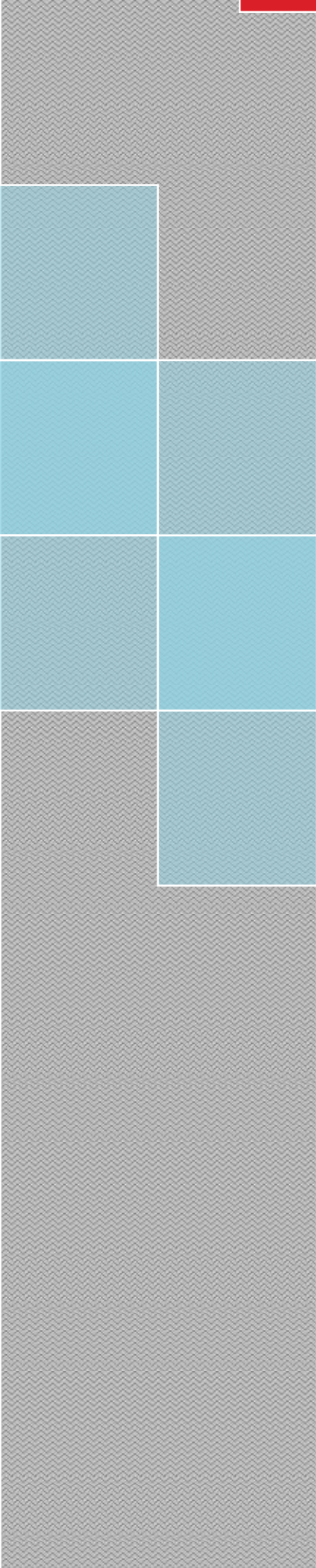




Certification on Reconciliation of Share Capital

An Overview on Regulation 55A of SEBI (Depositories & Participants) Regulations, 1996 and Companies (Prospectus and Allotment of Securities) Third Amendment Rules, 2018

This article deals with certification applicability, its requirement and procedures to be followed while certifying the reconciliation of share capital of both listed as well as listed companies.

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Introduction

According to Regulation 55A (1) of SEBI (Depositories and Participants) Regulations, 1996, every issuer company who has issued its any security whether shares, debentures etc. on a recognized stock exchange is mandatorily requires to submit the concerned Stock Exchanges where the issuer company has listed its securities the audit report by a " practicing company secretary or qualified chartered accountant on a quarterly basis", in respect of: -

- a. Reconciliation of the total issued capital, listed capital and capital held by depositories in dematerialized form ,
- b. The details of changes in share capital during the quarter and
- c. In principle approval obtained by the issuer from all stock exchanges where it is listed in respect of such further issued capital.

According to Regulation 55A (2) of SEBI (Depositories and Participants) Regulations, 1996: -

- a. The audit report under sub- regulation (1) shall also give the updated status of the register of members of the issuer
- b. Confirm that security have been dematerialized as per requests within 21 days from the date of receipt of request by the issuer and
- c. Where the dematerialization has not been effected within the said stipulated period, the report shall disclose the reasons for such delay.

But with the introduction of Companies (Prospectus & Allotment) Third Amendment Rules, 2018 notified on 10.09.2019 and effective from 02.10.2018, reconciliation is required for the "unlisted public companies on half- yearly basis."

What is the need for certification from external assurance providers??

Various transactions were reported, in which major transactions were as under: -

- a. Issuer companies have
 - i. dematerialised their securities in excess of admitted capital or
 - ii. Without obtaining "in-principle" approval from the concerned stock exchanges where the shares are listed.
- b. Some issuer companies made preferential allotment of shares usually against swaps and promoters dematerialised their holdings without the shares being listed on all the stock exchanges where the shares were listed.

Who are external assurance providers for giving this certification??

The certification is required to be given on quarterly basis after being certified from the practicing CS or a qualified CA by the issuer company to the concerned recognized stock exchange.

Applicability??

- a. Every Listed Company as well as Unlisted Public Company is required to obtain this certification i.r.o. reconciliation of share capital held by company with its depositories held in DEMAT Form.
- b. Such certificate is required to submit to the concerned Stock Exchange(s) where its securities are listed
- c. The certificates are required to be submitted within 30 days for listed companies and within 30 days for unlisted public companies of the end of each half year.

Due Dates for Listed Companies on a Recognised Stock Exchanges: -

Quarters	Due Date
1 st Quarter (1 st April to 30 th June)	30 th July
2 nd Quarter (1 st July to 30 th September)	30 th October
3 rd Quarter (1 st October to 31 st December)	30 th January
4 th Quarter (1 st January to 31 st March)	30 th April

Due Dates for Unlisted Public Companies: -

Half Year	Due Date
1 st Half Year (1 st April to 30 th September)	30 th October
2 nd Half Year (1 st October to 31 st March)	30 th April

What is the scope of auditor and his certificate??

The scope of the certificate would comprise the following:

- a. Tallying of
 - Total issued capital
 - Total paid-up capital
 - Total listed capital
 - Total admitted capital with both the Depositories (NSDL/ CDSL)
- b. Updating of Register of Members (ROM).
- c. Confirmation of dematerialization requests within 21 days.
- d. Shares pending confirmation for more than 21 days from the date of requests and reasons for delay, if any.
- e. Furnishing details of changes in share capital (due to rights, bonus, preferential issue, IPOs, buyback, capital reduction, amalgamation, de merger, etc.)
- f. Confirmation as to whether in-principle approval for listing in respect of all further issues have been received from all stock exchanges where the securities of the company are listed.

Important Note: - The certificate relates only to share capital (equity and preference) and not with respect to debts (debentures, bonds etc.).

If the company has equity shares with multiple ISIN's (due to existence of partly paid up shares etc.), reconciliation has to be done for each ISIN.

The auditor should also check:

- (i) Whether Registrar's Certificate with SEBI is renewed or not?
 - (ii) Whether there is any delay/defect with registrar in completing demat work.
 - (iii) Whether any intimation is due to be given to Stock Exchanges, depositories?
 - (iv) Whether certificates received for demat has been destroyed after confirming demat requests?
 - (v) Whether any wrong confirmation of demat requests is given; if so financial impact of such errors.
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- In the course of the verification, if the auditor comes across any Forms, resolutions etc., not filed with Registrar of Companies then the same should be brought to the notice of the management of the Company for compliance.
 - For example, if the company has altered its authorized or paid-up share capital and has not filed necessary Forms with Registrar of Companies, then the same need not be reflected in the certificate, but should be brought to the notice of the management of the company.

What shall be kept in mind before accepting assignment??

In view of the provisions of the Company Secretaries Act, 1980 and Chartered Accountant Act, 1949, whenever a new incumbent is assigned the certification work, he should communicate his appointment to the earlier incumbent by proper means of channel as notified in the act and rules there under.

What are penalties of non compliance on concerned companies, officers in default as well as external assurance providers??

On Officer in Default: -

1. As per Section 20 of the Depositories Act, 1996
 - a. Punishable with imprisonment for a term which may extend to ten years, or
 - b. with fine which may extend to twenty five crore rupees, or
 - c. With both.
2. Penal Provisions as per Companies Act, 2013
3. Penal Provisions of SEBI Act, 1992, etc.

On Company: -

1. As per Section 21 of the Depositories Act, 1996
 - a. Shall be liable to be proceeded against and punished accordingly.
2. Penal Provisions as per Companies Act, 2013
3. Penal Provisions of SEBI Act, 1992, etc.

On the auditor: -

1. Any failure or lapse on the part of an auditor in issuing a certificate may attract disciplinary action for professional or other misconduct under the provisions of the Company Secretaries Act, 1980 or Chartered Accountants Act, 1949.
 2. Penal Provisions as per Companies Act, 2013
 3. Penal Provisions of SEBI Act, 1992, etc.
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