



JSA Prism
Corporate

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The Ministry of Corporate Affairs raises small company thresholds providing dematerialisation relief

On December 1, 2025, the Ministry of Corporate Affairs (“**MCA**”) has revised the thresholds for a company to qualify as a small company under Section 2(85) of the Companies Act, 2013 (“**CA 2013**”) *vide* G.S.R. 880(E), which amended Rule 2(1)(t) of the Companies (Specification of Definition Details) Rules, 2014 (“**Definitions Rules**”).

Background

The MCA is empowered to prescribe which classes of companies are required to issue securities in dematerialised form under Section 29 of the CA 2013. Pursuant to Section 29 with its powers under Section 469 of the CA 2013, the second amendment to the Companies (Prospectus and Allotment of Securities) Rules, 2014 (“**PAS Rules**”) was notified *vide* G.S.R 802(E) dated October 27, 2023. One of the key amendments made was the insertion of Rule 9B of the PAS Rules – which mandated the issuance of securities in dematerialised form by private companies (other than small companies).

The broad intent of Rule 9B is to ensure private companies issuing securities allot the said securities in dematerialised form going forward. Rule 9B also requires private companies to facilitate the dematerialisation of their currently allotted securities, moving the regime toward digitisation while phasing out physical share certificates. This rule extends to all private companies, except those which fall within the ambit of a ‘small company’ as of the last day of a financial year ending on or after March 31, 2023. Once the rule is determined to be applicable to a company at the end of a relevant financial year, the company will have 18 (eighteen) months to comply with the provisions of the rule.

As a result, dematerialisation has now become a necessary first step for most corporate actions dealing with securities. A company to which Rule 9B applies cannot undertake a rights issue, bonus issue, buy-back, or private placement unless the securities held by its promoters, directors, and key managerial personnel, and the persons subscribing to the shares (if they are existing shareholders) are already in dematerialised form. Additionally, shareholders in such a company cannot transfer their shares unless the securities held by them are in dematerialised form.

Amendment to the definition of small company

A 'small company', as defined under Section 2(85) of the CA 2013, benefits from greatly reduced compliance requirements, with benefits such as abridged annual returns¹ and lower penalties for a variety of non-compliances² under the CA 2013 being applicable to them.

Rule 2(1)(t) of the Definitions Rules, read with Section 2(85) of the CA 2013, specifies that a company will be considered to be a small company if the paid-up share capital of the company does not exceed INR 10,00,00,000 (Indian Rupees ten crore) if the turnover does not exceed INR 100,00,00,000 (Indian Rupees one hundred crore). The share capital and turnover thresholds specified under Rule 2(1)(t) of the Definition Rules are now at the maximum permissible thresholds permitted to be prescribed under Section 2(85) of the CA 2013, and these thresholds cannot be further increased without further amending the CA 2013 itself. This revision is a significant increase from the previously applicable thresholds of INR 4,00,00,000 (Indian Rupees four crore) and INR 40,00,00,000 (Indian Rupees forty crore) respectively.

It is prudent to keep in mind that a holding company, subsidiary company, a Section 8 company, or a company or body corporate governed by any special act cannot be considered to be a small company and will not be exempt from the dematerialisation requirements under Rule 9B of the PAS Rules.

Implication of increased thresholds

Some of the key concerns raised by stakeholders in relation to the dematerialisation requirements include:

1. The requirement for private companies to dematerialise their securities resulted in a significant uptick in the number of applications for dematerialisation being received by depositories, resulting in long lead times due to a backlog in the issuance of 'International Securities Identification Numbers'. This resulted in delays to a variety of corporate actions being executed, including securities issuances, share transfers and employee stock option exercises.
2. The dematerialisation requirement also adds a significant cost component for private companies, with the process involving the execution of an agreement between the company and a Registrar and Transfer Agent ("RTA") and a tripartite agreement between the company, an RTA and a depository. In addition to the above, dematerialisation also requires one-time registration charges and annual maintenance charges to be paid to the depositories. This requires additional planning, budgeting, and adds a layer of internal approvals, especially for many closely held private companies.
3. The completion of the dematerialisation process also requires all shareholders to open dematerialisation accounts with stockbrokers and depository participants. This step is particularly cumbersome for private companies with foreign shareholders who did not possess a permanent account number, as most intermediaries require the same for 'Know Your Customer' verification.

The increased thresholds have a major impact on the applicability of Rule 9B of the PAS Rules, greatly reducing the number of private companies which need to facilitate the dematerialisation of their shares and enabling a much larger number of private companies to continue undertaking share transfers and issuances in physical form, if that is their preference. The substantial increase in the applicable thresholds enables private companies to scale without the burden of additional compliances and enhances the ease of doing business for small companies.

The amendment also reduces the burden on depositories, depository participants and RTAs.

¹ Rule 11 of the Companies (Management and Administration) Rules, 2014

² Section 446B of CA 2013

Conclusion

These amendments reflect the MCA's effort to balance the fostering of a more transparent and accountable corporate ecosystem, and the ease of doing business for small companies and start-ups. While dematerialisation is expected to deliver long-term benefits such as robust ownership tracking, quicker transactions and the prevention of disputes arising out of loss, forgery, manipulation or defective titles to shares, the process has also been flagged to be cumbersome and expensive for smaller companies to implement effectively. As such, the newly increased thresholds are a welcome step to making India's competitive corporate landscape easier to navigate for small companies.

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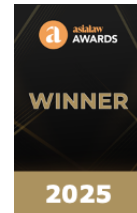
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