

Dematerialization of Securities of Private Companies

The Ministry of Corporate Affairs has notified the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023 with effect from October 27th 2023.

According to the new amendment, every private company which as on last day of a financial year, ending on or after March 31st, 2023, is not a small company as per audited financial statements for such financial year, shall, within 18 months of closure of such financial year, shall:

- facilitate dematerialisation of all its securities
- issue the securities only in dematerialised form

Every private company making any offer for issue of any securities or buyback of securities or issue of bonus shares or rights offer, after the date when it is required to comply with this rule, shall ensure that before making such offer, entire holding of securities of its promoters, directors, key managerial personnel has been dematerialised in accordance with the provisions of the Depositories Act, 1996 (22 of 1996) and regulations made thereunder.

Every security holders of the private company:

(a) who intends to transfer such securities on or after the date when the company is required to comply with this rule, shall get such securities dematerialised before the transfer; or

(b) who subscribes to any securities of the concerned private company whether by way of private placement or bonus shares or rights offer on or after the date when the company is required to comply with this rule shall ensure that all his securities are held in dematerialised form before such subscription.

The private companies will have to file form PAS 6 with the Registrar of Companies within 60 days from the conclusion of each half year providing the details of each securities.

The above provisions are not applicable to small companies.

Small Company means a company which is not a holding company or a subsidiary company and the paid-up capital and turnover of the small company shall not exceed INR 4 Crores and INR 40 Crores, respectively. If in any financial year, the said limit exceeds, then such companies shall comply with the above provisions within 18 months.