SHARES &

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Basis of Comparison	**Ordinary Shares**	**Preference Shares**
Meaning of	Represent ownership of shareholders in the company	Carry preferential rights on the payment of dividends and repayment of capital
Voting rights	Voting rights on all matters	No voting rights generally
Dividends	Paid or may not be paid	Receive dividend in a fixed rate
Dividend in arrears	Not entitled	Entitled
Repayment of capital upon winding up	Repaid at the end	Repaid before ordinary shareholders
Redemption	Not entitled	Entitled subject to terms of issue
Convertibility	Not convertible	Can be converted into ordinary shares

Shares:Directors’ duties & Responsibilities

- **S.75 (1)** Unless the prior approval by way of resolution by the company has been obtained, the directors of a company shall not exercise any power—
  a) to allot shares in the company;
  b) to grant rights to subscribe for shares in the company;
  c) to convert any security into shares in the company; or
  d) to allot shares under an agreement or option or offer.
- S.75(1) therefore require a members’ resolution to be passed to authorize the directors to (a) allot shares; or (b) to grant rights to subscribe for shares; or (c) to convert any security into shares; or (d) to allot shares under an agreement or option or offer.

Shares:Directors' duties & Responsibilities

- S.75 (2) Subsection (1) shall not apply to—

a) an allotment of shares, or grant of rights, under an offer made to the members of the company in proportion to the members' shareholdings;

b) an allotment of shares, or grant of rights, on a bonus issue of shares to the members of the company in proportion to the members' shareholdings;

c) an allotment of shares to a promoter of a company that the promoter has agreed to take; or

d) shares which are to be issued as consideration or part consideration for the acquisition of shares or assets by the company and members of the company have been notified of the intention to issue the shares at least 14 days before the date of issue of the shares.

Shares:Directors' duties & Responsibilities

- S.75 (3) For the purposes of paragraph (2)(d), members of the company are deemed to have been notified of the intention to issue shares of the company if—

a) a copy of the statement explaining the purpose of the intended issue of shares has been sent to every member at his last known address according to the register of members; and

b) the copy of the statement has been advertised in one widely circulated newspaper in Malaysia in the national language and one widely circulated newspaper in Malaysia in the English language.

Shares:Directors' duties & Responsibilities

- S.76 (1) For the purposes of S.75(1), approval may be confined to a particular exercise of that power or may apply to the exercise of that power generally and any such approval may be unconditional or subject to conditions.
- S.76 (2) An approval made under S.75(1) shall be **lodged** with the Registrar within 14 days from the date of the approval.
- S.76 (3) An approval expires—(a) (i)at the conclusion of the next AGM (ii) at the expiry of the period within which the next AGM is required to be held whichever is the earlier or (b) not more than 12 months after the approval.

Shares:Directors' duties & Responsibilities

- S.76(4) Notwithstanding S.76(3), an approval may be revoked or varied at any time by a resolution of the company.
- S.76(5) The directors may allot shares or grant rights after an approval has expired if –
  a) The shares are allotted, or the rights are granted, under an agreement, option or offer made or granted by the company before the approval expires; and
  b) The approval allowed the company to make or grant an agreement, option or offer that would or might require shares to be allotted or rights to be granted, after the approval expires.

Allotment of Shares Other Than Cash

- S.78 (6) Where shares are allotted or are deemed to have been allotted as fully or partly paid up otherwise than in cash and the allotment is made—
  a) under a contract not reduced to writing;
  b) under the constitution;
  c) in satisfaction of a dividend declared in favour of, but not payable in cash to the shareholders; or
  d) upon the application of moneys held by the company in an account or reserve in paying up unissued shares to which the shareholders have become entitled,
- the company shall lodge together with the return a statement containing such particulars as may be determined by the Registrar.

Allotment Otherwise Than Cash

- Common question – Is an allotment of shares contra with 'Amount Due To Director' or 'Amount Due To Shareholder' considered as an allotment of shares for cash or otherwise than for cash?
- A company can issue shares for consideration other than cash. Common examples include issuing shares in return for property, assets the company needs or (e.g. in a takeover) shares in another company.
- Where the consideration for the shares is by way of a set-off (contra) with an amount in an account (in credit), one view point is that it can be considered as an allotment for cash if the company has an equivalent amount in cash to repay the account. Another view point is that an account in credit means there was already an amount received by the company and therefore, an allotment which is to be set-off against that account can be considered as a cash allotment.

Allotment of Shares - Checklist

- ❑ DRIW to approve the proposed increase in paid up capital and issuance of new shares
- ❑ DRIW to convene the EGM/propose circulation of MWR
- ❑ Minutes of EGM / MWR
- ❑ Notice of Resolution under S.76 filed with SSM if resolution was passed pursuant to S.75(1)
- ❑ Issue allotment letter to allottee and wait for payment and acceptance
- ❑ Lodgement with SSM under ROA and then followed by ROM update on the analysis of shareholdings
- ❑ Preparation and Issuance of Share Certificate*

Bonus Shares

- S.75 (2)(b) Subsection (1) *{members' approval}* shall not apply to an allotment of shares on a bonus issue of shares to the members of the company in proportion to the members' shareholdings.
- But note Table A , Reg. 106 - The company in general meeting may, upon the recommendation of the directors, resolve that it is desirable to capitalize any part of the amount for the time being standing to the credit of any of the company's reserve accounts or to the credit of the profit and loss account for distribution amongst the members in the same proportions on condition that the same be not paid in cash but be applied towards paying up in full unissued shares to be allotted and distributed, credited as fully paid up to and amongst the members in proportion to their shareholdings.

Errors Made During Allotment

- The types of errors may depend on whether it is an administrative error or a major error. If a minor clerical error has been made, the register of members may be corrected upon receipt of a form of rectification request. Examples of administrative errors are:
  - transposed numbers which are correctly reflected in the board resolution but not within the register of members
  - typographical error within the name or address of the member
  - transposed date of transaction, for instance, a share allotment.
- On receipt of the request, the Company Secretary should:
  - ✓ Review the ROA & the register of member
  - ✓ Review the board and shareholders' resolutions relating to the allotment
  - ✓ Review the documentation filed with SSM

Errors Made During Allotment

- Minor errors can be rectified through S.602 or by a transfer of shares / reduction of capital
- If the error is a major error, an application to the court will be required to rectify the register of members. The application may be submitted by the affected person, the company, or any member of the company. Examples of major errors are:

❑ The amount paid up on each share allotted is wrong. E.g. amount paid up should be RM2-00 but in the allotment it is RM1-00

❑ The name of any person is, without sufficient cause, omitted from a company's register of members

❑ The type of shares allotted was wrong

Check List For Issuing Preference Share

- ❑ Check if the constitution sets out that there are 2 classes of shares, ordinary shares and preference shares (PS)
- ❑ Are the rights of preference shares set out in the constitution
- ❑ Consider what types of PS to be issued
- ❑ Consider the rate of dividend (fixed, cumulative, non-cumulative) to be paid on the PS
- ❑ If the PS are redeemable, is the redemption at a certain time or upon certain event
- ❑ If the PS are convertible what is the rate of conversion
- ❑ Does the terms of issue allow further allotment of PS and the rights of existing PS holders
- ❑ Pass resolution under S.75(1) to give authority to directors to issue and allot the PS

Procedure to Allot Preference Share

- Directors' resolution to resolve on the issuance and allotment with details on rights and types of PS
- To get members' approval for the Directors to allot pursuant to Sec. 75(1) CA 2016 ad follow by Sec. 76 submission to SSM
- After passing members' resolution to give the mandate to Directors to allot PS, Directors to pass resolution to allot new PS
- Company secretary to lodge ROA with SSM and update Register of Member
- Issue share certs if provided by constitution or requested by PS holders

Preference Shares - Dividends

- The company’s constitution may give preference shareholders the right to a fixed dividend but this is subject to the availability of profits of the company and the directors’ determination of the solvency of the company.
- The constitution may give preference shareholders the right to receive the same rate of dividends as ordinary shares but in priority to the ordinary shares.
- The constitution may confer on preference shares a cumulative right to dividends which entitles the holders to accumulate unpaid dividends of the previous years. All accumulated dividends must be paid to preference shareholders before any dividend for ordinary shareholders is authorized.

Pre-emptive Right to New Share Issue

- **Sec. 85 (1)** – ***Subject to the constitution***, where a company issues shares which rank equally to existing shares as to voting or distribution rights, those shares shall first be offered to the holders of existing shares in a manner which would, if the offer were accepted, maintain the relating voting and distribution rights of those shareholders
- Q: A rights issue for every new issue?
- Q: Is S.85 referring to a renounceable rights issue or non-renounceable rights issue?

S.85(1) – Subject to the constitution???

- Reg. 41 Table A = ***Subject to any direction to the contrary that may be given by the company in general meeting***, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and, after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the share offered, the directors may dispose of those shares in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this regulation.

Rights Issue Controversy

- Apex Equity Holdings Bhd aimed to merge with Mercury Securities Sdn Bhd, a move contested by Concrete Parade Sdn Bhd and other minority shareholders for a potential breach of the CA 2016.
- The contention centred on the alleged non-compliance with S.85 (pre-emptive rights to new shares). The High Court's decision on August 7, 2019, found that pre-emptive rights were adequately addressed but this was overturned by the Court of Appeal on August 18, 2021.
- The key legal issue in Concrete Parade Sdn Bhd & Ors v Apex Equity Holdings Bhd & Ors were - Pre-Emptive Rights to New Share (Section 85): Whether the directors' actions in proposing a private placement where new shares will be issued, thereby potentially diluting Concrete Parade's shareholding without explicit shareholder approval, constituting a breach of statutory pre-emptive rights.

- The Federal Court found that the Act allows a degree of flexibility in how pre-emptive rights are managed, contingent upon the company’s constitution and shareholder agreements. The right of pre-emption in relation to a proposed allocation and issuance of new shares are subordinated to the content of the constitution of a company. This is because of the express words, “Subject to the constitution” in section 85(1).
- It held that shareholders could, through a general meeting, exercise their preemptive rights. If they wish to assert their pre-emptive rights then they may do so by voting against the resolution for the proposed business merger which involves part payment by way of private placement. If they wish to vote in favour of the business merger, then they may do so by voting in favour of the same, which means that those private placement shares which are necessary to provide the capital to secure the merger, will not be available for purchase by them. In effect, the shareholders chose to disapply or cede their option to purchase the same by voting in favour of the merger.

- Furthermore, the Federal Court also considered the legal construction of the words “Subject to direction to the contrary by the company at a general meeting”, pursuant to Article 11 of the Memorandum and Articles of Association of the company.
- The Court of Appeal erred by construing ‘subject to direction to the contrary at a meeting of the company” to mean that the company or its management/directors must advise the shareholders prior to the proposed issuance of new shares for the raising of capital, with an express reminder of the shareholders’ pre-emptive rights and a clear and express statement waiving such rights to the new shares proposed to be issued.
- The Federal Court explained that the term ‘subject to direction’, means subject to instruction or order or stipulation, in their plain and ordinary meaning, where the shareholders at a general meeting ‘direct’ or instruct, or communicate about their views. It does not require an explanation on the shareholders’ pre-emptive rights, nor is a clear and express statement required. The Court of Appeal failed to consider that the shareholders, by voting in favour or against the business merger, did comprehend or ought to have comprehended that their shareholding would be diluted by the proposed issuance of shares for the private placement.

Reduction of Share Capital

SEC. 116

- The members of a company must pass a special resolution to approve share capital reduction of the company.
- The company must thereafter seek confirmation from the Court.

SEC. 117

- All directors of a company must make a solvency statement in relation to the reduction of share capital.
- For a private company, within 14 days ending with the date of the special resolution passed by members of a company to approve reduction of share capital of the company.
- For a public company, within 21 days ending with the date of the special resolution passed by members of a company to approve reduction of share capital of the company.

Reduction of Share Capital

SEC. 116

- If the reduction of share capital involves diminution of liability in respect of unpaid share capital or payment of any paid-up share capital to any shareholder,

a. a creditor of the company, if any, is entitled to object to the reduction of the share capital if such creditor, as at the date fixed by the Court, is entitled to any debt or claim which would be admissible in proof against the company as if that date were the date of commencement of the winding up of the company;

b. the Court will settle a list of creditors who are entitled to object, ascertain the names, nature and amount of debts or claims of the creditors and may publish notices fixing a final day which creditors not entered in the list may claim to be so entered; and

SEC. 117

- A solvency statement is not required if the reduction of share capital is solely by way of cancellation of any paid up capital share capital which is lost or unrepresented by available assets.
- Members of a company must pass a special resolution to reduce the Company's capital.

Reduction of Share Capital

SEC. 116

c. if any creditor entered in the list whose debt or claim is not discharged or has not been determined, does not consent to the reduction, the Court may dispense with the consent of that creditor on the company securing payment of his debt or claim by appropriating as the Court directs,
   i. if the company admits or is willing to provide for the full amount of the debt or claim, the full amount of the debt or claim; or
   ii. if the company does not admit and is not willing to provide for the full amount of the debt or claim or if the amount is contingent or not ascertained, an amount fixed by the Court after similar inquiry and adjudication as if the company were being wound up by the Court.

SEC. 117

- For a private company, if the resolution is to be passed by way of a written resolution, every copy of the resolution must be accompanied by the solvency statement, or if the resolution is to be passed at a general meeting, the solvency statement must be made available for inspection by the members throughout the meeting.

Reduction of Share Capital

SEC. 116

- The Court may, after considering any special circumstances of any case, direct that all or any of the provisions above shall not apply with regards to any class of creditors.
- The Court may make an order confirming the reduction if the Court is satisfied with respect to every creditor who is entitled to object, that his consent to the reduction has been obtained or his debt or claim has been discharged, determined or secured.

SEC. 117

- A public company shall make the solvency statement available for inspection by the members throughout the meeting at which the resolution is to be passed.
- The solvency statement of a public company or private company must be made available at the company's registered office for inspection by its creditors for six weeks from the date of the resolution

Reduction of Share Capital

SEC. 116

- The Company shall then lodge the Court order with the Registrar of Companies. The resolution for reducing share capital as confirmed by the Court order shall take effect upon such lodgement.
- The Registrar will then issue a notice confirming the share capital reduction which shall be conclusive evidence that all the requirement of the Act with respect to reduction of share capital have been complied with and that the share capital of the company is as stated in the order.

SEC. 117

- The company must send a notice to the Director General of Inland Revenue Board and the Registrar within seven days of the resolution being passed, which shall state that the resolution has been passed and contain the text of the resolution and the resolution date. The company must also lodge a copy of the solvency statement with the Registrar together with the notice.
- A company must advertise a notice of the reduction of the share capital in one widely circulated newspapers in Malaysia in the national language and one widely circulated newspapers in Malaysia in the English language not later than 7 days from the date of the passing of the special resolution.

Reduction of Share Capital

SEC. 116

- Upon lodgement of the order of the Court, the particulars shown in the Court order shall be deemed to substitute the corresponding particulars in the constitution, if any, and such substitution and any addition ordered by the Court to be made to the name of the company shall be deemed to be alterations of the constitution for the purposes of the CA 2016 for such period as is specified in the order of the Court

SEC. 117

- If no application for cancellation of the resolution is received from any of the company's creditors after 6 weeks, the company shall lodge the following documents with the Registrar before the end of 8 weeks from the date of the resolution:
  - a copy of the resolution;
  - a copy of the solvency statement, if applicable;
  - a statement made by the directors confirming that the requirements under S. 117(1) and the solvency requirements under S. 117(3), if applicable, have been complied with, and that no application for cancellation of the resolution has been made; and
  - a copy of the advertised notice

Reduction of Capital – Check-list

- ❑ Extract the latest up-to-date accounts
- ❑ Convene a board meeting to approve the solvency statement (for a private company, the statement must be made within 14 days ending with the date of the special resolution; for a public company, within 21 days) & to set a date for GM or MWR
- ❑ If the reduction is by way of set-off against losses or to reduce share capital which is not represented by available losses, solvency statement is not required
- ❑ Convene a general meeting to pass a special resolution to approve the reduction
- ❑ If SR is passed by written resolution, the MWR must be accompanied by the solvency statement but if passed at a meeting, the solvency statement is made available for inspection at the meeting.

Reduction of Capital – Check-list

- ❑ Within 7 days of SR, to lodge with SSM & LHDN the S.117 notification (which comprises declaration & solvency statement)
- ❑ Within 7 days of SR, to advertise in BM and English
- ❑ Wait for 6 weeks to expire whether there is any objection from creditors
- ❑ After 6 weeks but within the 8th week of the SR, to file the S.119 Statement (comprising what was filed earlier under S.117 but include copies of the advertisements)
- ❑ Wait for SSM to issue a notice of confirmation that the requirement of the Act have been complied in the reduction of the share capital

Redemption of Preference Shares

- S. 72 (4) - The shares shall be redeemable only if the shares are fully paid up and the redemption shall be out of—
  a) profits;
  b) a fresh issue of shares; or
  c) capital of the company.
- S.72 (5) - Where any such shares are redeemed out of profits pursuant to paragraph (4)(a) which would otherwise have been available for dividend, there shall be transferred into the share capital accounts of the company, a sum equal to the amount of the shares redeemed.

Redemption of Preference Shares

- S.72 (1) Subject to its constitution, a company having a share capital may issue preference shares.
- S.72 (2) Subject to this section and if authorized by its constitution, a company may issue preference shares which are liable, or at the option of the company are to be liable, to be redeemed in accordance with the constitution.
- S.72 (3) The redemption of the preference shares shall not be taken as reducing the amount of share capital of the company.
- S.72 (4) The shares shall be redeemable only if the shares are fully paid up and the redemption shall be out of— (a) profits; (b) a fresh issue of shares; or (c) capital of the company

Redemption of Preference Shares

- S.72 (5) Where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there shall, out of profits which would otherwise have been available for dividend, be transferred into the share capital accounts of the company, a sum equal to the amount of the shares redeemed.
- S.72 (6) The redemption of shares out of the capital referred to in paragraph (4)(a) shall only be redeemed subject to the following: (a) all the directors have made a solvency statement under S. 113 in relation to such redemption; and (b) the company has lodged a copy of the solvency statement with the Registrar.
- S.72 (7) The company shall give notice to the Registrar specifying the shares redeemed within 14 days from the redemption.

Preference Shares – Liability or Capital?

- Paragraph 18 of the Malaysian Financial Reporting Standards 132 ("**FRS132**") provides that the substance of a financial instrument, rather than its legal form, governs the classification of the entity's financial position.
- Therefore, a preference share that provides for mandatory redemption by the issuer for a fixed or determinable amount at a fixed or determinable future date, or gives the holder the right to require the issuer to redeem the instrument at or after a particular date for a fixed or determinable amount may be considered a financial liability.
- The effect of classifying the PS as a liability means that the shareholders' fund of the company may be lower and thus affect it's ability to borrow.

Checklist for Redemption of PS

- ❑ The redemption must be authorised by the constitution & in accordance with S.72
- ❑ The shares will be redeemable only if they are fully paid up and on the terms on which they were issued or as varied after due approval from the holders. The redemption may be at a fixed time or on the happening of a particular event or at the company's option or any time at the holder's option.
- ❑ Convene a meeting of the Board / pass a Board resolution for approval of Redemption of preference shares
- ❑ Issue Letter for redemption of Preference Shares to RPS holders after the Board meeting or passing of Board resolution
- ❑ Make the payment to the RPS holders
- ❑ Lodge the Notice of Redemption with SSM within 14 days after redemption.

Redemption of Preference Shares

- S.72 (6) The redemption of shares out of the capital referred to in S.72(4)(c) shall only be redeemed subject to the following:
  a) all the directors have made a solvency statement under S. 113 in relation to such redemption; and
  b) the company has lodged a copy of the solvency statement with the Registrar.
- S.72 (7) The company shall give notice to the Registrar specifying the shares redeemed within 14 days from the redemption.

Dividend!

Distribution of Dividends

- S.131(1) - Subject to S.132, a company may only make a distribution to the shareholders out of profits of the company available if the company is solvent.
- S.132(1) Before a distribution is made by a company to any shareholder, such distribution shall be authorized by the directors of the company.
- S.132(2) The directors may authorize a distribution at such time and in such amount as the directors consider appropriate, if the directors are satisfied that the company will be solvent immediately after the distribution is made.
- Key issues – profit & solvency

Distribution of Dividends

- There are two critical points at which solvency must be considered.
- Before authorising the distribution of dividends, directors must consider whether the company is able to pay its debts as and when they become due within 12 months immediately after the distribution is made (“solvency test”).
- Prior to actually making the payment of the dividends, the directors must revisit the solvency test and take all necessary steps to prevent a distribution of dividends if, the directors cease to be satisfied on reasonable grounds that the company still meets the solvency test.

Profit or Accumulated Profits

- The courts have, over the years, formulated various rules in relation to the payment of dividends on an ad hoc basis summarised below:
- Dividends may be paid out of trading profits for a financial year without any regard to the losses incurred in previous financial years (Re National Bank of Wales ; and without first making good the lost capital (Lee v Neuchatel Asphalte Co; Verner v General and Commercial Investment Trust and Marra Developments Ltd v BW Rofe Pty Ltd
- Dividends may be paid out of revenue profit without any regard to losses in fixed assets (Lee v Neuchatel Asphalte Co); or the need to make provision for depreciation of fixed assets (Ammonia Soda Co v Chamberlain .
- Dividends may be paid out of an unrealised capital gain resulting from a bona fide revaluation of fixed assets (Dimbula Valley (Ceylon) Tea Co Ltd v Laurie; Industrial Equity Ltd v Blackburn .
- There is no necessity that there be available profits when the dividend is actually paid, so long as there were available profits when the dividend was declared (Marra Developments Ltd v BW Rofe Pty Ltd and BSN Commercial Bank (M) Bhd v River View Properties Sdn Bhd and another action .

Distribution of dividends in species

- Reg. 104 Table A = Any general meeting declaring a dividend or bonus may direct payment of the dividend or bonus wholly or partly by the distribution of specific assets and in particular of paid-up shares, debenture stock of any other company or in any one or more of those ways and the directors shall give effect to the resolution, and where any difficulty arises in regard to the distribution, the directors may settle the same as they think expedient, and fix the value for distribution of the specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the right of all parties, and may vest any such specific assets in trustees as may seem expedient to the directors.

Distribution of dividends in species

- Reg.106 Table A = The company in general meeting may, upon the recommendation of the directors, resolve that it is desirable to capitalize any part of the amount for the time being standing to the credit of any of the company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that the sum be set free for distribution amongst the members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by those members respectively or paying up in full unissued shares or debentures of the company to be allotted and distributed, credited as fully paid up to and amongst the members in the proportion aforesaid, or partly in the one way and partly in the other, and the directors shall give effect to such resolution. A share premium account and a capital redemption reserve may, for the purposes of this regulation, be applied only in the paying up of unissued shares to be issued to members of the company as fully paid bonus shares.

Unequal Distribution of Dividends

- S.71(1)(e) – A share in a company, other than preference shares confers on the holder "the right in an equal share in dividends authorized by the Board
- However, S.71(2) – The right to dividend (in S.71(1)(e) may be negated, altered or added to by the company's constitution; OR in accordance with the terms on which the share is issued.

Unequal Distribution of Dividends

- Firstly, a company's constitution may be amended to expressly provide for the ability to distribute dividends to shareholders. This is possible even without having different classes of shares. For example, the constitution can expressly confer the authority (or obligation) for the Board to distribute unequal dividends to the shareholders on a 70:30 basis, despite their 50:50 shareholding.
- Secondly, the company may choose to issue shares of a different class, with different terms attached to such a class of shares. In particular, section 69 allows different classes of shares to confer preferential rights to distributions of capital or income, with such income being dividends. For instance, holders of 'Class A shares' may be entitled to dividends at a fixed annual cumulative or non-cumulative rate, while holders of 'Class B shares' may not have a right to dividends at all.

Selective Payment of Dividend

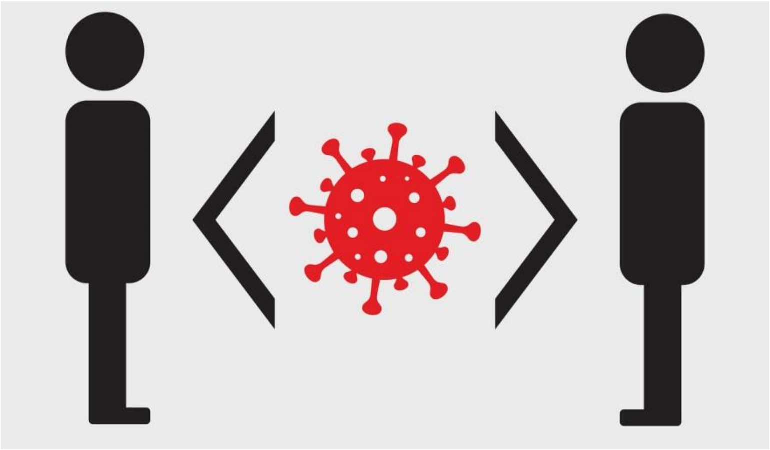
- Receipt of dividend is a right of shareholder and not an obligation. There is no provision under the Act to deal with the waiver of dividend. Hence, such provisions may be contained in the constitution of the company or pursuant to an agreement amongst shareholders.
- Can dividend be paid to somebody else authorized by the shareholder? The obligation of the company of payment of dividend is towards the member and not towards the beneficial owner. However, the dividend may be paid to a beneficial owner where the shareholder instructs the company to do so or "to his order" and the company shall pay the dividend according to the instructions given.

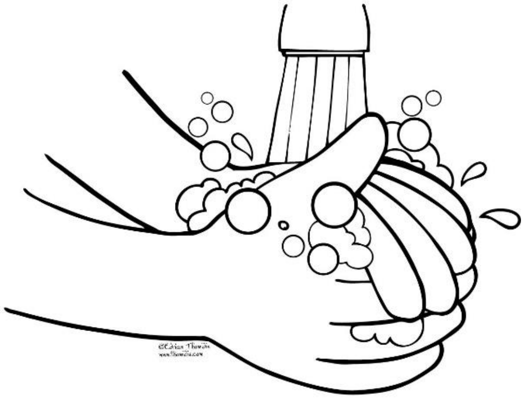
Distributions in a Winding Up

- A capital distribution from a company under winding up is any money that's paid from the company to its shareholders that is not treated as income for income tax purposes.
- The distribution may be from the retained profits and any funds raised from the sale of assets and realisation of other assets i.e. the surplus after paying off secured and unsecured creditors in accordance with the priorities under S.527 and exercising his powers under the 11th and/or 12th Schedule.


Questions

TIME FOR ANSWERS






THANK
YOU!