DIVISION SEVEN

DEBENTURES, CHARGES & BORROWINGS

[CHAPTERS 156 TO 179]

CHAPTER 156

ISSUE OF DEBENTURES BY PRIVATE COMPANIES/UNLISTED PUBLIC COMPANIES*

156.1 Background note

Issue of debentures is a popular method of raising funds by companies through borrowings. It helps companies to raise funds with lower interest and longer redemption periods. For the investors, it ensures a minimum fixed interest and return of investment. A private / unlisted company can raise debentures through private placement / rights issue. Debentures with voting rights cannot be issued.

156.2 Board Resolution

A Board Resolution should be passed for approving the proposal to issue debentures, finalise the terms and conditions of trust deed and for convening a general meeting to secure the consent of shareholders for the debenture issue.

156.3 Approval from financial institutions/banks/debenture trustees

If the assets proposed to be charged for debentures are already charged to any financial institutions / banks, then the permission from the charge holders for creation of *pari passu* or second charge should be obtained. The consent of the Debenture Trustees should also be obtained for the same.

156.4 Issue of notice of general meeting

The notice of the general meeting together with the explanatory statement should be sent to all eligible members and auditors of the company.

***RELEVANT PROVISION :**

- Companies Act, 1956 : Sections 117, 117C, 192, 292 and 293.

APPLICABILITY : UNLISTED PUBLIC COMPANIES / PRIVATE COMPANIES.

156.5 General Meeting Resolution

The general meeting should accordingly be held and the resolution for issue of debentures and creation of charge over the assets should be duly passed.

156.5-1 Resolution for rights issue

Refer **Annex 156.1** for resolution for issue of rights debentures.

156.6 Receipt of application forms and subscription

In the case of private placement, negotiations should be held with prospective investors/financial institutions etc. and application forms together with subscription moneys are received. In the case of rights issue, letters of offer are posted to existing debenture holders and application forms together with subscription moneys are received.

156.7 Board Resolution for allotment

On receipt of subscription money and closure of subscription period, a Board Resolution should be passed for finalisation of basis of allotment, allotment of Debentures, approval of trust deed, execution of trust deed, creation of Debenture Redemption Reserve and other matters.

156.8 Creation of charge

Charge in favour of debenture holders should be created. *Refer* **Chapters 173** to **179** for procedures.

156.9 Filing of eForm No. 10 with the Registrar of Companies

Within 30 days of creation of charge, a return in eForm No. 10 should be filed with the Registrar of Companies, through MCA Portal www.mca.gov.in. for each issue of the series of debentures.

156.9-1 Who can file?

The eform 10 shall be filed by the managing director or director or manager or secretary duly authorised by the Board or in case of foreign company, by the authorised representative in India and Trustee for the Debenture holder. The signatory must hold a valid digital signature certificate. (*Refer* **Chapter 448** for Digital Signature Certificates)

156.9-2 Time Limit

This form should be filed within 30 days of creation of charge. The Registrar is empowered to extend the time limit by a further period of 30 days on payment of additional fees. Any extension beyond 60 days shall be subject to approval by the Company Law Board (**Chapter 176**).

156.9-3 Pre-certification

Pre-certification to be obtained from chartered accountant/cost accountant/ company secretary (in whole time practice).

156.9-4 Attachments

A copy of the instrument creating charge in favour of debenture holders and a certified copy of the general meeting resolution approving the issue of debentures should be attached.

156.9-5 How to attach documents?

The attachments shall be in PDF format. A physical document can be converted into PDF document using the scanner. A soft copy may be converted into PDF through converter.

156.9-6 Digital Signature

The eform should be digitally signed by the managing director or director or manager or secretary duly authorised by the Board or in case of foreign company, by the authorised representative and also by the debenture trustee. The signatory must hold a valid digital signature certificate. (*Refer* **Chapter 448** for Digital Signature Certificates)

156.9-7 Filing fee

Filing fee shall be payable as per Schedule X of the Companies Act, 1956 **(Appendix 9).** In case of foreign company, Rs. 5,000.

156.9-8 Mode of Payment

Refer **Appendix 18.**

156.9-9 Filing instruction

Refer **Appendix 3** for detailed instructions for filing e-forms.

156.10 Execution of Debenture Trust Deed

Within six months of the closure of issue, the debenture trust deed should be duly executed, and registered with the appropriate authorities of the State.

156.11 Creation of security

The security for debentures should be created. Otherwise the debentures would become unsecured and results in acceptance of deposits, without complying with the provisions of the Act. Alternative to creation of security is to ensure that the debentures are fully convertible into equity shares (*i.e.*, FCDs).

156.12 Creation of Debenture Redemption Reserve

A Debenture Redemption Reserve should be created for redemption of debentures and the company shall credit adequate amounts every year from out of its profits until the debentures are fully redeemed.

156.12-1 Clarification regarding Debenture Redemption Reserve

The clarifications regarding Debenture Redemption Reserve (DRR) issued by the Department of Company Affairs *vide Cir. No. 9/2002, dated 18-4-2002* are reproduced in **Annex 156.1.**

156.13 Utilisation of Debenture Redemption Reserve

The amounts credited in the debenture redemption reserve should be utilised only for the purpose of redemption.

156.14 Additional compliances to be made in case of preferential allotment of convertible debentures

In case of preferential allotment of debentures which are convertible into equity shares at a later date, requirements of Unlisted Public Companies (Preferential Allotment) Rules, 2003 should be complied with.

156.15 Secretarial Compliance Certificate

In the case of companies having a paid-up capital of Rs. 10 lakhs or more but less than Rs. 2 crores, the secretarial compliance certificate to be obtained from the Practising Company Secretary shall affirm compliance with provisions relating to issue of debentures.

156.16 Non-convertible debentures, issue and listing

See Part II of **Chapter 158** regarding issue of non-convertible debentures by public companies whether through public issue or private placement pursuant to SEBI (Issue and Listing of Debt Securities) Regulations, 2008, dated 6-6-2008.

(*Refer* Para 156.5-1)

LIABILITY OF COMPANY TO CREATE SECURITY OF DEBENTURE REDEMPTION RESERVE

Clarification regarding Debenture Redemption Reserve (DRR) - One of the measures that the Central Government took to protect the interests of small investors in Companies Act was to insert section 156C in the Companies (Amendment) Act, 2000 which contemplates the creation of security and liquidity to ensure timely repayment by companies on redemption of debentures and thereby afford protection to the debenture-holders.

Section 117C requires every company to create a Debenture Redemption Reserve (DRR) to which 'adequate amounts' shall be credited out of its 'profits' every year until such debentures are redeemed, and shall utilize the same exclusively for redemption of a particular set or series of debentures only. Thus, the quantum of DRR to be created before the redemption liability actually arises in normal circumstances should be 'adequate' to pay the value of debentures *plus* accrued interest (if not already paid), till the debentures are redeemed and cancelled. Since the section requires that the amount to be credited as DRR will be carved out of profits of the company only, there is no obligation on the part of the company to create DRR if there is no profit for the particular year.

The Department of Company Affairs (DCA) has received a number of representations from Public Financial Institutions, Non-Banking Financial Companies, Professionals, FICCI, CII, Chambers, etc. seeking clarifications in this regard.

The matter was considered keeping in view the purpose of the introduction of section 117C and the genuine problems likely to be caused to the NBFCs, All India Financial Institutions (AIFIs) and banks that deal in financial products and would find it difficult to create DRR after transferring 20% of the profits to Reserve Fund out of the divisible profits as already required by RBI norms.

After taking into consideration the RBI directions/regulation on prudential norms applicable to banking companies, AIFIs and NBFCs, and the SEBI (Disclosure and Investor Protection) Guidelines, 2000, the Government hereby clarifies on adequate DRR and other related matters as under :—

a. No DRR is required for debentures issued by All India Financial Institutions (AIFIs) regulated by Reserve Bank of India and Banking Companies for both public as well as privately placed debentures. For other FIs within the meaning of section 4A, DRR will be as applicable to NBFCs registered with RBI.

b. For NBFCs registered with the RBI under section 45-IA of the RBI (Amendment) Act, 1997, 'the adequacy' of DRR will be 50% of the value of debentures issued through public issue as per present SEBI (Disclosure and Investor Protection) Guidelines, 2000 and no DRR is required in the case of privately placed debentures.

c. For manufacturing and infrastructure companies, the adequacy of DRR will be 50% of the value of debentures issued through public issue and 25% for privately placed debentures.

d. Section 117C will apply to debentures issued and pending to be redeemed and as such DRR is required to be created for debentures issued prior to 13-12-2000 and pending redemption subject to clarifications issued herein.

e. Section 117C will apply to non-convertible portion of debentures issued whether they are fully or partly convertible.—*Source: Circular No. 9/2002, dated 18-4-2002.*

It is further clarified that for Housing Finance Companies registered with the National Housing Bank under Housing Finance Companies (NHB) Directions, 2001, "the adequacy" of Debenture Redemption Reserve (DRR) will be 50% of the value of debentures issued through public issues and no DRR is required in the case of privately placed debentures.

Circular : *No. 4/2003, dated 16-1-2003.*

CHAPTER 157

EXTENSION OF TIME FOR ISSUE OF DEBENTURE CERTIFICATE*

157.1 Background note

Every company, unless prohibited by any provisions of law or order of any Court, Tribunal or other authority, shall issue a debenture certificate within three months of allotment of debentures or within two months after lodgement of transfer deed for transfer of debentures to the allottee/transferee. The Company Law Board[1] has the power to extend the time limit by a further period of 9 months if it is satisfied that it is not possible for the company to deliver the debenture certificate within the specified period.

157.2 Board Resolution

A Board Resolution should be passed authorising submission of application to Company Law Board[1] for extension of time for issue of debenture certificate.

157.3 Submission of petition to Company Law Board[1]

A petition in Form No. 1 to be modified suitably in Annexure II to the Company Law Regulations, 1991 shall be made to the Company Law Board seeking extension of time for issue of debenture certificates. The petition may be made by the Company or any other person interested in the matters and presented by the petitioner in person or through authorised representative to the concerned Bench Office or by registered post with acknowledgement duly addressed to the Secretary or Bench Officer of the concerned Bench. The Bench may permit more than one person to join together and file a single petition if it is satisfied that they have a common interest in the matter.

***RELEVANT PROVISIONS :**

- Companies Act, 1956 : Section 113(1).
- Company Law Board Regulations, 1991.
- Company Law Board (Fees on Applications and Petitions) Rules, 1991.

APPLICABILITY : COMPANIES WHICH ISSUE DEBENTURES.

1. The powers of Company Law Board in this regard shall stand transferred to Central Government when Companies (Second Amendment) Act, 2002 is brought into force.

157.3-1 Documents to accompany petition

The petition should be accompanied by the following documents :

(*a*) Copy of the letter of allotment issued by the company.

(*b*) Copy of the instrument of transfer.

(*c*) Copies of the resolutions of the Board allowing the Board and/or seeking extension.

(*d*) Affidavit verifying petition.

(*e*) Bank draft drawn in favour of Pay and Accounts Officer, Ministry of Company Affairs evidencing payment of application fee of Rs. 500.

(*f*) Copy of the latest audited balance-sheet and profit and loss account together with the auditor's report and director's report.

(*g*) Memorandum of appearance in Form No. 5 with copy of the Board Resolution or the executed Vakalatnama, as the case may be, if the petition is filed by the authorised representative or advocate.

(*h*) Index of documents.

157.3-2 Contents of petition

The petition should set forth the name of the company, with its status, date of incorporation, the address of its registered office authorised capital, paid-up capital with division of different classes of shares and terms of issue, if any, in the case of preference shares, main objects in brief, present business activities and should also set forth concisely under distinct heads the grounds for such petition and nature of relief sought for.

157.3-3 Attestation of documents

The documents may be attested by the party or the authorised representative or by the advocate and shall be marked serially as Annexures A1, A2, A3 and so on.

157.3-4 Serving a copy of petition on respondent(s)

A copy of the petition, reference or application should be served on the respondent(s) and evidence for service of petition should be produced. Where the number of respondents is more than five, the Secretary or Bench Officer may permit the petitioner to file extra copies of the petition at the time of issue of notice to the respondents.

157.4 Order of the Company Law Board

The Bench shall pass an order in writing granting extension of time for issue of debenture certificate.

157.5 Issue of debenture certificates within the extended time

The debenture certificates should be issued within the extended time.

CHAPTER 158

PUBLIC ISSUE OF DEBENTURES BY LISTED COMPANY*

158.1 Background note

Issue of debentures is a popular method of raising funds by companies through borrowings. It helps companies to raise funds with lower interest and longer redemption periods. For the investors, it gives a minimum return and return of the investment over a period. A listed public company may issue debentures through public issue/rights issue and such debentures may be convertible or non-convertible. Debentures with voting rights cannot be issued. This chapter covers convertible debentures issued by listed companies under Part I and issue of non-convertible debentures by any public company under Part II. The listing agreement referred to under part III is common to both.

PART I

158.2 Advance intimation to stock exchanges

Advance intimation should be given to stock exchanges regarding the date of the board meeting at which non-convertible debenture issue is to be considered.

158.3 Credit Rating

The credit rating requirements as given below should be duly complied with :

158.3-1 Number of credit agencies

Credit rating of not less than an investment grade should be obtained from not less than two registered credit rating agencies.

***RELEVANT PROVISIONS :**

- Companies Act, 1956 : Sections 117A, 117B, 117C, 192, 292 and 293.
- Standard Listing Agreement.
- SEBI (DIP) Guidelines, 2000 replaced by SEBI (Issue and Listing of Debt Securities) Regulations, 2008, dated 6-6-2008 - in respect of non-convertible debt securities including debentures and bonds issued as public issue or as private placement basis.
- SEBI (Debenture Trustees) Rules, 1993.
- SEBI (Debenture Trustees) Regulations, 1993.

APPLICABILITY : LISTED PUBLIC COMPANY.

158.3-2 Disclosure in offer document

The credit rating shall be disclosed in the offer document. Where credit rating is obtained from more than two credit rating agencies, all the credit ratings including the unaccepted credit ratings should be disclosed in the offer document.

158.3-3 Disclosure regarding previous credit ratings

All the credit ratings obtained during the three years preceding the public or rights issue of debt instrument (including convertible instruments) for any listed security of the issuer company shall be disclosed in the offer document.

158.4 Debenture trustees

The following requirements regarding debenture trustees should be complied with :

158.4-1 Appointment of debenture trustees and disclosure in offer document

Before issuing a prospectus or letter of offer for subscription of debentures, one or more debenture trustees should be appointed and the names of debenture trustees should be stated in the offer document and in all subsequent periodical communications sent to debenture holders. On the face of the offer document, it should be clearly stated that the debenture trustees have given consent for such appointment.

158.4-2 Disqualification for appointment as debenture trustees

No person shall be appointed as a debenture trustees, if he—

- Beneficially holds share in the company.
- Is beneficially entitled to moneys which are to be paid by the company to the debenture trustees.
- Has entered into any guarantee in respect of principal debts secured by the debentures or interests thereon.

158.4-3 Duties of the Debenture Trustees

The Debenture Trustees shall protect the interests of the debenture holders including creation of security within the stipulated time and to effectively redress the grievances of the debenture holders. In particular, the debenture trustees may take steps to :

- Ensure that the assets of the company issuing debentures and each of the guarantors are sufficient to discharge the principal amount at all times.
- Satisfy himself that the prospectus or letter of offer does not contain any matter which is inconsistent with the terms of the debentures or with the trust deed.
- Ensure that the company does not commit any breach of covenants and provisions of the trust deed.
- Take reasonable steps to remedy any breach of covenants of the trust deed or the terms of issue of debentures.

- Take steps to call debenture holders' meeting as and when such meeting is required to be held.

158.4-4 Powers of Debenture Trustees

The Debenture Trustees should be vested with requisite powers to protect the interests of debenture holders including the right to appoint a nominee director on the Board in consultation with the institutional debenture-holders.

158.5 Board Resolution

A Board Resolution should be passed for approving the proposal to issue debentures, finalise the terms and conditions of trust deed and for convening a general meeting to secure the consent of shareholders for the debenture issue.The issue shall be in conformity with SEBI Guidelines as below:

158.5-1 Conversion Period

No company shall issue FCDs having a conversion period of more than 36 months, unless conversion is made optional with "put" and "call" option. The premium amount and time of conversion shall be determined by the issuer company and disclosed in the offer document.

158.5-2 Option to debenture holders

If the conversion takes place at or after 18 months from the date of allotment, but before 36 months, any conversion in part or whole of the debenture shall be optional at the hands of the debenture holder.

158.5-3 Bar on issue for acquiring shares etc.

Debentures shall not be issued for acquisition of shares or providing loan to any company belonging to the same group. However, this shall not apply to the issue of fully convertible debentures providing conversion within a period of eighteen months.

158.5-4 Interest rate

The interest rate for debentures can be freely determined by the issuer company.

158.6 Issue of notice of general meeting

The notice of the general meeting should be sent to all eligible members together with the explanatory statement.

158.7 Forwarding of notice of general meeting to Stock Exchanges

Three copies of the notice of the general meeting should be sent to each of the stock exchanges in which the securities of the company are enlisted.

158.8 General Meeting Resolution

The general meeting should accordingly be held and the resolution for issue of debentures and creation of charge over the assets should be duly passed.

158.9 Forwarding of minutes to Stock Exchanges

A copy of the minutes of the general meeting should be sent to each of the stock exchanges in which the securities of the company are enlisted.

158.10 Approval from financial institutions/banks/debenture trustees

If the assets proposed to be charged for debentures are already charged to any financial institution/banks, then the permission from the charge holders for creation of *pari passu* or second charge should be obtained. The consent of the Debenture Trustees should be obtained if the Debentures are to be issued under a trust deed.

158.11 Filing of offer document with SEBI

The offer document duly containing the disclosures and fulfilling the requirements of SEBI Guidelines should be filed with SEBI through the merchant banker.

158.11-1 Conditions

At the time of filing offer document with SEBI, the issuer shall fulfil the following conditions :

- Credit rating of not less than the investment grade is obtained from two credit rating agencies registered with SEBI.
- Company shall not be in the list of wilful defaulters of Reserve Bank of India.
- Company has not defaulted in payment of interest or repayment of principal in respect of debentures issued to the public, if any, for a period of more than six months.

158.11-2 Bankers Certificate

Along with the offer document, certificates from the bankers of the company should be filed to the effect—

(*a*) that the assets on which the securities is to be created are free from encumbrances and the necessary permissions to mortgage the assets have been obtained or

(*b*) No Objection Certificate from the Financial Institution/Banks for a second or *pari passu* charge in favour of debenture trustees case where assets are encumbered.

158.11-3 Additional Disclosures

The offer document shall contain the following disclosures:

(*a*) The premium amount on conversion, time of conversion.

(*b*) In case of PCDs/NCDs, redemption amount, period of maturity, yield on redemption of the PCDs/NCDs.

(*c*) Full information relating to the terms of offer or purchase including the name(s) of the party offering to purchase the *khokhas* (non-convertible portion of PCDs).

(*d*) The discount at which such offer is made and the effective price for the investor as a result of such discount.

(*e*) The existing and future equity and long-term debt ratio.

(*f*) Servicing behaviour on existing debentures, payment of due interest on due dates on term loans and debentures.

(*g*) That the certificate from a financial institution or bankers about their no-objection for a second or *pari passu* charge being created in favour of the trustees to the proposed debenture issues has been obtained.

158.11-4 Disclosure and creation of charges

The offer document should disclose the following :

- Intention to create a charge or otherwise with its implications.
- Assets on which charges are sought to be created and also the ranking of the charges.
- In case of second or residual or subordinated obligation, the risks associated with such subsequent charges.
- Security/asset cover to be maintained, computation of security/asset cover, valuation methods and periodicity of valuation.
- If debentures are secured by second or subsequent charge, the security/asset cover should be arrived at after reduction of liabilities having first/prior charge.

158.12 Escrow Account

The issue proceeds should be kept in an escrow account until the documents for creation of security as stated in the offer documents are executed.

158.13 Compliance with SEBI Guidelines

The requirements of SEBI Guidelines relating to Public Issue or Rights Issue relating to pricing, lock-in-period, promoter's contribution, offer document, appointment of merchant banker/Registrar and other intermedia-ries, advertisement, making offer document public, despatch of offer document etc. should be duly complied with.

158.14 Submission of consent letter for creation of security

Before opening of issue of debentures, the consent for creation of security such as *pari passu* letter, consent of the lessor of the land in case of leasehold land etc. should be obtained and submitted to the Debenture Trustee.

158.15 Allotment of debentures

The basis of allotment should be finalised in consultation with Stock Exchanges and a Board Resolution for allotment of debentures should be duly passed.

158.15-1 Refund of money in certain cases

If the number of allottees in a public issue of non-convertible debentures is less than 50,the entire subscription money should be returned forthwith.In case of delay beyond 8 days, interest @15% should be paid to the investors.

158.16 Intimation to Stock Exchange

Intimation by letter/fax (or by fax/telegram if meeting is held outside the City of Mumbai) should be sent to each of the stock exchanges in which the securities are enlisted.

158.17 Creation of security

If the issuer company proposes to create a charge for debentures of maturity of less than 18 months, it shall fiie e-form 10 with the Registrar. If no charge is to be created, the company shall comply with provision relating to public deposits. The proposal to create a charge shall be disclosed in the offer document.

158.18 Filing of eForm No. 10 with the Registrar of Companies

Within 30 days of creation of charge, a return in eForm No. 10 should be filed with the Registrar of Companies through MCA portal www.mca.gov.in. Refer **para 156.9** for guidelines to file e-Form 10.

158.19 Issue of Debenture Certificate

All formalities relating to issue of debenture certificates and making entries in the Register of Debenture holders should be duly completed.

158.20 Creation of Debenture Redemption Reserve

A Debenture Redemption Reserve should be created for redemption of debentures and the company shall credit adequate amounts every year from out of its profits until the debentures are fully redeemed. There is no obligation to create DRR if there are no profits in a particular year. The amounts credited in the debenture redemption reserve should be utilised only for the purpose of redemption. The debentures should be redeemed along with interest as per the terms and conditions of the issue. The clarifications regarding Debenture Redemption Reserve (DRR) issued by the Department of Company Affairs *vide Cir. No. 9/2002, dated 18-4-2002* are reproduced in **Annex 156.1.**

158.21 Execution of Debenture Trust Deed

The debenture trust deed shall be in the prescribed form and shall be executed within three months of the closure of the issue under the authority of a Board Resolution.

158.22 Distribution of Dividends

Dividends may be distributed out of profit of particular years only after transfer of the requisite amount in the DRR. If residual profits after transfer to the DRR are inadequate to distribute reasonable dividends, the company may distribute dividends out of the general reserve.

158.22-1 Approval in case of default

If there is a default in payment of interest on debentures or redemption of debentures or in creation of security as per the terms of issue of debentures prior approval of the Debenture Trustees and Lead Institution, if any, should be obtained. If there is a default in complying with the institutional condition regarding interest and debt service coverage, prior approval of the lead institution is required for declaring dividend exceeding 20% or such rate as stipulated in the loan agreement.

158.23 Obligations of Debenture Trustees

The debenture trustees shall ensure compliance with the following :

158.23-1 Obtaining reports

The Debenture Trustees shall obtain reports from lead bank regarding monitoring of progress of the project.

158.23-2 Monitoring utilisation of funds

The Debenture Trustees shall monitor utilisation of funds raised from debenture-issue.

158.23-3 Obtaining Auditor's Certificate

The Debenture trustees should obtain a certificate from the company's auditors:

(*i*) in respect of utilisation of funds during the implementation period of projects.

(*ii*) in the case of debentures for working capital, certificate shall be obtained at the end of each accounting year.

158.23-4 Bar on utilisation of funds

The Debenture Trustees should ensure that Debenture issues by companies belonging to groups are not utilised for financing, replenishing funds or acquiring shareholding in other companies. For this purpose, the term 'replenishing of funds or acquiring shares in other companies' shall mean replenishment of funds or acquiring shareholding of other companies in the same group. In other words, the company shall not issue debentures for acquisition of shares/providing loan to any company belonging to the same group. However, the company may issue equity shares for purposes of repayment of loan to or investment in companies belonging to the same group.

158.23-5 Supervision of implementation of conditions

The Debenture Trustees should supervise the implementation of the conditions regarding creation of security for the debentures and debenture redemption reserve.

156.24 Secretarial Compliance Certificate

In the case of companies having a paid-up capital of Rs. 10 lakhs or more but less than Rs. 2 crores, the secretarial compliance certificate to be obtained from the Practising Company Secretary shall affirm compliance with provisions relating to issue of debentures.

PART II

158.25 Debt Security

'Debt Security' means a non-convertible debt security which creates or acknowledges indebted less and includes non-convertible debenture or bond issued by any body corporate other than bodies exempted by SEBI and Government bonds/security receipts/securitized debt instruments.

158.25-1 SEBI (ILDS) Regulations, 2008 - Coverage

SEBI (Issue and Listing of Debt Securities) Regulations, 2008, dated 6-6-2008 cover debet securities issued through public issue or private placement intended or mandatorily required to be listed on a recognised stock exchange, by any company (PSU) statutory corporation. No issue can be made for giving loan to or for acquisition of shares of a group company.

158.26 Public issue of Debt Securities

The issuer has to make an application to one or more recognised SE(s) with one of them being the designated SE for listing at the draft offer stage itself directly and obtain their in-principle approval.

158.27 Credit rating

Credit rating must be obtained at least from one credit rating agency.

158.28 Arrangement with depository

The issuer must enter into an arrangement with any depository registered with SEBI for dematerialisation of the debt securities intended to be issued.

158.29 Appointment of Merchant banker

The issuer must appoint one or more merchant banker designating one of them as the lead merchant banker.

158.30 Appointment of Debenture Trustee

The issuer must appoint a debenture trustee in terms of SEBI (Debenture Trustee) Regulations, 1993. He will issue a due diligence certificate on the issuer to SEBI in the proforma of Schedule III to the SEBI Regulations.

158.31 Offer Document

The offer document shall be according to Schedule II of Companies Act, 1956 and Schedule I to SEBI (ILDS) Regulations, 2008, and the issue shall be secured and subject to creation of DRR.

158.32 Issue Procedure

The issue procedure of the abridged prospectus and application forms is simplified in the care of the merchant banker to the issue so as to suit the issue in electronic mode.

158.33 Listing

Rule 19(3)(1)(*a*) and (*b*) of SC(R) Rules, 1957 are relaxed by SEBI to include debt securities issued by private placement also as eligible to be listed for trading on the SEs. The continuous listing conditions are different from the normal conditions.

158.34 SEBI's Powers

SEBI's powers of inspection under sections 11 and 11C of SEBI Act and section 209A of Companies Act and SEBI's powers to issue directions under sections 11, 11A, 11B, 11D and 12(3), Chapters VIA and 24 of SEBI Act and section 621 of Companies Act are reserved.

158.35 Secretarial Compliance Certificate

In the case of companies having a paid-up capital of Rs. 10 lakhs or more but less than Rs. 2 crores, the secretarial compliance certificate to be obtained from the Practising Company Secretary shall affirm compliance with provisions relating to issue of debentures.

PART III

158.36 Listing Agreement

The issuer company has to execute the listing agreement prescribed by SEBI for Debt Securities with the SE where the debentures are listed.

CHAPTER 159

DEBENTURES ISSUED IN SERIES ENTITLING HOLDERS TO A PARI PASSU CHARGE *

159.1 Background Note

A company may issue debentures in a series in one or more launches on different dates in future according to funds required subject to a single common charge to operate *pari passu* in favour of the holders for all the issues made in the entire series of debentures. In case the issue of debentures in the series is planned in more than one issue, according to the proviso to section 128 of the Act, an additional filing in advance for each issue is required of e-Form 10, prior to filing the particulars of the charge created which has been dealt with in **Chapter 156.** This chapter provides more details on it.

159.2 Particulars to be filed in e-Form 10

Particulars of the date and amount of each issue in the series of debentures intended to be issued by the company have to be filed in e-Form 10. Although the proviso to section 128 says that an omission to file the said particulars with the Registrar shall not affect the validity of debentures, yet it does not amount to allowing the doing away with the filing itself. Hence, the advance filing of e-Form 10 has to be complied with.

159.3 Time to file?

The proviso to section 128 does not lay down any time-limit for filing the above particulars of the multiple issues in the series of debentures intended to be made by the company. From the questions to be answered mandatorily against fields 7(*a*) and (*b*)(*ii*) of e-Form 10, it appears that it has to be filed in advance of filing the e-Form 10 for the creation of the charge, at least one day prior to the execution of the mortgage deed.

159.4 Procedure and compliance

The rest of the procedure to followed and compliance to be observed are given in **Chapter 156.**

***RELEVANT PROVISIONS:**

- Companies Act, 1956: Sections 128 and 129.
- Companies (Central Government's) General Rules and Forms, 1956: Rule 6 and eForm 10.

APPLICABILITY : ALL COMPANIES.

CHAPTER 160

ISSUE OF BONUS DEBENTURES*

160.1 Background Note

Bonus debenture is an innovative debt instrument issued on a *pro rata* basis to the existing equity holders at no cost to them. It may be secured and redeemable if it is non-convertible beyond 18 months of the issue or convertible in whole or in part in one or more stages according to specified terms of interest payment and redemption or conversion, as in the case of debenture-issue against cash. All the conditions regarding capitalization of profits by way of bonus shares apply to this issue which is advantageous to the company as well as to the equity holders in many ways.

160.2 Authority

The issue of bonus debentures has to be on the strength of a provision existing in the Articles, and in its absence the first step would be to alter the Articles by passing a special resolution providing for it in the manner set out in **Chapter 54.**

160.3 Procedure and Compliance

The rest of the procedure to be followed and compliance to be observed is as given in **Chapters 54, 120** and **156,** as applicable.

***RELEVANT PROVISIONS** :

- Companies Act, 1956: Regulations 96 and 97 of Table A.
- Companies (Central Government's) General Rules and Forms, 1956: e-Forms 10 and 23.
- Standard Listing Agreement.
- SEBI Guidelines: Chapters XV and X.

APPLICABILITY : COMPANIES HAVING SHARE CAPITAL.

CHAPTER 161

TRANSFER OF DEBENTURES*

161.1 Background note

"Transfer of Debentures" means a change in the ownership of debentures of a company from one debenture holder to another person(s). It provides liquidity to the debenture holders. Transferability is the most important trait which contributes to the growing capital market in India. Transfer of debentures of a widely held (listed) public company is effected through stock exchanges while that of a closely-held public company transfer of debentures is completed only when the name of the transferee is entered in the register of debenture holders and a debenture certificate with necessary endorsement of transfer is issued.

161.2 Procedures

All the provisions relating to transfer of share shall apply except that the instrument of transfer need not be in Form 7B/7BB. Refer **Chapter 81** for procedures.

***RELEVANT PROVISIONS :**

- Companies Act, 1956 : Sections 108, 109 and 110.
- Standard Listing Agreement for debt securities.
- Securities Contracts (Regulation) Act, 1956.
- SEBI/NSE Guidelines on good and bad deliveries and SS-6 issued by ICSI.
- Depositories Act, 1996.

APPLICABILITY : ALL COMPANIES WHICH HAVE ISSUED DEBENTURES.

CHAPTER 162

REDEMPTION OF DEBENTURES*

162.1 Background note

Debentures are issued with a specific time schedule for repayment. The repayment of debentures is known as "redemption" which may be at the end of the specific period or at periodic intervals. The redemption of debentures shall be strictly in conformity with the terms of its issue as per the offer document.

162.2 Board Resolution

A Board Resolution should be passed for redemption of debentures as per the terms of issue.

162.3 Intimation to debenture holders

The debenture holders should be duly notified regarding the proposed redemption of debentures.

162.4 Public Notice

A public notice regarding the redemption of debentures may be given in the newspapers circulating in the district in which the registered office of the company is situated.

162.5 Finalising list of debenture holders eligible for redemption

The list of debenture holders as on the record date fixed for redemption of debentures should be drawn to find out the eligible debenture holders.

162.5-1 Part redemption

In case the debentures are redeemable in instalments, the option of the debenture holders should be ascertained. If the option is exercised by more than the amount proposed to be redeemed, the list should be drawn on the basis of lots or as per the terms of issue.

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* **RELEVANT PROVISION :**

- Companies Act, 1956 : Section 80(2).

APPLICABILITY : ALL COMPANIES WHICH HAVE ISSUED DEBENTURES.

162.6 Obtaining debenture certificates

The eligible debenture holders should be advised to surrender their debenture certificate for verification and cancellation.

162.6-1 Endorsement in case of part redemption

In case of redemption of debentures in instalments, the certificates should be obtained for making necessary endorsement in the debenture certificates.

162.7 Repayment of money

The warrants or cheques for the redemption amount should be posted to the individual debenture holders and arrangements should be made with the Bankers for payment of such warrants/cheque through necessary instructions.

162.8 Entries in the Register of Debenture holders

Necessary entries should be made in the register of Debenture holders to incorporate the redemption.

162.9 Cancellation of debenture trust deed

In case of full payment, the debenture trust deed etc., should be cancelled.

162.10 Filing of eForm No. 17 with the Registrar of Companies

Within 30 days of redemption of debentures, the returns in eForm No. 17 should be filed with the Registrar of Companies for satisfaction of charge through MCA portal www.mca.gov.in. Refer **para 175.2** for guidelines to fill and file eForm 17.

162.11 Special requirements in case of listed company

A listed public company should redeem the debentures in accordance with the offer document and comply with the following additional requirements:

162.11-1 Intimation to stock exchange

Information regarding redemption should be sent to the stock exchanges giving full details thereon.

162.12 Secretarial Compliance Certificate

In the case of companies having a paid-up capital of Rs. 10 lakhs or more but less than Rs. 2 crores, the Secretarial Compliance Certificate to be obtained from the practising company secretary shall affirm compliance with the provisions relating to redemption of debentures.

CHAPTER 163

EXTENSION OF TIME FOR REDEMPTION OF DEBENTURES*

163.1 Background note

The debentures are to be redeemed as per terms of issue of debentures.

Where a company fails to redeem the debentures on the date of maturity, the Company Law Board[1] may, on the application of any or all the holders of debentures, after hearing the parties concerned, direct, by order, the company to redeem the debentures forthwith by the payment of principal and interest due thereon. Similarly, where at any time the debenture trustee comes to a conclusion that the assets of the company are insufficient or are likely to become insufficient to discharge the principal amount as and when it becomes due, the debenture trustee may file a petition before the Company Law Board[1] and the Company Law Board may, after hearing the company and any other person interested in the matter, by an order, impose such restrictions on the incurring of any further liabilities as the Company Law Board thinks necessary in the interests of holders of the debentures. Therefore, when a company faces severe financial crisis, it may become necessary to extend the date of redemption of debenture.

163.2 Board Resolution

A Board Resolution should be passed for extension of time for redemption of debentures as per the terms of issue and for convening the meeting of debenture holders to secure their consent by special resolution.

***RELEVANT PROVISIONS :**

- Companies (Central Government's) General Rules and Forms, 1956.
- Standard Listing Agreement.

APPLICABILITY : ALL COMPANIES WHICH ISSUE DEBENTURES.

1. The powers of Company Law Board in this regard shall stand transferred to National Company Law Tribunal and the Central Government when Companies (Second Amendment) Act, 2002 is brought into force.

163.3 Issue of notice of debenture holders' meeting

The notice of debenture holders' meeting should be sent to all debenture holders.

163.4 Debenture holders resolution

The meeting of debenture holders should be duly held and a special resolution for extension of time for redemption should be duly passed.

163.5 Notifying extension of time

The debenture holders should be duly notified regarding the extension of date for redemption of debentures. This is done by way of individual communication to each debenture holder.

163.6 Filing of Form No. 23 with the Registrar of Companies

Within 30 days of passing the special resolution, a return in Form No. 23 should be filed with the Registrar of Companies through MCA portal www.mca.gov.in. *Refer* **Chapter 217** for guidelines to file eform 23.

163.7 Filing of Form No. 10 with the Registrar of Companies

Within 30 days of passing the special resolution, the return in respect of modification of charge in favour of debenture holders in eForm No. 10 should be filed with the Registrar of Companies on payment of stipulated filing fees. *Refer* **para 156.9** for guidelines to file eForm 10.

163.8 Special Requirements in case of listed companies

A listed public company should comply with the following requirements.

163.8-1 Intimation to stock exchange(s)

Information should be sent to the stock exchange(s) regarding the proposal to extend the date of redemption of debentures.

163.8-2 Forwarding of notice of general meeting to stock exchange(s)

Three copies of the notice of meeting of debenture holders should be sent to each of the stock exchanges in which the securities are enlisted.

163.8-3 Forwarding of minutes to stock exchange(s)

A copy of the minutes of the meeting should be sent to each of the stock exchanges in which the securities are enlisted.

163.8-4 Publication of notice by listed company

A public notice may be given in the newspapers circulating in the district in which the registered office of the company is situated and three copies of the same should be furnished to each of the stock exchanges in which the securities are enlisted.

163.9 Secretarial Compliance Certificate

In the case of companies having a paid-up capital of Rs. 10 lakhs or more but less than Rs. 2 crores, the secretarial compliance certificate to be obtained from the practising company secretary shall affirm compliance with regard to approval of debenture holders.

CHAPTER 164

RE-ISSUE OF REDEEMED DEBENTURES*

164.1 Background note

Every company has the power to re-issue the redeemed debentures either by re-issuing the same debentures or by issuing other debentures in their place. This method is adopted for raising further funds for the company without going into the formalities of a fresh issue of debentures or where there is a limitation to the number or amount of debentures which can be issued by the company.

164.2 Prohibition

The re-issue of redeemed debentures shall not be permitted if such re-issue is prohibited expressly or impliedly by means of a provision in the Articles of Association or the terms and conditions of issue or any contract entered into with the company or by means of a resolution manifesting the intention to cancel the redeemed debentures.

164.3 Board resolution

A Board Resolution should be passed for re-issue of redeemed debentures. Where the debentures have been kept alive by transferring them to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue of debentures. On such re-issue, the debenture holder shall be deemed to have had the same rights and priorities as if it had never been redeemed. The re-issue shall be treated as a fresh issue for the purpose of stamp duty but shall not be so treated for the purpose of any provision limiting the amount or number of debentures to be issued.

164.3-1 Deposit of debentures as security

Where the debentures are deposited to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account having ceased to be in debit during the time of such deposit.

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*RELEVANT PROVISION :

- Companies Act, 1956 : Sections 80, 80A and 121.

APPLICABILITY : ALL COMPANIES WHICH HAVE ISSUED DEBENTURES.

164.4 Secretarial compliance certificate

Secretarial compliance certificate should be obtained and the same electronically filed with the ROC in eForm 66 as an attachment as authorised by Board resolution, if applicable.

CHAPTER 165

ROLL OVER OF NON-CONVERTIBLE PORTION OF PARTLY CONVERTIBLE DEBENTURES (PCDs) OR NON-CONVERTIBLE DEBENTURES (NCDs) BY A LISTED COMPANY*

165.1 Background note

Debentures issued by a company may be non-convertible or fully convertible or partly convertible. In a fully convertible debentures, the entire debenture is converted into equity shares as per the terms of issue. In a Partly or Non-convertible Debentures, the non-convertible portion in part or full is to be paid back to the debenture holders as per the scheme of redemption. Sometimes, the company may find it difficult to redeem the debentures and choose to roll over the non-convertible portion of the debentures.

165.2 Intimation to Stock Exchange

Intimation shall be sent to the stock exchange regarding roll over option.

165.3 Conditions to be fulfilled for roll over by a company not in default

Roll over of the non-convertible portion of PCDs or NCDs of a listed company which is not in default and the value of which exceeds Rs. 50 lakhs can be made without change in the interest rate and subject to the provisions of section 121 of the Companies Act,1956.This shall be subject to the following conditions:

***RELEVANT PROVISIONS** :

- Companies Act, 1956 : Sections 121 and 192A.
- SEBI (DIP) Guidelines, 2000.
- Companies (Passing of the Resolution by Postal Ballot) Rules, 2001.

APPLICABILITY : LISTED PUBLIC COMPANY.

165.3-1 Assent by postal ballot

A resolution should be passed by postal ballot for having the assent from not less than 75% of the debenture holders.

165.3-2 Redemption of debentures of dissenting debenture holders

The Company shall redeem debentures of all the dissenting debenture-holders who have not assented to the resolution. In other words, debentures of only those debenture holders who have given positive consent to roll-over can be rolled over.

165.3-3 Fresh credit rating

Before roll over, at least two credit ratings of not less than investment grade shall be obtained within a period of six months prior to the due date for redemption and communicated to the debenture holders before such roll over.

165.3-4 Fresh Trust Deed and Security

Before roll over, fresh trust deed should be executed and fresh security should be created. However, this is not required, if the existing trust deed provides for continuance of security till redemption of debentures.

165.4 Conditions to be fulfilled for roll over by a company in default

Roll over of non-convertible portion of PCDs or NCDs of a listed company which is in default and the value of which exceeds Rs. 50 lakhs can be made without change in the interest rate and subject to the provisions of section 121 of the Companies Act,1956.This shall be subject to the following conditions:

165.4-1 Assent by postal ballot

A resolution should be passed by postal ballot having the assent from not less than 75% of the debenture holders.

165.4-2 Forwarding of auditor's certificate to debenture holders

An auditor's certificate on the cash flow of the company with comments on the liquidity position of the company should be sent to debenture holders along with the notice of the general meeting.

165.4-3 Redemption of debentures of dissenting debenture holders

The company shall redeem debentures of all the dissenting debenture holders who have not assented to the resolution.

165.4-4 Fresh Trust Deed and Security

The Debenture Trustees shall decide whether fresh trust deed should be executed and fresh security should be created. However, this is not required, if the existing trust deed provides for continuance of security till redemption of debentures.

165.5 Board Resolution

A Board Resolution should be passed for roll over of debentures, convening of debenture holder's meeting and for approving the letter of option for roll over.

165.6 Filing of letter of option with SEBI

A copy of the notice of the resolution to be sent to the debenture holders should be filed with SEBI through a merchant banker.

165.6-1 Disclosures in the notice

The notice should contain disclosures with regard to credit rating, necessity for debenture holders and such other terms specified by SEBI.

165.7 Forwarding of letter of option to Debenture holders

A copy of notice of the resolution should be sent to debenture holders together with the credit rating (as per **para 165.3-3** or auditor's certificate as per **para 165.4-2**).

165.8 Debenture holder's assent

The assent of not less than 75% of the debenture holders should be obtained through postal ballot. *Refer* **Chapter 212** for postal ballot.

165.9 Effecting roll over

The roll over should be given effect in accordance with the terms of letter of option.

165.10 Execution of Fresh Trust Deed and Creation of New Security

Wherever required, a fresh trust deed should be executed and fresh security to be created.

165.11 Secretarial Compliance Certificate

In the case of companies having a paid-up capital of Rs. 10 lakhs or more but less than Rs. 2 crores, the secretarial compliance certificate to be obtained from the Practising Company Secretary shall affirm compliance with provisions relating to issue of debentures.

CHAPTER 166

PETITION FOR FURNISHING A COPY OF TRUST DEED TO PERSON REQUIRING IT*

166.1 Background note

The Debenture Trust Deed should be forwarded to the debenture holder or any member of the company on request in accordance with the provisions of the Act. In case of refusal or default, the aggrieved person may apply to the Company Law Board[1] for issue of directions to forward a copy of trust deed.

166.2 Forwarding of trust deed

The debenture holder or any member of the company has the right to obtain copies of trust deed. Hence, on receipt of requisition from the debenture holder or member, the company must forward a copy thereof within 7 days of request.

166.2-1 Fee for obtaining copy of trust deed

The member or debenture holder must pay a fee of Rs. 10 to obtain a copy of the printed trust deed or Re. 1 for every one hundred words or part thereof in case the trust deed is not printed.

166.3 Filing of petition by aggrieved person

In case of failure or default by the company, the aggrieved person may submit a petition to the Company Law Board for issue of directions to forward a copy of trust deed.

***RELEVANT PROVISIONS :**

- Companies Act, 1956 : Section 118(3).
- Company Law Board Regulations, 1991.
- Company Law Board (Fees on Applications and Petitions) Rules, 1991.
- Companies (Central Government's) General Rules and Forms, 1956 : Rule 21A.

APPLICABILITY : ALL COMPANIES WHICH HAVE ISSUED DEBENTURES.

1. The powers of Company Law Board shall stand transferred to Central Government when Companies (Second Amendment) Act, 2002 is brought into force.

166.4 Submission of petition

A petition in Form No. 1 in Annexure II of the Company Law Board Regulations, 1991 shall be made to the Company Law Board for issue of directions to furnish copy of the trust deed.

166.4-1 Who can file petition ?

The petition may be made by the debenture holder or member and presented by the petitioner in person or through authorised representative to the concerned Bench Office or by registered post with acknowledgement due addressed to the Secretary or Bench Officer of the concerned Bench. The Bench may permit more than one person to join together and file a single petition if it is satisfied that they have a common interest in the matter.

166.5 Documents to accompany petition

The petition should be accompanied by the following documents :

(*a*) Copy of the letter written to the company for the issue of trust deed,

(*b*) Copy of the letter of refusal, if any, issued by the company,

(*c*) Affidavit verifying petition,

(*d*) Bank draft drawn in favour of Pay and Accounts Officer, Ministry of Company Affairs evidencing payment of application fee of Rs. 50,

(*e*) Memorandum of appearance in Form No. 5 with copy of the Board Resolution or the executed Vakalatnama, as the case may be, if the petition is filed by the authorised representative or advocate, and

(*f*) Index of documents.

166.6 Contents of petition

The petition should set forth the name of the company, with its status, date of incorporation, the address of its registered office, authorised capital, paid-up capital with division of different classes of shares and terms of issue, if any, in the case of preference shares, main objects in brief, present business activities and should also set forth concisely under distinct heads the grounds for such petition and nature of relief sought for.

166.7 Attestation of documents

The documents may be attested by the party or the authorised representative or by the advocate and shall be marked serially as Annexures A1, A2, A3 and so on.

166.8 Serving copy of the petition on respondent(s)

A copy of the petition, reference or application should be served on the respondent(s) and evidence for service of petition should be produced. Where the number of respondents is more than five, the Secretary or Bench Officer may permit the petitioner to file extra copies of the petition at the time of issue of notice to the respondents.

166.9 Order of Company Law Board

The Bench shall pass an order in writing directing the company to furnish the copy of the trust deed to the petitioner. The order of the Company Law Board should be duly complied with.

CHAPTER 167

PETITION FOR NON-COMPLIANCE OF SECTION 113(1) PROVIDING TIME LIMIT FOR ISSUE OF DEBENTURE CERTIFICATE*

167.1 Background note

Every company, unless prohibited by any provisions of law or order of any Court, Tribunal or other authority, shall issue a debenture certificate within three months of allotment or within two months after lodgement of transfer deed for transfer of debentures to the allottee/transferee. In case of failure, the concerned debenture holder shall serve a notice on the company to issue the certificate. If no action is taken by the Company within 10 days of receipt of notice, the debenture holder has to submit an application to Company Law Board[1] for relief. Thereupon, the CLB may make an order directing the company or any of its officers to make good the default within the time stipulated in the order. The order may also provide that the costs of and incidental to the applications shall be borne by the company or by any officer of the company responsible for default.

167.2 Submission of petition

A petition in Form No. 1 in Annexure II (with necessary modifications) to the Company Law Regulations, 1991 shall be made to the Company Law Board seeking direction from the Company Law Board for issue of debenture certificate. The petition may be made by the debenture holder or any other person interested in the matters and presented by the petitioner in person or through authorised representative to the concerned Bench Office or by registered post with acknowledgement duly addressed to the Secretary or Bench Officer of the concerned Bench. The Bench may permit more than one person

*RELEVANT PROVISIONS :

- Companies Act, 1956 : Section 113(3).
- Company Law Board Regulations, 1991.
- Company Law Board (Fees on Applications and Petitions) Rules, 1991.

APPLICABILITY : COMPANIES WHICH ISSUE DEBENTURES.

1. The powers of Company Law Board in this regard shall stand transferred to Central Government when Companies (Second Amendment) Act, 2002 is brought into force.

to join together and file a single petition if it is satisfied that they have a common interest in the matter.

167.2-1 Documents to accompany petition

The petition should be accompanied by the following documents :

(*a*) Copy of the letter of allotment issued by the company.

(*b*) Documentary evidence for lodgement of debenture for transfer.

(*c*) Copy of the notice served on the company requiring it to make good the default in issuing debenture certificate.

(*d*) Any other correspondence.

(*e*) Affidavit verifying petition.

(*f*) Bank draft evidencing payment of application fee of Rs. 50.

(*g*) Memorandum of appearance in Form No. 5 with copy of the Board Resolution or the executed Vakalatnama, as the case may be, if the petition is filed by the authorised representative or advocate.

(*h*) Index of documents.

167.2-2 Contents of petition

The petition should set forth the name of the company, with its status, date of incorporation, the address of its registered office, authorised capital, paid-up capital with division of different classes of shares and terms of issue, if any, in the case of preference shares, main objects in brief, present business activities and should also set forth concisely under distinct heads the grounds for such petition and nature of relief sought for.

167.2-3 Attestation of documents

The documents may be attested by the party or the authorised representative or by the advocate and shall be marked serially as Annexures A1, A2, A3 and so on.

167.3 Serving a copy of petition on respondent(s)

A copy of the petition, reference or application should be served on the respondent(s) and evidence for service of petition should be produced. Where the number of respondents is more than five, the Secretary or Bench Officer may permit the petitioner to file extra copies of the petition at the time of issue of notice to the respondents.

167.4 Order of the Company Law Board

The Bench shall pass an order directing the company to issue the debenture certificate.

167.5 Issue of debenture certificate

The company must issue the debenture certificate within the time stipulated by the Company Law Board. The company should also comply with the provisions in the order as regards cost of application.