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Companies Act 2006 c. 46

s. 93 Recent allotment of shares for non-cash consideration

Law In Force

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Subjects

Company law

Keywords

Allotment of shares; Companies limited by shares; Private companies; Public companies; Re-registration

93 Recent allotment of shares for non-cash consideration

- (1) This section applies where—
 - (a) shares are allotted by the company in the period between the date as at which the balance sheet required by [section 92](#) is prepared and the passing of the resolution that the company should re-register as a public company, and
 - (b) the shares are allotted as fully or partly paid up as to their nominal value or any premium on them otherwise than in cash.
- (2) The registrar shall not entertain an application by the company for reregistration as a public company unless—
 - (a) the requirements of [section 593\(1\)\(a\) and \(b\)](#) have been complied with (independent valuation of non-cash consideration; valuer's report to company not more than six months before allotment), or
 - (b) the allotment is in connection with—
 - (i) a share exchange (see subsections (3) to (5) below), or
 - (ii) a proposed merger with another company (see subsection (6) below).
- (3) An allotment is in connection with a share exchange if—
 - (a) the shares are allotted in connection with an arrangement under which the whole or part of the consideration for the shares allotted is provided by—
 - (i) the transfer to the company allotting the shares of shares (or shares of a particular class) in another company, or
 - (ii) the cancellation of shares (or shares of a particular class) in another company; and
 - (b) the allotment is open to all the holders of the shares of the other company in question (or, where the arrangement applies only to shares of a particular class, to all the holders of the company's shares of that class) to take part in the arrangement in connection with which the shares are allotted.
- (4) In determining whether a person is a holder of shares for the purposes of subsection (3), there shall be disregarded—
 - (a) shares held by, or by a nominee of, the company allotting the shares;
 - (b) shares held by, or by a nominee of—
 - (i) the holding company of the company allotting the shares,

(ii) a subsidiary of the company allotting the shares, or

(iii) a subsidiary of the holding company of the company allotting the shares.

(5) It is immaterial, for the purposes of deciding whether an allotment is in connection with a share exchange, whether or not the arrangement in connection with which the shares are allotted involves the issue to the company allotting the shares of shares (or shares of a particular class) in the other company.

(6) There is a proposed merger with another company if one of the companies concerned proposes to acquire all the assets and liabilities of the other in exchange for the issue of its shares or other securities to shareholders of the other (whether or not accompanied by a cash payment). “Another company” includes any body corporate.

(7) For the purposes of this section—

(a) the consideration for an allotment does not include any amount standing to the credit of any of the company's reserve accounts, or of its profit and loss account, that has been applied in paying up (to any extent) any of the shares allotted or any premium on those shares; and

(b) “arrangement” means any agreement, scheme or arrangement, (including an arrangement sanctioned in accordance with—

(i) [Part 26 or 26A]¹ of this Act (arrangements and reconstructions), or

(ii) section 110 of the Insolvency Act 1986 (c. 45) or Article 96 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (liquidator in winding up accepting shares as consideration for sale of company's property)).

Notes

¹ Words inserted by Corporate Insolvency and Governance Act 2020 c. 12 [Sch.9\(2\) para.32](#) (June 26, 2020)

Part 7 RE-REGISTRATION AS A MEANS OF ALTERING A COMPANY'S STATUS > Private company becoming public > s. 93 Recent allotment of shares for non-cash consideration

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