

RAISING OF CAPITAL & BORROWING OF DEBTS

COMPANIES ACT, 2013

National Conference on Co's Act 2013

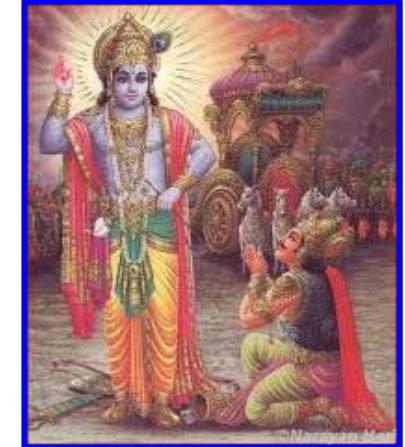
17th October 2014



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COMPANIES ACT 2013 – OBJECTIVE

- Investor Protection & Activism
- Enhanced disclosure norms
- Improved corporate Governance
- Auditor Regulation - Rotation - Accountability
- Enhanced Penal - Prosecution Provisions
- Update to make it compliant globally – Contemporary



Is Companies Act 2013 **Good** or **Bad**?

RAISING OF CAPITAL & BORROWING OF DEBTS

<i>Ch.</i>	<i>Topics Covered</i>	<i>Form</i>	<i>Section</i>
III	Prospectus & Allotment of <i>Securities</i>	PAS	23-42
IV	Share Capital and Debentures	SH	43-72
V	Acceptance of Deposits by Cos	DPT	73-76
VI	Registration of charges	CHG	77-87
VIII	Declaration and payment of Dividend	DIV	123-127
VII	Management And Administration	MGT	88-122

SECURITY [s.2(81) r/w S. 2(h) of SCRA 1956]

“securities” include –

- (i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;
- (ia) derivative;
- (ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;
- (ic) Security receipt as defined in S. 2(zg) of the SARFAESI Act, 2002;
- (id) Units or any other such instruments issued to the investors under any mutual fund scheme;
- (ii) Government Securities;
- (iia) Such other instruments as may be declared by C.G as securities; and
- (iii) Rights or interests in securities.

Balance Sheet

Sources	Sec.	Application	Sec.
<u>Share Capital</u> Not @ discount (Except <u>Sweat Equity</u> Shares u/s. 54) Preferential issue of shares <i>[other than rights or ESOP]</i> at a value determined by Regd. Valuer / CA .	53 62 55	<u>Investments</u> max thro 2 layers of subsidiaries <u>Loans</u> <i>(incl. book debts, guarantee / Securities)</i> To directors <i>(or any other person in whom director is interested)</i> - Void <i>(Even for Pvt. cos.)</i>	2(87) & 186 185
<u>Preference Share</u> Redeemable in 20 yrs, except infrastructure projects -30 yrs	123(1)	Except to MD / WTD – As per service rules to <u>all</u> employees and with S/R by members.	
<u>Reserves & Surplus</u> 'Mandatory transfer to reserves' before dividends – Now Optional	71		
<u>Debentures</u> Redeemable in 10 yrs, except infrastructure projects- 30 yrs	73 to 76		
<u>Deposits</u> Stringent norms prescribed like SAM > 60 days Advance from customers > 300 days • Credit rating • Deposit Insurance • Deposit 15% of amount repayable in current & next year Accept only from Directors <i>(Deposits accepted earlier to be repaid on due date or within 1 year WIE)</i>			

Reliance Industries Limited

Balance Sheet as at 31st March, 2014

(₹ in crore)

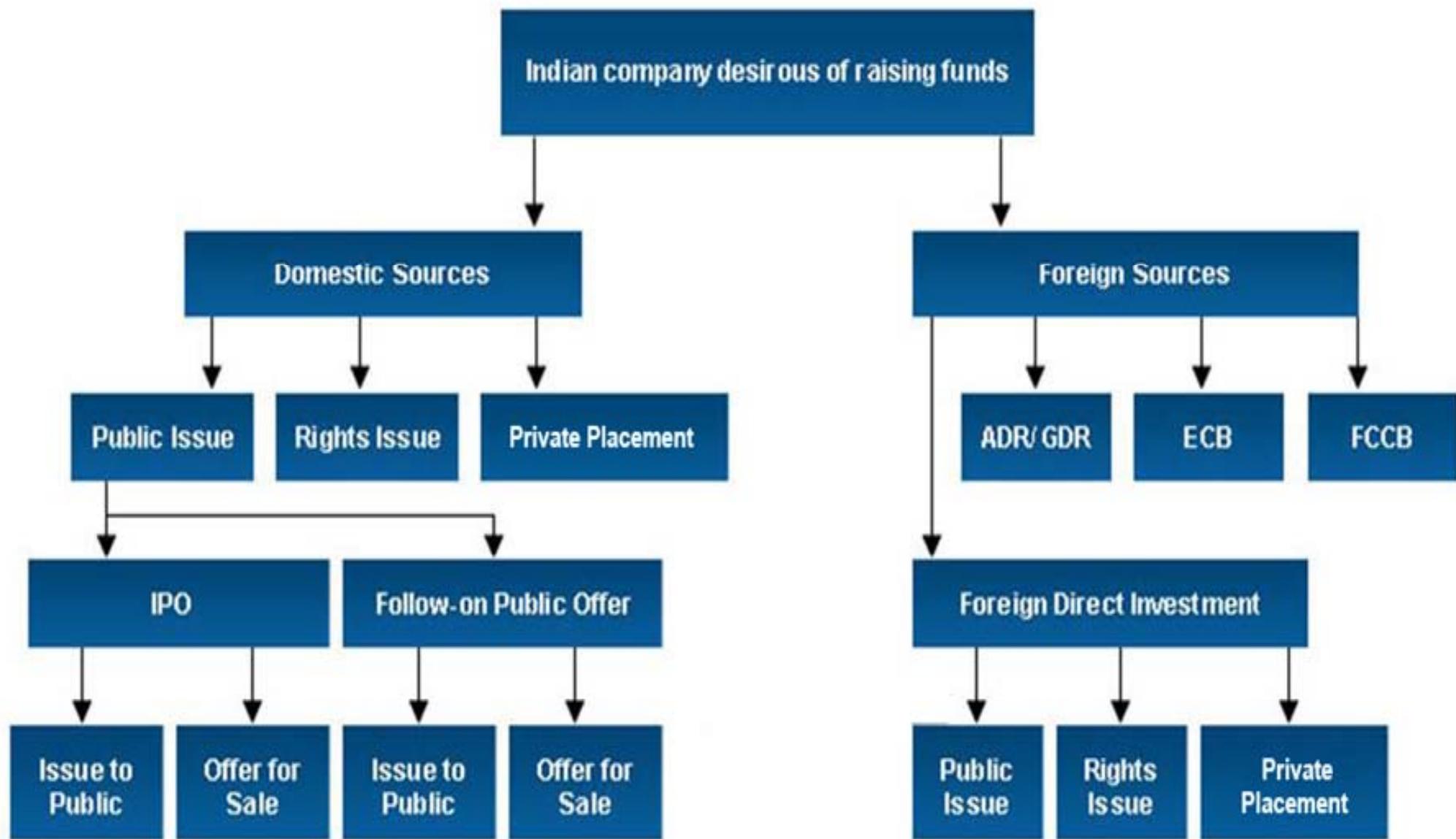
- EQUITY SHARES
- PREFERENCE SHARES

- SECURITY PREMIUM
- DRR
- CRR

- DEBENTURES
- DEPOSITS
- BORROWINGS –
 - BANKS / FI
 - OTHERS

- FROM BANKS / FI
- FROM OTHERS

	Note	As at 31st March, 2014	As at 31st March, 2013
EQUITY AND LIABILITIES			
Shareholders' Funds			
Share Capital	1	3,232	3,229
Reserves and Surplus	2	1,93,842	1,76,766
Share Application Money Pending Allotment	1	1,97,074	1,79,995
Non-Current Liabilities			
Long Term Borrowings	3	62,711	43,012
Deferred Tax Liability (net)	4	12,215	12,193
		74,926	55,205
Current Liabilities			
Short Term Borrowings	5	22,770	11,511
Trade Payables	6	57,862	45,787
Other Current Liabilities	7	10,767	21,640
Short Term Provisions	8	4,167	4,348
		95,566	83,286
TOTAL ASSETS		3,67,583	3,18,511
Non-Current Assets			
Fixed Assets			
Tangible Assets	9	80,424	82,962
Intangible Assets	9	28,982	26,786
Capital Work-in-Progress	9	32,673	13,525
Intangible Assets under Development	9	9,043	5,591
Non-Current Investments	10	52,692	24,143
Long Term Loans and Advances	11	28,436	21,528
		2,32,250	1,74,535
Current Assets			
Current Investments	12	33,370	28,366
Inventories	13	42,932	42,729
Trade Receivables	14	10,664	11,880
Cash and Bank Balances	15	36,624	49,547
Short Term Loans and Advances	16	11,277	10,974
Other Current Assets	17	466	480
		1,35,333	1,43,976
TOTAL		3,67,583	3,18,511



FINANCE FOR COS.

VITAL INGREDIENT

SHARE
CAPITAL
(S. 43)

DEBT

EQUITY

PREFERENCE

DEBENTURES

DEPOSITS

OTHERS

WITH
VOTING
RIGHTS

WITH
DIFFERENTIAL
RIGHTS

Draft Notification proposes to exempt Pvt.
Co's from applicability of S. 43 & S. 47

EQUITY SHARES WITH DIFFERENTIAL RIGHTS wrt Dividend, Voting or otherwise [S.43]

Conditions for issue – Rule 4.4

- a) Authorized by AOA.
- b) OR passed at GM (*Only thro postal ballot for listed Cos*)
- c) Such shares not be > 26% of Total post-issue PUC.
- d) Track record of distributable profits for last 3 years.
- e) No default in filing FS & A/R for 3 yrs immediately b4 issue.
- f) No subsisting default in**
 - *Payment of a declared dividend,*
 - *Repayment of matured deposits,*
 - *Redemption of pref. shares / debentures,*
 - *Payment of int./dividend on such deposits & debn., pref. shares.*
 - *Repayment of Bank & FI dues,*
 - *Statutory payments reg. employees or Credit to IEPF.*
- g) Co. not Penalized in last 3 years under RBI Act, SEBI Act, SCRA, FEMA, etc.

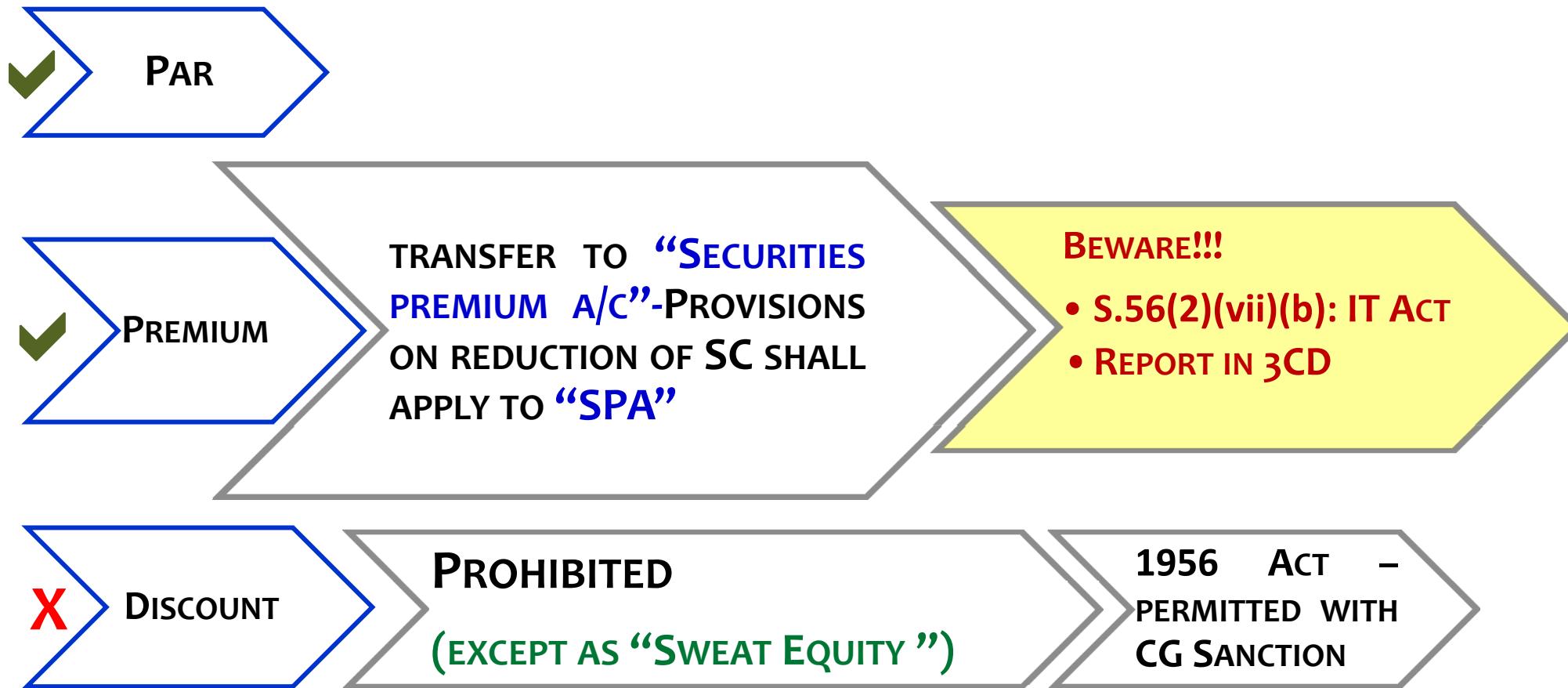
EQUITY SHARES WITH DIFFERENTIAL RIGHTS [Cont...]

- Complete particulars in Exp. Stat. to notice calling GM
- **Conversion of Existing Share Capital with Voting Rights to Shares with diff. Rights and vice- versa is not permitted**
- Detailed disclosure in Directors report for FY after issue

VARIATION OF SHAREHOLDERS' RIGHTS [S. 48]

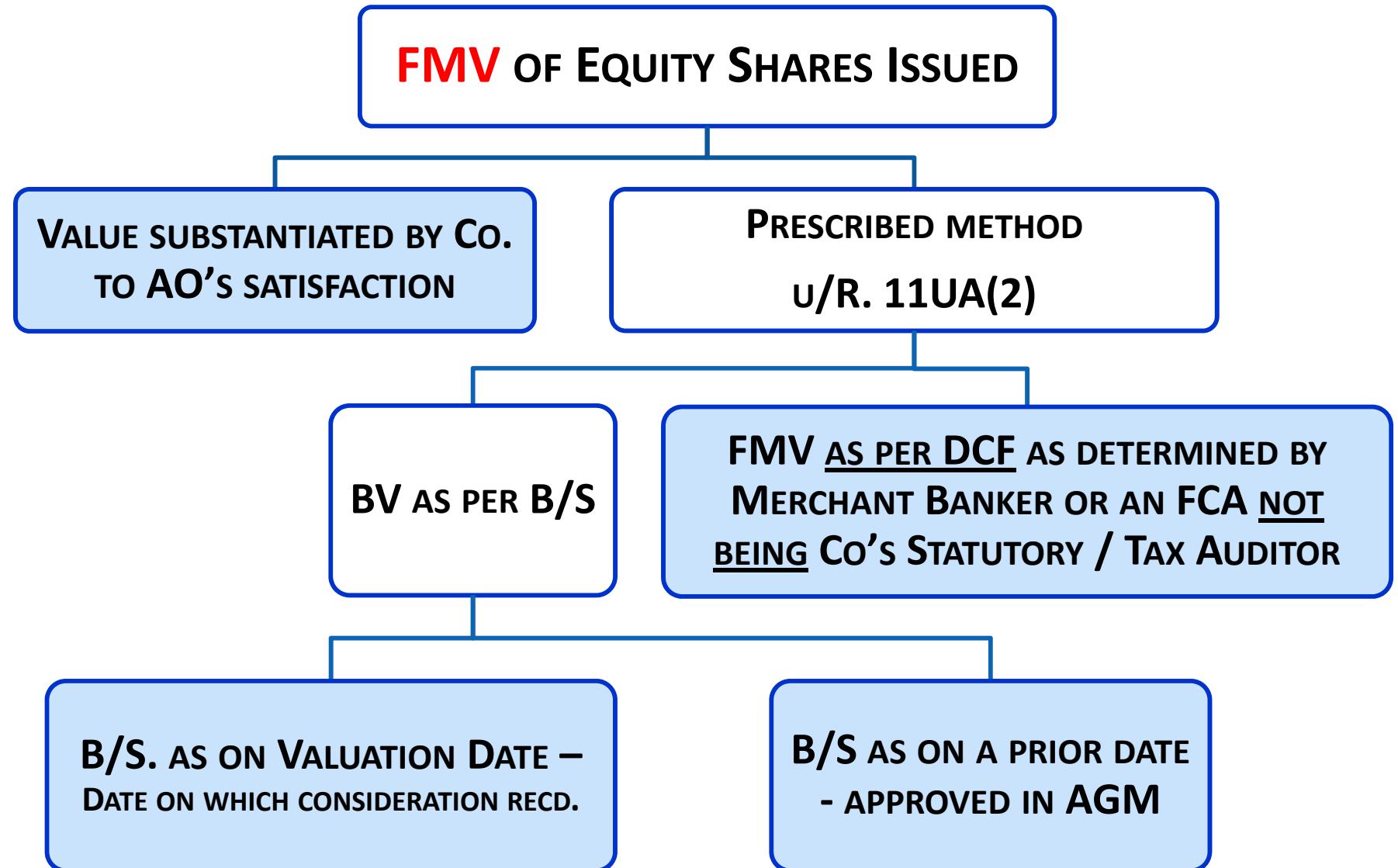
Rights attached to any class of shares may be varied s.t certain conditions

ISSUE OF SHARES @



ISSUE OF SHARES @ PREMIUM & INCOME TAX

In "CLOSELY HELD Cos": Issue Price Less FMV is s.t. Tax as IOS u/s. 56(2)(viib)



SHARES PREMIUM CAN BE APPLIED ONLY FOR [s. 52]

For certain Class of Cos, *[Not yet prescribed]* and whose FS comply with AS prescribed for such class of Cos. U/s. 133:

- a) For issue of fully paid bonus shares; or
- b) Write off expenses / commission / discount on Eq. issue; or
- c) for purchase of its own shares or other securities U/s. 68.

For other Cos: In addition to the above- for

- d) write off preliminary expenses.
- e) Providing premium on redemption of pref. shares /deb.

SWEAT EQUITY SHARES [S. 54]

means such Equity Shares as are issued by a co. to its directors or employees at a discount or for consideration other than cash, for providing their know-how or making available rights in the nature of IPR or value additions, by whatever name called.

'Value additions' means actual or anticipated economic benefits derived or to be derived by the company from an expert or a professional for providing know-how or making available rights in the nature of IPR, by such person to whom sweat equity is being issued for which the consideration is not paid or included in the normal remuneration payable under the contract of employment, **in the case of an employee.**

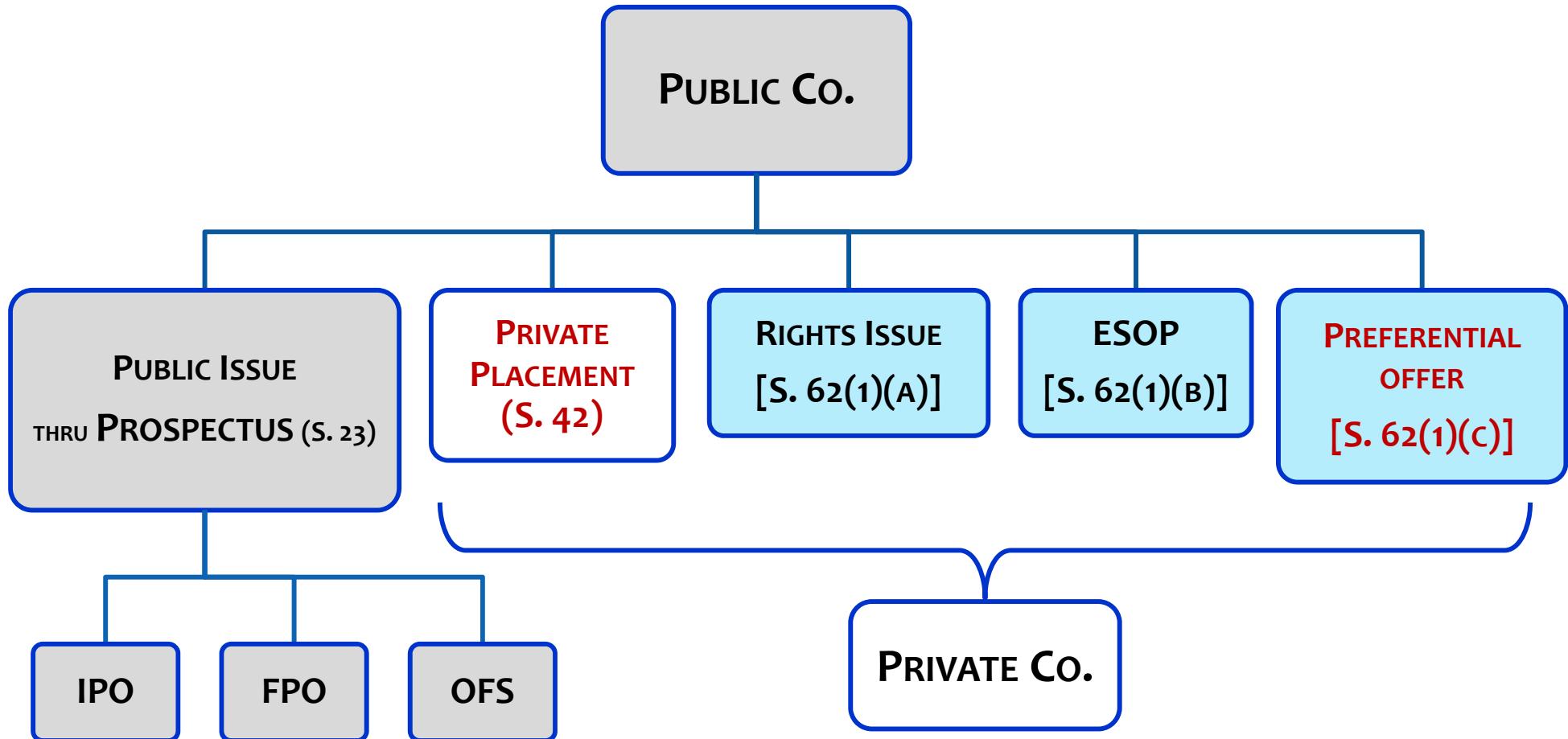
Can Sweat Equity Shares be given to an Expert or a Professional Other than an Employee or a Director?

SWEAT EQUITY SHARES [S. 54 R.W RULE 4.8]

To class of Directors or Employees permitted s.t following conditions:

- SR - valid for 12 months
- Detailed disclosure in Notice
- To Permanent Employees working for last 1 yr & Directors of CHS.
- Minimum lock-in period of 3 years.
- Sweat issue shall not exceed
 - Higher of 15% of PUC or Rs.5 crores in a year; and
 - 25% of PUC at any point of time
- Valuation of IPR/ know how to be carried out by Regd. Valuer.
- Issue price of shares to be determined by Registered Valuer.
- Non cash consideration, if any, to be treated as per applicable AS
- Amount of sweat equity issued shall form part of "Managerial Remuneration", unless capitalized in books.
- Elaborate disclosure in annual Director's Report after issue.
- Co. to Enter details in the "Register of Sweat Equity" (in Form No. SH-3)

METHODS OF ISSUING SECURITIES



All Cos can issue **Bonus Shares** (S. 63)

S. 62 is titled “Further Issue of Share Capital”

MATTERS TO BE STATED IN PROSPECTUS [s. 26]

- Names & Addresses of Regd Office of Co., Compliance officer, merchant bankers, Co-managers, registrars, Bankers, CRA, underwriters and other persons named by SEBI.
- Dates of Opening & Closing of issue
- Declaration for allotment letters & refunds
- **Statement by BOD about Separate Bank Account**
- Underwriting details
- Consent of trustees, solicitors, advocates, merchant bankers, registrars, lenders & **Experts.**
- Resolution passed for Approval of Issue
- Procedure & Time Schedule
- Capital Structure of Co.
- **Main objects of Public Offer**

MATTERS TO BE STATED IN PROSPECTUS [CONT...]

- Main Objects & Present Business location, project implementation;
- Project particulars
 - (A) management perception of risk factors;
 - (B) gestation period
 - (C) extent of progress made
 - (D) deadlines for completion
 - (E) any litigation or legal action pending
- minimum subscription, premium etc
- details of directors
- **Sources of promoter's contribution;**

OFFER OF SALE OF SHARES By CERTAIN MEMBERS [s. 28]

- Document by which “OFS” to public - Treated as prospectus issued by Co.
- It must contain all details as in prospectus **except provisions relating to-**
 - Minimum subscription,
 - Minimum application value,
 - Statement to be made by BoD reg. utilization of money and
 - Other provision which cannot be compiled or gathered by offeror, with detailed justifications for not being able to comply with such provisions.
- Prospectus issued U/s. 28 shall disclose name of person or entity bearing the cost of making OFS along with reasons.

SHELF PROSPECTUS [s. 31]

- means a prospectus in respect of which securities are issued for subscription in one or more issues over a certain period without the issue of a further prospectus.
- **Shelf life -1 year**
- Can be issued by any class of co. prescribed by SEBI. Not restricted to PFI, banks whose main objects are financing - unlike 1956 Act.
- Co. to file info. Memo. [in PAS-3] for new charges created or changes in financial position since previous issue.
Interim payment received – Investor MAY seek refund.

RED HERRING PROSPECTUS [s. 32]

- Prospectus without details of quantum or price of securities.
- A company may issue a **RHP** prior to issue of prospectus.
- File **RHP** with ROC at least 3 days before opening of subscription list and the offer.
- Upon closing of offer of securities, details of information must be filed with RoC & SEBI.



(We were originally incorporated on May 10, 1996 as a public limited company called Varalakshmi Vasavi Power Projects Limited in the State of Andhra Pradesh. On May 23, 1996 we received our certificate of commencement of business. On May 31, 1999 we changed our name to GMR Vasavi Infrastructure Finance Limited. On July 24, 2000 we changed our name to GMR Infrastructure Limited. On October 4, 2004 we shifted our registered office from the State of Andhra Pradesh to the State of Karnataka.)

Registered Office and Corporate Office: Skip House, 25/1 Museum Road, Bangalore 560 025
 Tel: +91 80 2207 0100; Fax: +91 80 2299 8118; Web site: www.gmrgroup.co.in;
 Contact Person/Compliance Officer: Mr. Adiseshavataram Cherukupalli
 Email: gmripo@gmrgroup.co.in

ISSUE OF 45,331,238 EQUITY SHARES ,OF RS. 10 EACH AT A PRICE OF RS. [•] FOR CASH AGGREGATING RS. [•] MILLION (REFERRED TO AS THE "ISSUE").
 THE ISSUE WILL CONSTITUTE 13.69%* OF THE FULLY DILUTED POST ISSUE PAID-UP CAPITAL OF THE COMPANY.

LIABILITY FOR MIS-STATEMENT IN PROSPECTUS

Criminal liability (s. 34)

Punishment for fraud U/s. 447 for every person who authorizes issue (unless he proves his *innocence*).

Civil liability for misstatements in prospectus (S.35)

- compensate every person who has sustained such loss or damage
- by the person who has authorized issue of such prospectus or a director, promoter, expert whosoever is liable.

Defense against Civil liability

- Consent was withdrawn before issue of prospectus
- Prospectus was issued without his consent
- Prospectus was issued without his knowledge or consent and on becoming aware of its issue gave reasonable public notice.

PRIVATE PLACEMENT – S.42

“Private placement” means any offer of securities or invitation to subscribe securities to a **select group of persons (other than by way of public offer)** through issue of private placement offer letter (in form PAS - 4) and which satisfies the following conditions:

- **Breach** of any conditions shall be treated as public offer and all provisions of Act, SCRA and SEBI must be complied with.
- **Allot within 60 days** from receipt of application money else repay within 15 days from date of completing 60 days. (**Default Int. @ 12% p.a.**)
- Monies on application to be kept in **separate bank account in schedule bank** - To be used for purposes provided in this clause.
- **No public advertisements** or utilise any media, marketing or distribution channels or agents to inform public about such an offer.

PRIVATE PLACEMENT – R. 3.14

- **Approval by SR** – Notice to contain price justification.
[For NCDs - SR only once in a year for the whole year is sufficient]
- **Offer shall not be made to > 200 persons in a FY** - Excl. QIIs & ESOP
 - ❖ *Restriction individually for each kind of security i.e Eq. Share, Pref. Share or Debn.*
 - ❖ *No fresh offer unless invitation made earlier is completed or withdrawn or abandoned.*
- Offer size per person shall be **≥ ₹ 20,000 of face value** of securities.
- Subscribers to pay through bank a/c – record must be kept by the Co.
 - ❖ *Monies payable on subscription of securities to be paid by cheque or DD or other banking channels but not by cash. [S.42(5)]*

PRIVATE PLACEMENT – R. 3.14

- Issue Private placement offer letter in PAS-4 - Filed with ROC within 30 days of its circulation.
- Offer letter to be accompanied by application form – serially numbered - addressed specifically to person to whom offer is made – sent in writing or in e-mode, within 30 days of recording names.
- No person other than person so addressed is allowed to apply.
- Co. must maintain a complete record of the PP offers in PAS-5.
- **File with RoC** within 30 days of allotment a Return of Allotment in Form PAS-3.
- Provisions NA to Regd. NBFC & HFCs.

WHY STRINGENCY IN PROVISIONS?

Lacunae in provisions of 1956 Act reg. Pvt. Placement lead to malpractices:

- Provisions of 1956 Act were narrow & covered under its ambit **only shares & not all securities**, while SEBI defines the term 'securities'
- While Pvt placement could be made only to a max of 49 persons at one go, there was no provision to prevent Cos from convening multiple board meetings to approve such allotments. As a result, Cos started calling several meetings & made **allotment to 49 allottees at each such meeting, thereby manipulating the law.**
- Co's also took adv of **overlapping of powers b/w MCA & SEBI** to make multiple pvt placements.

The landmark judgment in Sahara Case has set direction for Pvt. Placement code & Cos Act, 2013 draws heavily out of the principles enunciated by SC.

RIGHTS ISSUE [S. 62(1)(a)]

Co. having Share Cap. **must at all times** increase its subscribed capital by issue of further shares to its existing members thru **Rights Issue** – in proportion as nearly as circumstances admit – by sending **Letter Of Offer**, s.t following conditions:

- i. Offer to be open for **min 15 days & max. 30 days** (Draft Notification – 7 to 15 days for Pvt. Co's) - If not accepted - then it is deemed to have been declined.
- ii. Offer to contain existing SH's **Right to renounce** shares to any other person, unless AoA provides otherwise.
- iii. After expiry of time specified in notice or on receipt of earlier Intimation by SH declining to accept offer, BoD may dispose shares in a manner **not dis-advantageous to SH & Co.**

ESOP

[S. 54 R/W. R. 4.12]

To Employees s.t SR (Draft Notification – OR for Pvt. Cos) & following conditions as in R. 4.12:

- **Employees means -**
 - Permanent Employee of CHAS.
 - Directors (Excl. Independent director) of CHAS.
- but does not include -
 - Employee Being promoter or belonging to promoter group, or
 - Director holding (*directly / indirectly / jointly*) > 10% stakes of Co.
- Detailed disclosure to be made in explanatory statement to notice
- **Co. free to determine exercise price** [*No Regd. Valuer reqd.*] & lock in period
- Scheme in force may be amended by SR
- **Minimum period of 1 year between grant & vesting**
- Directors' report to disclose the ESOP details
- ESOP Register to be maintained in Form SH-6
- ESOP is not transferrable & cannot be pledged / alienated in any manner
- Amount, if any, payable by employees, at time of grant of option-
 - (a) may be forfeited by Co. if option not exercised within exercise period; or
 - (b) may be refunded to employees if options are not vested due to non-fulfillment of conditions relating to vesting of option as per ESOP Scheme

TAXATION OF ESOP / SWEAT EQUITY

Income tax is levied in 2 stages to the Employee –

1. on **Exercise** &
2. on **Sale of Shares**.

on Exercise:

Perquisite [s. 17(2)(vi)] = FMV (on the date of Exercise) Less Exercise Price paid
to be taxed in the hands of employee as a component of salary.

on Sale:

Capital Gains Tax = Sale Price less FMV (on the date of Exercise)

SHARES	LTCG	STCG
LISTED	Holding > 12 Months (exempt if STT is paid)	Holding \leq 12 Months
UNLISTED	Holding > 36 Months	Holding \leq 36 Months

TAXATION OF ESOP / SWEAT EQUITY [CONT...]

FMV = Value to be determined in accordance with method as may be prescribed.
(Expln (d) to S. 17(2)(vi))

Method Prescribed (*Notification No. 94/2009*) by Rule 3(8) to determine FMV :

Listed shares:

Average price of opening & closing price on the exercise date (*or closest day in case it is not traded on that day*) on a recognised stock exchange (*That exchange which records highest volume of trading in the share if listed in multiple exchanges*).

Unlisted Shares / Other than equity Shares:

Value as determined by a merchant banker on the exercise date.

PREFERENTIAL OFFER [S. 62(1)(c)]

'Preferential offer' means an issue of shares or other securities, by a company to any selected person or group of persons on a preferential basis and **does not include** shares or other securities offered through a public issue, rights issue, ESOS, ESPS or an issue of sweat equity shares or bonus shares or depository receipts issued in the country outside India or foreign securities.

PREFERENTIAL OFFER [S. 62(1)(c) R/W RULE 4.13]

Offer to any person, incl. existing SH & Employees –

- SR
- Pymt either in **cash or otherwise**,
- Price valued by regd. Valuers [NA for Listed Cos]
- Rule 4.13
 - To comply with all conditions of **Pvt. Placement** in S.42
 - Detailed disclosure in the notice calling for GM
 - Allot within 12 months of passing SR.

FURTHER ISSUE OF SECURITIES [S. 62]

- APPLICABLE TO ALL TYPES OF COS – **[1956 PRIVATE LTD. COS. WERE EXEMPT]**
 - APPLIES TO ISSUE OF SECURITIES AT ANY TIME
- PROVISIONS NA TO CONVERSION OF DEBENTURES/LOANS INTO SHARES S.T CERTAIN COND.

(a) RIGHTS ISSUE

- *Right to Accept*
- *Right to Decline*
- Right to renounce
- After above BOD to dispose of shares not detrimental to interest of Co./SH

(b) ESOP

to employees, s.t. approval by SR

(c) PREFERENTIAL OFFER

- to any person, incl. a & b
- Pymt in cash or other wise - s.t. approval by SR
- price valued by regd. Valuers (NA to Listed Co's)
- **comply with conditions of Private Placement**

ISSUE OF BONUS SHARES

- Co may issue fully paid-up Bonus Shares to existing SH without Consideration out of –
 - Free reserves
 - Securities premium account
 - Capital redemption reserve account.
- **Bonus cannot be issued –**
 - out of Revaluation reserve, or
 - If Co. defaulted in payment of int. or principal wrt deposits/debt securities or employee statutory dues.
- **Bonus recommended by Board cannot be withdrawn – R 4.14**

ISSUE & REDEMPTION OF PREF. SHARES [s. 55]

PREF. SHARES

- Any Co. cannot issue Irredeemable Pref. Shares

PERIOD OF REDEMPTION

- Infrastructural project [Sch.VI] - 30 yrs Min.10% redm. to start from 20th yr or earlier on proportionate basis [R. 4.10]
- Other Cos. – 20 yrs

CONDITIONS

RULE 4.9

- SR
- No subsisting default in redm of Pref Shares or Dividend.
- Regulations on issue & Redm to be incorporated in AoA
- Detailed disclosure in explanatory statement to notice
- Register of Mem. to contain necessary details of pref. SH

REDEMPTION

- Redemption only out of profit available for Div. *[by creating Capital Redemption Reserve A/c]* or out of proceeds of fresh issue

DEBENTURES [s. 71]

- **Debn. With Voting Rights cannot be issued**
- **Debn with option to convert into shares wholly or partly @ time of redm. may be issued.**
- **On issue, Co. to create a Debn Redemption Reserve A/c.**
- **Prospectus to > 500 persons can be only with appointing debn. Trustee**
- **Provisions reg. re-issue of deb. – dropped.**

DEBENTURES – CONDITIONS [R. 4.18] (CONT...)

- **Redeem by 10 years** (*30 years for infrastructure cos.*)
- **Security** for repayment & interest payment shall be created
- Debenture **trust deed** shall be executed
- Charge to be created on **specific property** (pledge is not sufficient)
- Debenture trustees shall be appointed before issue of prospectus or within 60 days of allotment
 - Name to be stated in prospectus
 - Written consent is obtained
 - Directors/ shareholder/ debtor/ guarantor/ employee/ KMP or anyone having pecuniary relationship (2% of turnover or Rs.50 lakhs)
- Debn. trustees may change with approval of debn. holders
 - Casual vacancy by resignation – majority debenture holders' written consent
 - Removal – SR ($\frac{3}{4}$ of total debenture holders') in the meeting

DEBENTURES – CONDITIONS [R. 4.18] (CONT...)

- Duties of debenture trustees – fiduciary position.
- Meeting can be called by debenture holders –
 - on request by debenture holders having at least 10%
 - immediately in case of breach / default
- DRR to be created at least 50% before redemption.
- 15% of deposits pending maturity shall be kept in unencumbered
 - Deposits with scheduled bank or
 - investment in Govt. securities or
 - Securities / bonds mentioned in Indian Trust Act; and
 - Minimum 15% balance to be maintained all the times

CHARGES

If borrower Co., fails to register charge within 30 days, Lender / Bank may apply to ROC for Charge registration.



Charge has to be filed even for –

- Creation of Pledge.
- Availing Vehicle Loans

Form No.	Particulars
CHG-1 (Earlier Form - 8)	Application for registration of creation, modification of charge. (Also used for modification of charge in favour of ARC)
CHG – 4 (Earlier Form 17)	Particulars for Satisfaction of Charge

FAILURE FOR REGISTERING



PENALTY

Rs. 1 Lac – 10 Lacs

OID

Rs. 25K – 1 Lac

Upto 6 months

FORMS UNDER CH. -VI (REGISTRATION OF CHARGES)

CHG-1	<u>Application for registration of creation, modification of charge</u> (other than debentures) incl. particulars of modification of charge by ARC in terms of SARFAESI, 2002 – <i>Within 30 days [or with additional fee within 300 days] of creation or modification of charge.</i> (Old Form – 8)
CHG-2	<u>Certificate of registration of charge</u> - <i>By RoC</i>
CHG-3	<u>Certificate of registration of modification of charge</u> - <i>By RoC</i>
CHG-4	Particulars for satisfaction of charge thereof – <i>Within 30 days of full payment of any charge registered.</i> (Old Form – 17)
CHG-5	<u>Memorandum of satisfaction of charge</u> - <i>By RoC</i>
CHG-6	<u>Notice of appointment or cessation of receiver or manager</u>
CHG-7	<u>Register of Charges.</u>
CHG-8	<u>Application for condonation</u> to C. Govt. for <u>extension of time</u> for filing particulars of regn. of creation / modification /satisfaction of charge OR for rectification of omission or misstatement of any particular in respect of creation/ modification / satisfaction of charge.
CHG-9	<u>Application for registration of creation or modification of charge for debenture</u> or rectification of particulars filed in respect of creation or modification of charge for debentures.



NIRMALA SITHARAMAN
COMMERCE & INDUSTRY MINISTER



“GOVT IS ALSO LOOKING AT MAKING IT EASIER FOR CO'S TO DO BUSINESS RATHER THAN BE BOGGED DOWN BY VARIOUS REQUIREMENTS, SUCH AS THOSE STIPULATED IN THE NEW Co'S ACT.....

THE NEW GOVT. HAS STARTED REVIEWING THE Co.S ACT, 2013 TO MAKE IT SIMPLER FOR BUSINESS.

ARE YOU GOING TO MAKE MANUFACTURERS CONCENTRATE ON THE CORE ACTIVITY OR MAKE THEM SPEND MORE TIME COMPLYING & REPORTING, CHANGING AUDITORS, ETC. WE ARE LOOKING AT THE Co'S ACT... HOW WE CAN REVIEW IT, SIMPLIFY IT, DOES IT REQUIRE AMENDMENT TO THAT EFFECT OR JUST CHANGE THE RULES & REGULATIONS. WORK ON THAT HAS ALREADY STARTED....”

SHARES – EVERYTHING ELSE...

Shares or Debentures [S.44]

- Movable property – Transferrable as per AoA

Numbering of shares [S.45]

- Each share to be distinctively numbered – Unless with Depository

Certificate of shares [S.46]

- Format as per SH-1. Duplicate can be issued s.t certain cond.

Calls on shares of same class to be made on uniform basis [S.49]

Co. to accept unpaid SC, although not called up if [S.50:]

- Authorized by AoA.
- No entitlement to voting rights to the extent of uncalled capital

SHARES – EVERYTHING ELSE...

Transfer & transmission of Securities [S.56:]

- Transfer Forms in Form 7B under 1956 Act was to be pre-dated & Pre-stamped by ROC – New form SH-1 needs to be Stamped after filling. ROC pre-stamp dispensed with.
- Time period for issue of share / other certificates has been reduced:
 - From 3 months to 2 months for allotment of shares.
 - Issue Share certificates within 2 months of incorporation.
 - From 2 months to 1 month for transfer & transmission.

SHARES – EVERYTHING ELSE...

Publication of subscribed & PUC [S.60]

- must wherever Authorized S. Cap is published by the Co

Power of Limited Co. to alter its share capital [S.61]

- Ltd Co having SC may alter capital clause in GM by increasing authorized SC, consolidate / divide all / any of its SC, sub-divide / consolidate its shares, etc

Restrictions on purchase by co. or giving of loans by it for purchase of its shares [S.67]

- NA to Pvt. Co.

Power of company to purchase its own securities [S.68] - Buyback

- Co may purchase its own shares out of its reserves, SP A/c or from proceeds of issue of shares / securities, s.t certain conditions

Power to nominate [S.72:]

- SH/debn holder can nominate a person who shall be owner of the instrument on his death unless nomination is varied/ cancelled



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Special Thanks to –
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