

No Physical, only Demat!

-- SEBI to mandate dematerialisation of securities

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SEBI in its meeting held on March 28, 2018¹ has decided to amend Regulation 40 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('Listing Regulations') which deals with transfer or transmission or transposition of securities. According to this amendment, the requests for effecting the transfer of listed securities shall not be processed unless the securities are held in the dematerialized form with a depository. Therefore, for effecting any transfer, the securities shall mandatorily be required to be in demat form. The date of applicability of this amendment shall be notified later by SEBI.

Benefits of the Amendment:

According to SEBI, this amendment will bring the following benefits:

- (a) It shall curb fraud and manipulation risk in physical transfer of securities by unscrupulous entities.
- (b) Transfer of securities only in demat form will improve ease, convenience and safety of transactions for investors.

Consequences of the Amendment:

It is pertinent to note that there are several security holders who are hold/ prefer to hold their securities in physical form and who are not in favour of holding their securities in electronic mode. The amendment will deprive the securities holder of their fundamental right of holding their securities in their desired form.

This is another instance of reactive law making. Certain instance of fraudulent transfers that came to fore in case of Sharepro will lead to doing away with the option of holding securities in physical form.

Current scenario

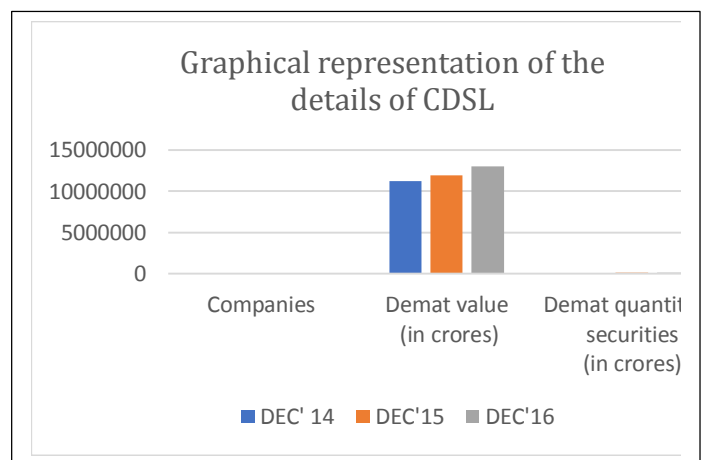
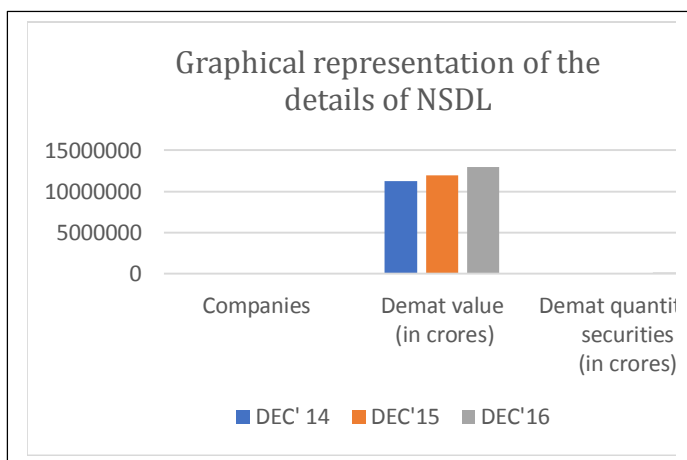
Both Listing Regulations and SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 mandates the entire shareholding of promoter(s) and promoter group to be in dematerialized form. However, the same is not required for public shareholders.

Progress of Dematerialisation at NSDL and CDSL

¹ https://www.sebi.gov.in/media/press-releases/mar-2018/sebi-board-meeting_38473.html

Followings are the details* of progress of dematerialisation at NSDL and CDSL:

FOR NSDL				FOR CDSL			
Year	No. of Companies	Demat value (in crores)	Demat quantity of securities (in crores)	Year	No. of Companies	Demat value (in crores)	Demat quantity of securities (in crores)
DEC' 14	13470	1,12,20,526	89,073	DEC' 14	13470	1,12,20,526	89,073
DEC'15	15115	1,19,29,978	1,03,690	DEC'15	15115	1,19,29,978	1,03,690
DEC'16	17085	1,29,97,457	1,23,305	DEC'16	17085	1,29,97,457	1,23,305



*the details have been taken from SEBI's Handbook of Statistics 2016²

Result of long plan

Though the amendment is an outcome of the meeting held on March 28, 2018 but the plan was being thought of long back since 2014. In an article of Business Standard³ on July 2014, T S Reddy, the Managing Director and CEO of CDSL, said, "It will be good transition for the market. I doubt if any section of the market will be opposed to the idea. In my opinion, the transition will be smooth; the only hurdle will be in the case of companies that no longer function or have no trading activity." Further, in the same article, Mr. Nageswara Rao, Managing Director and CEO of NSDL, was quoted saying, "Earlier (in 1996), the challenge was to convince investors holding shares in electronic form was a good idea. Now, this is no longer the issue. Investors have matured and have adapted to the demat mode adequately".

Therefore, SEBI with the support of various experts, had decided long back in year 2014 to bring the said amendment.

² <https://www.sebi.gov.in/reports/handbook-of-statistics/may-2017/handbook-of-statistics-2016-a-href-cms-sebi-data-attachdocs-hbs2016parti-xlsx-target-blank-style-color-8b0101-part-1-a-andnbsp-a-href-cms-sebi-data-attachdocs-hbs2016partii-xlsx-target-34939.html>

³ http://www.business-standard.com/article/markets/all-shares-to-be-in-demat-form-114071601181_1.html

SEBI's reactive approach:

Regulation 40 (3) provides the following-

“On receipt of proper documentation, the listed entity shall register transfers of its securities in the name of the transferee(s) and issue certificates or receipts or advices, as applicable, of transfers; or issue any valid objection or intimation to the transferee or transferor, as the case may be, within a period of fifteen days from the date of such receipt of request for transfer:

Provided that the listed entity shall ensure that transmission requests are processed for securities held in dematerialized mode and physical mode within seven days and twenty-one days respectively, after receipt of the specified documents:

Provided further that proper verifiable dated records of all correspondence with the investor shall be maintained by the listed entity.”

From the above quoted provision it is clear that in case of physical transfer of the securities, the listed entities after receiving proper documents, shall register the transfer and issue certificates or receipts or advices, as applicable, of transfers; or issue any valid objection or intimation to the transferee or transferor, as the case may be, within a period of fifteen days from the date of such receipt of request for transfer.

Therefore, as per the regulation, it is the responsibility of the listed entity and its Registrar and Transfer Agent to facilitate the registration of the transfer and issue the share certificate accordingly. However, the proposed amendment relieves the Company from its responsibility and mandates the security holder to hold the securities in demat form as there is no role that a Company or an RTA plays in case of demat transfers.

Conclusion

Though the amendment claims to improve ease, convenience and safety of transactions for investors, the same shall also bring various difficulties to the securities holder for whom the electronic system and the demat form does not seem to be user friendly. The bonafide securities holder, holding shares in physical form, will be largely affected by such compulsion and will be left with only two options i.e., either to convert their securities in demat form, which shall be against their will or to refrain from transferring their securities ever, in both the circumstances, it is the interest of the securities holder which shall get suppressed by the law makers.

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