

# Investor protection - Corporate action in IEPF Authority Amendment Rules, 2017

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In the Companies Act, 2013 (“the Act”), one of the major initiatives towards investor protection was “to transfer all shares in respect of which dividend has not been paid or claimed for seven consecutive years or more by the Companies in the name of Investor Education and Protection Fund (“IEPF”)”. However in case any dividend is paid or claimed for any year during the said period of seven consecutive years, the shares shall not be transferred to IEPF.



## **II. IEPF Authority**

The Ministry of Corporate Affairs (MCA), in order to facilitate the transfer of shares as discussed above, issued Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016 (“Rules”) which became effective from 7<sup>th</sup> September, 2016. The manner of transfer of shares pertaining to the unpaid or unclaimed dividend has been provided in the said Rules. Accordingly, the shares were to be credited to an IEPF suspense account (on the name of the company) with one of the depository participants as may be identified by the Authority within a period of thirty days of such shares becoming due to be transferred to the Fund. The term “Authority”, as defined in the Rules, means the Investor Education and Protection Fund Authority constituted under sub section 5 of section 125 of the Act.

## **III. Transfer procedure**

The Rules further elaborated several other procedures to be considered by companies for the transfer of shares pertaining to unpaid or unclaimed shares. There was no clarity on several issues relating to transfer of such shares, and representations were made by the corporate sector to the MCA for clarification. MCA did look into all such doubts and confusions raised by the corporate sector and also responded favourably. MCA issued a clarification circular in December 2016 stating that all the matters, including simplification of transfer process and extension of due date for such transfer are under consideration and the rules are likely to be revised. Therefore, companies were at ease from transfer of such shares to the IEPF.

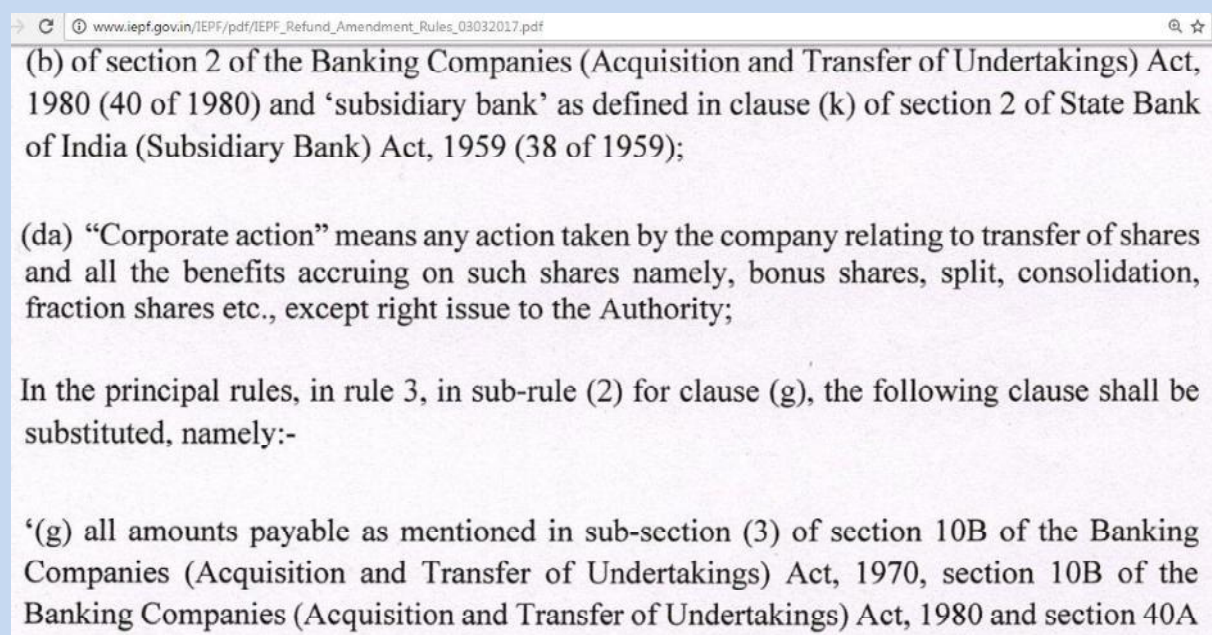
#### IV. Corporate action

MCA has now amended the earlier rules and issued Amendment Rules, 2017 which are effective from 28<sup>th</sup> February, 2017. One new definition “corporate action” has been inserted. “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”. The amended rules provide that, 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 for complying with transfer of such shares to IEPF Authority. Shares are held by shareholders as physical share certificate or in electronic form in their demat accounts; accordingly, the company secretary shall take necessary steps to transfer all such shares to IEPF Authority.

a) Where the shares are held with a depository, the company shall inform the depository by way of corporate action, where the shareholders have their accounts for transfer in favour of the Authority;

b) Where the shares are held in physical form, the company shall follow the procedures laid down for issue of duplicate share certificate in lieu of such shares for transfer and, thereafter, shall inform the depository by way of corporate action to convert the duplicate share certificates into demat form and transfer in favour of the Authority.

Here, the catch is that a duplicate share certificate is issued in lieu of the earlier share certificate bearing the original share certificate number and yet the same is in physical form. There being no depository for the



www.iepf.gov.in/IEPF/pdf/IEPF\_Refund\_Amendment\_Rules\_03032017.pdf

(b) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) and ‘subsidiary bank’ as defined in clause (k) of section 2 of State Bank of India (Subsidiary Bank) Act, 1959 (38 of 1959);

(da) “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;

In the principal rules, in rule 3, in sub-rule (2) for clause (g), the following clause shall be substituted, namely:-

‘(g) all amounts payable as mentioned in sub-section (3) of section 10B of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, section 10B of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 and section 40A

shareholders, the company shall ask its Registrar and Share Transfer Agent to cancel the duplicate share certificate and to transfer the said shares in demat form to the Authority.

The voting rights on the shares transferred to the Authority shall be frozen. However, for the ratio calculations pertaining to SEBI (SAST) Regulations, 2011, the said shares would be counted. Whenever, a company comes out with corporate action such as issue of bonus shares, split, consolidation and fraction of shares, such number of shares which are due on the transferred shares shall also be transferred to the Authority.

The company shall maintain the details of shareholding of each individual shareholders whose shares have been credited to the demat account of the authority.

## **V. Conclusion**

The amended rules do provide certain clarity on transfer of shares pertaining to unpaid or unclaimed dividend to IEPF Authority. It has also clarified the situation of company getting delisted or being wound up and surrender of such shares and credit any amount realised to the IEPF. The transferee company at the time of issue of shares for exchange needs to apply its mind on the ways for its corporate action. It is also for the Authority to apply its mind whenever a corporate action is initiated for buyback of shares.

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