conditional upon the company's articles of association expressly authorising the company in this regard.

- (ii) Final Dividend is generally declared at an annual general meeting [Section 102(2)] at a rate not more than what is recommended by the directors in accordance with the articles of association of a company.
- (iii) An interim dividend is declared by the Board of directors at any time before the closure of financial year, whereas a final dividend is declared by the members of a company at its annual general meeting if and only if the same has been recommended by the Board of directors of the Company.
- (iv) In accordance with Section 134(3)(k), Board of directors must state in the Directors' Report the amount of dividend, if any, which it recommends to be paid.

The dividend recommended by the Board of directors in the Board's Report must be 'declared' at the annual general meeting of the company. This constitutes an item of ordinary business to be transacted at every annual general meeting. This does not apply to interim dividend.

- (iv) No dividend shall be declared or paid by a company for any financial year except out of the profits of the company for that year arrived at after providing for depreciation in accordance with section 123 (2) of the Act or out of profits of the company for any previous financial year/years arrived at after providing for depreciation in accordance with the provisions of above sub section and remaining undistributed or out of both or out of moneys provided by the Central Government or a State Government for payment of dividend in pursuance of a guarantee given by the concerned Government [Section 123(1)].
- (v) A company may before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company.
- (vi) If owing to inadequacy or absence of profits in any year, a company proposes to declare dividend out of the

accumulated profits earned by it in any previous financial years and transferred to reserves, such declaration of dividend shall not be made except in accordance with the Companies (Declaration and Payment of Dividend) Rules, 2014.

- (vii) Depreciation, as required under Section 123(1) of the Companies Act has to be provided in accordance with the provisions of Schedule II to the Act.
- (viii) A company which fails to comply with Section 73 and 74 of the Companies Act shall not declare any dividend on its equity shares till such default continues.
- (ix) The amount of dividend (final as well as interim) shall be deposited in a separate bank account within 5 days from the date of declaration. [Section 123(4)]
- (x) Dividend has to be paid within 30 days from the date of declaration.
- (xi) In case of listed companies, Section 24 of the Companies Act, 2013 confers on SEBI, the power of administration of the provisions pertaining to non-payment of dividend. In any other case, the powers remain vested in Central Government.
- (xii) If dividend has not been paid or claimed within the 30 days from the date of its declaration, the company is required to transfer the total amount of dividend which remains unpaid or unclaimed, to a special account to be opened by the company in a scheduled bank to be called "Unpaid Dividend Account". Such transfer shall be made within 7 days from the date of expiry of the said period of 30 days.
- (xiii) In accordance with Section 70, a company cannot buy its own shares if apart from other things provided in the section, it makes default in payment of dividend to any shareholder.
- (xiv) Any money transferred to the unpaid dividend account of a company in pursuance of section 124 which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company to the Investor Education and Protection Fund and the company shall file a statement in "Form DIV-5" to the Authority constituted under the Act to administer the fund and such authority shall issue a receipt to the company as evidence of such transfer. [Section 124(5)]

- (xv) Where a dividend has not been paid by the company within 30 days from the date of declaration, every director shall, if he is knowingly a party to the default, be punishable with imprisonment for a term which may extend to 2 years and shall also be liable to a fine of rupees 1000 for every day during which default continues and the company shall be liable to pay simple interest @ 18% per annum during the period for which such default continues. [Section 127]
- (xvi) If the company delays the transfer of the unpaid/unclaimed dividend amount to the unpaid dividend account, it shall pay interest @ 12% p.a. till it transfers the same and the interest accruing on such amount shall ensure to the benefit of the members of the company in proportion to the amount remaining unpaid to them. [Section 124(3)]
- (xvii) Any dividend payable in cash may be paid by cheque or warrant through post directed to the registered address of the shareholder who is entitled to the payment of the dividend or to his order or in any electronic mode sent to his banker. [Section 123(5)]

3. PROCEDURE FOR DECLARATION AND PAYMENT OF FINAL DIVIDEND

The following steps are required to be taken by a company in respect of declaration and payment of final dividend:

1. Issue notice for holding a meeting of the Board of directors of the company to consider the matter. The notice must be in accordance with Section 173 of the Companies Act. It must state time, date and venue of the meeting and details of the business to be transacted thereat and be sent to all the directors for the time being in India and to all other directors, at their usual address in India either by post or by hand delivery or by electronic means.
2. In case of listed companies, notify stock exchange(s) where the securities of the company are listed, at least 2 working days in advance of the date of the meeting of its Board of Directors at which the recommendation of final dividend is to be considered [Clause 19 of listing agreement] and will immediately after the meeting of its Board of Directors intimate declaration of dividend to the Stock Exchanges where the company is listed (within 15 minutes of the closure of the board meeting) by phone, fax, telegram, e-mail.

3. Hold Board meeting for the purpose of passing the following resolutions:
 - i. approving the annual accounts (balance sheet and profit and loss account of the company for the year ended);
 - ii. recommending the quantum of final dividend to be declared at the next annual general meeting and the source of funds for the payment thereof and amount to be transferred from the current profits to reserves as the board may deem appropriate.

(The Board may also carry forward any profits which it may consider necessary not to divide, without setting them aside as a reserve)
4. Fixing time, date and venue for holding the next annual general meeting of the company, *inter alia*, for declaration of dividend recommended by the Board;
5. Approving notice for the annual general meeting and authorising the company secretary or any other competent person if company does not have a company secretary to issue the notice of the AGM on behalf of the Board of directors of the company to all the members, directors and auditors of the company and other persons entitled to receive the same.
6. Determining the date of closure of the register of members and the share transfer register of the company as per requirements of Section 91 of the Companies Act, 2013 and the listing agreements (in the case of listed companies) signed by the company with the stock exchanges where the securities of the company are listed. In the case of listed companies, the date of commencement of closure of the transfer books should not be on a day following a holiday. The dates so fixed should also not clash with the clearance programme in the stock exchanges. It is advisable to consult in advance the regional stock exchange and then fix the dates for closure of books.
7. Ensure that the required percentage of profits as decided by the Board is transferred to company's reserves.
8. In case of listed company, publish notice of book closure in a newspaper circulating in the district in which the registered office of the company is situated at least seven days before the date of commencement of book closure. Further:
 - (i) To give notice of book closure to the stock exchange at least 7 working days or as many days as the stock exchange may prescribe, before the closure of transfer

books or record date, stating the dates of closure of its transfer books/record date.

- (ii) To send the copies of notice stating the date of closure of the register of transfers or record date, and specifying the purpose for which the register is closed or the record date is fixed, to other recognised stock exchanges.
 - (iii) Time gap between two book closures and record date would be at least 30 days (Clause 16 of Listing Agreement).
 - (iv) To declare and disclose the dividend on per share basis only.
[Clause 16, 20A of listing agreement read with Section 91 of Companies Act, 2013].
9. Close the register of members and the share transfer register of the company.
 10. The amount of dividend as recommended by the Board of directors shall be shown in the Directors' Report.
 11. Hold a Board/committee meeting for approving registration of transfer/ transmission of the shares of the company, which have been lodged with the company prior to the commencement of book closure. In compliance with the Board resolution, register transfer/transmission of shares lodged with the company prior to the date of commencement of the closure of the register of members and mail the share certificates to the transferees after endorsing the shares in their names.
 12. Hold the annual general meeting and pass an ordinary resolution declaring the payment of dividend to the shareholders of the company as per recommendation of the Board. The shareholders cannot declare the final dividend at a rate higher than the one recommended by the Board. However, they may declare the final dividend at a rate lower than the one recommended by the Board. The following should be noted in this regard:
 - (i) Once a company has declared a dividend for a financial year at an annual general meeting, it cannot declare further dividend at an extraordinary general meeting in relation to the same financial year; it is beyond the powers of the company to do so, although the

Companies Act does not prohibit the declaration of a dividend at a general meeting other than an annual general meeting.

- (ii) *Pro-rata* means in proportion or proportionately, according to a certain rate. It denotes a method of dividing something between a number of participants in proportion to some factor. The profits of a company are shared, *pro rata*, among the shareholders, *i.e.* in proportion to the number of shares each shareholder holds.
 - (iii) Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but if and so long as nothing is paid upon any of the shares in the company, dividends may be declared and paid according to the amounts of the shares [Table F, Article 83].
13. Prepare a statement of dividend in respect of each shareholder.
 14. Ensure that the dividend tax is paid to the tax authorities within the prescribed time.
 15. Open a separate bank account for making dividend payment and credit the said bank account with the total amount of dividend payable within five days of declaration of dividend.
 16. If the company is listed, then for payment of dividend it has to mandatorily use, either directly or through its Registrars to an Issue and Share Transfer Agents (RTI & STA), any Reserve Bank of India approved electronic mode of payment such as Electronic Clearing Services (ECS), National Electronic Fund Transfer (NEFT), etc.
 17. Make arrangements with the bank and in collaboration with other banks if required, for payment of the Dividend Warrants at par. Instructions to all the specified branches of the bank that dividend should be paid at par should be sent by the Bank.
 18. No RBI approval is required for payment of dividend to shareholders abroad, in case of investment made on repatriation basis.
 19. Where an instrument of transfer has been received by company prior to book closure but transfer of such shares has not been registered when the dividend warrants were

posted, then keep the amount of dividend in special A/c called "Unpaid Dividend Account" opened under section 124 unless the registered holder of these shares authorises company in writing to pay dividend to the transferee specified in the said instrument of transfer.

20. Dispatch dividend warrants within thirty days of the declaration of dividend. In case of joint shareholders, dispatch the dividend warrant to the first named shareholder.
21. Arrange for transfer of unpaid or unclaimed dividend to a special account named "Unpaid dividend Account" within 7 days after expiry of the period of 30 days of declaration of final dividend. (Section 124)
22. Identify the unclaimed amounts as referred to in sub-section (1) of section 124 of the Act and, separately furnish a statement and upload on company's own website or any other website as may be specified by the Government in such form as may be prescribed

The company shall prepare the above statement within a period of 90 days of making any transfer to unpaid dividend account.

23. Transfer unpaid dividend amount to Investor Education and Protection Fund (IEPF) after the expiry of seven years from the date of transfer to unpaid dividend A/c. The company while effecting credit to the Fund, should separately furnish a statement with the authority constituted to administer the fund in Form DIV-5 of Companies (Declaration and Payment of Dividend) Rules, 2014 and obtain a receipt from the authority as evidence of such transfer.
24. Company shall also transfer all the shares in the name of Investor Education and Protection Fund (IEPF) on which unpaid or unclaimed dividend has been already transferred to IEPF and any lawful claimant of those shares/dividend shall be entitled to claim the transfer of shares/dividend from IEPF in accordance with such rules, procedure and submission of documents as may be prescribed by the Central Government in this regard. [Section 124 (5)/(6) & Section 125(3)(a)]

5. PAYMENT OF DIVIDEND WITHOUT PROVIDING FOR DEPRECIATION

Section 123 (1)(a) of the Companies Act, 2013 provides that no dividend shall be declared or paid by a company for any financial year

except out of the profits of the company for that year or out of the profits of the company for any previous financial years arrived at after providing for depreciation in accordance with the provisions of Schedule II to the Act and remaining undistributed, or out of both.

Further, rule 3(5) of Companies (Declaration and Payment of Dividend) Rules, 2014 provides that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year are set off against profit of the company of the current year the loss or depreciation, whichever is less, in previous years is set off against the profit of the company for the year for which dividend is declared or paid.

6. DECLARATION OF DIVIDEND OUT OF COMPANY'S RESERVES

In the event of inadequacy or absence of profits in any year, a company may declare dividend out of surplus reserves subject to the fulfillment of the following conditions, namely:-

- a. The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by it in the three years immediately preceding that year. However, this condition shall not apply to a company, which has not declared any dividend in each of the three preceding financial year.
- b. The total amount to be drawn from such accumulated profits shall not exceed one-tenth of the paid-up share capital and free reserves as appearing in the latest audited financial statement.
- c. The amount so drawn shall first be utilised to set off the losses incurred in the financial year in which dividend is declared before any dividend in respect of equity shares is declared.
- d. The balance of reserves after such withdrawal shall not fall below 15% of its paid up share capital as appearing in the latest audited financial statement

The procedure is as follows:

- (1) Give notice as per Section 173 to all the directors of the company for holding a Board meeting. In the meeting, take decision to declare dividend out of company's reserves because of inadequacy or absence of profits and also fix the

date, time and place of the Annual General Meeting. Authorise the Company Secretary or any competent person if company does not have a company secretary to issue the notice of the AGM on behalf of the Board of directors of the company to all the members, directors and auditors of the company and other persons entitled to receive the same.

- (2) Ensure that the conditions prescribed under Companies (Declaration and Payment of Dividend) Rules, 2014 are complied with.

Rest of the procedural steps are same as in case of payment of final dividend.

INTERIM DIVIDEND

PROCEDURE FOR DECLARATION AND PAYMENT OF INTERIM DIVIDEND

1. Verify from company's Articles of Association that they authorise the directors to declare interim dividend; if not then alter the Articles of Association accordingly.
2. Issue notice for holding a meeting of the Board of directors of the company to consider the matter. The notice must be in accordance with Section 173 of the Companies Act. It must state time, date and venue of the meeting and details of the business to be transacted thereat and be sent to all the directors for the time being in India and to all other directors, at their usual address in India either by post or by hand delivery or by electronic means.
3. In case of listed companies, notify stock exchange(s) where the securities of the company are listed, at least 2 working days in advance of the date of the meeting of its Board of Directors at which the declaration of interim dividend is to be considered [Clause 19 of listing agreement] and will immediately after the meeting of its Board of Directors intimate declaration of dividend to the Stock Exchanges where the company is listed (within 15 minutes of the closure of the board meeting) by phone, fax, telegram, e-mail.
4. At the Board meeting, the Board of Directors considers in detail all the matters with regard to the declaration and payment of an interim dividend including:
 - (a) Before declaring an interim dividend, the directors must

satisfy themselves that the financial position of the company allows the payment of such a dividend out of profits available for distribution.

- (b) The Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared.
- (c) In case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years
- (d) The directors of a company may be held personally liable in the event of wrong declaration of an interim dividend. Therefore, it is prudent on the part of the directors to have a proforma profit and loss account and balance sheet of the company prepared upto the latest possible date of the financial year in respect of which interim dividend is proposed to be declared and provision must be made for all the working expenses and depreciation for the whole year.
- (e) The board should pass a suitable resolution for declaration and payment of interim dividend on equity shares of the company.
- (f) Authority for signing the dividend warrants and pass appropriate resolutions covering all these aspects of the matter.
- (g) Interim dividend on preference shares: Generally, dividend on preference shares is paid annually. However, the dividend at a fixed rate on the preference shares can be paid more than once during a year, in proportion to the period of completion of current financial period over the whole financial year, by declaring it as interim dividend, in the Board meeting by the Board of directors. A suitable resolution should be passed to the effect that the dividend will be paid to the registered preference share holders whose names appear in the register of preference

shareholders as on the date of commencement of closure of share transfer books.

5. In case of listed company, publish notice of book closure in a newspaper circulating in the district in which the registered office of the company is situated at least seven days before the date of commencement of book closure. Further:
 - (i) To give notice of book closure to the stock exchange at least 7 working days or as many days as the stock exchange may prescribe, before the closure of transfer books or record date, stating the dates of closure of its transfer books/record date.
 - (ii) To send the copies of notice stating the date of closure of the register of transfers or record date, and specifying the purpose for which the register is closed or the record date is fixed, to other recognised stock exchanges.
 - (iii) Time gap between two book closures and record date would be at least 30 days.
 - (iv) To declare and disclose the dividend on per share basis only.

[Clause 16, 20A of listing agreement read with Section 91 of Companies Act, 2013].
6. Close the register of members and the share transfer register of the company.
7. Hold a Board/committee meeting for approving registration of transfer/ transmission of the shares of the company, which have been lodged with the company prior to the commencement of book closure. In compliance with the Board resolution, register transfer/transmission of shares lodged with the company prior to the date of commencement of the closure of the register of members and mail the share certificates to the transferees after endorsing the shares in their names.
8. Round off the amount of interim dividend to the nearest rupee and where such amount contains part of a rupee consisting of paise then if such part is fifty paise or more, it should be increased to one rupee and if such part is less than fifty paise, it should be ignored.
9. Open the "Interim Dividend Account of Ltd." with the bank as resolved by the Board and deposit the amount of

dividend payable in the account within five days of declaration and give a copy of the Board resolution containing instructions regarding opening of the account and give the authority to Bank to honour the dividend warrants when presented.

If the company is listed, then for payment of dividend it has to mandatorily use, either directly or through its Registrars to an Issue and Share Transfer Agents (RTI & STA), any Reserve Bank of India approved electronic mode of payment such as Electronic Clearing Services (ECS), National Electronic Fund Transfer (NEFT), etc. In order to enable usage of electronic payment instruments, the company (or its Registrar & Share Transfer Agent) shall maintain requisite bank details of its investors as under-

- (a) For investors that hold securities in demat mode, company or its RTI & STA shall seek relevant bank details from the depositories.
 - (b) For investors that hold physical share / debenture certificates, company or its RTI & STA shall take necessary steps to maintain updated bank details of the investors at its end.
 - (c) In cases where either the bank details such as MICR (Magnetic Ink Character Recognition), IFSC (Indian Financial System Code), etc. that are required for making electronic payment are not available or the electronic payment instructions have failed or have been rejected by the bank, company or its RTI & STA may use physical payment instruments for making cash payments to the investors. Company shall mandatorily print the bank account details of the investors on such payment instruments.
 - (d) Depositories are directed to provide to companies (or to their RTI & STA) updated bank details of their investors. [Refer SEBI Circular No. CIR/MRD/DP/10/2013 dated March 21, 2013]
10. Make arrangements with the bank and in collaboration with other banks if required, for payment of the Dividend Warrants at par.
 11. Prepare a statement of dividend in respect of each shareholder containing the following details:
 - (a) Name and address of the shareholder with ledger folio No.

- (b) No. of shares held.
 - (c) Dividend payable.
12. Ensure that the dividend tax is paid to the tax authorities within the prescribed time.
 13. To have sufficient number of dividend warrants printed in consultation with the company's banker appointed for the purpose of dividend. To get approval of the RBI for printing the warrants with MICR facility. Get the dividend warrants filled in and signed by the persons authorised by the Board.
 14. No RBI approval is required for payment of dividend to shareholders abroad, in case of investment made on repatriation basis.
 15. Prepare two copies of the list of members with names and addresses only for mailing purposes – one to cut and paste on envelopes which could even be printed on self sticking labels and the other for securing receipt from the Post Office.
 16. Where an instrument of transfer has been received by company prior to book closure but transfer of such shares has not been registered when the dividend warrants were posted, then keep the amount of dividend in special A/c called "Unpaid Dividend Account" opened under section 124 unless the registered holder of these shares authorises company in writing to pay dividend to the transferee specified in the said instrument of transfer.
 17. Dispatch dividend warrants within thirty days of the declaration of dividend. In case of joint shareholders, dispatch the dividend warrant to the first named shareholder.
 18. Instructions to all the specified branches of the bank that dividend should be paid at par should be sent by the Bank.
 19. Publish a Company notice in a newspaper circulating in the district in which the registered office of the company is situated to the effect that dividend warrants have been posted and advising those members of the company who do not receive them within a period of fifteen days, to get in touch with the company for appropriate action (in the case of listed companies, as a good practice).
 20. Issue bank drafts and/or cheques to those members who inform that they received the dividend warrants after the

expiry of their currency period or their dividend warrants were lost in transit after satisfying that the same have not been encashed.

21. Arrange for transfer of unpaid or unclaimed dividend to a special account named "Unpaid dividend Account" within 7 days after expiry of the period of 30 days of declaration of final dividend. (Section 124)
22. Confirm the interim dividend in the next Annual General Meeting.
23. Identify the unclaimed amounts as referred to in sub-section (1) of section 124 of the Act and, separately furnish a statement and upload on company's own website or any other website as may be specified by the Government in such form as may be prescribed containing the following:
 - (a) the names and last known addresses of the persons entitled to receive the sum;
 - (b) the nature of amount;
 - (c) the amount to which each person is entitled;

The company shall prepare the above statement within a period of 90 days of making any transfer to unpaid dividend account.

24. Transfer unpaid dividend amount to Investor Education and Protection Fund (IEPF) after the expiry of seven years from the date of transfer to unpaid dividend A/c. The company while effecting credit to the Fund, should separately furnish a statement with the authority constituted to administer the fund in Form DIV-5 of Companies (Declaration and Payment of Dividend) Rules, 2014 and obtain a receipt from the authority as evidence of such transfer.
25. Company shall also transfer all the shares in the name of Investor Education and Protection Fund (IEPF) on which unpaid or unclaimed dividend has been already transferred to IEPF and any lawful claimant of those shares/dividend shall be entitled to claim the transfer of shares/dividend from IEPF in accordance with such rules, procedure and submission of documents as may be prescribed by the Central Government in this regard. [Section 124 (5)/(6) & Section 125(3)(a)]

PROCEDURE FOR TRANSFER OF UNPAID OR UNCLAIMED DIVIDEND TO THE INVESTOR EDUCATION AND PROTECTION FUND*

The following procedure should be followed by the company:

- (1) Section 124(5) of the Act, provides that any money transferred to the unpaid dividend account of a company which remains unpaid or unclaimed for a period of seven years from the date of such transfer is required to be transferred by the company alongwith interest accrued, if any, thereon to the Investor Education and Protection Fund (IEPF) established under Section 125.
- (2) The amount shall be remitted into the specified branches of State Bank of India or any other nationalized bank along with challan (in triplicate) within a period of 90 days of such amount becoming due to be credited to the IEPF. The Bank will return two copies duly stamped to the Company as token of having received the amount and the company shall file one such copy of challan to the authority.
- (3) The company shall send a statement of amount credited to Investor Education and Protection Fund in Form DIV 5 to the authority which administer the fund and the authority shall issue a receipt to the company as evidence of such transfer.
- (4) On receipt of this statement, the authority shall enter the details of such receipts in a register maintained by it in respect of each company every year and reconcile the amount.
- (5) The company shall keep a record consisting of names, last known addresses of the persons entitled to receive the same, the amount to which each person is entitled, folio number/ client ID, certificate number, beneficiary details etc. of the persons in respect of whom amount has been remain unpaid or unclaimed for 7 years and transferred to IEPF. Such record shall be maintained for a period of 8 years from the date of such transfer to IEPF and authority shall have the powers to inspect such records.

(* Based on Draft Rules)

PROCEDURE FOR TRANSFER OF SHARES IN RESPECT OF WHICH UNPAID OR UNCLAIMED DIVIDEND HAS BEEN TRANSFERRED TO IEPF*

Section 124 (6) provides that all shares in respect of which unpaid or unclaimed dividend has been transferred under sub-section (5) of

section 124 shall also be transferred by the company in the name of the IEPF. In case shares are held in electronic mode in any depository and the beneficial owner has encashed any dividend warrant during the last seven years, such shares shall not be required to be transferred to IEPF even though some dividend warrants may not have been encashed.

The following procedure is required to be followed in this regard:

- (1) The shares shall be credited to an IEPF Suspense Account (name of the company) with one of the Depository Participants as may be notified by the Fund within a period of thirty days of such shares becoming due to be transferred to the Fund. For the purposes of effecting transfer of such shares, the Board shall authorise the company secretary or any other person to sign the necessary documents. The company shall follow the procedure as stated below:
 - (a) For the purposes of effecting the transfer where the shares are dealt with in a depository:
 - (i) the company secretary or the person authorised by the Board shall sign on behalf of such shareholders, the delivery instruction slips of the depository participants where the shareholders had their accounts for transfer in favour of IEPF Suspense Account (name of the company).
 - (ii) On receipt of the delivery instruction slips, the depository shall effect the transfer of shares in favour of the Fund in its records.
 - (b) For the purposes of effecting the transfer where the shares are held in physical form:
 - (i) the company secretary or the person authorised by the Board shall make an application, on behalf of the concerned shareholders, to the company, for issue of duplicate share certificates.
 - (ii) on receipt of the application, a duplicate certificate for each such shareholder shall be issued and it shall be stated on the face of it and be recorded in the Register maintained for the purpose, that the duplicate certificate is "Issued in lieu of share certificate No..... for purpose of transfer to IEPF". Further, the word "duplicate" shall be stamped or

punched in bold letters across the face of the share certificate.

- (iii) Particulars of every share certificate issued as above shall be entered forthwith in a Register of Renewed and Duplicate Share Certificates maintained in the prescribed format.
 - (iv) After issue of duplicate share certificates, the company secretary or the person authorised by the Board, shall sign the necessary securities transfer form in prescribed form, for transferring the shares in favour of the Fund.
 - (v) On receipt of the duly filled transfer forms along with the duplicate share certificates, the Board or its committee shall approve the transfer and thereafter the transfer of shares shall be effected in favour of the Fund in the records of the company.
- (2) The company/depository, as the case may be, shall preserve copies of the depository instruction slips, transfer deeds and duplicate certificates for its records.
 - (3) While effecting such transfer, the company shall send a statement in prescribed form to the Authority.
 - (4) The voting rights on shares transferred to the Fund shall remain frozen until the rightful owner claims the shares.
 - (5) All benefits accruing on such shares e.g. bonus shares, split etc. shall also be credited to such IEPF suspense account (name of the company).
 - (6) The IEPF suspense account (name of the company) with depository participant, shall be maintained by the Fund, on behalf of the shareholders who are entitled for the shares and shares held in such account shall not be transferred or dealt with in any manner whatsoever except for the purposes of transferring the shares back to the claimant as and when he/she approaches the Fund. However in case the company is getting delisted IEPF shall surrender shares on behalf of the shareholders in accordance with the Securities and Exchange Board of India (Delisting of Equity Shares Regulations), 2009 and the proceeds realized shall be credited to the account of the shareholder.

- (7) Any further dividend received by IEPF on such shares shall be credited to respective accounts of the shareholders maintained by IEPF.

(* Based on Draft Rules)

9. CLAIMING OF UNCLAIMED/UNPAID DIVIDEND*

The claimant shall make an application in prescribed form under his own signature or through a person holding a valid power of attorney granted by him.

The application shall be accompanied by the following documents

- (i) Indemnity Bond in prescribed format (not required in case applicant is Central/State Government, a Government Company or a public financial institution within the meaning of Companies Act, 2013)
- (ii) Authority may on its satisfaction about the title to the money, allow the claim upto rupees 5000/- without Indemnity bond
- (iii) Documents in support of the claim i.e. dividend warrant/ letter issued by the company etc.
- (iv) A stamped advance receipt bearing the signature of claimant and two witnesses.
- (v) Proof of Identity & Proof of Address
- (vi) In case of deceased person, legal representative shall furnish a succession certificate/probate/letter of administration. If the securities have to be transmitted in the name of claimant, a certificate from the company may be furnished.

On receipt of application the authority shall verify and certify whether the claimant is entitled to the money claimed by him.

After certification of the title of the claimant to the amount claimed, the authority shall issue a payment order in prescribed form sanctioning the payment and issue and deliver the cheque in favour of the claimant.

(* Based on Draft Rules)

10. CLAIM FOR SHARES TRANSFERRED TO IEPF *

Section 124 provides that shares transferred in the name of Investor Education and Protection Fund (IEPF) can be claimed back by

the lawful claimant. Following is the procedure to claim back the shares transferred to IEPF:

- (i) Claimant should file its claim before the fund.
- (ii) The fund shall refer the claim to the respective company for verification of details of the claim including the Identity of claimant and verification of numbers of shares.
- (iii) After the verification, the fund shall either credit the shares which are lying with Depository Participant in IEPF suspense account to the demat account of the claimant to the extent of his entitlement and pay the unpaid dividend or in case of physical certificate, transfer the shares in favor of the claimant and pay the unpaid dividend.

(* Based on Draft Rules)

Secretarial Standard on Dividend (SS-3)

Declaration and distribution of dividends is a complicated task involving both financial and non-financial considerations. The Secretarial Standard lays down a set of principles in relation to the declaration and payment of dividend, interim dividend, treatment of unpaid dividend, revocation of dividend as well as the preservation of dividend warrants, maintenance of dividend registers, disclosure requirements and matters incidental thereto. The Standard, by stipulating requirements in regard to all allied and significant matters such as intimation to members before transferring unpaid dividend to Investor Education and Protection Fund, preservation of dividend registers, validity of dividend warrants etc. attempts to give the right direction to the corporate sector, promote uniformity of practices and ensure effective corporate governance.

The salient features of this standard are:

- Dividend can be declared out of free reserves and surplus in the profit and loss account of the company.

However, dividend should not be declared out of the Securities Premium Account or the Capital Redemption Reserve Account or Revaluation Reserve or Amalgamation Reserve or out of profit on reissue of forfeited shares or out of profit earned prior to the incorporation of the company.

- Interim Dividend may be declared after the Board has considered the Interim financial statements for the period for which Interim Dividend is to be declared.

- Interim Dividend should not be declared out of reserves.
- In case a company has issued equity shares with differential rights as to Dividend, Interim Dividend (if so decided by Board) may be declared on all or anyone or more of the classes of such shares.
- If preference shares have not been redeemed, then no Dividend should be declared until such preference shares are redeemed.
- Preference shareholders should be paid dividend before dividend is paid to equity shareholders of the company. However, in the case of Interim Dividend, while preference shareholders need not necessarily be paid dividend before interim dividend is paid to equity shareholders, the Board should set aside such sum as would be necessary to pay dividend to preference shareholders at the contracted rate.
- Arrears of dividend on cumulative preference shares should be paid before paying any dividend.
- Dividend should not be declared on equity shares for previous years in respect of which annual accounts have been adopted at the respective Annual General Meeting.
- Dividend may be paid by cash, cheque, warrant, demand draft, pay order or directly through ECS but not in kind.
- Initial validity of Dividend warrant is for three months. The Duplicate dividend warrant should be issued only after expiry of the validity of the Dividend warrant and the reconciliation of the paid amounts thereof.
- Calls in arrears and any other sum due from a member may be adjusted against Dividend payable to the member.
- Dividend, whether interim or final, once declared becomes a debt and should not be revoked.
- Unpaid/Unclaimed Dividend should be transferred to the Investor Education and Protection Fund on expiry of seven years from the date on which such Dividends were transferred to Unpaid Dividend Account.
- Any interest earned on Unpaid Dividend Account should also be transferred to Investor Education and Protection Fund.
- Paid Dividend warrant instruments returned by the Bank

and Dividend Registers should be preserved for a period of eight years.

- The Balance Sheet, Annual Report and Annual Return of the company should make separate disclosures of the amount of Dividend lying in the unpaid or unclaimed Dividend account for seven years. Annual Return and Annual Report should also disclose the amount transferred to Investor Education and Protection Fund.
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