



06 March, 2017

Issue 82

The Companies Act, 2013 has provided various new definitions and new provisions which did not exist in the erstwhile Companies Act, 1956. Such new concepts have been introduced in view of the global corporate governance trends and to make the Companies accountable for their stakeholders.

InSync in this edition aims at explaining the latest rules and notifications issued by the MCA, SEBI and RBI.

Latest Investor Education and Protection Fund Rules

The Ministry of Corporate Affairs has issued the latest Investor Education and Protection Fund ("IEPF") rules vide its notification dated 28.02.2017. These rules will come into force from the date of the notification itself.

Key Points

1. These rules have introduced the definition of the term "*Corporate Action*". Corporate Action means any action taken by the Company relating to transfer of shares and all the benefits accruing on such shares namely, bonus shares, split, consolidation, fraction shares etc. except right issue to the Authority.
2. These rules have provided with the manner of transfer of such shares in respect of which dividend has not been paid or claimed for seven consecutive years or more to the IEPF.
3. To transfer the aforementioned shares, the company shall inform the shareholder concerned (at the latest available address) regarding transfer of shares three months prior to the due date of transfer of shares and simultaneously publish a notice in the leading newspaper in English and regional language having wide circulation informing the concerned about the transfer of shares.

These IEPF rules come into force from 28.02.2017

If the beneficial owner has encashed any dividend warrant in the last 7 years, then such shares shall not be transferred to IEPF

The Companies shall make such transfers through Corporate Action and preserve copies for records

The Claimant shall file only one consolidated claim in respect of a Company in a financial year.

4. An application received for refund of any claim shall be disposed off by the authority within sixty days, subject to verification by the concerned company.

5. In case, the claimant is a legal heir or successor or administrator or nominee of the registered shareholder, he has to ensure that the transmission process is completed by the company before filing any claim with the authority.

Conclusion

These rules have been introduced in the wake of the growing anxiety between such investors regarding the transfer of shares to the IEPF. With the latest rules coming into force already, it is more than just a welcome move as the air is finally clear regarding the ambiguity which surrounded the Investor Education and Protection fund.

The FPIs now have an option of investing in the unlisted securities market

SEBI and RBI have both provided their nod to such investments, although a formal notification from SEBI in this regard is awaited

Investment by FPIs in securitised debt instruments is not subject to the minimum 3 year residual maturity requirement

the combined total investment by FPIs in

All is Merry for Foreign Portfolio Investors

The Foreign Portfolio Investors ("FPIs") has received the green signal from the highest authorities to explore Uncharted Territories Of Unlisted Debentures & Securitised Debt Instruments. The Reserve Bank of India ("RBI") vide a circular dated 17 November 2016, amended Schedule 5 of the FEMA (Transfer or Issue of Security by a Person Resident outside India) Regulations 2000 (RBI Amendment), permitting foreign portfolio investors (FPIs) to invest in unlisted non-convertible debentures / bonds and securitised debt instruments.

Falling in line with the RBI, Securities Exchange Board of India ("SEBI") in its board meeting held on 23 November 2016 approved the amendments to the Foreign Portfolio Regulations, 2014 (FPI Regulations) permitting FPI investment in unlisted debt securities. although, a formal nod to these regulations is awaited.

Before this notification, FPIs were not permitted to invest in the unlisted securities market. Earlier Companies only in the infrastructure sector were allowed to make such

**both unlisted
corporate debt
securities and
securitised debt shall
not exceed INR
35,000 crore**

investments.

With the amendment to this regime, the issuance of debentures to FPIs is likely to become cheaper, faster and even more attractive than before. According to these rules, the combined total investment by FPIs in both unlisted corporate debt securities and securitised debt instruments shall not exceed INR 35,000 crore within the extant limits prescribed for investment in corporate bonds by FPIs. This limit is currently INR 2,44,323 crore.

Conclusion

These amendments are bound to encourage more foreign investments into the Indian Companies and infuse more funds into the country without going through the hassle of becoming a listed company and obtaining a rating. Further, the relaxation allowing investment in securitised debt instruments will provide a boost to the distress space and ease some strain on the banking system with foreign investments now an option

For any clarification or delineation, feel free to contact us.



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AMC Law Firm, Advocates & Solicitors
B-30, LGF, Lajpat Nagar 3, New Delhi - 110024 India
Phones: 91-11-41354354, 41078082
Fax : 91-11-29841673
E-mail: info@amclawfirm.com

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