

GUIDELINES – ALLOTMENT OF SHARES OTHER THAN CASH

Specifically Non Cash Allotment

Short Summary:

In this editorial author discussing about **Provisions of allotment of shares other than cash consideration & process of same and drafts of the same.**

Section/ Rules Involved:

a.	Section 62(1)(c)	¹ Further Issue of Share Capital
b.	Rule 13	² Issue of Shares on Preferential Basis
c.	Section 42	Private Placement
d.	Rule 14	Private Placement
e.	Section 39	Allotment of Securities by Company
f.	Rule 12	Return of Allotment

Forms Involved:

a.	MGT-14	Within 30 days of passing of Special Resolution
b.	PAS-3	Within 30 days of passing of board resolution for allotment of shares.

- A. Whether Company can issue securities like (Debentures, share warrant etc) by following section 62(1)(c) other than cash consideration?

Section 62(1) states about only issue of 'Shares' its doesn't include securities. Therefore securities can't issue other than cash consideration under Companies Act, 2013.

¹ <http://ebook.mca.gov.in/default.aspx>

² <http://ebook.mca.gov.in/Actpagedisplay.aspx?PAGENAME=28275>

STEP - PROCEDURE

*Check Whether Company having power in Article of association for the same.

STEP- 1

Call Meeting of Board Director.

- ✓ Issue Notice of Board Meeting to all the directors of company at least 7 days before the date of Board Meeting.
- ✓ Attach Agenda of Board Meeting along with Notice.

STEP- 1I

Hold the Board Meeting.

- ✓ Check the quorum of Board Meeting.
- ✓ Identify the person to whom you will issue shares.
- ✓ Adopt Valuation report of registered valuer for shares.
- ✓ Adopt valuation report for valuation of consideration.
- ✓ Enter into contract pursuant to which the securities allotted.
- ✓ Prepare offer-cum-application.
- ✓ Pass Board Resolution for approval of offer-cum-application.
- ✓ Issue Notice of General Meeting. (As per Section- 101(1) issue notice of General Meeting at least 21 days before General meeting).
- ✓ Notice shall specify place, date, day and the hour of the meeting and shall contain a statement on the business to be transact in the such meeting. [Section-101(2)]
- ✓ Authorize a director of company to issue notice of General Meeting.

File Form with Registrar.

- ✓ ³File MGT-14 with Registrar within 30 days of passing of Board Resolution.

Attachments.

- ✓ Certified True copy of Board Resolution.

³ No need to file Board resolution with ROC in case of Private Limited Companies.

Information required to be mention – Explanatory Statement

(d) The company shall make the following disclosures in the explanatory statement to be annexed to the notice of the general meeting pursuant to [section 102](#) of the Act:

- (i) the objects of the issue;
- (ii) the total number of shares or other securities to be issued;
- (iii) the price or price band at/within which the allotment is proposed;
- (iv) basis on which the price has been arrived at along with report of the registered valuer;
- (v) relevant date with reference to which the price has been arrived at;
- (vi) the class or classes of persons to whom the allotment is proposed to be made;
- (vii) intention of promoters, directors or key managerial personnel to subscribe to the offer;
- (viii) the proposed time within which the allotment shall be completed;
- (ix) the names of the proposed allottees and the percentage of post preferential offer capital that may be held by them;
- (x) the change in control, if any, in the company that would occur consequent to the preferential offer;
- (xi) the number of persons to whom allotment on preferential basis have already been made during the year, in terms of number of securities as well as price;
- (xii) the justification for the allotment proposed to be made for consideration other than cash together with valuation report of the registered valuer.
- (xiii) The pre issue and post issue shareholding pattern of the company

STEP-1II

Hold Extra Ordinary general Meeting.

- ✓ Check the quorum of Meeting.(Section-103).
- ✓ Present Offer Letter before the members of the meeting.
- ✓ Pass Special Resolution for allotment of Shares other than cash consideration.

STEP-IV

File Form with Registrar:

- ✓ File MGT-14 with Registrar within 30 days of passing of Special Resolution.

Attachments:

- ✓ Notice of General Meeting along with Explanatory Statement.
- ✓ Certified True copy of Special Resolution.
- ✓ Minutes of General Meeting

STEP-V

Call Board Meeting after receiving of consideration.

- ✓ Issue Notice of Board Meeting to all the directors of company at least 7 days before the date of Board Meeting. [Section-173(3)]
- ✓ Attach Agenda of Board Meeting along with Notice.

STEP-VI

Hold the Board Meeting:

- ✓ Check the quorum of Board Meeting.
- ✓ Present List of Allottees before the Meeting.
- ✓ Pass Board Resolution for allotment of shares (within 60 days of receiving of consideration).
- ✓ Pass Resolution for issue of Share Certificate in same Meeting.
- ✓ Authorize to two directors and a authorize person to sign share certificate.

STEP- VII

File form with ROC:

- ✓ File PAS-3 with Registrar of Company within 15 days of passing of Board resolution for allotment of shares.

ATTACHMENTS:

- List of Allottees. (make sure list of allottees signed by the signatory of PAS-3)
- Board Resolution for allotment of Shares.
- copy of the contract, duly stamped, pursuant to which the securities have been allotted together with any contract of sale if relating to a property or an asset, or a contract for services or other consideration

- A report of a registered valuer in respect of valuation of the consideration shall also be attached along with the contract
- A report of a registered valuer for price of shares.

STEP-VIII

Issue Share Certificate.

- ✓ Issue Share Certificate in Form- SH-1 (As per Section-56 with in 2 (two) months from the date of allotment of shares.

Checklist – Issue of Shares other than cash consideration.

S. No.	Particular
1	Whether Company has passed resolution in Board Meeting?
2	Whether Company has passed special resolution in General Meeting?
3	Whether Company has filed e-form MGT-14 for SR within 30 days of General Meeting
4	Whether Company has obtained valuation report from registered valuer for the same?
5	Whether Company having power in Article of association for the same?
6	whether explanatory statement covered the following points:
6.01	(i) the objects of the issue;
6.02	(ii) the total number of shares or other securities to be issued;
6.03	(iii) the price or price band at/within which the allotment is proposed;
6.04	(iv) basis on which the price has been arrived at along with report of the registered valuer;
6.05	(v) relevant date with reference to which the price has been arrived at;
6.06	(vi) the class or classes of persons to whom the allotment is proposed to be made;
6.07	(vii) intention of promoters, directors or key managerial personnel to subscribe to the offer;
6.08	(viii) the proposed time within which the allotment shall be completed;
6.09	(ix) the names of the proposed allottees and the percentage of post preferential offer capital that may be held by them;
6.1	(x) the change in control, if any, in the company that would occur consequent to the preferential offer;
6.11	(xi) the number of persons to whom allotment on preferential basis have already been made during the year, in terms of number of securities as well as price;
6.12	(xii) the justification for the allotment proposed to be made for consideration other than cash together with valuation report of the registered valuer

6.13	(xiii) The pre issue and post issue shareholding pattern of the company in the following format-
7	Whether allotment made within 12 month from the date of passing of SR.
8	Whether company hold Board meeting for allotment of shares?
9	Whether company filed e-form PAS-3 with in 15 days of allotment
10	Whether following documents attached with PAS-3
10.1	list of allottees stating their names, address, occupation, if any, and number of securities allotted to each of the allottees
10.2	a copy of the contract, duly stamped, pursuant to which the securities have been allotted together with any contract of sale if relating to a property or an asset, or a contract for services or other consideration.
10.3	A report of a registered valuer in respect of valuation of consideration.
11	Whether list of allottees signed by the signatory of PAS-3?
12	Whether Company mentioned proper post allotment shareholding pattern in PAS-3?
13	Whether proof of service of offer letter available with Company?

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