DEMATERIALISATION OF SHARES FOR PRIVATE COMPANIES

# Move will increase compliance burden and cost

**GAURAV PINGLE**, a Pune-based company secretary, explains the implications of the Companies (Amendment) Act, 2019, which contemplates dematerialisation of shares of private companies:

**What is the meaning of dematerialisation?**
Dematerialisation is a process through which physical share certificates of an investor are given to the company and an equivalent number of shares are credited into his Demat account in electronic form. The process is similar to depositing cash in the bank account of an individual, i.e. currency notes getting converted into electronic form. Dematerialisation of shares improves transparency and efficiency of the shareholders and the company. The process eases fundraising activity (for the company) and encourages investing activity (for the investors). The intermediaries involved in the dematerialisation of shares are depositories (NSDL or CDSL), depository participants, issuer companies, registrar and share transfer agent and the investor.

**Which companies are mandatorily required to have shares in Demat format?**
Every public company making a public offer are required to issue securities only in dematerialised form.

Further, every unlisted public company needs to issue securities only in dematerialised form and also facilitate dematerialisation of all its existing securities. However, a certain class of unlisted public companies, such as Nidhi companies, government companies, and wholly-owned subsidiary companies are exempted from having securities in dematerialised form.

According to the Sebi regulations, in case of listed companies, 100 per cent shareholdings of promoter(s) and promoter group have to be in dematerialised form. Such shareholding has to be maintained by the promoter(s) and promoter group continuously.

In the case of listed companies, retail investors can hold share certificates or shares in Demat form. However, any investor who is desirous of transferring shares (which are held in physical form) after April 1, 2019, can do so only after the shares are dematerialised.

**What are the advantages for companies and investors from shares in Demat form?**
If the shares are held in electronic form, all the risks associated with physical share certificates are eliminated. Such risks include loss of share certificates, mutilation of share certificates, and cost and time of obtaining duplicate share certificates. The settlement of share transaction (ie buy, sell, gift, etc) is streamlined.

If a shareholder is holding shares in 10-15 companies and there is a change in his/her residential address, then he/she is not required to co-ordinate with 10-15 companies for recording such change. The shareholder is required to co-ordinate only with the depository participant (NSDL or CDSL) and submit requisite documents.

The depository system provides for direct credit of non-cash corporate entitlements (eg rights issue/bonus issue) to an investor's account, thereby ensuring faster disbursement and avoiding the risk of loss of share certificates in transit.

**What are the cost and compliances for a company having shares in Demat form?**
A company proposing to have shares in electronic form is required to have an agreement with either of the two depositories (NSDL or CDSL). The company is required to pay annual maintenance fees to the depository for maintaining shares in electronic form. The company is also required to appoint another intermediary -- registrar and share transfer agent -- for giving effect to transfer or transmission of shares in electronic form. The company is required to pay annual fees to the registrar and share transfer agent.

**What is the cost for the investor?**
The cost for the investor comprises: (i) Demat account opening charges, (ii) annual fees to be paid to the depository participant for maintaining the Demat account, (iii) charges for conversion of share certificates into Demat form, (iv) charges for reconversion of shares in electronic form to share certificates, (v) charges for off-market transfer of shares. Brokerage paid the stock-broker for buying or selling shares on the stock exchange is not part of Demat charges. The brokerage is a separate charge and is dependent upon the volume of transaction.

**Can investors convert Demat shares into share certificates?**
Yes, the retail investor always has the option of converting shares in electronic form (ie Demat form) into physical share certificates. This process is called as 're-materialisation' of shares (Remat). In such a case, the company in coordination with the registrar and share transfer agent issues a share certificate to the shareholder.

**What is the impact of the Companies Amendment Act, 2019?**
By an amendment to the Companies Act, 2013, every company making an offer of securities (ie offer of securities on rights basis or private placement basis or preferential offer basis) and such class or classes of prescribed companies shall issue securities in dematerialised form. By the amendment, the issue is whether the government proposes holding of shares of private companies in dematerialised form. One of the basic features of a private company is a restriction on transfer of shares. Considering this feature, it is desirable that the government doesn't direct the dematerialisation of shares of private companies. Such a move will increase the compliance burden and compliance cost for private companies.