

JDPulse – Compliance update

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Private Companies - Dematerialization of Securities

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Private Companies -Dematerialization of Securities

In a recent regulatory development, the Ministry of Corporate Affairs (MCA) introduced the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023, effective from October 27, 2023. This update mandates private companies, excluding small and government entities, to transition to dematerialized forms for securities transactions, aligning with the broader goal of enhancing transparency in the securities market. The directive establishes a clear timeline, requiring companies to complete dematerialization by September 30, 2024, with specific exemptions outlined for Small Companies and Government Companies. This notification necessitates private companies to convert existing physical securities into dematerialized form. Non-compliance carries penalties for both companies and officers in default. The following table provides a quick analysis of the above notification. Stay informed with JDPulse for essential updates on this regulatory shift.



Introduction

- To increase transparency and efficiency in the securities market, MCA introduced Companies (*Prospectus and Allotment of Securities*) Second Amendment Rules, 2023, on 27th October, 2023.
- Unlisted public companies are mandated dematerialization since October 2018.



Applicability (Rule 9B)

- To increase transparency and efficiency in the securities market, MCA introduced Companies (*Prospectus and Allotment of Securities*) Second Amendment Rules, 2023, on 27th October, 2023.
- Unlisted public companies are mandated dematerialization since October 2018.



Exemptions

- Small Companies and Government Companies exempted.
- 'Small Company' criteria: Paid-up share capital \leq Rs.4 crore, turnover \leq Rs.40 crore (*excluding holding or subsidiary company*).
- 'Government Company': Any Government (Central or State or both) holds \geq 51% of paid-up share capital.



Legal Requirement

- Private companies must convert its existing physical securities into dematerialized form by 30th September 2024.



Impact on Companies (After 27th October, 2023)

- No private company (except exempted) can issue new securities, transfer securities, or buy-back securities in physical form.



Impact on Shareholders (After 27th October, 2023)

- Security holders cannot subscribe for new securities or apply for transfer of securities in physical form.



Compliances

- Issue/transfer/buy-back securities only in dematerialized form on or after 27th October, 2023
- Facilitate dematerialization of existing securities before 30th September, 2024 in accordance with provisions of the Depositories Act, 1996 and regulations made thereunder.



Consequences of Default

- In case of default, the company and every officer in default shall be punishable with a penalty up to Rs. 10,000. If the contravention continues, a further penalty of Rs. 1000 for each day subject to a maximum of Rs. 2,00,000 in case of a [company](#) and Rs. 50,000 in case of an [officer who is in default](#).



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- Please [Click Here](#) to read Notification dated 27th October 2023.