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## **UNCLAIMED AND UNPAID DIVIDENDS – A CHARM FOR INVESTORS**

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### **ABSTRACT**

People quite often tend to forget things, let it be keys, phones, wallets, etc which are tangible so it is very normal to forget intangible things that they own such as shares and investments. To overcome this problem and to eradicate such forgetful investment Section 124 and 125 of the Companies Act, 2013 was laid down. It made sure that the companies follow a certain procedure for unpaid dividends and then such investments be utilized by the government to educate investors on their investments for which Investors Education and Protection Fund

Authority was formed and ‘The Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules’, 2016. With this stated the Research Paper is going to dive deep into the above-mentioned rules and regulations to simplify the method for investors to reclaim their investments or dividends. We would also identify the difficulties and suggest ideas to rectify these difficulties. The major problem is that investors do not realize that they have not claimed dividends since a very long time and due to which the IEPF takes over the dividends and shares, the research paper would put in an effort to solve this issue.

## 1. Introduction

When a person invests his or her money in long term stocks or shares, he does so to earn a profit on such investment and if he forgets to collect the dividends from such shares then the purpose of making such investment has failed. It is very common to forget about what all shares you have invested in over a period of 10 to 15 years, especially before the dematerialization, when you had physical share certificates, it used to become a hard task to protect your investments as it was difficult to keep a track on every investment that you have made. Now that we have dematerialized accounts which deal with shares, it has become much easier for us to keep a track on the shares, but it still poses the problem of when you need to collect dividends as, the companies do not have a fixed period in which they have to declare dividends, so it becomes difficult for a person to keep a track with all the companies that he has invested in when they would declare dividends. Therefore, to eradicate this problem the legislation introduced certain provision in respect to unpaid dividends and a way in which the investors would benefit from it.

## 2. What are Dividends?

For us to understand about how claiming of unpaid dividends work, we must first understand what exactly dividends are and how are they distributed.

Dividends are nothing but the yield an investor earns over his share, when the invested company does well and earns profit through the financial year. Dividends are decided to be distributed by the company through its Board of Directors, basically there is no compulsion over the company to distribute dividends. The sole decision is with the Board of Directors of the company.

Dividends may be paid out annually, quarterly or monthly depending on the Company and its directors. Section 123 of the Companies Act, 2013 deals with the declaration of dividends by the company.

## 3. Procedure for Payment of Dividends

- a. Board Meeting: A meeting between the Board of Directors must be convened, and they all must come to conclusion to declare the dividends at the Annual General Meeting and decide the amount of dividend which would be declared.

- b. Conduct the Annual General Meeting and declare that the company would be paying out dividends at what rate which would be approved by the shareholders. It is necessary to note that they do not have any right to increase or decrease the dividend amount. After which the company must put up a notice on their website regarding the same.
- c. Opening a Special Account: As soon as the dividend is declared by the company, it must open a Special Account and deposit all the dividends into such account and distribute it to the shareholders as and when the shareholders make a claim for it.

#### **4. Regulations related to Unpaid Dividends**

- **Section 124 of the Companies Act 2013 –**

**124. Unpaid Dividends Account** <sup>1</sup>—“(1) Where a dividend has been declared by a company but has not been paid or claimed within thirty days from the date of the declaration to any shareholder entitled to the payment of the dividend, the company shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in that behalf in any scheduled bank to be called the Unpaid Dividend Account.”

“(2) The company shall, within a period of ninety days of making any transfer of an amount under subsection (1) to the Unpaid Dividend Account, prepare a statement containing the names, their last known addresses and the unpaid dividend to be paid to each person and place it on the website of the company, if any, and also on any other website approved by the Central Government for this purpose, in such form, manner and other particulars as may be prescribed.”

“(3) If any default is made in transferring the total amount referred to in sub-section (1) or any part thereof to the Unpaid Dividend Account of the company, it shall pay, from the date of such default, interest on so much of the amount as has not been transferred to the said account, at the rate of twelve per cent. per annum and the interest accruing on such amount shall ensure to the benefit of the members of the company in proportion to the amount remaining unpaid to them.”

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<sup>1</sup> The Companies Act, Section 124, No. 18 of 2013, Acts of Parliament, 2013, (INDIA)

“(4) Any person claiming to be entitled to any money transferred under sub-section (1) to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed.”

“(5) Any money transferred to the Unpaid Dividend Account of a company in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company along with interest accrued, if any, thereon to the Fund established under subsection (1) of section 125 and the company shall send a statement in the prescribed form of the details of such transfer to the authority which administers the said Fund and that authority shall issue a receipt to the company as evidence of such transfer.”

“(6) All shares in respect of which 1 [dividend has not been paid or claimed for seven consecutive years or more shall be] transferred by the company in the name of Investor Education and Protection Fund along with a statement containing such details as may be prescribed:”

“Provided that any claimant of shares transferred above shall be entitled to claim the transfer of shares from Investor Education and Protection Fund in accordance with such procedure and on submission of such documents as may be prescribed.”

“(7) If a company fails to comply with any of the requirements of this section, the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.”

- **Section 125 of the Companies Act 2013 –**

**125. Investors Education and Protection Fund** <sup>2</sup> – “(1) The Central Government shall establish a Fund to be called the Investor Education and Protection Fund (herein referred to as the Fund).”

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<sup>2</sup> The Companies Act, Section 125, No. 18 of 2013, Acts of Parliament, 2013, (INDIA)

“(2) There shall be credited to the Fund” —

“(a) the amount given by the Central Government by way of grants after due appropriation made by Parliament by law in this behalf for being utilised for the purposes of the Fund; (b) donations given to the Fund by the Central Government, State Governments, companies or any other institution for the purposes of the Fund; (c) the amount in the Unpaid Dividend Account of companies transferred to the Fund under subsection (5) of section 124; (d) the amount in the general revenue account of the Central Government which had been transferred to that account under sub-section (5) of section 205A of the Companies Act, 1956 (1 of 1956), as it stood immediately before the commencement of the Companies (Amendment) Act, 1999 (21 of 1999), and remaining unpaid or unclaimed on the commencement of this Act; (e) the amount lying in the Investor Education and Protection Fund under section 205C of the Companies Act, 1956 (1 of 1956); (f) the interest or other income received out of investments made from the Fund; (g) the amount received under sub-section (4) of section 38; (h) the application money received by companies for allotment of any securities and due for refund; (i) matured deposits with companies other than banking companies; (j) matured debentures with companies; (k) interest accrued on the amounts referred to in clauses (h) to (j); (l) sale proceeds of fractional shares arising out of issuance of bonus shares, merger and amalgamation for seven or more years; (m) redemption amount of preference shares remaining unpaid or unclaimed for seven or more years; and (n) such other amount as may be prescribed: Provided that no such amount referred to in clauses (h) to (j) shall form part of the Fund unless such amount has remained unclaimed and unpaid for a period of seven years from the date it became due for payment.”

“(3) The Fund shall be utilised for (a) the refund in respect of unclaimed dividends, matured deposits, matured debentures, the application money due for refund and interest thereon; (b) promotion of investors‘ education, awareness and protection; (c) distribution of any disgorged amount among eligible and identifiable applicants for shares or debentures, shareholders, debenture-holders or depositors who have suffered losses due to wrong actions by any person, in accordance with the orders made by the Court which had ordered disgorgement; (d) reimbursement of legal expenses incurred in pursuing class action suits under sections 37 and 245 by members, debenture-holders or depositors as may be sanctioned by the Tribunal; and (e) any other purpose incidental thereto, in accordance with such rules as may be prescribed.”

“(4) Any person claiming to be entitled to the amount referred in sub-section (2) may apply to

the authority constituted under sub-section (5) for the payment of the money claimed.”

“(5) The Central Government shall constitute, by notification, an authority for administration of the Fund consisting of a chairperson and such other members, not exceeding seven and a chief executive officer, as the Central Government may appoint.”

“(6) The manner of administration of the Fund, appointment of chairperson, members and chief executive officer, holding of meetings of the authority shall be in accordance with such rules as may be prescribed.”

“(7) The Central Government may provide to the authority such offices, officers, employees and other resources in accordance with such rules as may be prescribed.”

“(8) The authority shall administer the Fund and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed after consultation with the Comptroller and Auditor-General of India.”

“(9) It shall be competent for the authority constituted under sub-section (5) to spend money out of the Fund for carrying out the objects specified in sub-section (3).”

“(10) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall be forwarded annually by the authority to the Central Government.”

“(11) The authority shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government and the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament.”

• **Section 126 of the Companies Act 2013 –**

**126. Right to dividend, rights shares and bonus shares to be held in abeyance pending<sup>3</sup> registration of transfer of shares –** “Where any instrument of transfer of shares has been delivered to any company for registration and the transfer of such shares has not been registered

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<sup>3</sup> The Companies Act, Section 126, No. 18 of 2013, Acts of Parliament, 2013, (INDIA)

by the company, it shall, notwithstanding anything contained in any other provision of this Act, (a) transfer the dividend in relation to such shares to the Unpaid Dividend Account referred to in section 124 unless the company is authorised by the registered holder of such shares in writing to pay such dividend to the transferee specified in such instrument of transfer.”

• **Section 127 of the Companies Act 2013 –**

**127. Punishment for failure to distribute dividends** – “Where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within thirty days from the date of declaration to any shareholder entitled to the payment of the dividend, every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment which may extend to two years and with fine which shall not be less than one thousand rupees for every day during which such default continues and the company shall be liable to pay simple interest at the rate of eighteen per cent. per annum during the period for which such default continues.”<sup>4</sup>

**5. Procedure to be followed by the Company in case of Unpaid Dividends**

It is absolutely necessary for a company to follow the regulations laid down in respect to Unpaid Dividends or else they could be fined and reprimanded for the same. The procedure the company needs to follow in respect to Unpaid Dividends is as follows –

- a. After the Declaration of Dividend the company is obligated to transfer all the dividend amount to a special account for the purpose of transferring it to the eligible shareholders.
- b. The company has to make all the transfers of the dividend within 30 days since the declaration of the dividends.
- c. If the dividend is unclaimed or unpaid within the above-stated 30 days then the company must transfer the unclaimed dividend amount into another special account named as Unpaid Dividend Account within 7 days from the expiration of the 30 day period.
- d. The company has a period of 90 days to make a list with all the shareholders who have not claimed their dividends with their last known address in the prescribed form by the

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<sup>4</sup> The Companies Act, Section 127, No. 18 of 2013, Acts of Parliament, 2013, (INDIA)

Government of India and publish such notice on their website or any other websites prescribed by the Government of India.

- e. The amount of Unclaimed Dividend shall be maintained in the specific account for a period of 7 years and even then, if it goes unclaimed then after which it shall be transferred to the Investors Education and Protection Fund maintained by Ministry of Corporate Affairs along with the share itself.

## **6. Investors Education and Protection Fund**

The Investors Education and Protection Fund was first introduced under the Section 205(c) of the Companies Act, 1956 through an amendment which was brought in 1999. Its main purpose was to promote awareness in regards to investor's investment and to protect the interest of the investors. The current Investors Education and Protection Fund has the same core principle as its predeceasing legislation.

**A. Functions of Investors Education and Protection Fund** The Investors Education and Protection Fund functions are as follows:

- a. Refunding the unclaimed dividends when claimed along with the interest.
- b. Promoting awareness and protection amongst the investors.
- c. Distributing any disgorged amount among eligible shareholders or any other kind of stake-holder who have suffered any kind of loss due to the wrong actions of another person.
- d. Reimbursing legal expenses incurred by the members while pursuing class action suits under Section 245 and 37.

### **B. Investors Education and Protection Fund Authority**

In accordance with the provisions of Section 125 of the Companies Act of 2013, the Government of India created the Investor Education and Protection Fund Authority on September 7, 2016, to manage the Investor Education and Protection Fund. The Authority is tasked with managing the Investor Education Protection Fund (IEPF), issuing investor refunds for shares, unclaimed dividends, matured deposits/debentures, etc., and raising investor

awareness.

The current chairperson of the IEPFA is Shri Manoj Govil, Secretary of Ministry of Corporate Affairs and the Chief Executive Officer is Smt. Anita Shah Akella, Joint Secretary of Ministry of Corporate Affairs.

## 7. Procedure for Investors to claim their dividends from the Investors Education and Protection Fund Authority<sup>5</sup>



## 8. Investors Awareness Program

The Investors Awareness Program (IAP) is an initiative taken by the Investors Education and Protection Fund Authority to reach out to every individual, whoever it may be, rich, poor, educated or uneducated so as to promote awareness about savings and investment and how it could help their lives in the long run. To properly implement this initiative the Investors Education and Protection Fund Authority have partnered with various other institutions such as Institute of Chartered Accountants of India, Indian Institute of Corporate Affairs and many more, by partnering with such institutions the Investors Education and Protection Fund Authority have pretty much ensured the success of their initiative. This project would be spreading their awareness in rural, semi-urban and urban individuals which would enable them to understand the various market policies and schemes which are available to them, therefore the project would equip every individual with enough knowledge to make investments for himself or his family and to increase his or her wealth.

<sup>5</sup> Investors Education and Protection Fund, [www.iepf.gov.in](http://www.iepf.gov.in) , 05<sup>th</sup> April, 2023