

Draft Rules under Companies Act, 2013

CHAPTER VIII

DECLARATION AND PAYMENT OF DIVIDEND

Declaration of dividend out of reserves.

8.1 For the purposes of second proviso to sub-section (1) of section 123, a company may declare dividend out of the accumulated profits earned by it in previous years and transferred by it to the reserves, in the event of inadequacy or absence of profits in any year, subject to the fulfillment of the following conditions :

- (1) 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;
- (2) The total amount to be drawn from such accumulated profits shall not exceed an amount equal to one-tenth of the sum of its paid-up share capital and free reserves;
- (3) The amount so drawn shall first be utilized to set off the losses incurred in the financial year before any dividend in respect of preference or equity shares is declared;
- (4) The balance of reserves after such withdrawal shall not fall below fifteen per cent of its paid up share capital.

8.2 No company shall declare dividend unless 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.

Statement of persons whose dividend is unpaid or unclaimed.

8.3 (1) For the purposes of sub-section (2) of section 124, where a company has transferred the amount of dividend remaining unpaid or unclaimed to Unpaid Dividend Account, it shall, within a period of ninety days of making such transfer, prepare and place on its website and on any other website approved by the Central Government in pdf format, a statement in Form No.8.1, in respect of such unpaid or unclaimed amount of dividend:

Provided that such a statement shall appear on the website in a prominent manner and shall be:

- (a) accessible free of charge; and
- (b) readable and made convenient for printing

Provided further that if such statement requires any particular version of software for accessing such statement, a facility to download the relevant version of the software shall be provided free of cost together with such statement, along with instructions for downloading such software and contact details of a responsible official of the company who can help to open, read and print the statement.

- (2) Proper search facility shall, by name, be provided on the website to search the entries from the above stated statement.
- (3) Such statements shall appear year-wise and, where dividend has been declared more than once in a financial year, for each declaration of dividend, on the website of the company or on any other website approved by the Central Government until the amount is transferred to the Fund established under sub-section (1) of section 125.

Statement to be furnished to the Fund.

- 8.4.** (1) For the purposes of sub-section (5) of section 124, any money transferred to the Unpaid Dividend Account by a company in pursuance of sub-section (1) of section 124 which remains unpaid or unclaimed for a period of seven years from the date of such transfer and interest accrued, if any, thereon, shall be transferred to the Fund established under sub-section (1) of section 125.
- (2) Any amount required to be credited by the company to the Fund under sub-rule (1), shall be remitted into the specified branches of State Bank of India or any other nationalized bank through which the amount can be credited to the Fund, within a period of thirty days of such amount becoming due to be credited to the Fund:
- Provided that** such amount shall be tendered by the company in such branches of State Bank of India or other nationalized bank along with a Challan (in triplicate) and

the Bank shall return to the company two copies of the Challan duly stamped as an acknowledgement of having received the amount:

Provided further that one copy of such duly stamped Challan evidencing deposit of the amount into the Fund shall be filed by the company with the Authority constituted in pursuance of sub-section (5) of section 125. The company shall fill in the full particulars of the amount tendered including the head of Account to which it has been credited.

Provided also that the Central Government may permit remittance of the amount in electronic mode.

- (3) The company shall, along with the copy of the Challan as required in second proviso to sub-rule (2), furnish a statement in Form No. 8.2 containing details of such transfer to the Authority duly certified by a company secretary in practice or a chartered accountant or cost accountant :
- (4)(a) On receipt of this statement, the Authority shall enter the details of such receipt in a register maintained by it in respect of each company every year and reconcile the amount so remitted and collected, with the concerned designated bank on monthly basis.
- (b) Each designated bank shall furnish an abstract of such receipts during the month to the Authority within seven days after the close of every month.

(c) The company shall keep a record consisting of name, last known address, amount, folio number/client ID, certificate number, beneficiary details etc. of the persons in respect of whom unpaid or unclaimed amount has remained unpaid or unclaimed for a period of seven years and has been transferred to the Fund, for a period of eight years from the date of such transfer to the said Fund and the Authority shall have the powers to inspect such records.

(5) The provisions of this rule shall be applicable *mutatis mutandis* in respect of the amounts to be credited to the Fund in pursuance of clauses (h) to (m) of sub-section (2) of section 125.

Manner of transfer of shares in respect of which unpaid or unclaimed dividend has been transferred under sub-section (6) of section 124

8.5(1) For the purposes of sub-section (6) of section 124, 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 Fund established under sub-section (1) of section 125 by following the procedure as given in the following rules. 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 Investor Education and Protection

Fund even though some dividend warrants may not have been encashed.

(2) 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 Form No. 4.3 pursuant to rule 4.3(3).
- (iv) After issue of duplicate share certificates, the company secretary or the person authorised by the Board, shall sign the necessary securities transfer Form No. 4.7, pursuant to section 56(1) & rule 4.9(1), 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.

(3) The company/depository, as the case may be, shall preserve copies of the depository instruction slips, transfer deeds and duplicate certificates for its records.

(4) While effecting such transfer, the company shall send a statement to the Fund in form 8.3 containing details of such transfer duly certified by a company secretary in practice or a chartered accountant or a cost accountant.

(5) The voting rights on shares transferred to the Fund shall remain frozen until the rightful owner claims the shares.

(6) 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).

(7) 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.

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

(9) As and when a claimant approaches the Fund, the Fund shall refer to the respective company for verification of the details of the claimant against the details of shares. After proper verification of the claim and identity of the claimant by the company, the Fund shall either credit the shares which are lying with depository participant in IEPF suspense account (name of the company) to the demat account of the claimant to the extent of the claimant's entitlement and pay the unpaid dividends or in case of the physical certificates, cancel the duplicate certificate and transfer the shares in favour of the claimant and pay the unpaid dividends .

(10) For the purposes of rule 8.9, the company shall *inter alia* verify the following documents of the claimants:

(i) Documents for identification (Any two of the following):

- Income-tax permanent account number
- Voter's identity card number
- Passport number
- Driving License
- Unique Identification Number (UIN)

(ii) Documents for verification of number of shares:

- Folio number/Client ID

Power to direct payment of amount due to the Fund.

8.6. (1) The Authority may *suo motu* call upon any company to pay the amount due to the Fund. If any company fails to pay

any amount due to the Fund, the Authority shall report the same to the Central Government.

- (2) If the company fails to comply with the directions of the Authority, the company and the officers in default shall be punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with further fine which may extend to five hundred rupees for every day of such failure to pay.

Refunds to claimants from Fund.

8.7. For the purposes of clause (a) of sub-section (3) and proviso to sub-section (3), of section 125, refund of the amount credited to the Fund shall be made in the following manner:-

- (1) Any person, whose unclaimed dividend, matured deposits, proceeds of matured debentures, application money due for refund, or interest thereon, sale proceeds of fractional shares, redemption proceeds of preference shares, etc. has been transferred to the Fund, may apply for refund, to the Authority under clause (a) of sub-section (3) of section 125 or under proviso to sub-section (3) of section 125, by making an application in Form No. 8.4 under his own signature or through a person holding a valid power of attorney granted by him.
- (2) The application for refund shall be accompanied by the following documents:
 - (a) An indemnity bond in Form No. 8.5 on a non-judicial stamp paper of the value applicable in the state of its execution:

Provided that the indemnity bond shall not be required to be submitted where the applicant is Central Government, a State Government, a Government company or a public financial institution within the meaning of the Act:

Provided further that the Authority may, where the amount claimed is not more than five thousand rupees and the claimant establishes his title to the money claimed to its satisfaction, issue an order sanctioning the payment of the amount due to the claimant without production of the indemnity bond.

(b) Document in support of the entitlement to the amount claimed e.g. letter from the company, dividend warrant etc.

(c) A stamped advance receipt bearing his signature and signatures of two witnesses.

(d) Proof of identity:

(i) For Indian Nationals:

Documents for identification (Any one of the following):

- Income-tax permanent account number
- Voter's identity card number
- Passport number
- Driving License

□ Unique Identification Number (UIN)

Proof of address: (Any one of the following):

- Voter's identity card number
- Passport number
- Driving License
- Unique Identification Number (UIN)
- any of the following not older than two months:-
 - electricity bill,
 - telephone bill,
 - Bank account statement

(ii) For Foreign nationals and Non Resident Indians:

- Passport
- OCI and PI Card

(e) In the case of a deceased person, his legal representative who prefers the claim, shall furnish a succession certificate / probate / letter of administration (as applicable). In case the securities have to be transmitted to the name of the claimant, a certificate in this behalf from the company may be furnished.

(3) On receipt of the application, the authority shall verify from the records and certify whether the claimant is entitled to the money claimed by him:

Provided that an application, for refund of any amount from the General Revenue Account of the Central Government which had been transferred to the account under sub-section (5) of section 205A of the Companies Act, 1956 and which has been transferred to the Fund under clause (d) of sub-section (2) of section 125, shall be forwarded by the Authority to the concerned Registrar for verification:

Provided further that an application, for refund of any amount transferred to the Investor Education and Protection Fund under section 205C of the Companies Act, 1956 and which has been transferred to the Fund under clause (e) of sub-section (2) of section 125, shall be forwarded by the Authority to the concerned company for verification.

- (4) After certification of the title of the claimant to the amount claimed, the Authority shall issue a payment order in Form No. 8.6 sanctioning the payment of the amount due to the claimant and issue and deliver the cheque in favor of the claimant.
- (5) The Authority shall, in its records, cause a note to be made of all payments made under rule (4).
- (6) An application received for refund of any claim under this rule shall be disposed of by the Authority within

thirty days from the date of receipt of the application of refund complete in all respects and any delay beyond thirty days shall be recorded in writing specifying the reasons for the delay and the same shall be communicated to the claimant in writing or by electronic means. In case of an incomplete application, a communication shall be sent to the claimant by the Authority detailing deficiencies of the application.
