

Companies Act Fundamentals

Calls / Forfeiture / Reissuance of
shares



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Applicable Law

- Chapter IV- Share Capital and Debentures - Section 43-72 of the Companies Act 2013
 - The Companies (Share Capital and Debentures) Rules, 2014.
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- Act means – Companies Act 2013
 - Rules means - The Companies (Share Capital and Debentures) Rules, 2014.

Calls / Forfeiture / Reissuance of shares

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Calls on Shares

Section 49 of the Act provides that, where any calls for further share capital are made on the shares of a class, such call shall be made on a uniform basis on all shares falling under that class. There cannot be any discrimination between shareholders of the same class as regards amount and time of repayment of call.

Generally AOA of the Company provide for the manner in which the unpaid amount on shares shall be called. The provisions are similar to provisions specified in the schedule I Table F provision 13 to 18.

For the listed Companies SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 provides that if the issuer proposes to receive subscription money in calls, it shall ensure that the outstanding subscription money is called within twelve months from the date of allotment in the issue. If any allottee fails to pay the call money within the said twelve months, the equity shares on which there are calls in arrear along with the subscription money already paid on such shares shall be forfeited.

Calls on Shares

However, if the issuer has appointed a monitoring agency, the said period of 12 months shall not be applicable.

According to section 50 of the Act the Company can accept from any member, the whole or a part of the amount remaining unpaid on any shares held by him, even if no part of that amount has been called up provided its AOA permits the same.

Section 51 provide that a member of the company limited by shares shall not be entitled to any voting rights in respect of the amount paid by him in advance until that amount has been called up.

The company if authorised by its articles may pay dividends in proportion to the amount paid-up on each share. In the case of preference shares, dividend shall be paid on fixed rate. In case of equity shares, dividend may be paid according to amount paid-up on the shares.

Calls on Shares



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Forfeiture of shares

The company derives its authority to forfeit shares through its AOA. Where the articles provide for forfeiture of shares with respect to manner of forfeiting shares, the company must comply with the same or else forfeiture shall be void.

Under the Act, the provisions with regard to forfeiture of shares is contained in Table F (Articles of Association of Company Limited by Shares) which inter alia provides that:

- if a member fails to pay any call, or instalment of a call, on the day appointed for payment thereof, the Board may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

Forfeiture of shares

- A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the company all monies which, at the date of forfeiture, were presently payable by him to the company in respect of the shares.
- The liability of such person shall cease if and when the company shall have received payment in full of all such monies in respect of the shares.
- The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Forfeiture of shares

- For the listed companies, SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, provides that the issuer company needs to call all the outstanding subscription money within one year of allotment and if any allottee fails to pay the call money within the twelve months, the equity shares on which there are calls in arrear along with the subscription money already paid on such shares shall be forfeited.

Reissuance of Forfeited shares

- Shares forfeited by a company can either be cancelled or reissued to another person at the discretion of the Board.
- Reissue of forfeited shares is a sale of shares and it does not amount to an allotment.
- According to Secretarial Standard on Forfeiture of Shares the directors are empowered to fix a price for the forfeited share that should not be lower than the amount of the call due and unpaid on the share at the time of forfeiture.
- In the case of listed companies, re-issue of forfeited shares shall be as per Guidelines for Preferential Issue issued by the SEBI and the listing agreement.

Thank you



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Passion, Integrity, Excellence**

Thank You

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