

PRIVATE PLACEMENT

UNDER COMPANIES ACT, 2013

Definitions:

1. **Private Placement:** means any offer of securities or invitation to subscribe securities (equity or securities that convert to equity) to a select group of persons by a company, other than by way of public offer, through issue of a private placement offer letter.

A Company (both Private & Public) may make private placement through issued of a private placement offer letter (PAS-4),

1. This is applicable to non existing shareholders of the company.
2. Offer of securities or **INVITATION** to subscribe securities shall not exceed **200 in the aggregate in a financial year** (excluding QIB and Employee under ESOP)
3. In case more then 200 (separate for each kind of security) is offered irrespective of any receipt of payment that shall be treated as public offer. (Not applicable to NBFC and Housing Finance Company only if complying with their relevant Rules)
4. investment size of not less than twenty thousand rupees per person of face value of the securities. (Not applicable to NBFC and Housing Finance Company only if complying with their relevant Rules)
5. the record of the bank account of the person from which the payment is made shall be kept. (in case of joint holders the name which comes first shall be preferred)
6. Previous offer must be finished for proceeding with the other.
7. Offer letter can be sent in writing or electronically.
8. Shall be sent within 30 days of recording the names of the person.
9. Offer can be made only through **prior** approval in Special Resolution. Validity of Resolution shall be 12 months.
10. Explanatory statement shall be given for basis or justification for the price (including premium, if any)
11. A complete record of private placement shall be made in PAS 5. A copy of such record along with the private placement offer letter in [Form PAS-4](#) shall be filed with the Registrar and where the company is listed, with the Securities and Exchange Board within a period of 30 days of circulation of the private placement offer letter.
12. Offer letter date shall be treated as circulation date.
13. Return of Allotment shall be filed along with a complete list of all security holders containing-
 - the full name, address, Permanent Account Number and E-mail ID of such security holder;
 - the class of security held;
 - the date of allotment of security ;
 - the number of securities held, nominal value and amount paid on such securities; and particulars of consideration received if the securities were issued for consideration other than cash.
14. The price of the security has to be justified and it also requires a valuation report by a Registered Valuer (which can be a Company Secretary, Chartered accountant or a Cost Accountant).

15. Allotment has to be completed within 60 days, otherwise from the 15th day of the end of the 60th day, the share application monies have to be repaid. In the event of failure, interest at 12% is required to be paid.
16. If there is a Foreign Direct Investment, RBI has allowed for 180 days for allotment.
17. If the Shares are not allotted within 60 days from the receipt of amount or refund is not provided within 15 days from the end of 60 days the same shall be treated as DEPOSIT
18. Offer letter shall be:
 - Serially numbered
 - Addressed specifically to the person

In case of offer or invitation for non-convertible debentures, it shall be sufficient if the company passes a previous special resolution only once in a year for all the offers or invitation for such debentures during the year.

Steps

1. Check the provisions in the Articles
2. Send Notice for convening Board Meeting at least 7 days before convening the Board Meeting for the following purpose:
 - To Prepare Offer Letter
 - Make Proposal for Private Placement
 - Prepare list of persons to whom option will be given
 - Call Extra Ordinary General Meeting (EGM)
3. Draft the private placement offer letter.
4. Draft Notice to be sent to shareholders for convening of Extra Ordinary General Meeting for the following:
 - Passing Special Resolution
 - Approval of Draft Offer Letter by Special Resolution
5. Special Resolution shall be valid for a period of 12 months.
6. File Form MGT -14 with the ROC within 30 days of passing Special Resolution.
7. Issue offer letter in PAS-4 within 30 days of record of name of persons
8. Prepare complete record of Private Placement in PAS-5
9. File Form PAS-4 and Form PAS-5 with ROC within 30 days of issue of offer letter in Form GNL-2
10. Make Allotment of shares within 60 days of receipt of Money from the persons to whom right was given.
11. Call Board Meeting for allotment of shares File PAS-3 with ROC within 30 days of Allotment.
12. Issue share certificates and update minute's book and registers.

Calendar for compliance

<u>Particulars</u>	<u>Due Date</u>	<u>Trigger Date</u>
Notice for Board Meeting	7 days before	
notice for EGM	21 days before	
MGT 14	30 days of passing Special Resolution	
Issuance of Offer Letter	30 days of record of name of persons	
PAS-4 to ROC in GLN 2	30 days of issue of offer letter	
PAS-5 to ROC in GLN 2	30 days of issue of offer letter	
Allotment	Within 60 days from receipt of money	
Refund Application Money	Within 75 th day of Receipt of Money	
PAS-3 to ROC	30 days from Allotment	

(Any suggestion, modifications or alterations are solicited by the esteemed professionals & seniors).