

Regulatory Insights

The background of the slide is a complex, abstract geometric pattern. It consists of numerous interconnected lines and dots, creating a network-like structure. The colors transition from a deep blue on the left to a warm orange on the right. The lines vary in thickness and color, some being dark blue and others a lighter, muted orange. The dots are small and dark, acting as nodes in the network.

+ • Dematerialization of Securities

Private Limited Company as a Foreign Subsidiary

Introduction

The Ministry of Corporate Affairs (“MCA”) in its drive to enhance transparency, investor protection and corporate governance, has introduced a significant amendment via the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023.

Amendment

In accordance with the new rules **all Private Indian companies except small companies** to

- i. Issue the securities only in dematerialized form.
- ii. Facilitate dematerialization of all its existing securities i.e., all existing securities which are currently in physical mode are required to be converted into dematerialized/ electronic mode.

Subsidiaries of foreign companies are not considered as Small Companies and need to dematerialize all their securities.

What is dematerialization of securities?

Dematerialization of securities means the conversion of physical securities into an electronic format which is maintained by the dedicated depositories authorized by the Government of India.

In this context, securities include any kind of shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a similar nature. Conversion of physical shares into electronic mode can be done through either depositories.

What is the Due Date for dematerialization?

18 months from the date of closure of financial year ending on or after 31 March 2023 i.e., **30th September 2024** or later depending on the company's financial year end.

Impact Assessment

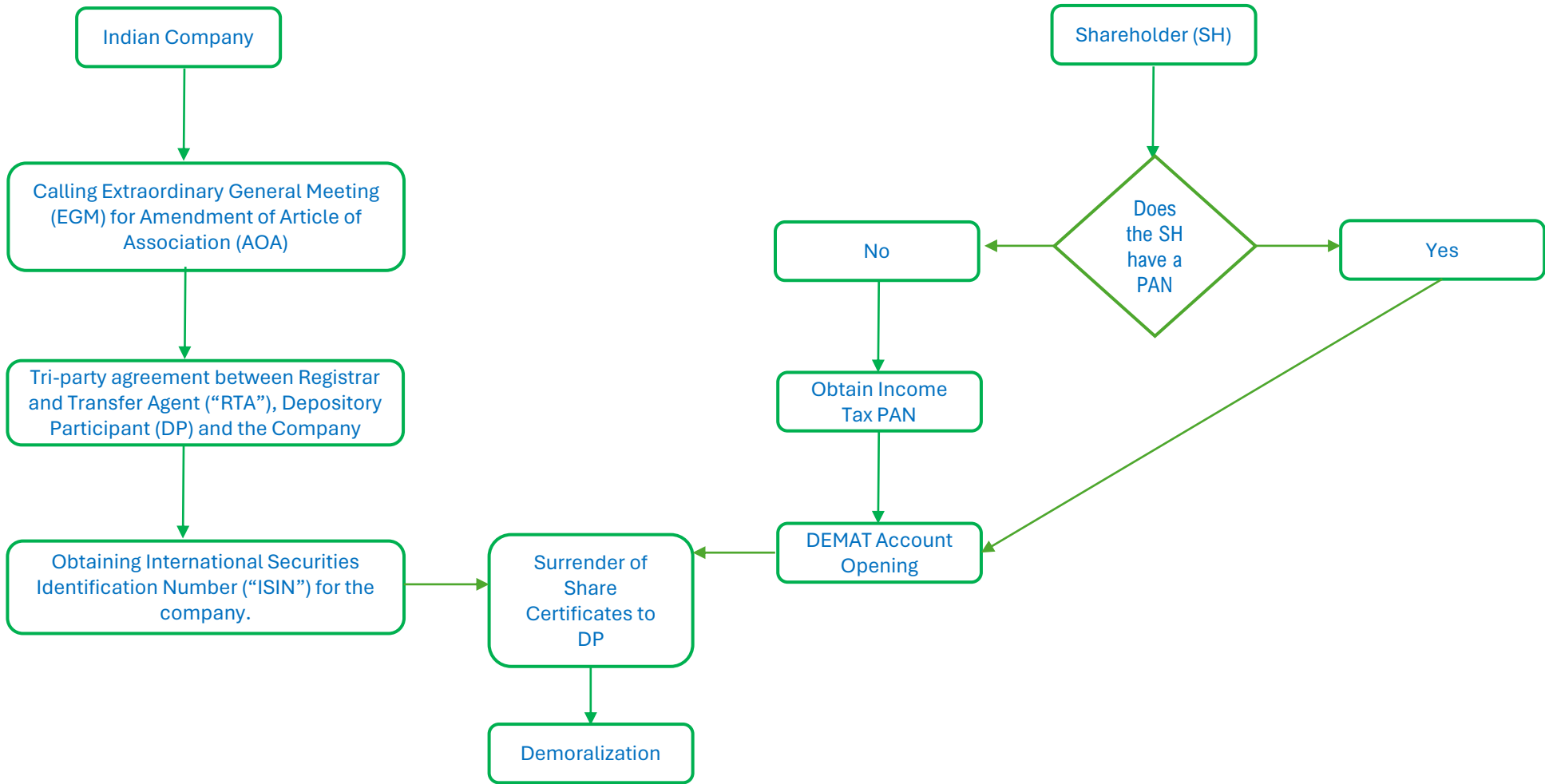
Indian Company

- i. By 30th September 2024, the company must convert all types of shares and debentures into dematerialized form by making the necessary application to a depository and securing International Security Identification Number (ISIN) for each type of security and shall notify all its existing security holders of this facility.
- ii. All the further issues and transfers of shares and debentures made after the due date shall be made only in dematerialized form.
- iii. File form PAS – 6 (Reconciliation and Share Capital Audit Report) with the Registrar of Companies (ROC) within 60 days of the end of each half year.

Security Holder

- i. The holders of shares of a private limited company must get a demat account opened with the authorized depository for holding the dematerialized securities therein.
- ii. Ensure that their existing securities in (a) private limited company(ies) are dematerialized before transferring them or subscribing for new shares before approaching the due date.

Process Flow



Risk Assessment

In case the company or the security holders do not comply with the requirement to dematerialize their securities by 30 September 2024, the following consequences will apply:

- The company will not be able to issue/allot any type of securities.
- The security holder will not be able to transfer or subscribe for any type of security.
- Monetary penalties on company and every officer in default:
- On the company: INR 10,000 + INR 1,000 for each day violation continues. Maximum limit is INR 2,00,000
- Every officer of the company who is in default – same as above. Maximum limit is INR 50,000

Let's talk

For a deeper discussion of how this issue might affect your business, please feel free to contact us.

Mathew Joseph

Partner - Corporate Advisory Services | ACS, ACSI, CSOE

Mob : ++91-9446075779 | Tel: ++91-471-4011046 | Email: mj@rovas.in

