

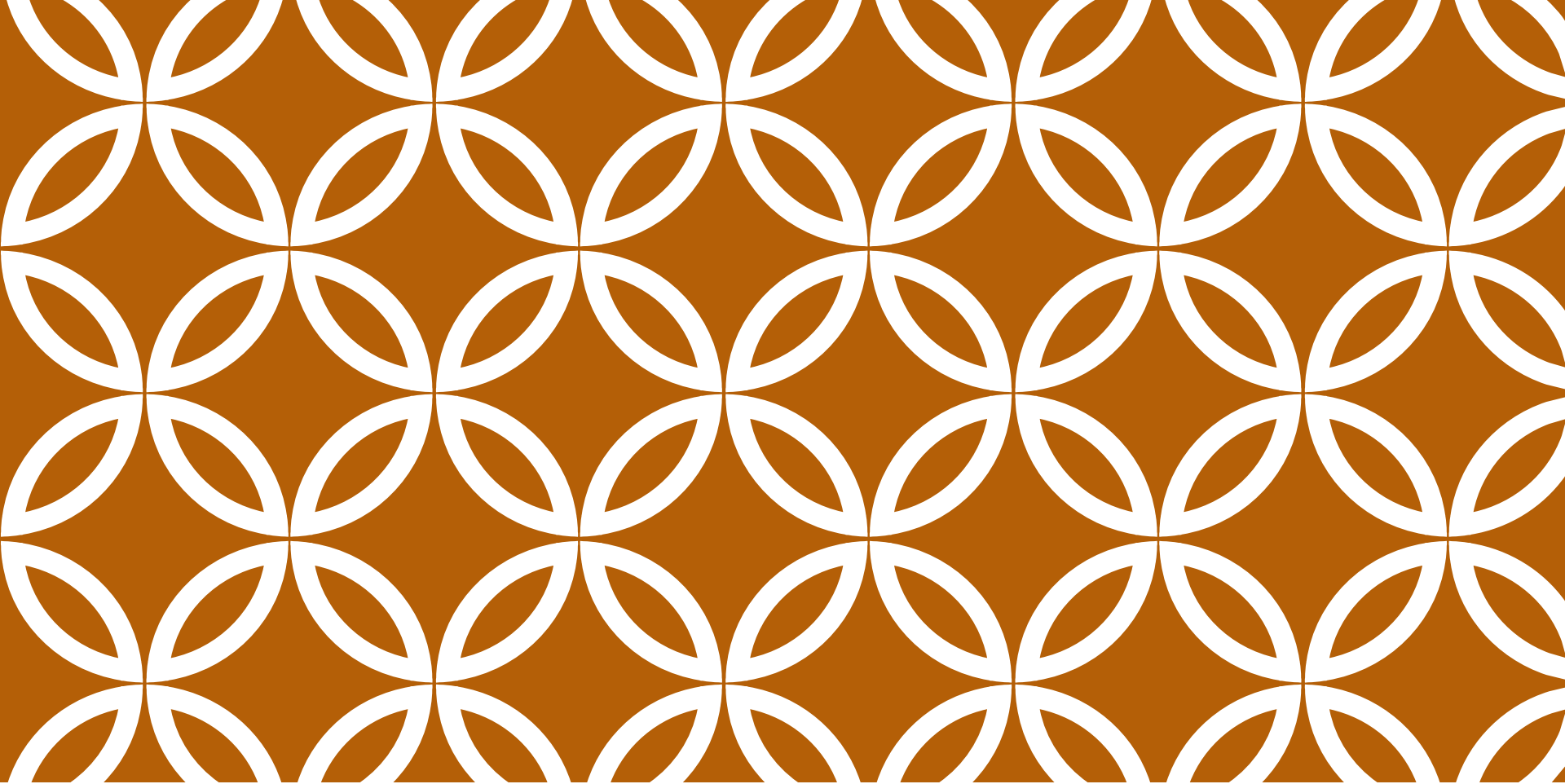
COMPANIES ACT 2013

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COMPROMISE & ARRANGEMENT

Section 1



**Application
in
NCLT - 1**

**Notice of
Admission
NCLT - 2**

**Affidavit
in
NCLT - 6**

**.Copy of Scheme
.Disclosure of Material Fact
.Latest Financial Statements
.Latest Audit Report
.Declaration of Pendency of any
investigation**

Hearing of the application at the Tribunal

Tribunal directs for the class meeting of Members and Creditor

**.Fix the Time & Place of meeting
.Appoint Chairperson & Scrutinizer
.Fix Quorum & Procedure to be followed**

COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS AS PER COMPANIES ACT, 2013

On 7th November, 2016 Central Government issued a notification for enforcement of **section 230-233, 235-240**, of **Chapter XV** of Companies Act 2013 w.e.f. 15th December, 2016.

MCA vide notification dated 14th Dec, 2016 has issued rules i.e. The Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. These rules have become effective from 15th December, 2016. Consequently, w.e.f. 15.12.2016 all the matters relating to Compromises, Arrangements, and Amalgamations (hereafter read as “CAA”) are being dealt with as per provisions of Companies Act, 2013 and **The Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016.**



POWER TO MAKE COMPROMISE OR MAKE ARRANGEMENT WITH CREDITORS AND MEMBERS [SECTION 230(1)]

Between whom the Compromise & Arrangement can be proposed?

- i. between a company and its creditors or any class of them; or
- ii. between a company and its members or any class of them



WHO CAN FILE THE APPLICATION FOR COMPROMISE & ARRANGEMENT ?

An application for Compromise & Arrangement can be filed with Tribunal (NCLT) by:

- i. The Company or
- ii. Creditor or
- iii. Member of the Company, or
- iv. In the case of a company which is being wound up, by the Liquidator.

Tribunal may on application order a meeting, to be held and conducted in the manner Tribunal Directs

Joint Application:

Where more than one company is involved in a scheme, such application may, at the discretion of such companies, be filed as a joint-application.

MATTERS TO BE INCLUDED IN APPLICATION [SECTION 230(2)]

Applicant shall disclose to the Tribunal by affidavit-

- a) All material facts relating to the company, such as
 - i. the latest financial position of the company,
 - ii. the latest auditor's report on the accounts of the company and
 - iii. the pendency of any investigation or proceedings against the company
- b) Reduction of share capital of the company , if any, included in compromise or arrangement.

Continue.....

c) Any scheme of Corporate Debt Restructuring consented to by not less than seventy five per cent. of the secured creditors in value, including

- i. A Creditor's Responsibility statement in the form No. CAA-1.
- ii. safeguards for the protection of other secured and unsecured creditors;
- iii. report by the auditor that the fund requirements of the company after the corporate debt restructuring as approved shall conform to the liquidity test based upon the estimates provided to them by the Board;



iv. where the company proposes to adopt the corporate debt restructuring guidelines specified by the Reserve Bank of India, a statement to that effect; and

v. a valuation report in respect of the shares and the property and all assets, tangible and intangible, movable and immovable, of the company by a registered valuer

NOTICE OF MEETING

[SECTION 230(3)]

Where meeting is proposed to be called in pursuance of an order of Tribunal, a notice of such meeting shall be sent to all the Creditors or class of creditors and to all the members or class of members and the debenture-holders of the Company in **Form No. CAA. 2** which shall be accompanied by

- i) Details of compromise or arrangement
- ii) Valuation report and their effect
- iii) Effect of compromise or arrangement on material interest of Directors or Debenture holders

SECTION 230(5)

A notice in **Form No. CAA. 3** along with Copy of Scheme of C&A, & the explanatory statement, shall also be sent to followings:

The Central Government, The Registrar of Companies and The income-tax authorities, in all cases

The Reserve Bank of India, the Securities and Exchange Board of India, the Competition Commission of India, and the stock exchanges, as may be applicable.

Other Sectorial Regulators or authorities, as required by Tribunal.

REPRESENTATION BY AUTHORITY

If the authorities desire to make any representation then do so before the tribunal within a period of 30 days from the date of receipt of such notice.

Copy of such representation shall simultaneously be sent to the concerned companies

In case no representation is made within the 30 days then it is presumed that authority doesn't have any objection .

VOTING IN THE MEETING

[SECTION 230(6)]

Where at meeting majority of person representing **3/4th in value** of the creditors or class of creditors or members or class of members , as case be , agree to any compromise or arrangement and if sanctioned by the Tribunal , it shall be binding on the Company, all the creditors or class of creditors or members or class of members as case may be.

Tribunal may **dispense** with calling of meeting if at **least 90% value** , agree and confirm by way of affidavit to scheme of compromise or arrangement-Section 230(9)

REPORT OF THE RESULT OF THE MEETING

The report shall state accurately the number of creditors or class of creditors or the number of members or class of members, as the case may be, who were present and who voted at the meeting either in person or by proxy, their individual values and the way they voted. The report shall be in **FORM NO. CAA. 4**



Merger and Amalgamation

[Section 232]

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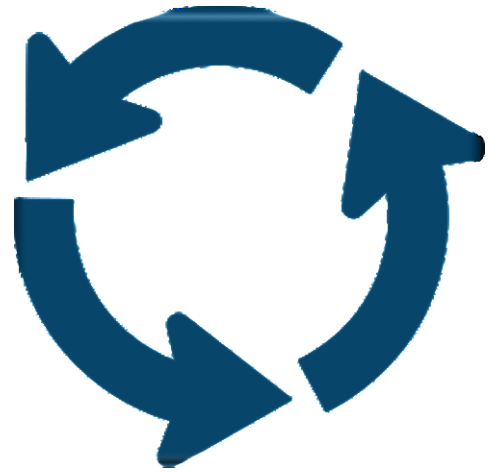
SECTION 232(1)

Application to the Tribunal in FORM NO. NCLT. 1 along with Notice of Admission supported by an affidavit for order of meeting under section 230 for the sanctioning of a compromise or arrangement and it is shown to the Tribunal-

Scheme is for reconstruction of the company or for the merger or amalgamation and;

Scheme involves transfer of whole or any part of the undertaking from transferor

CIRCULATION OF FOLLOWING DOCUMENTS FOR THE MEETING [SECTION 232(2)]



Proposed draft scheme adopted by the directors of merging companies;

Confirmation of filing the draft copy of scheme with the registrar;

Valuation Report of the expert, if any;



CONTENTS OF SCHEME OF COMPROMISE OR ARRANGEMENT

In case of merger Appointed Date and other considerations if any;

Rationale for the compromise or arrangement;

Effective date of amalgamation;

Capital Structure of the transferor company and the Transferee company;

Share Exchange ratio;

SECTION 232(3)

The Tribunal may by order sanction the Scheme of compromise or arrangement in **FORM NO. CAA. 6**, if satisfied that the procedure specified in sub sections (1) (2) has been complied.

“OR”

Tribunal can make provisions for the following matters by giving subsequent order:

To transfer the whole or any part of the undertaking property or liabilities of the Transferor company to the Transferee company;

Continue.....

To allot or appropriate any shares, debentures or other like instruments under the compromise or arrangement by the Transferee company to or for any person;

Dissolution, without winding-up, of any Transferor company;

The continuation of any legal proceedings by or against any Transferor company or Transferee company;

The provisions for any persons who are dissent from the scheme of compromise or arrangement;

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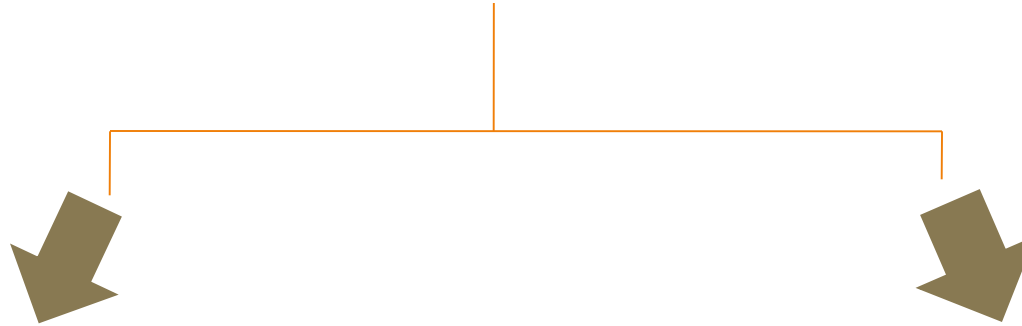
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The allotment of shares of the Transferee company to the Non – resident shareholder shall be in the manner specified in the order;

Transfer of employees of the Transferor company to the Transferee Company;

Such incidental, consequential and supplemental matters as are deemed necessary to secure that the merger or amalgamation is fully and effectively carried out;

Where Transferor company is listed company and Transferee company is an unlisted company



- Transferee company shall remain unlisted company until it becomes listed company
- If Transferor company shareholders opt out of the Transferee company, provisions regarding payment of shares and other benefits may be made by Tribunal.



SECTION 232(4)

If the Tribunal order to transfer any property or liabilities then that properties and liabilities shall be transferred to the Transferee company by the Transferor company



SECTION 232(5)

Filing a certified copy of the order with **THE REGISTRAR** for registration within **thirty days** of the receipt of certified copy of the order in **FORM “INC-28”**

SECTION 232(6)

Scheme to indicate clearly the **“APPOINTED DATE”** from which it shall be effective.

“APPOINTED DATE”-

It is the date in which assets and liabilities of the transferor company vest in and stand transferred to the transferee company;

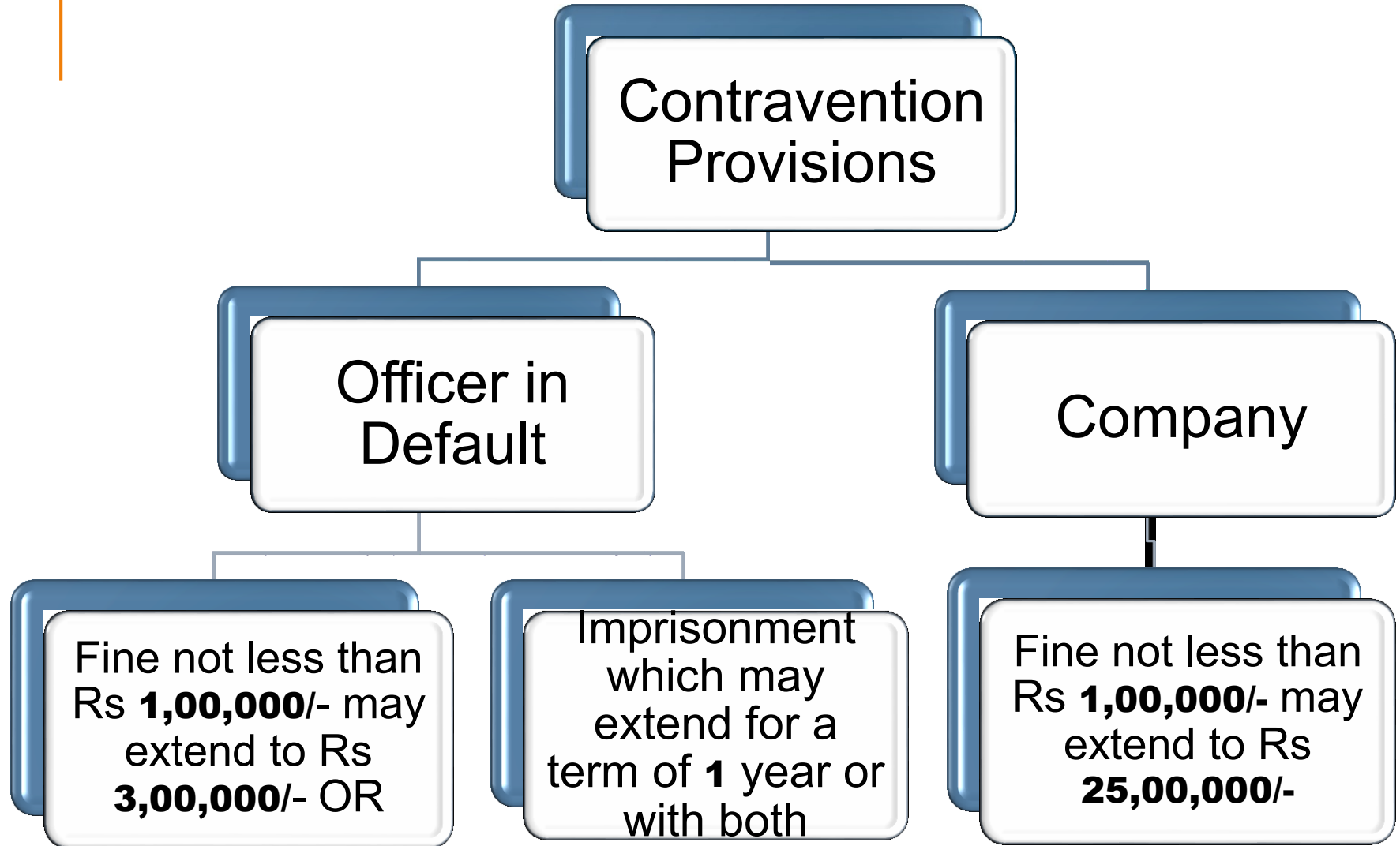
“EFFECTIVE DATE”

It is the date on which certified copy of the High Court order is filed with ROC.

SECTION 232(7)

A statement certified by a Company secretary or Chartered Accountant or Cost accountant in practice indicating whether the scheme has complied with the orders of the Tribunal every year until the completion of scheme shall be filed in “**FORM NO. CAA. 8**”

SECTION 232(8)



DOCUMENTS TO BE SUBMITTED UNDER SCHEME OF COMPROMISE/ ARRANGEMENT

Certified true copy of the resolution passed by the Board of Directors of the Company;

Certified copy of the Scheme of Arrangement/Amalgamation;

Brief history of the companies seeking approval;

Nature of business of transferor and transferee Company;

Continue.....

Listing status of transferor and transferee companies, if listed company;

Detailed valuation report with related calculations on the basis of which the swap ratio is determined.;

Number of shareholders in each of the companies;

Financial details (Annual Reports) of the transferor and transferee company for last 3 years;

Undertaking from the Company Secretary that the various documents/information submitted with the ROC, wherever applicable;



MERGER AND AMALGAMATION OF CERTAIN COMPANIES

[Section 233]

SECTION 233(1)

Merger or amalgamation between two or more small companies or between holding and its wholly owned subsidiary Company subject to the following conditions:

A notice of the scheme is to given in “**Form No. CAA. 9**” for inviting objections or suggestions from Registrar or Official Liquidator;

Approval of scheme after receiving objections/ suggestions by members at a general meeting holding at least 90% of total number of shares;

Filing of declaration of solvency in **FORM NO. CAA. 10** by the merging companies with the Registrar;

Approval of scheme by 9/10th in value of the creditors or class of creditors in the general meeting convened by giving 21 days notice along with the scheme.

SECTION 233(2)

Filing a copy of approved scheme in **Form No. CAA.11** along with the report of the result with the Central Government, Registrar, and the official Liquidator within seven days after the conclusion of the meeting

Filing a copy of approved scheme with Registrar of Companies in **Form GNL-1** along with **Form No. CAA.11** and with the official liquidator through hand delivery or by registered post or speed post.

SECTION 233(3)

If there is no objection to the Registrar or Official Liquidator then Central Government after registering will Issue the confirmation in **Form No. CAA. 12**

Section 233(4)

If there is any objection to the Registrar or official liquidator, communicate this to central government within **30 days**

SECTION 233(5)

Opinion of Central Government that scheme is not in public interest or Creditors interest



File application before Tribunal within 60 days to consider scheme in **FORM NO. CAA. 13**

SECTION 233(6)

Receipt of application from central government
or any other person



Tribunal is of the opinion to consider scheme
under section 232;



May direct accordingly to modify scheme or
confirm the scheme by passing such order.

SECTION 233(7)

The confirmation order of the scheme issued by the Central Government or Tribunal, shall be filed with the Registrar in **Form INC-28** within **30 days** of the receipt of the order of confirmation

Section 233(8)

Dissolution of Transferor Company without process of Winding Up after Registration Of Scheme with the Registrar



EFFECTS AFTER REGISTRATION OF SCHEME [SECTION 233(9)]

**Transfer of property or liabilities of the Transferor company
to the Transferee company;**

**Charges of transferor company shall become charges of
Transferee company;**

**Legal proceedings or Transferor company shall continue by
or against the Transferee company and;**

**If any amount unpaid by dissenting shareholders shall
become liability of Transferee company.**

SECTION 233(10)

Transferee company shall not hold shares in its own name or in name of its subsidiary or associate company and if there will be any such shares they will stand cancelled or extinguished on the merger or amalgamation.

Section 233(11)

The Transferee company shall file an application along with such fees as may be specified on the revised authorised capital.





SECTION 233(12)

The provisions shall apply as it is to the companies referred in Section 230 or in Section 232.

SECTION 233(13)

The Central government may provide for merger or amalgamation of companies in such manner as may be prescribed.

SECTION 233(14)

Company covered under this section may use the provisions of Section 232 for the approval of any scheme.

FAST TRACK MERGER:

Companies Act 2013 provides a fast track merger for small companies or holding and subsidiary companies.

Fast Track Merger process involves approval from the following person:

- Creditors or class of Creditors;
- Members or class of members;
- Registrar of Companies;
- Official Liquidator;
- High Court.

In this type of merger there is no need to make an application to NCLT for finalising the scheme, in spite of this only 90% of each class of members and creditors must approve the scheme and rest the procedure is same like Section 233.

ROLE OF PROFESSIONALS

DRAFTING OF SCHEME

CERTIFICATION

COMPLIANCE OF PROCEDURE

SEBI REGULATION COMPLIANCE

VALUATION & SWAP RATIO

DUE DILIGENCE

REPRESENT AT NCLT

DECISION MAKING





Provisions Related to **Valuation**

Companies Act, 2013 has introduced a new concept 'REGISTERED VALUERS' under Chapter XVII for the purpose of valuation.

Section 247 was notified on **18th October, 2017** and requires:

- Valuation of company's assets, net worth or liabilities by registered valuer; a
- qualifications and experience, as may be prescribed
- Appointment by audit committee or Board if no audit committee

The Companies (Registered Valuers and Valuation) Rules, 2017 were prescribed on **18th October, 2017** and required Insolvency and Bankruptcy Board of India to act as the authority under the Rules

REQUIREMENT OF REGISTERED VALUERS UNDER COMPROMISE, ARRANGEMENTS

Section	Sub-Section	Synopsis
230	2(c)(v)	In case of any scheme of corporate debt restructuring
230 read with Rule 15.11	11	Offer of takeover of an unlisted company as a result of compromise or arrangement [Rule 15.11(1), (6), (7)]
230	3	For valuation including swap ratio under a Scheme of compromise or arrangement, copy of valuer to accompanied
232	2	In case of any scheme for the reconstruction of the company or companies involving merger /amalgamation or demerger
232	3(h)(B)	Exit for dissenting shareholders of transferor company:

VALUER'S ELIGIBILITY CRITERIA

- **For individuals**
 - Valuer member of a registered valuers' organisation
 - Recommended by the registered valuers organisation
 - Passed the valuation examination within 3 years preceding the date of making an application
 - Possesses the qualifications and experience as specified in rule 4
 - Not a minor
 - Not been declared to be of unsound mind
 - Not an undischarged bankrupt, or has not applied to be adjudicated as a bankrupt
 - Resident in India

- ▣ Has not been convicted for
 - offence punishable with imprisonment for 6 months or involving moral turpitude and 5 years has not elapsed yet
- ▣ Has not been convicted of any offence and sentenced 7 years of imprisonment
- ▣ Has not been levied a penalty under section 271J of IT Act and time limit for appeal has expired and 5 years has not elapsed
- ▣ Fit and proper person
 - integrity, reputation and character,
 - absence of convictions and restraint orders, and
 - competence and financial solvency
 - Any other relevant criteria as may be imposed by authority

• **For firms/ companies**

- having objects involving rendering professional or financial services, including valuation services
- in the case of a company, it is not a subsidiary, joint venture or associate of another company or body corporate
- not undergoing an insolvency resolution or is an undischarged bankrupt
- all the partners or directors are not ineligible under individual capacity as for individual valuers
- 3 or all the partners or directors, whichever is lower, of the partnership entity or company are registered valuers or
- all of its partners or directors is a registered valuer for the asset class, for the valuation of which it seeks to be a registered valuer

QUALIFICATIONS AND EXPERIENCE

Post graduate in specified discipline at least 3 years of experience

Bachelor's degree in the specified discipline at least 5 years of experience

Membership of a professional institute at least 3 years of experience post membership and having any of the qualification mentioned above

QUALIFICATIONS OF REGISTERED VALUERS FOR DIFFERENT CLASS OF ASSETS

Land & Building

A graduate or post graduate in Civil engineering, architecture or town planning with minimum experience of 3 to 5 years

Plant & Machinery

A graduate or post graduate in Electrical or Mechanic Engineering with minimum experience of 3 to 5 years

Securities or Financial assets

A member of ICAI, ICSI or Institute of Cost Accountants of India or an MBA with specialisation in Finance, with minimum experience of 3 years in the discipline after completing graduation

CONTENTS OF VALUATION REPORT

- ☐ Background Information Of The Asset Being Valued;
- ☐ Purpose Of Valuation And Appointing Authority;
- ☐ Identity Of The Valuer And Any Other Experts Involved In The Valuation;
- ☐ Disclosure Of Valuer Interest Or Conflict, If Any;



date of appointment, valuation date and date of report;

inspections and/or investigations undertaken;

nature and sources of the information used or relied upon;

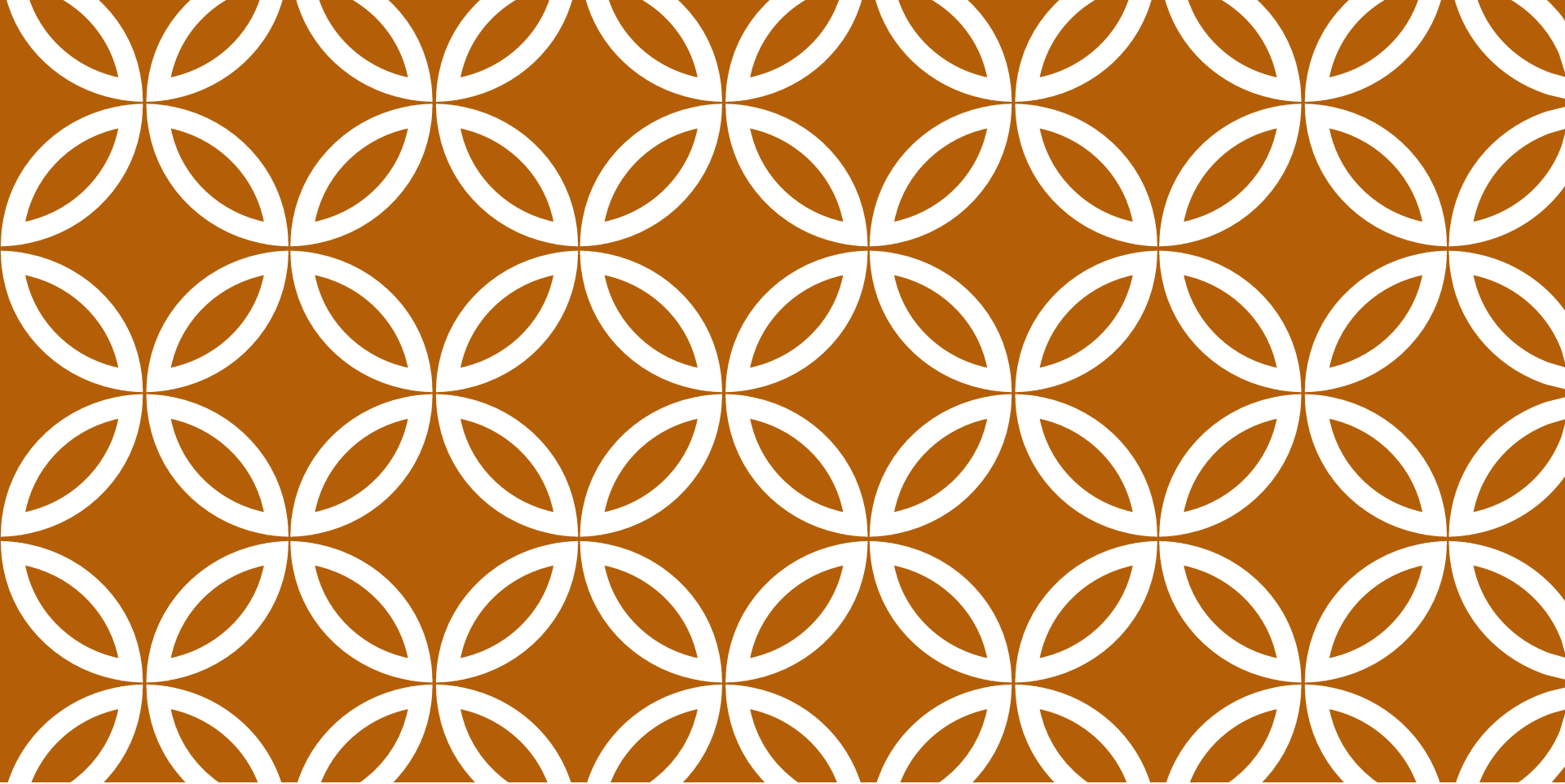
procedures adopted in carrying out the valuation and valuation standards followed restrictions on use of the report, if any;



major factors that were taken into account during the valuation;

conclusion; and

caveats, limitations and disclaimers to the extent they explain or elucidate the limitations faced by valuer, which shall not be for the purpose of limiting his responsibility for the valuation report.



SHARE CAPITAL & DEBENTURES

Section 2



KINDS OF SHARE CAPITAL (SECTION 43)

Equity Share Capital

Preference Share Capital

Equity Share Capital

- With voting rights
- With **Differential Voting Rights** as to Dividend and Voting

Preference Share Capital:-

- means that part of the issued share capital of the company which carries or would carry a preferential right with respect to—
 - a. payment of dividend***, either as a fixed amount or an amount calculated at a fixed rate, which may either be free of or subject to income-tax; and
 - b. repayment, in the case of a winding up or repayment of capital***, of the amount of the share capital paid-up or deemed to have been paid-up, whether or not, there is a preferential right to the payment of any fixed premium or premium on any fixed scale, specified in the memorandum or articles of the company

EQUITY SHARES WITH DIFFERENTIAL RIGHTS

(RULE 4)

- 
- Authorised by AOA
 - Ordinary Resolution (for listed companies through Postal Ballot)
 - Shall not exceed 26% of the paid up capital of the total post-issue paid up equity share capital at any point of time
 - Should have 3 years of Track record of distributable profits

- 
- No default on payment of declared dividend, repayment of matured deposits or redemption of preference shares / debentures, if any including interest thereon

- No default in filing of financial statements & Annual return for preceding 3 years

- Not penalised by any Court or Tribunal of any offence under

- Conversion into share with differential rights and vice versa is not allowed



VOTING RIGHTS

(SECTION 47)

Equity Share Holders

(i) Right to Vote on every resolution placed before the company, and

(ii) voting right on a poll shall be in proportion to his share in the paid-up equity share capital of the company.

Preference Share Holders

(i) Resolutions which directly affects their rights and

(ii) Resolution for the winding up of the company or

(iii) Repayment/ reduction of its equity/ preference share capital.

KINDS OF ISSUE OF SHARE CAPITAL

1. Right Issue [Section -62 (1)(a)]
2. Employee Stock option [Section -62 (1)(b)]
- 3 Other issue
 - a. Private Placement [Section -42]
 - b. Preferential Allotment [Section 62(10)(c)]
 - c. Sweat Equity [Section 54]
 - d. Bonus Issue [Section 63]

RIGHT ISSUE

SECTION 62(1)(A)

- Offered to existing equity shareholder
- Issue can be of any kinds of Share viz. equity or preference
- Issue to made in proportion of their paid up share capital
- Letter of offer shall be issue. Offer period shall not be less than 15 days and not exceed 30 days.

In case of Private companies, offer period can be less than 15 days if 90% of the members give their consent in writing or electronic mode.

- Right to renounce shares in favour of any other person
- No Valuation and No Special Resolution.

RIGHT ISSUE PROCEDURE

Conduct a Board Meeting and pass resolution for right issue and approve offer letter

Issue of offer letter to equity shareholder which will specify the no. of shares offered

Offer to be accepted within the time limit of 15 to 30 days

If not accepted in time, deemed to have declined

Can be renounced to any person within the time specified

EMPLOYEE STOCK OPTIONS

[SECTION 62(1)(B)]

Employee Means:-

- a. a permanent employee of the company who has been working in India or outside India; or
- b. a director of the company, whether a whole time director or not **but excluding an independent director**; or
- c. an employee as defined in clauses (a) or (b) of a subsidiary, in India or outside India, or of a holding company of the company

Does not include

- a. an employee who is a promoter or a person belonging to the promoter group; or
- b. a director who either himself or through his relative or through any body corporate, directly or indirectly, holds more than ten percent of the outstanding equity shares of the company.



EMPLOYEE STOCK OPTIONS

[SECTION 62(1)(B)]

Scheme should have been approved by shareholders by way of special resolution.

Companies granting option to its employees pursuant to ESOP will have the freedom to determine the exercise price in conformity with the applicable accounting policies.

Company can vary the terms of the issue by which are not is not prejudicial to the interests of the option holders.



EMPLOYEE STOCK OPTIONS

[Section 62(1)(B)]

Minimum period of one year between the grant of options and vesting of option.

The Employees shall not have right to receive any dividend or to vote or in any manner enjoy the benefits of a shareholder in respect of option granted to them, till shares are issued on exercise of option.

Option granted is neither transferable to any other person nor pledged, hypothecated, mortgaged or otherwise encumbered or alienated in any other manner.

The company shall maintain a Register of Employee Stock Options in Form No. SH.6

PRIVATE PLACEMENT

(SECTION 42)

- Offer of securities or invitation to subscribe securities to a select group of persons by a company (other than by way of public offer) through issue of a private placement offer letter (PAS-4) and which satisfies the conditions specified in this section.
- Allotment should not be made exceeding 200 persons in a FY (excluding QIB or Employee under ESOPs)

CONDITIONS FOR PRIVATE PLACEMENT

- Special resolution passed in the General Meeting.
- Share Application money should be kept in separate bank account.
- The names of subscribers to issue should be recorded before making invitation to subscribe (PAS -5).
- Allotment must be made for not less than Rs 20000/- of face value of the securities for each allottee.

CONDITIONS FOR PRIVATE PLACEMENT

Mode of Payment: Subscription money should be paid through Cheque or DD or other Banking Channels **and not by cash**.

Time period of Allotment: Allotment of securities should be made within 60 days from receiving the application money. If not able to allot, then repay application money within 15 days.

Default: If default is made in repayment, then pay with interest rate of 12% p.a.

CONDITIONS FOR PRIVATE PLACEMENT

Return of Allotment to be made in Form PAS 3 within **15 days of Allotment.**

Default in filling of return of allotment, the company, its promoters and directors shall be liable to a penalty for each default of one thousand rupees for each day during which such default continues but not exceeding twenty-five lakh rupees.

If a company makes an offer or accepts monies in contravention of this section, the company, its promoters and directors shall be liable for a penalty which may extend to

- the amount raised through the private placement or
- two crore rupees, whichever is lower, and
- the company shall also refund all monies with interest (12% p.a.) to subscribers within a period of thirty days of the order imposing the penalty.

ISSUE OF SHARES ON PREFERENTIAL BASIS

[SECTION 62(1)(C)]

- Preferential issue means issuance of shares or other securities to the promoters, promoter group or selected group of persons or any investor(s) on private placement basis.
- Thus if offer is made to-
 1. Persons ,who are not members of Company
 2. Selected members of Company
 3. members in disproportionate manner(not pro rata)

Such an offer shall be called Preferential issue.

CONDITIONS FOR ISSUE OF SHARES ON PREFERENTIAL BASIS

- Authorised by Articles of association of the company.
- Special Resolution passed in general meeting.
- Comply with the conditions laid down under **Section 42**.
- Shares can be issued on cash or for consideration other than cash.
- Shares to be fully paid up at the time of allotment.
- Valuation report by a **Registered Valuer**.
- Price of shares or other securities shall not be less than the price disclosed in valuation report
- Allotment shall be made within 12 months of passing special resolution.

SWEAT EQUITY (SECTION- 54)

Issue of sweat Equity shares to its

- Directors or
- Employees

Employee Means:-

- a permanent employee of the company who has been working in India or outside India; or
- a director of the company, whether a whole time director or not or
- an employee or director as defined in clauses (a) or (b) of a subsidiary, in India or outside India, or of a holding company of the company



SWEAT EQUITY

(SECTION- 54)

Issue can be made at discount or for consideration other than cash.

For providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

Authorised by Special Resolution.

Offer should be completed within 12 Months.

The details of Sweat Equity Shares issued shall be given in the Board's report.



SWEAT EQUITY

(SECTION- 54)

Issue of shares shall not be more than 15 % of the existing paid up equity share capital in a year or shares of the issue value of rupees five crores, whichever is higher.

Total issuance of sweat equity shares in the Company shall not exceed twenty five percent, of the paid up equity capital of the Company at any time.

A startup company may issue sweat equity shares not exceeding fifty percent of its paid up capital upto five years from the date of its incorporation or registration.



SWEAT EQUITY

(SECTION- 54)

Shares shall be locked in for a period of 3 years.

Share certificates are under lock-in and the period of expiry of lock in shall be stamped in bold or mentioned in any other prominent manner on the share certificate.

sweat equity shares issued shall be treated as part of managerial remuneration, if the following conditions are fulfilled:-

- the sweat equity shares are issued to any director or manager; and
- they are issued for consideration other than cash, which does not take the form of an asset which can be carried to the balance sheet of the company in accordance with the applicable accounting standards.



SWEAT EQUITY

(SECTION- 54)

Shares to be issued at a price determined by a registered valuer as the fair price giving justification for such valuation.

Valuation of intellectual property rights or of know how or value additions for which sweat equity shares are to be issued, shall be carried out by a registered valuer, who shall provide a proper report addressed to the Board of directors with justification for such valuation.

Copy of Valuation report shall be send to the shareholders with the notice of General meeting.



BONUS ISSUE (SECTION- 63)

Existing Members.

Authorised by Articles of Association.

Out of Free Reserves, Security Premium and Capital Redemption Reserve.

Recommended by the Board and authorised in General Meeting.



BONUS ISSUE

(SECTION- 63)

No default in payment in interest or Principal amount in FD's or Debt Securities.

No default in payment of Statutory dues of employees (PF, Bonus & Gratuity)

Partly paid up shares shall be made fully paid up.

Once issued should not be withdrawn.

Issue of Bonus shares shall not be issued in lieu of dividend.



ISSUE OF PREFERENCE SHARES

(SECTION -55)

Irredeemable Preference Shares are allowed to be issued.

Authorised by Articles of Association

Maximum Redemption period shall not exceed 20 years. In case of Infrastructure company the tenure shall not be more than 30 years.

REDEMPTION OF PREFERENCE SHARES

(SECTION -55)

Preference shares shall be redeemed

- Out of the profits of the company which would otherwise be available for dividend or
- out of the proceeds of a fresh issue of shares made for the purposes of such redemption

Creation of Capital Redemption Reserve

No such shares shall be redeemed unless they are fully paid

DEBENTURE

(SECTION -71)

“Debenture” includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not;

Provided that—

- a. the instruments referred to in Chapter III-D of the Reserve Bank of India Act, 1934; and
- b. such other instrument, as may be prescribed by the Central Government in consultation with the Reserve Bank of India, issued by a company,

shall not be treated as debenture

TYPES OF DEBENTURE

Secured Debentures: These instruments are secured by a charge on the fixed assets of the issuer company. So if the issuer fails on payment of either the principal or interest amount, his assets can be sold to repay the liability to the investors.

Unsecured Debentures: These instrument are unsecured in the sense that if the issuer defaults on payment of the interest or principal amount, the investor has to be along with other unsecured creditors of the company



The company may issue debentures with an option to convert such debentures into share, either wholly or partly at the time of redemption.

Debentures carrying voting right cannot be issued.

Secured Debenture can be issued by the company. Redemption of such debentures shall not be exceed 10 Years. In case of infrastructure project redemption shall not be exceed 30 years.

Such issued shall be secured by creation of Charge.

DEBENTURE REDEMPTION RESERVE (DRR)

DRR shall be created in the following manner:-

- a. No DRR is required for debentures issued by All India Financial Institutions regulated by RBI and Banking Companies for both public as well as privately placed debentures.
- b. For NBFCs registered with the RBI and for housing finance companies registered with the National housing bank 'the adequacy' of DRR will be 25% of the value of outstanding debentures and no DRR is required in the case of privately placed debentures.
- c. For other companies, the adequacy of DRR will be 25% of the value of outstanding debentures and also 25% DRR is required in the case of privately placed debentures by listed companies. For unlisted companies issuing debentures on private placement basis, the DRR will be 25% of the value of outstanding debentures.

DEBENTURE REDEMPTION RESERVE (DRR)

Creation of DRR out of the profits of the company available for payment of dividend.

Every company required to create DRR shall on or before the 30th day of April in each year, invest or deposit, as the case may be, a sum which shall not be less than 15%, of the amount of its debentures maturing during the year ending on the 31st day of March of the next year.

In case of partly convertible debentures, DRR shall be created in respect of non-convertible portion of debenture issue.

The amount credited to DRR shall not be utilised by the company except for the purpose of redemption of debentures

DEBENTURE TRUSTEE

A debenture trustee is a person or entity that serves as the holder of debenture stock for the benefit of another company.

Trustee serves as a liaison between the company that issued the debentures and the debenture holders that are collecting interest payment.

No company shall issue a prospectus or make an offer or invitation to the public or to its members exceeding **five hundred** for the subscription of its debentures, unless the company has, before such issue or offer, appointed one or more debenture trustees and the conditions governing the appointment of such trustees .

APPOINTMENT OF DEBENTURE TRUSTEE

- The names of the debenture trustees shall be stated in letter of offer inviting subscription for debentures and also in all the subsequent notices or other communications sent to the debenture holders.
- Written consent of Debenture Trustee shall be obtained required and a statement to that effect shall appear in the letter of offer issued for inviting the subscription of the debenture

THANK YOU!

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