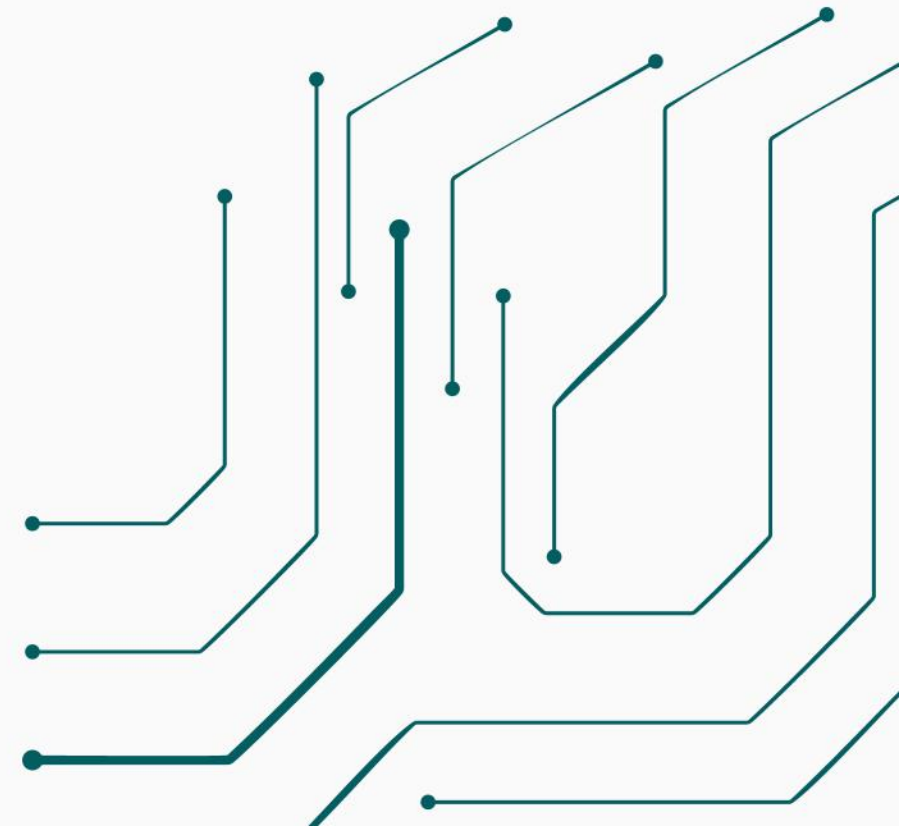
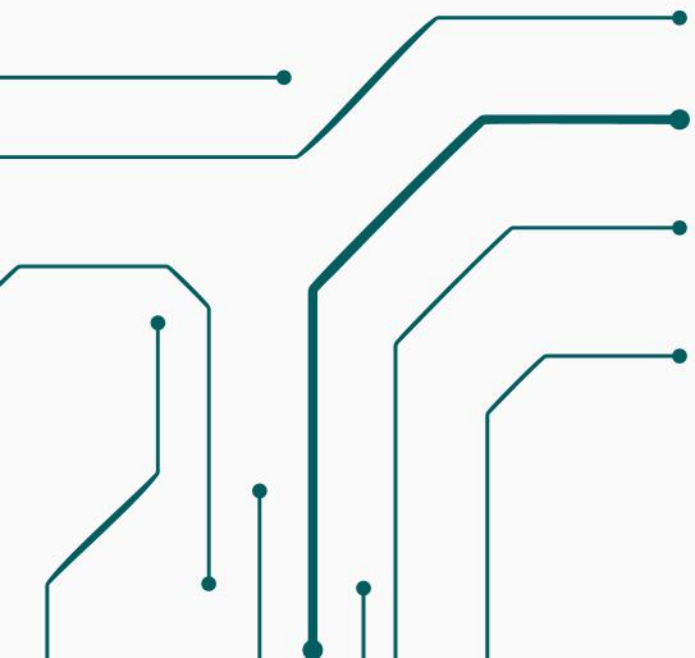




Siddhant Dhyani & Associates
Practicing Company Secretaries

ISIN & Dematerialisation of Securities



About Us

Siddhant Dhyani & Associates (“SDA”) is a firm of Company Secretaries based out of Delhi specialising in providing corporate secretarial compliance and advisory services in relation to Corporate Laws & Listing Regulations.

We are a team of professionals with extensive experience across various domains of corporate secretarial and listing laws. With the vision and mission of providing the highest quality of unmatched client experience, our firm provides all kinds of corporate secretarial compliance services ranging from incorporation, due diligence, transaction advisory, compliance health checks, remedial services, compliance retainer services and representation services to Companies, Limited Liability Partnerships (LLP's), Foreign entities, Startups & other forms of business organisation in India.



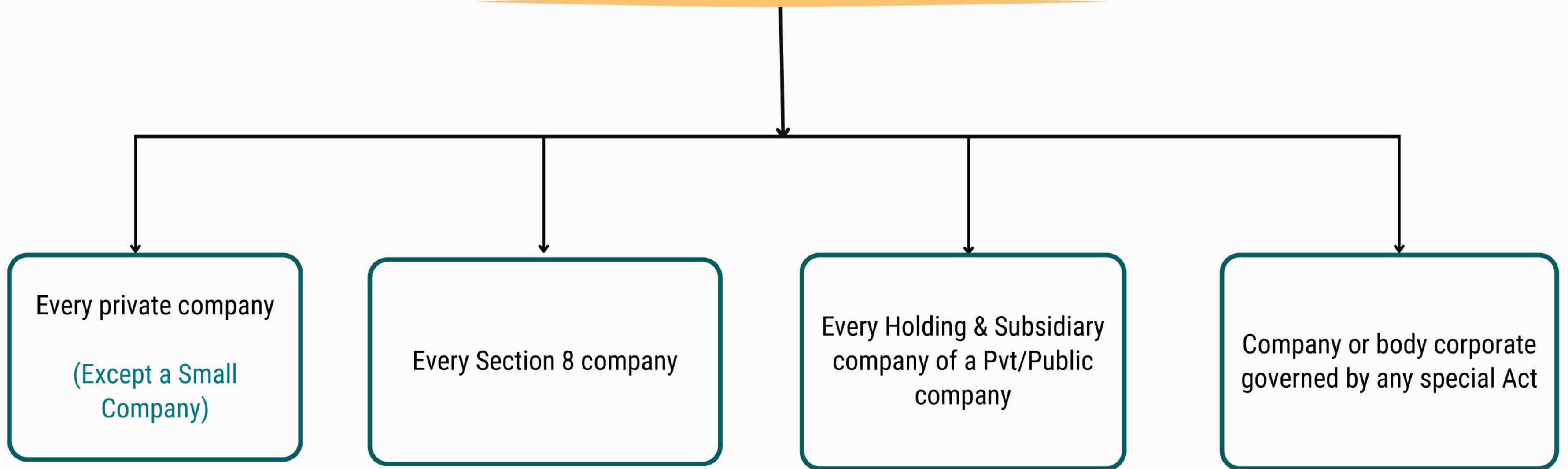
Simplifying Compliance

Introduction

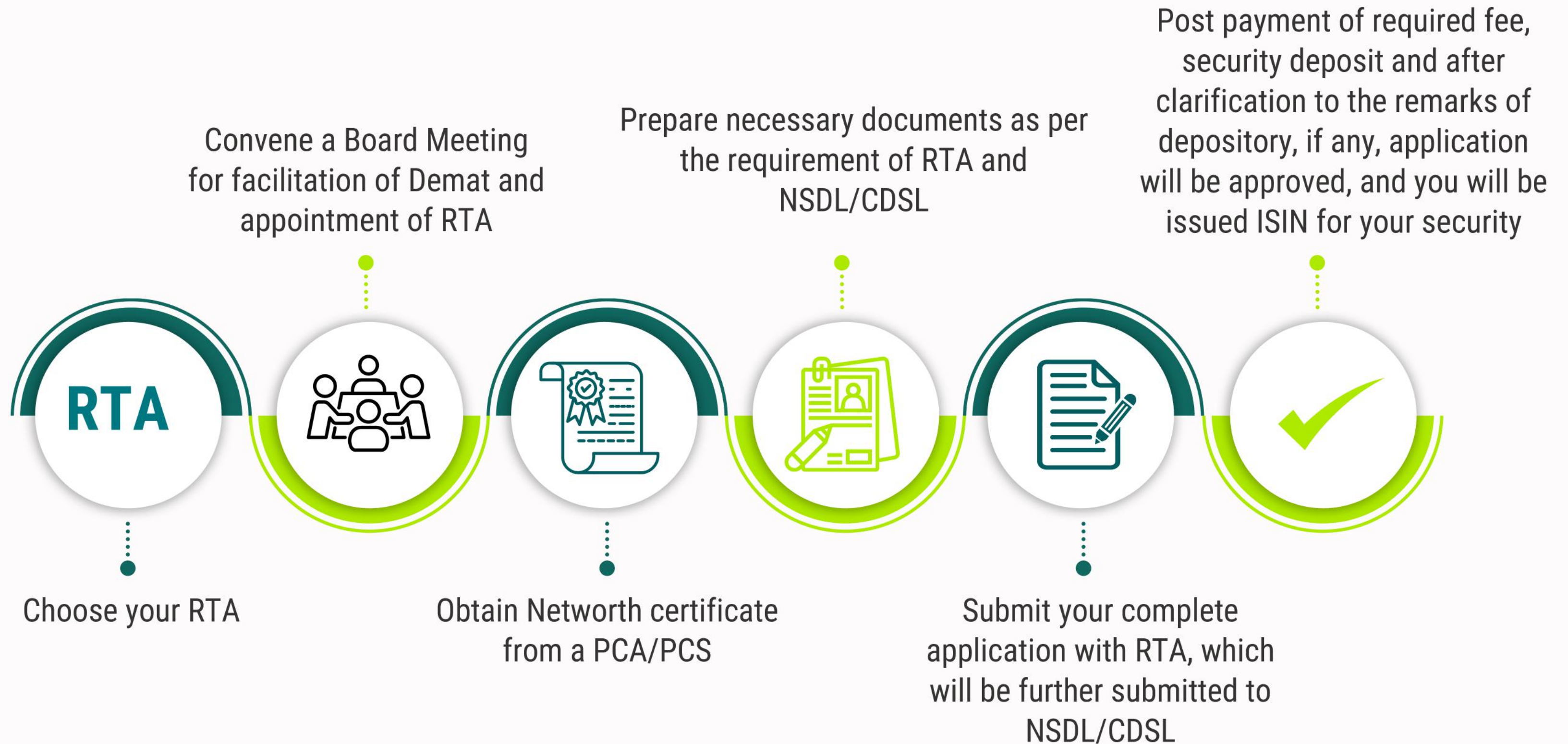
As per the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023 (“PAS Amendment Rules 2023”) issued by the Ministry of Corporate Affairs on 27 October 2023 , every private company (other than a small company) is required to facilitate dematerialisation of all its securities within 18 months from the closure of its FY ending on or after 31 March 2023 i.e. on or before 30 September 2024.

This resource prepared by SDA will help you in understanding the concept of ISIN, Dematerialisation and process for obtaining and facilitating the same respectively.

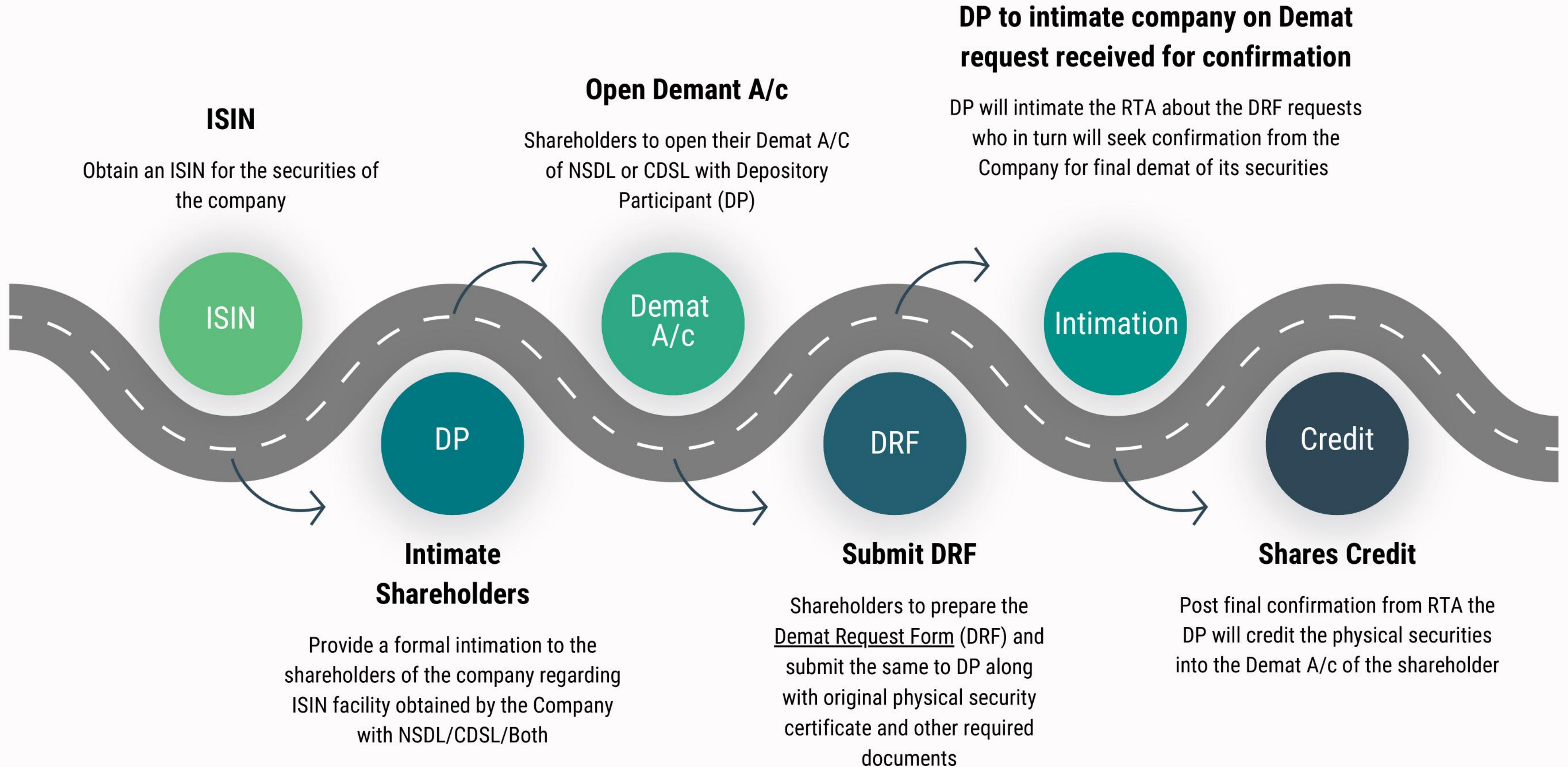
Who is obligated under PAS Amendment Rules 2023 ?



Procedure for obtaining ISIN



Procedure for Demat of Securities



“Consequences of Non-Compliance ”

If a company is non-compliant with the provisions of the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023, it shall face the below repercussions:

1



Restriction on Issuance & Allotment:

Failure to comply with Dematerialisation requirements will restrict the company from making any offer for issue of any securities or buyback of securities or issue of bonus shares or rights offer.

2



Limitations for Shareholders

Shareholders holding their shares in physical format post 30 September 2024 will be unable to transfer these shares or subscribe to additional ones until they convert their holdings to Dematerialised form.

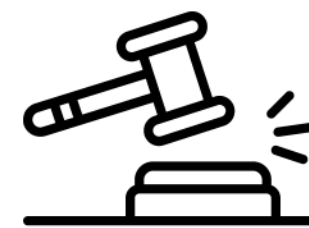
3



Monetary Penalties on the Company

In case of violations or delayed compliance with the requirements of Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023, the company may face monetary penalties of INR 10,000, with an additional continuing penalty of INR 1,000 for each day of continued non-compliance, upto maximum of INR 200,000.

4



Penalties for Officers in Default

Officers in default are also subject to penalties, of INR 10,000 and with an additional continuing penalty of INR 1,000 for each day of continued non-compliance, subject to maximum of INR 50000.

5



Impact on Capital Raising

Non-compliance will significantly impact the company's ability to raise capital or manage its securities, leading to operational challenges. Further any kind of violation with these requirements will also lead to reputational damage of the company.

“FAQs ”

►► **What was the due date for obtaining ISIN & facilitate Demat of its securities for a private non-small company?**

30 September 2024 (Expired)

►► **Which companies are exempted from the provisions of Rule 9B of the Companies (Prospectus and Allotment of Securities) Rules, 2014?**

Only Small companies and Government companies

►► **What is a Small Company ?**

As per Section 2(85) of the Companies Act, 2013, Small Company means a company, other than a public company, whose paid-up share capital is not more than INR 4 Cr and turnover not more than Rs. 40 Cr

►► **Whether a small company which is a subsidiary of another small company, is required to comply with Rule 9B of the Companies (Prospectus and Allotment of Securities) Rules, 2014 and obtain ISIN and facilitate Demat of its securities ?**

As per the proviso to Section 2(85), a holding company or a subsidiary company, a Section 8 company or a company or body corporate governed by any special Act can never fall into the definition of small company. By virtue of the literal interpretation, a small company which is also a subsidiary of another small company **WILL BE** required to comply Rule 9B and facilitate Demat of all its securities. [Irrespective of Turnover or Paid-up capital]

“FAQs ”

➤ Whether a Section 8 company is required to facilitate mandatory Demat of its securities ?

As per the proviso to Section 2(85), a holding company or a subsidiary company, a Section 8 company or a company or body corporate governed by any special Act can never fall into the definition of small company. By virtue of this interpretation, a section 8 company **WILL BE** required to comply Rule 9B and facilitate Demat of all its securities. [Irrespective of Turnover or Paid-up capital]

➤ What are the primary obligations of a company arising out of the PAS Amendment Rules 2023 ?

- Appoint RTA
- Obtain ISIN for all the classes of securities with NSDL/CDSL/Both
- Inform shareholders about the obtained ISIN(s) facility
- Making sure that the entire holding of securities of its promoters, Directors, and KMP has been dematerialised before making any offer for the issue of securities, buyback of securities, or issuing bonus shares or rights offer **on or after 30 September 2024**

➤ Whether the company is required to obtain ISIN facility with NSDL & CDSL both ?

If a company applies for an ISIN through NSDL while its shareholders hold demat accounts with CDSL, the shareholders will not be able to dematerialise their shares and vice versa. Therefore, when applying for an ISIN, the company must consider the depository where the majority of its shareholders have their demat accounts to ensure seamless dematerialisation. This can be discussed with shareholders prior to obtaining the ISIN facility.

“FAQs ”

►► **Whether a non-small private company is required to file eForm PAS-6 (Reconciliation of Share Capital Audit Report) ?**

As per Rule 9B(5) read with Rule 9A(8) of The Companies (Prospectus and Allotment of Securities) Rules, 2014, Every private company governed by this rule shall submit Form PAS-6 to the Registrar within sixty days from the conclusion of each half year duly certified by a company secretary in practice or chartered accountant in practice

►► **What will be the way out for companies which were unable to obtain the ISIN and facilitate Demat of their securities by 30 September 2024 ?**

Companies falling into the above criteria shall immediately appoint an RTA and obtain ISIN at their earliest. Further for the delay in obtaining the ISIN, the company shall adjudicate the non-compliance with the concerned Registrar of Companies (RoC) by paying appropriate penalty.

►► **Whether a subsidiary of a foreign company with paid up share capital of Rs. 1 Lakh required to obtain ISIN and facilitate Demat of its securities?**

As per the proviso to Section 2(85), a holding company or a subsidiary company, a Section 8 company or a company or body corporate governed by any special Act can never fall into the definition of small company. By virtue of the interpretation, a subsidiary of a foreign company WILL BE required to comply Rule 9B and facilitate Demat of all its securities [Irrespective of Turnover or Paid-up capital]

“FAQs ”

- **In case a non-small private company was incorporated after 31 March 2023, what will be the due date of obtaining ISIN and facilitate Demat of securities ?**

In case a non-small private company was incorporated after 31 March 2023, the period of 18 months shall be calculated from the closure of the subsequent financial year i.e. from 31 March 2024 or 31 March 2025.

- **Whether foreign shareholders (Individual or Body Corporates) are mandatorily required to obtain Permanent Account Number (PAN) for opening their DEMAT A/c in India?**

Yes, Foreign shareholders (individuals or body corporates) must use **Form 49AA** to apply for a Permanent Account Number (PAN) in order to open their Demat account in India with any Depository Participant.

How SDA can help you ?

- ✔ Expertise & rich experience in Corporate Secretarial & Governance domain.
- ✔ Offering compliance solutions and insights tailored to your specific business needs.
- ✔ Helping you stay compliant with all relevant regulations and legal requirements.
- ✔ Simplifying complex compliance procedures to save time, effort & cost.
- ✔ Assisting with the preparation and filing of essential documents & eForms.
- ✔ Dedicated team for keeping your compliances intact.
- ✔ Client centric personalised approach
- ✔ Monitoring and Control to mitigate compliance risk at all times



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THANK YOU



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