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**GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
NOTIFICATION**

**New Delhi;
The 14th December, 2011**

G.S.R. (E).- In exercise of the power conferred by sub-section (1A) of section 81, read with section 642, of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following rules to amend the Unlisted Public Companies (Preferential Allotment) Rules, 2003, namely:-

1. (1) These rules may be called the Unlisted Public Companies (Preferential Allotment) Amendment Rules, 2011.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Unlisted Public Companies (Preferential Allotment) Rules, 2003 (hereinafter referred to as the said rules), in rule 3, for clause (1), the following shall be substituted, namely: -

‘(1) “preferential allotment” means allotment of shares or any other instrument convertible into shares including hybrid instruments convertible into shares on preferential basis made pursuant to the provisions of sub-section (1A) of section 81 of the Companies Act, 1956;

Provided that the name, father's name, address and occupation of persons to whom such allotment is proposed to be made shall be mentioned in the resolution passed by the members under that sub-section:

Provided further that persons to whom such offer is proposed, shall not be more than forty-nine as per the first proviso to sub-section (3) of section 67 of the Companies Act, 1956;'

3. For rule 4 of the said rules, the following shall be substituted, namely:-

“4. Special Resolution.-

(1) No issue of Shares or any other instruments convertible into shares including hybrids convertible into shares on a preferential basis can be made by a company unless authorised by its articles of association and unless a special resolution passed by the member in a general meeting authorising the Board of Directors to make such issue.

(2) The special resolution referred to in sub-rule (1) shall be acted upon within a period of twelve months.”.

4. After rule 7 of the said rules, the following rule shall be inserted, namely:-

“8. Invitation and allotment of securities.-

(1) No fresh offer or invitation shall be made unless the allotment with respect to any offer or invitation made earlier have been completed in terms of sub-section (9) of section 60B of the Companies Act, 1956.

(2) Any offer or invitation not in compliance with sub-section (1A) of Section 81 read with sub-section (3) of section 67 of the said Act, shall be treated as a public offer and the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall be complied with.

(3) All monies payable on subscription of securities shall be paid through cheque or demand draft or other banking channels but not by cash.

(4) Any allotment of securities shall be completed within sixty days from the receipt of application money and in case the company is not able to allot the securities within the said period of sixty days, it shall repay the application money within fifteen days thereafter, failing which it will be required to be re-paid with interest at the rate of twelve percent per annum:

Provided that the monies received on such application shall be kept in a separate bank account and shall not be utilised for any purpose other than—

(i) for adjustment against allotment of securities; or

(ii) for the repayment of monies where the company is unable to allot securities.

(5) No company offering securities shall release any public advertisements or utilise any media, marketing or distribution channels or agents to inform the public at large about such an offer”.

[No. F. 2/21/2011-CL V]

Sd/-
Renuka Kumar
Joint Secretary to the Government of India

Note: - The principle rules were published in the Gazette of India, Extraordinary, vide notification number G.S.R. 922(E), dated the 4th December, 2003.