CAPITAL ISSUES

CONTROL

THE STOCK EXCHANGE
BOMBAY
1977
# CAPITAL ISSUES CONTROL

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CAPITAL ISSUES CONTROL

PRINCIPAL OBJECTIVES

1.1 Capital issues control was first introduced under Defence of India Rule 94-A, which was promulgated on the 17th of May, 1943, under the Defence of India Act, 1939. The Defence Rule was issued to prevent the establishment of those industries which did not assist in the production of essential war or consumption goods and to restrict the growth of mushroom companies with little chance of survival in normal times. Capital issues control was retained after the war and Defence Rule 94-A was replaced by the Capital Issues (Continuance of Control) Act in April 1947. The Act was passed partly to check the inflationary trends and partly "to secure a balanced investment of the country's resources in industry, agriculture and the social services". This measure was intended to be temporary, but was periodically renewed. It was finally made permanent in 1956 and placed on the statute book as the Capital Issues (Control) Act, 1947 (Appendix I).

1.2 Capital issues are now governed by this Act and the Exemption Orders and the Rules made thereunder. The main objects of the control are to ensure that investment does not take place contrary to the objectives of the Five Year Plans or flow into unproductive or wasteful channels; to further the growth of joint stock companies with sound capital structure and promote a rational and healthy expansion of the joint stock sector in the general public interest; and to direct and distribute appeals for public subscription to new issues of capital so as to avoid any undue concentration or overcrowding in a particular period or part of the year.

1.3 The control is a powerful instrument for giving effect to Government's economic policy in the corporate sector and it is employed in the context of the conditions obtaining from time to time — the important factors taken into account being the state of the capital market, the volume and nature of applications coming up for consent, the need of foreign collaboration in finance and technique, the criteria applied to industrial licensing, and the provisions and objectives of company law and stock market legislation.

SCOPE OF THE CONTROL

2.1 Capital issues control applies to all companies, whether incorporated in India or not, which make an issue of capital in India, or which make in India any public offer of securities for sale, or which renew or postpone the date of maturity or repayment of any security maturing for payment in India. It also applies to companies incorporated in India which make an issue of capital outside India. Further, Government may by order recognise an issue of capital made or to be made outside India by a company not incorporated in India but having an established place of business in India.

2.2 The control covers all securities issued or to be issued, or created or to be created, by or for the benefit of a company, whether for cash or otherwise, including the capitalisation of profits or reserves for the purpose of converting partly paid-up shares into fully paid-up shares or increasing the par value of shares already issued. The securities may be either shares, stocks, bonds and debentures; or mortgage deeds, instruments of pawn, pledge or hypothecation, or any other instruments creating or evidencing a charge or lien on the assets of the company; or instruments acknowledging loan to or indebtedness of the company and guaranteed by a third party or entered into jointly with a third party.

2.3 Certain issues are, however, exempt under the Capital Issues (Exemption) Order, 1969, notified under section 6 of the Capital Issues (Control) Act, 1947. As a result, the control now actively operates within a narrow field and the consent of the Controller of Capital Issues is required only in the cases specified in para 3 below.
CONSENT OF THE CONTROLLER OF
CAPITAL ISSUES

3. Under the Capital Issues (Exemption) Order, 1969, capital issues control has been substantially relaxed and made more flexible, and the consent of the Controller of Capital Issues has now to be obtained mainly for the following:

(a) Issue of capital by any private or public limited company, including a Government company, or a banking or an insurance company, or a provident society incorporated as a company, if —

(i) such issue, irrespective of the amount of the consideration involved, is for capitalization of profits or reserves by issue of bonus shares, or conversion of partly paid-up shares into fully paid-up shares, or increase of the paid-up value or par value of shares already issued; or

(ii) such issue is of preference shares carrying participating or conversion rights; or

(iii) such issue is of debentures (excluding those issued to financial institutions and others as mentioned in clause (iii) of para 7 below) carrying conversion rights, or of debentures not payable to registered holders; or

(iv) such issue is of securities at a premium or discount.

(b) Issue of securities (except those referred to in para 7 below) by a private or public limited company registered under section 26 of the Monopolies and Restrictive Trade Practices Act, 1969.

(c) Issue of securities (except those referred to in para 7 below) by a private limited company in which capital exceeding 20 per cent is subscribed by a public limited company or public limited companies.

(d) Issue of securities by a public limited company, including a Government company which proposes to make an offer of securities to the public by a prospectus, when the amount of the consideration involved together with that of any previous issues made by the company within the twelve months immediately preceding such issue exceeds Rs. 50 lakhs if —

(i) such issue is of debentures; or

(ii) such issue involves relaxation of any or all the conditions mentioned in clauses (i) to (xiii) of para 4 below.

(e) Public offers for sale of any securities issued or created with the consent or recognition of the Central Government if —

(i) such issue or creation was made by a private company; or

(ii) such issue, according to the consent or recognition order, was subject to the condition that it should be privately subscribed.

ACKNOWLEDGEMENT FROM THE CONTROLLER OF CAPITAL ISSUES

4. The issues for which the consent of the Controller of Capital Issues is required have been enumerated in para 3 above. With the exception of such issues, the consent of the Controller of Capital Issues is not necessary and under the Capital Issues (Exemption) Order, 1969. (Appendix II), only his acknowledgement is required for issue of securities (except those referred to in para 7 below) by a public limited company, including a Government company which proposes to
make an offer of securities to the public by a prospectus, if the amount of the consideration involved together with that of any previous issues made by the company within the twelve months immediately preceding such issue exceeds Rs. 50 lakhs provided the following conditions are fulfilled:

(i) As a result of the proposed issue, the equity of the company is not less than one-half of its debt.

(ii) As a result of the proposed issue, the total paid-up preference share capital is not more than one-third of the total paid-up equity share capital.

(iii) Where the issue of securities by the company or a part thereof is for the purpose of taking over an existing business or asset, the take-over is effected at the book value of such business or asset.

(iv) Where a public company is formed on conversion of or for taking over any part of the assets of a private company or for taking over the business of any part of the assets of a partnership or a proprietorship or an association of persons, the consideration for issue of securities by the public company in respect thereof does not exceed the book value of the net assets so taken over.

(v) No securities are issued in consideration of revaluation of assets or creation of any intangible or fictitious assets.

(vi) The issue does not comprise or include preference shares carrying rights of participation over and above a fixed amount or an amount calculated at a fixed rate in the profits, or of conversion into equity shares, or of conversion into debentures convertible into equity shares or payable to bearer.

(vii) The rate of dividend on preference shares does not exceed the rate notified by the Central Government from time to time as applicable to such securities.

(viii) The issue price of the securities to be issued is at par and not at a premium or discount.

(ix) If the issue price of the securities is to become fully paid-up by making calls, such calls are to be made on a uniform basis on all securities falling under the same class and completed within a period of five years from the date of the offer.

(x) Any offer of securities for public subscription is such as to make the securities eligible for listing on a recognised stock exchange.

(xi) Where the issue of equity capital involves an offer for subscription by the public for the first time, the value of equity capital subscribed privately by the promoters, directors and their friends is not less than fifteen per cent of the total issued equity capital, if it does not exceed one crore rupees; twelve and a half per cent., if it does not exceed two crores of rupees; and ten per cent., if it is in excess of two crores of rupees.

(xii) In a public offer of shares, no reservation is made in favour of any person or class of persons except with the prior approval of the Controller of Capital Issues.
(xiii) The timing of the offer of securities proposed to be issued is in conformity with the direction notified by the Central Government at the beginning of each calendar year.

EXEMPTED CATEGORIES OF COMPANIES

5.1 In view of the foregoing, the following categories of companies are exempt and do not require the consent of the Controller of Capital Issues or his Acknowledgement in connection with any issue of securities (except those referred to in para 3 above) made by them irrespective of the amount of the consideration involved:

(i) A private company as defined in section 3 of the Companies Act, 1956, provided it is not registered under section 26 of the Monopolies and Restrictive Trade Practices Act, 1969.

(ii) A Government company as defined in section 617 of the Companies Act, 1956, provided that no portion of the issue of securities is offered to the general public.

(iii) A banking company, or an insurance company, or a provident society incorporated as a company.

5.2 Though the above mentioned companies do not have to take the consent of the Controller of Capital Issues, they are nevertheless required to send to him initial and quarterly reports of the capital issued when the total issue of capital made by them in a period of 365 days exceeds Rs. 50 lakhs. The reports have to be in the prescribed form reproduced in Appendix III and they have to be filed as explained in paras 33.1 and 33.2 below.

EXEMPTED PUBLIC LIMITED COMPANIES

6. Further, a public limited company other than one registered under section 26 of the Monopolies and Restrictive Trade Practices Act, 1969, is also exempt and does not require the consent of the Controller of Capital Issues or his Acknowledgement for any issue of securities (except those referred to in para 3 above) when the amount of the consideration involved together with that of any previous issues made by the company within the twelve months immediately preceding such issue does not exceed Rs. 50 lakhs. The limit of Rs. 50 lakhs has reference to the total value (including premium, entrance fee, etc.) of all the issues and transactions during any period of 12 months and not to the value of each individual issue or transaction, or any part thereof, or to the value of consideration received from any single party. The exemption limit has been progressively raised from time to time. Initially, by notification dated the 23rd of June, 1943, the exemption limit of cash as well as non-cash issues was fixed at Rs. 10,000 in all for the subscribers to the Memorandum of Association of a company. The limit was increased to Rs. 1 lakh on the 20th of August, 1945, and then to Rs. 5 lakhs on the 5th of December, 1945. In October 1948, bonus issues were excluded from the purview of the exemption limit. In view of the increase in the real value of capital and the expanding size of industrial units, the exemption limit was raised to Rs. 10 lakhs on the 24th of August, 1959, and then to Rs. 5 lakhs on the 17th of December, 1963. This limit was also considered unduly restrictive and it was further raised to its present level of Rs. 50 lakhs on the 1st of April, 1976.

EXEMPTED ISSUES

7. Apart from the foregoing, the following capital issues by public limited companies and by private limited companies including those registered under section 26 of the Monopolies and Restrictive Trade Practices Act, 1969, are also exempt and do
not require the consent of the Controller of Capital Issues or his Acknowledgement irrespective of the amount of the consideration involved:

(i) Issue and acceptance of securities (other than debentures), being issues made by a company in the ordinary course of business and solely for the purposes of that business to a bank in respect of advances or overdrafts or guarantees given or to be given by such bank. The exemption covers loans granted by a bank whether for working capital by hypothecation of stock or as medium-term loans.

(ii) Issue and acceptance of debentures, being issues made to a bank by a company in the ordinary course of business and for the purposes of that business provided such issues by a company do not exceed Rs. 50 lakhs within any period of 12 months.

(iii) Loans granted, or debentures taken up, or bonds or promissory notes or guarantees given by the Industrial Development Bank of India, Industrial Finance Corporation, National Industrial Development Corporation of India, Industrial Reconstruction Corporation of India, Rehabilitation Industries Corporation of India, National Textile Corporation and State Textile Corporations, State Financial Corporations constituted under the State

Financial Corporations Act, 1951, Madras Industrial Investment Corporation, the State Industrial and Investment Corporation of Maharashtra, Industrial Credit and Investment Corporation of India, Unit Trust of India, Life Insurance Corporation, Employees' State Insurance Corporation set up under the Employees' State Insurance Act, 1948, Regional Provident Fund Commissioners appointed under the Employees' Provident Funds and Family Pension Fund Act, 1952, Shipping Development Fund Committee, State Electricity Boards constituted under the Electricity (Supply) Act, 1948, State Trading Corporation of India, and Minerals and Metals Trading Corporation of India.

(iv) Guarantees by the Central and State Governments guaranteeing advances or overdrafts referred to in (i) above or guaranteeing the payments due to a bank arising out of any guarantee furnished by that bank.

(v) Third party guarantees on behalf of a company in respect of loans granted or debentures taken up by the institutions mentioned in (iii) above and in respect of advances, overdrafts and guarantees referred to in (i) above granted or furnished or to be granted or furnished by a banking institution, an insurance company, or the managing director or a director of a company.

(vi) Issue of securities arising out of sub-division or consolidation of securities provided it does
not involve any increase in the total paid-up value and the securities issued are of the same kind.

(vii) Amalgamation of two or more companies other than banking companies notified by the Central Government under section 396 of the Companies Act, 1956, or amalgamation of two or more banks approved by the Reserve Bank of India, provided that the total paid-up capital of the amalgamating company or bank after the issue of securities does not exceed the total paid-up capital of the amalgamating companies or banks.

(viii) Charges made under mining leases by the lessees in favour of the lessees for payment of rents and royalties.

CAPITAL ISSUES ADVISORY COMMITTEE

8.1 Capital issues control is administered by the Controller of Capital Issues according to the principles and policies laid down by the Central Government. These guidelines are from time to time revised and new ones are formulated in the light of changing conditions. That is done in consultation with the Capital Issues Advisory Committee constituted under section 11 of the Capital Issues (Control) Act, 1947.

8.2 The Advisory Committee consists of five non-official members who are persons of considerable experience and well known in the business world. The Committee generally meets for transacting business once a quarter.

CAPITAL ISSUES APPLICATION AND STATEMENT OF CAPITAL ISSUE PROPOSAL

9.1 Under the Capital Issues (Application for Consent) Rules, 1966 (Appendix V), an application for issue of capital has to be made in quadruplicate (in duplicate in the case of a bonus issue) in accordance with the prescribed forms. The application form for issue of securities other than bonus shares is given in Appendix VI and the application form for issue of bonus shares appears in Appendix VII. A company satisfying the criteria and qualifying for exemption under para 4 above is required to submit a Statement of its Capital Issue Proposal in quadruplicate in the same form as that appearing in Appendix VI at least 30 days before the prospectus is issued, or a statement in lieu of prospectus is filed, or any offer relating to the whole or part of the issue is made. The application or Statement of Capital Issue Proposal should be forwarded to the Controller of Capital Issues, Ministry of Finance, Department of Economic Affairs, Government of India, New Delhi, and should be accompanied by the following:

(i) A treasury receipt for the prescribed application fee under the head "104 - Other General Economic Services - Other receipts - Receipts towards issue of capital under the Capital Issues (Control) Act, 1947 (29 of 1947)". The fee is Rs.100 for each consent application for issue of capital upto and including Rs.10 lakhs. For issues exceeding Rs.10 lakhs, the application fee is Rs.100 for the first Rs.10 lakhs plus an additional Rs.100 for every increase of Rs.10 lakhs or part thereof subject to a maximum of Rs.3,500. No fee is payable in respect of a Statement of Capital Issue Proposal.

(ii) Memorandum and Articles of Association of the company.

(iii) Managing and Whole-Time Directors’ Agreements, if any.

(iv) Latest audited Balance Sheet and Profit & Loss Account and Auditors’ Report to the shareholders, if an existing company. Where a year or more has elapsed from the date of the
last annual financial statement, the results of the latest financial year should be attached.

(v) Draft prospectus, if the issue is through a prospectus.

(vi) Copy of technical assistance agreement, if any.

(vii) Other documents as required.

9.2 When a Capital Issue Proposal is submitted and an Acknowledgment under the Capital Issues (Exemption) Order, 1969, is applied for, it is necessary to comply with the following:

(i) The application seeking Acknowledgment should be signed on behalf of the company by a person not below the rank of a Director.

(ii) The application should be accompanied by a certificate from the Director that the information furnished is true and correct and that all the data required in the application form has been furnished.

(iii) The application should also be accompanied by a certificate from the Auditors of the company that the requirements of clause 5 of the Capital Issues (Exemption) Order, 1969, as amended from time to time have been fully met by the company and that all the information furnished in the application is true and correct to the best of their knowledge and ability.

9.3 In order to facilitate expeditious scrutiny and disposal of applications, companies should forward copies of the industrial licence, if any, secured by them and of the consent letters issued by Government approving the foreign collaboration terms of any foreign loan. In the case of new undertakings, the prior clearances required by the Controller of Capital Issues are as follows:

(i) Industrial licence.

(ii) Acceptance in principle of the scheme of financing the total cost of the project by the participants.

(iii) Copies of the consent letters wherever financial institutions have agreed to participate in financing the capital cost.

9.4 Companies establishing new undertakings are advised to apply to the Controller of Capital Issues only after the project for which the capital is proposed to be raised has been cleared by the appropriate authorities including the Administrative Ministry concerned. Very often, delay is caused by the application being filed without all the supporting documents. Vague or insufficient particulars also result in unnecessary correspondence. In not a few cases, as the information given in the application is not clear or complete, the applicant has to be called upon to supply the clarification or additional data required. Much of the delay and correspondence would be, however, avoided by the company informally consulting the Controller of Capital Issues on all doubtful points before the application is submitted.

9.5 Promoters, directors and their representatives are free to call on the Controller of Capital Issues or on other officers dealing with capital issues control in New Delhi to discuss preliminaries or details, or to ascertain which would be the best way of presenting a project, or which among possible alternative proposals would be the most acceptable to Government. Such consultation is in the mutual interest of the company and Government.
ADMINISTRATIVE PROCEDURE

10.1 Capital issues control is administered by the Controller of Capital Issues in the Economic Affairs Department of the Ministry of Finance. An essential feature of the working of the control is inter-departmental consultation. Close coordination is maintained with the Ministry responsible for the industry to which the capital issue relates, particularly with the Ministry of Industrial Development and the Department of Company Affairs which are in charge of licensing of scheduled industries and company affairs.

10.2 The Controller of Capital Issues consults, if necessary, the administrative Ministry concerned to ensure that the proposal is technically sound and the objects of the issue are not inconsistent with the policies of Government. The administrative Departments are, however, not troubled when the questions involved are purely financial and no new planning is involved.

10.3 If the capital structure is adequate and the proposal conforms to the principles of sound company finance and is in line with the prescribed conditions specified in para 4 above, an Acknowledgment in receipt of the Capital Issue Proposal is issued without delay provided no industrial licence is required or the proposal agrees with the basis on which an industrial licence has been secured. In case of doubt, a reference is made to the administrative Ministry concerned. Conditional consent is given to a proposed issue when a company has been assured of an industrial licence but has not yet received it, or when Government has generally approved the foreign collaboration arrangement but the details have yet to be worked out, or where Court approval is necessary for a scheme of capital reorganisation or reconstruction.

10.4 If any proposal goes against the principles on which the control works, suitable alternatives are suggested for the applicant's consideration. When the application discloses any special features, or when it is felt that an important point can be better resolved by discussion than by correspondence, the company is required to depute an accredited representative and final action is taken in the light of the discussion.

10.5 As a result, in most cases, an Acknowledgment is issued or consent is given either in the form in which the company wants it or in an altered form in agreement with the company. The proportion of applications rejected outright is relatively small.

PRINCIPAL CRITERIA

11.1 Applications for new issue of capital fall into various categories. The application may be for the first substantive issue of capital by the company. It may be for an issue of further capital to meet shortfalls in requirements, or for development, or for expansion of capacity, or for establishment of a new unit. It may be for an issue of bonus shares by capitalisation of reserves. It may also be for conversion of securities of one description into another; or for postponement of redemption of debentures with or without change in the rate of interest; or for guarantee for loans. Or it may be for conversion of a private limited company into a public limited company; or for amalgamation of two companies; and so on.

11.2 The points arising for consideration are not identical in all cases. Different criteria govern the disposal of these different categories of applications. Some of the main heads of inquiry are: Is the capital proposed to be raised adequate or inadequate? Will the capital structure of the company be sound and well balanced from the point of view of equity, preference and debenture obligation? Is the preference and debenture capital being issued on fair and reasonable terms? Do the promoters retain a proper stake in the concern and is a sufficient amount being offered for public subscription? Are the right shares being issued to the shareholders at a proper price? Is the bonus issue necessary and is it being made on a reasonable basis? Can the proposed diversification be justified as being in the interest of the company and in the public interest? How are the assets valued for purposes of amalgamation or merger? These questions are judged and
determined in the light of the criteria set out in para 4. The guidelines issued by the Government in this connection are reproduced in Appendix XI and the principal considerations are explained in some detail hereunder.

Adequacy of Capital

12.1 The magnitude of the capital proposed to be raised by a company should be reasonably adequate in relation to its requirements. Gross over-capitalisation and gross under-capitalisation are both regarded as undesirable.

12.2 The applicant is expected to indicate in sufficient detail and with a fair degree of precision the full capital needs of the company for the successful completion of the project, particularly its requirements for capital for the next two to three years and the manner in which these requirements are proposed to be met. In this regard, importance is attached to the approval of project costs by public financial institutions which enter into a detailed scrutiny of the project before extending financial support. Items like working capital and interest charges during the period of construction are required to be duly taken into account. It is advisable for the applicant to indicate precisely the foreign exchange component of the project and the source of financing the foreign exchange component. Data regarding the profitability of the project should also be furnished.

12.3 The company is expected to issue long-term capital at the very outset and not rely on loans from uncertain sources or depend vaguely on self-financing from large future profits. A public limited company making a new issue for a particular project is expected to raise sufficient capital so that it does not have to go to the market a second time before the project is completed.

Sound Capital Structure

13.1 It is regarded as essential that a company should have a sound capital structure from the point of view of equity, preference and debt obligations.

13.2 It is appreciated that the prescription of set ratios presents difficulties especially as much depends on the nature of each industry and the use to which the moneys are put. For instance, in the tea industry where the risks are relatively great, equity capital could be preponderant. In a basic industry like iron and steel or a capital intensive industry like electricity, there is always a higher proportion of fixed-interest bearing securities. In an established industry like cotton textiles, there is no need for a company engaged in a modernisation or replacement programme to go in for uneconomic equity capital as short-term capital like debentures and preference shares would best meet its requirements. Similarly, where a company is rapidly expanding, a large amount of loan finance does not necessarily imply that the capital structure is heavily distorted in favour of debt.

13.3 It is, however, generally conceded that there should be a reasonable relation between the various components of a company's capital structure. It is therefore a major requirement that the company must maintain a proper balance between its equity, preference and debt obligations.

Debt-Equity Ratio

14.1 The proportion between the equity capital of a company and its debt is of considerable significance. A company is deemed to be eligible for exemption if the debt-equity ratio does not exceed 2:1, i.e., if the debt does not exceed double the equity capital.

14.2 Equity for this purpose is deemed to include equity shares; irredeemable preference shares and redeemable preference shares with 12 years or more to run; and share premium reserve and free reserves, including the development rebate reserve. Debt is deemed to include redeemable preference shares with less than 12 years outstanding; fixed-interest bearing securities such as debentures; all secured and unsecured loans other than purely short-term loans taken for working capital purposes, as from banks against hypothecation of stocks,
raw materials, stores, tools, etc.; all borrowings repayable not earlier than five years from the date of borrowing; and deferred payments including interest thereon.

14.3 Preponderance of equity capital is not regarded as objectionable, but a highly geared capital structure is not favoured. However, a larger proportion of debt in relation to equity is permitted in the case of capital intensive industries like fertiliser or petrochemical or electricity supply undertakings. In view of the fairly large loans being given by the Shipping Development Committee to shipping companies, a narrower capital base is approved for a shipping company which is permitted to have a debt capital four times its equity, with relaxation in suitable circumstances in the case of established companies to six times the equity.

14.4 Subject to such exceptions, it is expected that normally no company would like to finance its project with a preponderance of debt exceeding twice its equity capital. For companies in the public sector, instead of a debt-equity ratio of 2:1, debt-equity parity is preferred.

PREFERENCE-EQUITY RATIO

15.1 Importance is also attached to the preference equity ratio. As in the case of the debt-equity ratio and for the same reason, it is not easy to insist on a predetermined ratio between preference and equity capital. It is, however, generally recognised that excessive leverage is seldom in the true long-term interest of a company.

15.2 A company qualifies for exemption if the preference-equity ratio does not exceed 1:3. Higher ratios up to 2:5 are allowed where justification exists.

ISSUE OF PREFERENCE SHARES

16.1 Capital can be raised at any particular time either in the form of equity or preference shares or debentures, depending upon the market conditions and the response of the investing public.

16.2 In the present circumstances, companies not only apply for issues of a larger proportion of preference capital but are also anxious to make the issues at progressively higher rates of interest. It is, however, now a requirement that in order to qualify for exemption the rate of dividend on preference shares should not exceed 11% per annum, free of company's tax but subject to deduction of taxes at prescribed rates (vide Appendix X). The object is to discourage unduly high rates of preference dividends. An application for a higher dividend rate is examined critically in the light of the ruling market rates as well as current prices of comparable securities and the yields thereon.

16.3 Attention is also paid to other relevant factors like the size of the preference capital in relation to the paid-up equity capital, the terms and period of redemption, the nature and profitability of the company's business and the reputation of the company and its promoters.

16.4 It is also borne in mind that, if preference dividend rates were left to find their own level, they might continue to rise and cause adverse repercussions on the economy of the country. As the Tariff Commission normally considers 12% to be a reasonable return for an industry, progressively higher rates of preference dividend, if allowed, would be at the cost of the equity shareholders. With preference dividend rates ruling around 11%, the burden of preference dividend on a new project which is yet to earn a profit falls heavily on the equity, and financial institutions which are loaded with equity as a result of their underwriting commitments are at a disadvantage.

16.5 To make the issue of preference shares attractive at relatively low rates of interest, proposals for issuing convertible or participating preference shares, that is, preference shares convertible into equity shares or with a contingent right to participate in the distributable profits of the company, are considered on merits in the context of their possible effects on the equity capital.
Guaranteed dividends on participating preference shares are expected to be lower than the current rates on straight preference shares. Where the equity dividend record of the company so warrants, no objection is taken so long as the maximum dividend on such participating preference shares (including participation in profits) does not exceed 11%. In all such cases, however, the consent of the Controller of Capital Issues has to be obtained.

DEBENTURE ISSUES

17.1 In the current stringent money market conditions, companies find it difficult to attract equity capital or even preference capital. Since banks generally advance only on the security of floating assets, issue of debentures is regarded as the only other suitable alternative for raising capital.

17.2 For proposals for debenture issues, companies have to obtain a specific consent and not merely an acknowledgement from the Controller of Capital Issues, but no such permission is required in the case of convertible debentures exclusively placed with financial institutions. Applications for issue of debentures are decided in the light of several considerations, such as, the purpose of the issue, whether the debentures would bear a reasonable proportion to the equity capital and reserves, whether the security offered is adequate, and whether the company would be able to service the debentures without any difficulty.

17.3 The maximum permissible rates of interest on debentures are notified by Government from time to time (vide Appendix X). At present, the ceiling rates are 10% for a term upto and including seven years and 10 1/2% for a longer period. The issue of bearer debentures is not permitted. Issue of debentures only to prevent an undertaking from closing down because of recurring losses is also not allowed. Consent to the postponement of debentures already issued is given only on the specific condition that any debentureholder who expresses his dissent to the postponement, whether in person or at a meeting of the debentureholders, held for the purpose, or if he has not attended the meeting, in writing before the due date of redemption, should be repaid in cash without delay on or before the due date of redemption.

17.4 In view of the inability of some companies to borrow on straight debenture issues at reasonably low rates of interest, the Controller of Capital Issues does not withhold his consent if the conversion feature is introduced as an inducement to investors, because convertible debentures not only confer a fixed income and sense of security but also carry the right to participate in future profits and hold out prospects of future growth. Financial institutions like the International Finance Corporation, Washington and the Commonwealth Development Finance Corporation, London, also favour this method of financing projects in India.

17.5 When sanctioning the issue of convertible debentures, generally three to four dates and rates of conversion are allowed to be fixed. New companies and companies whose shares are quoted at par are permitted to issue convertible debentures. Permission is also given to companies engaged in reconstruction of their capital when they desire to fund some debt for the time being but feel that they would not be able to maintain dividend on the new capital if the reconstruction were financed by equity capital only.

17.6 However, when the shares of a company are quoted at a premium, expansion of equity capital is favoured in preference to issue of convertible debentures so as not to leave any scope for undesirable manipulation.

PUBLIC OFFER AND PROMOTERS' INTEREST

18.1 When a public limited company is floated, attention is paid to two equally important points arising out of considerations of sound industrial development and distributive justice, namely, whether the promoters and directors accept a reasonable minimum stake in the company's capital and also whether a reasonable share of the capital is being offered for public subscription so that
the shares become eligible for listing on the recognised Stock Exchanges. It is also a requirement that the proportion of the paid-up to the nominal value per share should be the same for shares privately allotted as for those allotted to the public.

18.2 A company making an offer for subscription is eligible for exemption provided the promoters retain a reasonable minimum stake based on the following sliding scale:

(i) 15% if the capital issue is upto Rs. 1 crore;
(ii) 12 1/2% if the capital issue is upto Rs. 2 crores;
(iii) 10% if the capital issue exceeds Rs. 2 crores.

For issues over Rs. 5 crores, the percentage is fixed on individual merits at the request of the promoters. The promoters and directors of a company are required to subscribe the minimum amount of capital as indicated above before making an offer of shares for public subscription.

18.3 A wide dispersal of shareholding is deemed to be desirable both as a matter of economic policy and as an essential of sound company practice. The general view taken is that the Indian public should be invited to subscribe to as large a proportion of the capital as practicable consistent with considerations of good management, technical know how and foreign exchange needs. Accordingly, in a public offer of shares; no reservation is permitted to be made in favour of any person or class of persons except with the prior approval of the Controller of Capital Issues. An aspect that is looked into in this connection is the extent of employees' participation that may be permitted. There is no fixed percentage of allotment but reservation is allowed to be made in such a way that there is no undue concentration in the hands of a few employees to the exclusion of others. This gives to the employees a sense of participation in the management of the company.

19.1 In order to qualify for exemption from the consent of the Controller of Capital Issues, a company offering its securities for public subscription is required to ensure that they become eligible for listing on a recognised Stock Exchange under its listing requirements. It is one of the prescribed listing requirements that at least 60% of the issued capital of each class and kind should be offered to the public through a prospectus at a price not higher than the issue price of the balance of the issued capital of the company. In case financial institutions participate in the issue, a minimum of 49% of the issued capital, and where there are foreign collaborators or associate promoters from the public sector, a minimum of 33 1/3% of the issued capital is required to be offered for public subscription. In case there are foreign collaborators as well as public sector associates working as joint promoters, or where a foreign company is in the process of Indianisation, the public offer should be at least 20% of the issued capital subject to a minimum of Rs. 20 lakhs.

19.2 Before submitting the Capital Issue Proposal or applying to the Controller of Capital Issues, companies are advised, in their own interest, to consult in advance the recognised Stock Exchange concerned regarding the listing requirements which have to be fulfilled so that there may be no difficulties at a later stage.

UNDERWRITING

20.1 It is one of the requirements under the guidelines that there should be satisfactory underwriting arrangements in respect of new issues of capital offered for public subscription. The issues are expected to be underwritten only by public financial institutions, banks, investment companies or trusts of appropriate standing and experience and members of recognised Stock Exchanges.

20.2 Underwriting commission and brokerage are permitted upto 2 1/2% and 1% respectively on the issue of shares and 1% and 5/8% respectively on the issue of debentures.
offered for public subscription. Remuneration to Managing Brokers, where appointed, is generally allowed at a rate not exceeding \( \frac{1}{2} \% \) in the case of shares and \( \frac{3}{4} \% \) in the case of debentures procured.

**ISSUE PRICE**

21.1 A company is deemed eligible for exemption from the consent of the Controller of Capital Issues if the securities are proposed to be issued at par and not at a premium or discount. Issue of shares for consideration other than cash is not permitted except when there is conversion of a foreign company into an Indian company.

21.2 In special cases, e.g., when as required by Government a company with substantial reserves is in the process of Indianisation of its capital through an offer for public subscription, a premium is allowed provided the demand on the new subscribers is not unreasonable in the context of the break-up value of the shares and profit earning capacity of the company. The methods used to determine the premium are objective and decision is taken in most cases in concurrence with the company.

21.3 Where an existing company proposes to make a further issue of equity capital at a premium, the view taken is that the price of the right issue should be based on what the market can bear so that profit from sale of rights is limited to a reasonable amount.

21.4 Generally, the price of the right of renunciation is expected to be smaller than the premium element in the issue price so that the company may get the larger portion of the extra money for productive use. The issue price is therefore fixed keeping in view the state of the capital market, the trend of share prices in general and of the company's shares in particular, the ruling cum right market price, and the ratio or proportion of the right issue to the existing equity capital of the company.

21.5 Among the other factors taken into account in determining the premium are the break-up value of the shares, the value of the shares on the basis of the company's profit earning capacity and assessment of its future growth prospects, the dividend record and resources position of the company, and the extent of foreign participation in the company's capital.

**FURTHER ISSUES OF CAPITAL**

22. Further issues of capital by existing companies are subject to the foregoing guidelines in the same manner as initial capital issues. Such further issues are made to meet shortfalls in requirements, or for development, expansion or diversification, or on conversion of a private limited company into a public limited company, or on absorption or amalgamation or merger of two or more companies, etc. The opportunity of a further issue of capital is generally taken for getting the shares enlisted if the securities are not officially quoted on a recognised Stock Exchange. A wider dispersal of shares is also kept in view if the shares of the company are closely held.

**CAPITAL FOR DIVERSIFICATION**

23. Diversification by a company into new and unconnected lines is not usually encouraged as it leads to emergence of mammoth concerns and greater concentration of economic power in a few hands. The view generally taken in the matter is that, wherever it is practicable and not inconvenient, new companies should be formed for new lines of business.

**VALUATION IN CASE OF AMALGAMATION AND CONVERSION**

24.1 When existing concerns are amalgamated into a new company, or when one company is merged into another, or when a private limited company is converted into a public limited company, care is taken to ensure that the valuation of the shares of the companies being amalgamated, merged or converted are not unduly inflated. For this purpose, the applicant company is expected to give full justification for the valuation which should be such as to lend itself to verification.
24.2 When there is an amalgamation or merger, the issue of securities by a company for the purpose of taking over an existing business or asset is eligible for exemption if the take-over is effected at the book value of such business or asset. A private limited company converting itself into a public limited company is deemed to qualify for exemption if the consideration for issue of securities by the public company for taking over the private company as a going business (or any part of the assets of the private company) does not exceed the book value of the net assets so taken over.

REEVALUATION OF ASSETS AND CREATION OF FICTIONAL ASSETS

25. It is not deemed desirable that a company should revalue its assets, or create intangible or fictional assets. As a rule, any such proposal is not encouraged, and an issue of securities in consideration of such revaluation of assets or creation of intangible or fictional assets is not deemed to be eligible for exemption.

ISSUE OF RIGHT SHARES

26. An existing company offering right shares to its shareholders must observe the foregoing guidelines. In addition, it is required to send a circular letter to the shareholders before making an application to the Controller of Capital Issues. The circular letter should provide to the shareholders information in sufficient detail as to how it is proposed to utilise the additional moneys that are being raised by the rights issue and give a broad indication of the future earnings after the investment of such additional capital. It is expected that this information would enable the shareholders to decide well in advance whether they should subscribe to the rights issue or not.

ISSUE OF BONUS SHARES

27.1 Issue of bonus shares is a normal practice adopted by companies to bring their paid-up capital in line with the value of their block. All companies, public and private, are required to obtain the approval of the Controller of Capital Issues for issue of bonus shares. Applications for such approval are decided on the basis of guidelines issued by Government which are reproduced in Appendix XII. The principal requirements are as under:

(i) Bonus issues are permitted to be made out of share premium and free reserves built up out of genuine profits. Development Rebate Reserve is considered as free reserve, but reserves created by revaluation of fixed assets or without accrual of cash resources are not permitted to be capitalised.

(ii) At any one time, the total amount permitted to be capitalised for issue of bonus shares out of free reserves should not exceed the total amount of the paid-up equity capital of the company. The requirement may be relaxed on merits in the case of companies raising capital from Indian residents — (a) for financing approved schemes of expansion or diversification; or (b) for reducing the foreign shareholding as required under the Foreign Exchange Regulation Act, 1973, to ensure continuance of existing business activities. In that event, a composite application should be submitted consisting of an application for issue of bonus shares and another for issue of shares to Indian residents for cash.

(iii) Residual reserves after the proposed capitalisation should be at least 33 1/3% of the increased paid-up capital. Development Rebate Reserve is included but Capital Redemption Reserve, if any, is excluded in computing the minimum residual reserve of 33 1/3%. Capital reserves as a result of revaluation of assets
or without accrual of cash resources are also excluded. All contingent liabilities which have a bearing on the net profits are required to be taken into account in the calculation of the minimum residual reserve of 33\%.

(iv) 30\% of the average amount of pre-tax profits of the company in the previous three years should yield a return of at least 9\% on the increased capital of the company.

(v) Declaration of bonus issue in lieu of dividend is not permitted.

(vi) Bonus issues are not permitted unless partly paid-up shares, if any, are made fully paid up.

(vii) A resolution approving the proposed capitalisation should be passed by the shareholders of the company before an application is made to the Controller of Capital Issues and the resolution should clearly indicate their decision on the management's intention regarding the rate of dividend payable on the increased capital of the company in the year immediately after the bonus issue is made.

(viii) Not more than two bonus issues are allowed over a period of five years.

(ix) Between two successive announcements of bonus issues by a company, there should be an interval of at least 24 months.

(x) Application for issue of bonus shares should be made only after the expiry of a period of 12 months from (a) the date of enlistment of the last bonus issue, if the company is listed on a stock exchange, or (b) the completion of the despatch of share certificates.

(xi) In the case of composite proposals for issue of bonus and right shares, the bonus issue will be sanctioned first and then the right issue after some time lag.

(xii) In the case of companies with foreign shareholding where expansion is considered unlikely or where the profits are unduly high, a reduction in the foreign shareholding is generally stipulated as a condition for approval of the bonus issue.

27.2 Free reserves representing accumulation of retained earnings constitute the most important criterion for issue of bonus shares. When fixed assets are excessively written down, depreciation written off in excess of the normal income tax rates is allowed to be taken into account, but watering down of capital by capitalisation of notional reserves is in no event permitted. Capitalisation of capital reserves arising out of amalgamation or sale of assets is also not permitted. In the case of investment companies, capitalisation of reserves is not permitted.

27.3 It is an essential condition that the company making the bonus issue does not get over-capitalised in the process and that after the issue of bonus shares adequate reserves amounting to not less than 33\% of the increased capital are left intact. The profitability test is an objective assessment and only operating profits are taken into account for computing the average profits earned by the company in the last three years.

27.4 Bonus issues before conversion of private companies into public companies are permitted provided the interest of the participating public is protected to the same extent as the equity interest of the existing shareholders. The issue of preference shares as bonus shares is generally not favoured, but such an issue is allowed provided the preference shares proposed to be issued are irredeemable and the ratio between the resultant aggregate preference share paid-up capital and the equity share paid-up capital does not exceed 1:3.
CAPITAL ISSUES CONTROL

CAPITAL ISSUES TERMS AND CONDITIONS

28.1 The considerations set out above are kept in view by the Controller of Capital Issues when dealing with applications for new issues of capital.

28.2 Under clause 8(ii) of the Capital Issues (Exemption) Order, 1969, Government is empowered to modify in the public interest any proposal for the issue of securities by a public company submitting a Capital Issue Proposal even if it fully complies with the prescribed conditions specified in para 4 above. When an Acknowledgement is issued, the company is required to state in a prominent place in its prospectus, or statement in lieu of prospectus, or letter of offer to its shareholders that the issue of securities is pursuant to the terms of the Capital Issues (Exemption) Order, 1969.

28.3 Under section 3(4) of the Capital Issues (Control) Act, 1947, Government is empowered to qualify any consent with such conditions, as it may think fit to impose, and a company acting in pursuance of such consent is bound to comply with the terms of any condition so stipulated. This is a most useful weapon for instilling discipline in the corporate sector in the matter of new capital issues.

28.4 Whenever consent is granted by the Controller of Capital Issues to any proposal which satisfies the basic requirements, it is made subject to certain terms and conditions (Appendix VIII). For instance, it is made clear that Government takes no responsibility for the soundness of the scheme, or for the correctness of any of the statements made or opinions expressed in connection therewith, and a statement to that effect is required to be included in the prospectus or offer for sale. It is also made clear that the issue of capital consented to should be made at the price indicated and not at a higher or lower price, and that the company should not charge an entrance fee or any other fee to the subscribers. Another essential condition imposed is that the proceeds of the issue should not, without the permission of Government in writing, be used for any objects other than those described in the application. There are several other terms and conditions, some of which are of a special character depending upon the nature of the proposed issue.

28.5 Among the usual conditions imposed by the Controller of Capital Issues are those relating to the timing of the new issue; period of validity of the Acknowledgement or consent; submission of periodical statistical returns, etc. These are dealt with briefly hereunder.

28.6 When action is taken pursuant to an Acknowledgement or consent and the company violates any of the conditions attached thereto, an offence is deemed to be committed punishable with imprisonment or with fine or with both under section 13 of the Capital Issues (Control) Act, 1947.

TIMING OF NEW ISSUES

29. With a view to preventing overcrowding of public subscriptions in any particular part of the year, special attention is paid to the timing of new issues. Large issues of capital, particularly of debentures, are therefore not permitted to be made during what is known as the "closed period". According to the directions notified by the Central Government, no offer of securities of a nominal value of Rs. 2 1/2 crores or above (exclusive of the amount to be subscribed by Government and non-residents) by a public limited company can be made or kept open during the periods from 1st June to 30th June and from 1st August to 31st August without obtaining the prior permission of the Central Government as to the timing of the offer. However, small issues are allowed to be made at any time within the normal period of validity of Acknowledgements and consent orders.

PERIOD OF VALIDITY OF ACKNOWLEDGEMENTS AND CONSENTS

30.1 Acknowledgements and consent orders are valid only for a given period in order to prevent uncertainty. In both cases, the validity period is 12 months unless otherwise specified. Extensions of time are,
taken under the consent and of the number of bonus shares issued is required to be submitted to the Controller of Capital Issues within 3½ months of the date of the consent order, or within 15 days from the date on which the shares are issued, whichever is earlier. In the case of all capital issues, a copy of the audited Balance Sheet and Profit & Loss Account of the accounting year in which the capital issue has been fully subscribed and paid-up is also required to be filed with the Controller of Capital Issues as soon as it is published. Thereafter no report is necessary.

ACKNOWLEDGEMENTS AND CONSENT ORDERS

34.1 When a Statement of Capital Issue Proposal conforms to the prescribed conditions specified in para 4 above, the Controller of Capital Issues issues an Acknowledgement within thirty days. If there be any objections, he communicates them to the company in writing within the same period and the Acknowledgement is issued only if the proposals are modified to meet the objections. The form of the Acknowledgement is reproduced in Appendix IV.

34.2. When an application for a new issue of capital is found to be in order, the Controller of Capital Issues grants his consent in a prescribed form. The form is reproduced in Appendix VIII. The standard and special conditions subject to which consent is given are incorporated in the letter of consent. The standard conditions are also reproduced in Appendix VIII.

34.3 After the issue of an Acknowledgement or a consent order, it is permissible for the applicant to come up for amendments or extensions which are allowed if approved by the Controller of Capital Issues. In the case of a consent order, an application for amendment or extension should be accompanied by a Treasury Receipt for Rs.100 credited under the head "104 -Other General Economic Services - Other receipts - Receipts towards issue of capital under the Capital Issues (Control) Act, 1947 (29 of 1947)."

34.4 Acknowledgements and letters of consent are issued as early as possible, with minimum time taken for scrutinising the Statement of Capital Issue Proposal or application and eliciting further information. It would be helpful if the applicants plan the filing of their Statements of Capital Issue proposals or applications with full particulars as required well ahead of the proposed date of issue of capital. That would not only give enough time to the Department to do the processing but also place the promoters in a better position to go to the market as and when they find it convenient. In a large majority of cases, Acknowledgements are issued within two or three weeks. In the case of consent orders, if the application is complete in all respects and if no consultation with other Departments is found necessary, about six weeks would be a reasonable period within which a decision may be expected to be taken, although efforts are always made to dispose of the applications within the minimum time possible.

34.5 Promoters and companies would be well advised to obtain Acknowledgements and consent orders only when they can fairly expect to raise the necessary capital and not too prematurely in the vague hope of all the other factors materialising. In general, the Acknowledgement or consent should follow and not anticipate an industrial licence. Similarly, to avoid waste of time and effort, the sources of financing the project, particularly the foreign exchange component, should be settled with a reasonable degree of certainty before a Statement of Capital Issue Proposal or an application is filed with the Controller of Capital Issues. When all these formalities are duly completed, it is seldom that the permission is delayed, and that is to the advantage of all concerned.

PUBLICATION

35.1 Information about permission granted for new issues of capital is released to the public through a press note soon after the permission is given.

35.2 A quarterly publication is also issued giving statistics of the permission granted, etc., during the period under review. The issue for the second quarter
however, freely given if valid reasons are advanced. In respect of consents to bonus issues, the normal period of validity is restricted to three months.

30.2 In many cases, companies obtaining Acknowledgements and consents for the first substantive issue of capital do not take any active steps to make a new issue. Others submit proposals or make applications at a relatively early stage before obtaining the sanction required under other enactments.

30.3 The lapse of Acknowledgements and consents and repeated applications for extensions involve trouble and waste or time. Companies are therefore advised to submit proposals and make applications only when they are in a position to raise the capital and not too early in anticipation of other developments.

EXPEDITIOUS ALLOTMENT AND RETURN OF APPLICATION MONEYS

32.1 The company is required to give an assurance that in the event of oversubscription allotment would be effected expeditiously, and the subscription moneys received from unsuccessful applicants would be refunded to them within a period of not more than two months from the date of closing of the subscription list. When this period is found to be too short and serious difficulty is experienced, the time limit is suitably extended.

32.2 The Controller of Capital Issues also recommends that in the event of oversubscription the method of allotment to be followed by the company should be settled in consultation with the Stock Exchange on which its shares are listed.

SUBMISSION OF STATISTICAL RETURNS

33.1 Companies are required to report to the Controller of Capital Issues the action taken by them under the Acknowledgement or consent and of the amount subscribed and paid up as a result thereof. The report has to be made in the prescribed form as soon as the issue of capital has been made and it has to be followed up by further reports at the end of every quarter as at 31st March, 30th June, 30th September and 31st December until the capital issue has been fully subscribed and paid up. The standard forms of return prescribed for companies to whom Acknowledgements and consents are issued are reproduced in Appendices III and IX, respectively.
33.2 Returns in the prescribed form, duly completed to the extent applicable, are required to be forwarded to the Controller of Capital Issues in duplicate within 30 days of the date on which the report is due. If the report is not so submitted, the consent is deemed to lapse on the expiry of 30 days from the due date of the report. In the case of bonus issues, the report of the action contains data of the capital actually raised against the orders and the issue for the fourth quarter includes an annual review. The publication is nominally priced at Re.1 per copy and is available from the Manager, Publications Branch, Delhi, and all agents for Government publications.

(Please turn over for Appendices)
APPENDIX I

THE CAPITAL ISSUES (CONTROL) ACT, 1947.
Act No. XXIX of 1947
(AS AMENDED UPTO DECEMBER, 1957)

(Received the assent of the Governor-General on the 18th April, 1947)

An act to provide for control over issues of capital: Whereas it is expedient to provide for control over issues of capital:

It is hereby enacted as follows:—

Short title, extent & duration
1. (1) This Act may be called the Capital Issues (Control) Act, 1947.

2. * It extends to the whole of India except the State of Jammu & Kashmir, and it applies also to citizens of India outside India.

3. **

Definitions and interpretation
2. @ (1) In this Act, unless the context otherwise requires:—

(a) “Company” means a company, as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of Section 689 of that Act;

(b) “issue of capital” means the issuing or creation of any securities whether for cash or otherwise, and includes the capitalisation of profits or reserves for the purpose of converting partly paid-up shares into fully paid-up shares or increasing the par value of shares already issued;

(c) “Private company” means a private company as defined in section 30 of the Companies Act, 1956;

(d) “prospectus” means any prospectus, notice, circular, advertisement or other document inviting offers from the public for the subscription or purchase of any securities of a company;

(e) “Securities” means any of the following instruments issued or to be issued, or created or to be created, by or for the benefit of a company, namely:—

(i) Shares, stocks, and bonds;
(ii) Debentures;
(iii) Mortgage deeds, instruments of pawn, pledge or hypothecation and any other instruments, creating or evidencing a charge or lien on the assets of the company; and
(iv) instruments acknowledging loan or in indubriety of the Company and guaranteed by a third party or entered into jointly with a third party;

(f) “States” means the territories of India to which this Act extends.

(2) Any reference in this Act to offering securities to the public shall be construed as including a reference to offering them to any section of the public, whether selected as members debenture-holders orholders of any other securities of the company concerned or as clients of the person issuing any prospectus in relation to such securities, or selected in any other manner:

Provided that the foregoing provisions shall not be taken as requiring any offer to be treated as made to the public if

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* Substituted by Sec. 2 or Act 6 of 1950.
** The words “the continents” were omitted by sec 2 of Act VIII of 1950.
*** The words “Constitutional” were omitted by sec 3 (c) of Act VIII of 1950.
**** Sub-section (b) was omitted by sec. 3 (b) of Act VIII of 1950.
@ Substituted by Section, 2 of Act 50 of 1957.

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it can properly be regarded, in all the circumstances, as not being calculated to result directly or indirectly in the securities becoming available for the subscription or purchase by persons other than those receiving the offers or otherwise as being a domestic concern of the persons making or receiving it.

Control over issue of capital
3. (1) No Company incorporated in % (the States) shall, except with the consent of the Central Govt., make an issue of capital outside % (the States).

(2) No Company whether incorporated in % (the States) or not, shall except with the consent of the Central Govt.:

(a) make an issue of capital in % (the States); or

(b) make in % (the States) any public offer of securities for sale:

(c) renew or postpone the date of maturity or repayment of any security maturing for payment in % (the States).

(3) The Central Govt. may on application make an order according to section 3 of the Companies Act, 1956, and if approved, the Central Govt. shall, on the request of the applicant, communicate to him in writing the reasons for such refusal.

(4) The Central Govt. may, by order at any time:

(a) revoke the consent or recognition accorded under any of the provisions of this section; or

(b) where such consent or recognition has been qualified with any conditions, vary all or any of those conditions:

Provided that before an order under this sub-section is made the company concerned shall be given a reasonable opportunity

(5) Where an application for consent or recognition of the Central Govt. under any of the provisions of this section is refused, the Central Govt. shall, on the request of the applicant, communicate to him in writing the reasons for such refusal.

Control of advertisement of offers or securities for subscription etc.
4. @ (1) No person shall circulate any offer, being a public offer, in the States for the subscription, or purchase of any securities unless consent or recognition has been accorded by the Central Govt. under this Act to the issue or creation of such securities and a statement has been made to that effect in the offer.

(2) No Company shall circulate any offer, being an offer to existing holders of the securities of any other Company specified in the offer, in the States for the subscription or purchase of any securities of such Company unless recognition has been accorded by the Central Govt. under this Act to the issue or creation of such securities and a statement has been made to that effect in the offer.

(3) No person shall without the consent of the Central Govt. circulate any offer, being a public offer, in the States for the sale of any securities issued or created with the consent or recognition of the Central Government if such issue or creation was made by a Private Company or if the order according consent or recognition contained a condition that the securities should be privately subscribed.

% Substituted by A.O. 1956.
@ Substituted by Act No. 50 of 1957.
Purchase & sale of securities

5. (1) No person shall accept or give any consideration for any securities in respect of an issue of capital made or proposed to be made in % (the States) or elsewhere unless the consent or recognition of the Central Govt. has been accorded to such issue of capital.

(2) No person shall sell or purchase or otherwise transfer or accept transfer of any securities issued by a Company in respect of any issue of capital made after the 17th day of May, 1943 in % (the States) or elsewhere unless such issue has been made with the consent or recognition of the Central Government.

Power to exempt & to condone contraventions

6. (1) The Central Govt. may, by general order which shall be notified in the official gazette, provide for the granting of exemption from all or any of the provisions of sections 3, 4, and 5.

(2) The Central Govt. may by order condone a contravention of any of the provisions of section 3 or section 4 (or section 5 @@) and on the making such order the provisions of this Act, shall have effect as if an exemption had been granted under sub-section (1) of this section in respect of the thing done or omitted to be done in contravention of section 3 or section 4 (or section 5 @@), as the case may be.

Power to call for information

7. Any officer authorised in this behalf by the Central Govt. may, for the purpose of inquiring into the correctness of any statement made in an application for consent or recognition to an issue of capital or for the purpose of ascertaining whether or not the requirements of any condition attached to an order, recording such consent or recognition have been complied with or for the purpose of obtaining particulars as to the total capital issued or for any other purposes of this Act, require any company or any officer of a company to submit and furnish to him within such time as may be specified in the requisition, such accounts books or other documents and such information as he may reasonably think necessary.

False statement

8. No person shall, when complying with any requisition under Sec. 7 or when making any application for consent or recognition to an issue of capital @@ (or in connection with any other provisions of this Act), give any information or make any statement which he knows, has reasonable cause to believe, to be false or not true in any material particular.

Prohibition against disclosing information

9. No person who obtains any information by virtue of this Act, shall, otherwise than in connection with the execution of the provisions of this Act or of any order made in pursuance thereof, disclose such information to any other person except with the permission of the Central Government.

Power to delegate function

10. The Central Govt. may by order direct that any power or duty which by or under any of preceding provisions of this Act is conferred or imposed upon the Central Govt. shall, in such circumstances and under such conditions, if any, as may be specified in this direction be exercised or discharged by any officer subordinate to that Government.

Committee to advice Government

11. The Central Govt. shall, by notification in the Official Gazette constitute an Advisory Committee consisting of not more than five members, and may from time to time refer to it for advice any such matters arising out of the administration of this Act as the Central Govt. may think fit.

Power to make rule

12. (1) The Central Govt. may by notification in the Official Gazette make rules for carrying out the purposes of this Act % (and in particular for the levy of fees on applications made to the Central Govt. for its consent).

(2) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

Penalties

13. (1) Whoever contravenes, or attempts to contravene, any of the provisions of this Act or of any order made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) If the person committing an offence punishable under this section is a company or an other body corporate, every Director, Manager, Secretary or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

Burden of proof in certain cases

14. Where any person is prosecuted for contravening any provisions of this Act or of any order made thereunder which prohibits him from doing an act without the consent or permission of any authority the burden of proving that he had the requisite consent or permission shall be on him.

Protection of action taken under the Act

15. No suit, prosecution or other legal proceedings shall lie against any person for anything done or intended to be done under this Act or any rule or order made thereunder.

Continuance of existing orders

16. (1) All orders made or deemed to be made under the provisions of the Capital Issues (Continuance of Control) Ordinance 1947 and in force immediately before commencement of this Act shall continue to be in force and be deemed to be orders made under the corresponding provisions of this Act.

(2) Section 6 of the General Clauses Act, 1897, shall apply upon the expiration of the said Ordinance as if it had then been repealed by this Act.

[^%]: Substituted by A.O, 1950
[@@]: Inserted by Section 6 of Act No. 55 of 1957
[^%]: Inserted by Act 6 of 1910.
[@@]: Inserted by Sec. 7 of Act No. 55 of 1957.
### CAPITAL ISSUES CONTROL

**APPENDIX II**

**THE CAPITAL ISSUES (EXEMPTION) ORDER, 1969**

**NOTIFICATION**

New Delhi the 1st February, 1969

(Amended upto 31st December 1975)

S.O. 588. In exercise of the powers conferred by sub-section (1) of section 6 of the Capital Issues (Control) Act, 1947 (29 of 1947), and in supersession of the Capital Issues (Exemption) Order, 1951, and the Capital Issues (Exemption) Order, 1956 published with the notifications of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. S.O. 1234, dated the 23rd May, 1951 and No. G.S.R. 1706 dated the 4th November, 1966, respectively, the Central Government hereby makes the following order, namely:—

1. **Short title and commencement**
   
   (1) This order may be called the Capital Issues (Exemption) Order, 1969.
   
   (2) It shall come into force on the date of its publication in the Official Gazette.

2. **Interpretation**
   
   In this order, unless the context otherwise requires,—
   
   (a) "Act" means the Capital Issues (Control) Act, 1947 (29 of 1947);
   
   (b) "banking institution" means any institution carrying on the business of banking to which the Banking Regulation Act, 1949 (10 of 1949), applies whether wholly or in part;
   
   (c) "consideration involved" means—
   
   (i) in relation to the issue of securities without a nominal value, the amount to be raised by the issue of securities, and, in the case of securities with a nominal value the sum of the total nominal value and of any premium, entrance fee or other payment which the person subscribing to the securities may be called upon to pay; and
   
   (ii) in relation to the borrowing of money, the amount of money to be borrowed;
   
   (d) "insurance company" means any insurer being a company which may be wound up under the Companies Act, 1956 (1 of 1956);
   
   (e) "banking company", "insurer" and "provident society" shall have the meanings respectively assigned to them in clause (c) of section 6 of the Banking Regulation Act, 1949 (10 of 1949), and in clause (9) of section 2 and sub-section (1) of section 65 of the Insurance Act, 1938 (4 of 1938);
   
   (f) words and expressions used in this order and not defined but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. **Certain issue of securities exempted from certain provisions of the Act**
   
   Subject to the provisions of Clause 9 the issue of securities irrespective of the value of consideration involved, by the following categories of companies shall be exempt from the provisions of sections 3, 4 and 5 of the Act namely:
   
   (i) a private company as defined in section 3 of the Companies Act, 1956 (1 of 1956), and which is not registered under section 28 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969);
   
   (ii) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), provided that no portion of the issue of securities is made to the general public;
   
   (iii) a banking company or an insurance company or a provident society incorporated as a company;
   
   Provided that if the total issue of capital in a period of 365 days exceeds fifty lakhs of rupees, the above-mentioned companies shall, as soon as the issue has been made, send a report thereon in duplicate, to the Controller of Capital Issues, to the extent applicable, in Form I as specified in the Schedule annexed to this Order, to be followed by reports as on the 31st March, the 30th June, the 30th September and the 31st December until the securities have been got fully paid-up together with a copy of the audited and published balance sheet immediately after the securities have been fully paid-up.

4. **Issue of securities by certain public limited companies and private companies wholly exempted from certain provisions of the Act**
   
   The following issues by public limited companies and by private companies registered under section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), shall be exempt from the provisions of sections 3, 4 and 5 of the Act, namely:
   
   (i) the issue of securities by a company other than the one registered under section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) and all transactions relating to such securities issued by any such company. If the value of the consideration involved in such issue together with the value of the consideration involved in any previous issues of securities made by such company within the twelve months immediately preceding such issue, does not exceed fifty lakhs of rupees;
   
   Explanation: The aforesaid limit of fifty lakhs of rupees shall have reference to the total value of all the issues and transactions during any period of twelve months and not to the value of each individual issue or transaction or to any part thereof, or to the value of consideration received from any single party;
   
   (ii) the issue of securities for the purpose of sub-dividing any securities into securities of any smaller denomination or consolidating any securities into securities of any larger denomination:
   
   Provided that in either case the transaction does not involve any increase in the total value of the paid-up capital of the company and that the securities sub-divided or consolidated are of the same kind;
   
   (iii) the issue of securities in a case where:
   
   (a) an amalgamation of two or more companies other than banking companies has been notified by the Central Government by an order under section 309 of the Companies Act, 1956 (1 of 1956); or
   
   (b) an amalgamation of two or more banking companies has been approved by the Reserve Bank of India under section 44 A of the Banking Regulation Act, 1949 (10 of 1949), and the total paid-up capital of the amalgamated company or the amalgamated banking company after the issue of securities under this provision is not greater than the total paid-up capital of the amalgamating companies or the amalgamating banking companies; and
   
   (iv) the loans granted or debentures taken up or bonds or promissory notes issued by the Central Government, a State Government, the Industrial Development Bank of India estab-
listed under the Industrial Development Bank of India Act, 1964 (16 of 1964), the Industrial Finance Corporation established under the Industrial Finance Corporation Act, 1948 (15 of 1948), a State Financial Corporation established under the State Financial Corporation Act, 1951 (62 of 1951), the Media Industrial Investment Corporation Ltd., the State Industrial and Investment Corporation of Maharashtra Ltd., the Industrial Credit and Investment Corporation of India Ltd., the Unit Trust of India Act, 1963 (52 of 1963), the National Industrial Development Corporation of India Ltd., the Industrial Reconstruction Corporation of India, the National Textile Corporation, the Shipping Development Fund Committee, the Life Insurance Corporation of India, the Rehabilitation Industries Corporation of India Ltd., a State Electricity Board constituted under the Electricity (Supply) Act, 1948 (54 of 1948), the State Trading Corporation of India Ltd., the Employees’ State Insurance Corporation set up under the Employees’ State Insurance Act, 1948 (54 of 1948), the Regional Provident Fund Commissioner appointed under the Employees’ Provident Funds and Family Pension Fund Act, 1952 (18 of 1952) or the Minerals and Metals Trading Corporation of India Ltd.

Explanation: In this sub-clause, “debentures” include any debentures which are, at the option of the holders, convertible into equity capital of the issuing company by virtue of a condition contained in the issue of such debentures to any institution specified in the said sub-clause.

(v) the guarantees given by the Industrial Development Bank of India under clause (e) or clause (f) or clause (g) of sub-section (1) of section 3 of the Industrial Development Bank of India Act, 1964 (16 of 1964), or by the Industrial Finance Corporation under clause (b) of sub-section (1) of section 23 of the Industrial Finance Corporation Act, 1948 (15 of 1948), or by the Central Government or a State Government under sub-section (2) of section 23 of the Industrial Finance Corporation Act, 1948 (15 of 1948), or any other guarantees given or furnished by any other body or institution specified in sub-clause (iv);

(vi) the issue and acceptance of securities other than debentures, being an issue made by a company in the ordinary course of its business and solely for the purpose of that business, to a banking institution or its nominees, in respect of advances or overdrafts, or guarantees from time to time granted or furnished or to be granted or furnished by such banking institution;

(vii) instruments executed by the Central Government or a State Government guaranteeing advances or overdrafts referred to in sub-clause (vi) or guaranteeing the payments due to a banking institution arising out of any guarantee furnished by that banking institution;

(viii) the issue and acceptance of debentures, being an issue made by a company in the ordinary course of its business and for the purpose of that business to a banking institution or its nominees, if the total value of such debentures together with the value of any previous issue of such debentures made by such company within the twelve months immediately preceding such issue does not exceed fifty lakhs of rupees;

(ix) third party guarantee on behalf of a company in respect of:

(a) the loans granted or debentures taken up by the institutions specified in sub-clause (iv); and

(b) the advances, overdrafts or guarantees, referred to in sub-clause (vii) granted or furnished or to be granted or furnished by a banking institution, an insurance company,

managing agents of a company, or the managing director or director of a company;

(x) charges made under mining leases by the lessee in favour of the lessee charging the assets of a company for the due payment of rents and royalties reserved by the instrument of lease.

5. Issue of securities, other than debentures, by certain public limited companies exempted from certain provisions of the Act, subject to observance of criteria:

The issue of securities, other than debentures for consideration exceeding fifty lakhs of rupees proposed to be made by a public company (not including a company registered under section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), but including a Government company as defined in section 8 of the Companies Act, 1956 (1 of 1956), which proposes to make an offer of the securities to the public by prospectus, shall be exempt from the provisions of sections 3, 4 and 5 of the Act:

Provided that:

(i) the issue does not comprise or include preference shares carrying rights of participation over and above the fixed amount or an amount calculated at a fixed rate in the profits or conversion into equity shares or debentures carrying right or conversion into equity shares or payable to bearer;

(ii) as a result of the proposed issue, the equity of the company is not less than one-half of its debt;

Explanation 1: “debt” includes all borrowings repayable not earlier than five years from the date of borrowing (whether debentures, loans or deferred payments including interest thereon, for the purchase of capital equipment) and preference shares redeemable not later than twelve years from the date of issue;

Explanation 2: “equity” includes paid-up equity share capital, share premium, free reserves, irredeemable preference shares and preference shares redeemable not earlier than twelve years from the date of issue;

(iii) as a result of the proposed issue the total paid-up preference share capital will not be more than one-third of the total paid-up equity share capital;

(iv) where the securities issued by the company or a part thereof, is for the purpose of taking over an existing business or asset, the take-over is effected at the book value of such business or asset;

(v) where a public company is formed on conversion of a private company or for taking over the business of a partnership or a proprietorship or an association of persons, the consideration for issue of securities by the public company to the shareholders of such private company, or to the members of such partnership, proprietorship or an association of persons, as the case may be, for taking over the same as a going business and any part of the assets of such private company, partnership, proprietorship or an association of persons, does not exceed the book value of the net assets taken over of the private company, partnership or an association of persons;

(vi) no securities are issued in consideration of renunciation of assets or creation of any intangible or fictitious assets;

(vii) the issue price of the securities to be issued is at par and not at a premium or discount;

(viii) any offer of securities for public subscription is such as to make the securities eligible for listing on any recognised stock exchange;

(ix) the rate of dividend on preference shares does not exceed the rate notified by the Central Government from time to time as
applicable to such securities and the timing of the offer of securities proposed to be issued is in conformity with the directions notified by the Central Government at the beginning of each calendar year:

(x) where the issue of equity capital involves an offer for subscription by the public for the first time, the value of equity capital subscribed privately by the promoters, directors and their friends is not less than fifteen per cent of the total issued equity capital, if it does not exceed one crore of rupees, twelve-and-a-half per cent, if it does not exceed two crores of rupees, and ten per cent, if it is in excess of two crores of rupees;

(xi) if a public offer of shares no reservation is to be made in favour of any person or class of persons except with the prior approval of the Controller of Capital Issues;

(xii) if the consideration for the issue of securities is proposed to be got fully paid-up by making calls, such calls shall be made on a uniform basis on all securities falling under the same class and completed within a period of five years from the date of the offer;

Provided further that:

(i) a company satisfying the criteria under the proviso shall file with the Controller of Capital Issues a statement of its capital issue proposals in the form specified in the Schedule annexed to the Capital Issues (Application for Consent) Rules, 1966, notified under No. G.S.T., No. 60 dated the 28th March, 1966, together with the enclosures mentioned therein, except the treasury challan, at least 30 days before a prospectus is issued, a statement in lieu of prospectus is filed or any offer relating to the whole or part of the issue is made;

Explanations: The statements of proposals referred to in this proviso need not be accompanied by any fee;

(ii) the company shall obtain an acknowledgement in Form II as specified in the schedule annexed to this Order duly signed by the Controller of Capital Issues or an Officer authorised by him in this behalf;

(iii) the company shall state in a prominent place in its prospectus or statement in lieu of prospectus or letter of offer to its shareholders, as the case may be, that the issue of securities is being made in terms of the provisions of this order;

(iv) as soon as the issue of capital issue has been made, a report thereon is sent in duplicate to the Controller of Capital Issues, to the extent applicable, in Form I as specified in the schedule annexed to this Order, to be followed by reports as on 31st March, the 30th June, the 30th September and the 31st December until the securities have been got fully paid-up, together with a copy of the audited and published balance sheet immediately after the securities have been fully paid-up;

6. Exemption of public offer for sale of certain securities from certain provisions of the Act:

The following shall be exempt from the provisions of section 4 of the Act in so far as such provisions relate to any documents publicly by offering for sale, namely:

(a) any security issued in the State before the 17th May, 1943 and

(b) any security issued outside the State before that date, being a security of a class of which no further issue has been made after that date by or on behalf of the same company without the consent or recognition of the Central Government.

7. Exemption of certain securities, the issues of which have been regularised:

The following shall be exempt from the provisions of sub-section (2) of section 5 of the Act, namely:

(a) securities the issue of which has involved a contravention of sub-section (1), (2) and (3) of section 3 or section 4 of the Act, if such contravention has been condoned under the provisions of sub-section (2) of section 6 of the Act;

(b) any security transferred by the operation of the law of inheritance or succession or by the decree of a competent court.

8. Saving:

Nothing contained in this order:

(i) shall apply to any issue of securities irrespective of the amount involved in the capitalisation of profits or reserves for the purpose of issuing additional capital or conversion of partly paid-up shares into fully paid-up shares or for the increase of the paid-up value or par value of shares already issued by any company private or public including a banking company or an insurance company or a provident fund society incorporated as a company;

(ii) shall affect or be deemed to affect the power of the Central Government to modify in the public interest any proposal for the issue of securities by a public company desiring to avail itself of the exemption under this order;

(iii) shall be deemed to exempt any public company from obtaining the consent of the Central Government under the Act in respect of issues of all securities the terms of which, for whatsoever reasons, do not satisfy the provisions of clause 5.

9. Clarification:

It is hereby clarified that all issues of securities not covered by this order and, in particular, the following issues of securities are not exempt from the provisions of sections 3, 4 and 5 of the Act, namely:

(i) bonus issues as referred to in clause 8(i) of this order by any company whatsoever—private company, banking and insurance company, Government company and public company—irrespective of the amount of consideration involved;

(ii) issue of securities by a private limited Company in which an amount exceeding twenty per cent is subscribed by a public limited Company or Companies;

(iii) issue of preference shares, carrying participating or conversion rights;

(iv) issue of debentures carrying conversion rights other than those mentioned in sub-section (iv) of clause 4; or issue of debentures not payable to registered holders;

(v) issue of securities at a premium or discount;

(vi) issue of securities involving relaxation of any or all the conditions mentioned in clause 5 above.
### CAPITAL ISSUES CONTROL

**APPENDIX III**

**REPORT TO THE CONTROLLER OF CAPITAL ISSUES**

to be submitted in duplicate under condition of the Acknowledgement with two copies of prospectus, if issued

1. Name of the Company 

2. Amount of Issue:  
   (i) Equity shares Rs. 
   (ii) Preference shares Rs. 
   (iii) Debentures Rs. 
   (iv) Loans, etc. Rs. 

3. Issue made by the Company:—

<table>
<thead>
<tr>
<th>Type of Issue</th>
<th>Date of Issue</th>
<th>Amount</th>
<th>Type of Security</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) 'Right' issue* other than Bonus</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>(b) Firm Allotments*</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>(c) Offer to the Public* by prospectus</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>(d) Loan, etc.</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>

* The information may be given security-wise, e.g., Equity shares, Preference shares, Debentures.

4. Amount underwritten:

<table>
<thead>
<tr>
<th>Name of the Underwriter</th>
<th>Type of Security Underwritten</th>
<th>Amount</th>
</tr>
</thead>
</table>

5. Applications received in respect of offer of shares made to the general public by prospectus (two copies of which should be enclosed) under item 3(c) above and the result of subscription.

<table>
<thead>
<tr>
<th>Kind of security</th>
<th>No. of Applications</th>
<th>No. of shares</th>
<th>Amount of Subscription</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Applications received in respect of offer to the public</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>(ii) Applications rejected</td>
<td>---</td>
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<td>---</td>
</tr>
<tr>
<td>(iii) Valid applications considered from the public for allotment</td>
<td>---</td>
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<td>---</td>
</tr>
<tr>
<td>(iv) Allotments made in respect of (iii) above</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>(v) Allotments to underwriters under underwriting obligations other than firm allotments</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>
### CAPITAL ISSUES CONTROL

6. Issues taken up and/or allotments made for the period under report:

<table>
<thead>
<tr>
<th>Particulars of allotment*</th>
<th>Date(s) of allotment</th>
<th>Equity shares</th>
<th>Preference shares</th>
<th>Debenture</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Subscribed</td>
<td>Paid-up</td>
<td>Subscribed</td>
</tr>
<tr>
<td>(i) 'Right' shares other than Bonus shares</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Existing residents</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Existing non-residents</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>SUB-TOTAL</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(ii) Firm Allotments</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>(a) Foreign Collaborators</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Promoters, Directors, their friends and relatives</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Financial Institutions**</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>(d) Central and State Governments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) Brokers &amp; underwriters other than item (iii)(d) below</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(f) Existing shareholders and others</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SUB-TOTAL</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>(iii) Allotment of shares offered to the general public by prospectus'</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Directors, Mgr. Agents, Secretaries &amp; Treasurers</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Financial Institutions**</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Central and State Governments</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>(d) Underwriters under underwriting obligation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) Companies registered under the Companies Act</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(f) General Public</td>
<td></td>
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<tr>
<td><strong>GRAND TOTAL (i), (ii) &amp; (iii)</strong></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>(iv) Loan Capital</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Date of creation of charge on the assets and amount of charge</td>
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<td></td>
<td></td>
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</tr>
</tbody>
</table>

7. Total capital raised up to the end of this report:

<table>
<thead>
<tr>
<th></th>
<th>Subscribed</th>
<th>Paid-up</th>
<th>Debentures, Loans, etc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equity shares</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preference shares</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Signature of the person submitting the report

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* Only the relevant particulars as are applicable to the company need be given.
** Names of the Financial Institutions, e.g., Life Insurance Corporation of India, I.F.C. of India, I.C.I.C.I. and S.F.C.s, Investment or Unit Trusts, etc. should be separately indicated.

**NOTE** — (i) The reports are to be made in respect of capital issued in accordance with the Statement of Proposal; the reports should be filed at the end of each quarter as at 31st March, 30th June, 30th September and 31st December until the capital has been fully subscribed and paid-up. (ii) A copy of the Balance Sheet and Profit and Loss Account of the accounting year in which the capital has been fully subscribed and paid-up should be filed. Subsequent reports, however, need not be sent if the capital issued has been fully subscribed and paid-up. Subsequent to the filing of the Balance Sheet and Profit and Loss Account, no report need be sent.
APPENDIX IV

ACKNOWLEDGEMENT FROM THE CONTROLLER OF CAPITAL ISSUES

To

Subject:

Dear Sir/Gentlemen,

1. I am directed to acknowledge receipt of the statement of proposals of Messrs ____________________________ in regard to the proposed issue of securities at the value of Rs. ____________ (Rupees ____________ Only) in the form of equity preference shares/ secured loans under the authority of the Capital Issues (Exemption) Order, 1958.

2. I am to invite attention of the Company to items (ii) and (iv) of the second proviso to clauses 3 of the Capital Issues (Exemption) Order, 1958 and to request that the Company may ensure the compliance of the requirements mentioned therein, namely:

(a) In any prospectus or letter of offer, the company may disclose that the issue is being made in terms of the Capital Issues (Exemption) Order, 1958; and

(b) that after the issue, reports of the subscribers to the scheme offered may be within the stipulated time of the prescribed amount of the subscription to the securities offered.

APPENDIX V

THE CAPITAL ISSUES (APPLICATION FOR CONSENT) RULES, 1958

Ministry of Finance
(Department of Economic Affairs)
(Office of the Controller of Capital Issues)
New Delhi, the 28th March, 1958.
(Amended upto 31st December, 1979)

G.S.R. 600—In exercise of the powers conferred by section 12 of the Capital Issues (Control) Act, 1947 (XXXIX of 1947), the Central Government hereby makes the following rules, namely:—

1. Short Title and Commencement

These rules may be called the Capital Issues (Application for Consent) Rules, 1958.

They shall come into force on 1st April, 1958.

2. Definition

In these rules, unless the context otherwise requires, “Act” means the Capital Issues (Control) Act, 1947 (XXXIX of 1947).

3. Application for issue of capital

All Applications for the issue of capital under the Act, other than the securities exempted from the provisions of section 3, 4 and 5 of the Act by the Capital Issues (Exemption) Order, 1958 shall be made to the Controller of Capital Issues, Ministry of Finance, New Delhi, in conformity with the requirements laid down in the questionnaire specified—

(a) in Schedule A annexed to these rules, in the case of issue of securities other than bonus shares; and

(b) in Schedule B annexed to these rules in the case of issue of bonus shares.

4. (1) Every application under these rules for consent for issue of capital upto the value specified in column (1) of the Table below shall be accompanied by a treasury receipt for the amount specified in the corresponding entry in column (2) thereof.

<table>
<thead>
<tr>
<th>Application</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) For each application for consent for issue of capital upto and including ten lakhs of rupees.</td>
<td>Hundred rupees</td>
</tr>
<tr>
<td>(b) For each application for consent for issue of capital exceeding ten lakhs of rupees.</td>
<td>Hundred rupees for the first ten lakhs of rupees plus additional amount of hundred rupees for every increase of ten lakhs of rupees or part thereof subject to a maximum of one thousand five hundred rupees.</td>
</tr>
</tbody>
</table>

(2) The amount specified in column (2) of the Table below sub-rule (1), shall be deposited, in respect of Bombay, Calcutta, Delhi, Madras and Bangalore, in the Reserve Bank of India and at other places in the nearest Government Treasury or in the nearest Branch of any agency of the Reserve Bank.

(3) The amount payable under sub-rule (1) shall be credited to the Head "104—Other General Economic Services—Other receipts—Receipts towards issue of capital under the Capital Issues (Control) Act, 1947 (28 of 1947).”

5. Contents of Application

An application made under these rules shall include a request asking for:—

(i) the consent of the Central Government to the issue of capital under the provisions of the Act; and

(ii) any alteration in the terms and conditions of a consent previously given by the Central Government or any extension of the period of validity for which such consent was given;

(iii) the regularisation of the issue of any capital made without the prior consent of the Central Government; and

(iv) the consent of the Central Government under the Act, in respect of any matter not specially mentioned in any of the foregoing clauses of these rules.

6. Application to be entertained only on payment of fee

No application under these rules shall be entertained unless it is accompanied by sufficient proof of the payment of the fee mentioned in rule 4.

7. Repeal

The Capital Issues (Application for Consent) Rules, 1954, shall, as from the commencement of these rules, cease to be in force except as respects things done or omitted to be done thereunder.
APPENDIX VI

SCHEDULE-A

(See Rule 3 of the Capital Issues (Application for Consent) Rules, 1956 (Appendix V)

APPLICATION FORM FOR ISSUE OF SECURITIES
(OTHER THAN BONUS SHARES)

With a view to reducing the time-lag between the submission of the applications and their disposal to the minimum, the companies wishing to obtain consents or acknowledgments for their capital issue proposals under the Capital Issues (Control) Act, 1947 are advised to apply to the Controller of Capital Issues, Ministry of Finance, New Delhi only after the project for which the capital is proposed to be raised has been finally cleared in all respects by the concerned authorities including the administrative Ministry concerned. Prior clearances normally insisted upon by the Controller of Capital Issues are such as those relating to Industrial Licence, Capital Goods clearance, Foreign/Technical Collaboration Agreements grant for term loans or underwriting support or subscriptions to be raised from the Financial Institution. Where the provisions of the Companies Act, 1956 (1 of 1956) or the Monopolies and Restrictive Trade Practices Act, 1969 (64 of 1969), are attracted necessary clearances from the Department of Company Affairs are also to be obtained. In case of merger proposals, the order of the Court under the Companies Act, 1956 and the clearances of the Department of Company Affairs to be furnished. The applications should be accompanied by true copies of the documents conveying the aforesaid clearances.

2. Application for consent to the issue of securities by companies should be addressed to the Controller of Capital Issues, and should be made in the form of a letter which should include answers to the Questions shown below as far as they are applicable.

Note:-The answers should follow the order of these questions and the short title of each question could be quoted against the corresponding answer. The answer should be so worded that the letter can be read independently of the form. The letter (with enclosures) should be sent in quadruplicate.

PART A—GENERAL

Total amount of the issue proposed Rs...........................of which
Equity Rs...........................Preference Rs...........................Debentures
Rs...........................
1. Present or proposed name.
   (If new company, name of promoters).
2. Date of Incorporation.
3. Corporate status whether public or private company and whether it is intended to alter the status.
5. Place of Registration and location of Head Office, giving the complete addresses, if different.
6. Present Business.—Describe fully the company's present or proposed line of business according to the location of its factories. (More reference to the objective stated in the Memorandum of Association will not be acceptable).
7. Previous Applications.—Give particulars of any applications previously made to the Government of India since 17th May, 1943 or to the Government of any former State in this connection by or on behalf of the same parties.

(a) Date of application.
(b) Number and date of consent order.
(c) Amount of consent showing separately the amount consented against each security namely Equity shares, Preference shares, Debentures, Bonus shares, Loans etc.
(d) Indicate the capital subscribed and paid-up against each consent.
(e) If refused, number and date of refusal.

8. Whether the company is covered by Part A of Chapter III of the Monopolies and Restrictive Trade Practices Act, 1969, if so—
   (a) Whether the company has got itself registered in terms of section 26 of the said Act?
   (b) Whether the purpose for which the capital is proposed to be raised comes within the purview of sections 21 to 24 of the said Act?
   (c) Whether the company has obtained the approval of the Central Government (Department of Company Affairs) under the above mentioned sections?

PART B—CAPITAL STRUCTURE AS ON DATE OF APPLICATION

1. Capital
   (a) Authorised.
   (b) Issued.
   (c) Subscribed.
   (d) Paid up.
   (e) If any part of (b), (c) and (d) had been raised under the Capital Issues (Exemption) Order 1969, give details.

<table>
<thead>
<tr>
<th>Equity Shares</th>
<th>Preference Shares</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of Shares</td>
<td>Par value per share</td>
</tr>
</tbody>
</table>
| 2. Give particulars of preference shares under the following heads—
   (a) Date of issue of preference shares.
   (b) Date of dividend and whether taxable or tax free.
   (c) Details as to the terms of redemption and date/dates of redemption, if any.
   (d) Whether the preference shares are cumulative or non-cumulative. (Particulars are to be given for different series of preference shares and debentures separately.)

3. Indicate outstanding debentures according to date of issue, rate of interest, date of redemption, securities etc.

4. Indicate outstanding loans from Financial Institutions (other than Banks) and Government Agencies, etc. Give the details (e.g., amount, period, security, rate of interest) separately for each loan.

5. If the shares are partly paid up shares, indicate why the capital requirements cannot be met by further calls on shares.

6. Indicate the total investments of the company and state the reasons for not using for the purpose in view and liquid or invested funds which may be or become available as an alternative to issuing new securities.
7. Indicate the existing equity and preference share holding of the company as per details given below:

<table>
<thead>
<tr>
<th>Equity</th>
<th>Pref. Shares</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of shares</td>
<td>Face value</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

(a) Non-resident holdings:
(i) Direct by foreign companies
(ii) Direct by individuals & Others
(iii) Indirect holdings.
(b) Shares held by Promoters/ Directors, their friends and associates as defined in the Companies Act.
(i) Promoters/Directors, their friends.
(ii) Associates including associate companies.
(iii) Others in the Group.
(c) Public Financial/Developmental/Institutions including State Finance Corporations, indicating the names.
(d) Central or State Government holdings.
(e) Nationalised and other Banks.
(f) Companies registered under the Companies Act. (Specifying the names of large holdings)
(g) General Public. Total

8. Is the company directly or indirectly controlled by non-residents?

9. Please furnish the names of equity shareholders holding 3 per cent or more of the equity capital of the company and the total equity capital held by such persons.

PART D—OBJECTS OF ISSUE

1. Indicate in detail the objects of this issue.

2. State if a licence is required under the Industries (Development & Regulation) Act, 1951, for the proposed project.

If so, indicate the number and date (s) of Letter of Intent/Licence (s) given against each project, if granted to the company, enclosing copy/copies thereof, if the licence (s) had expired, state if this/these was/were duly extended.

3. The total cost of each project according to the location of the factory or line of business may be given under the following headings:

<table>
<thead>
<tr>
<th>Rupee expenditure</th>
<th>Foreign exchange expenditure Total (In Rupees)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Capital Cost:</td>
<td></td>
</tr>
<tr>
<td>(a) Land</td>
<td></td>
</tr>
<tr>
<td>(b) Buildings</td>
<td></td>
</tr>
<tr>
<td>(c) Plant and Machinery</td>
<td></td>
</tr>
<tr>
<td>(d) Other Services including water power, sewage etc.</td>
<td></td>
</tr>
<tr>
<td>(e) Cost of D.P.R., Consultants</td>
<td></td>
</tr>
<tr>
<td>(f) Pre-Incorporation expenses other than (a) to (e)</td>
<td></td>
</tr>
<tr>
<td>(g) Other expenses including expenses during initial production</td>
<td></td>
</tr>
<tr>
<td>(B) Working Capital</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
</tr>
</tbody>
</table>

4. If the estimates as stated in paragraph 3 above differ from the estimates stated in an application already made under the Industries (Development & Regulation), Act, 1951, for the issue of a licence, the difference may be explained.

5. If manufacture is according to a phased programme, give the requirement of capital (Rupee expenditure and Foreign Exchange requirements) for each year till the project(s) is/are completed.

6. If one of the objects of the issue is to repay a loan, state the purpose of the borrowing and whether the consent of the Controller of Capital Issues was obtained for that borrowing.

7. If an existing concern or assets are to be acquired, give the name, location, ownership and the purchase price. Furnish a set of balance sheets of the last five years accompanied by a valuation report by a valuer approved by the Government of the assets proposed to be acquired, and justify the amount charged for goodwill if any.

PART D—SOURCES OF FINANCE AND FOREIGN COLLABORATION

1. How is/are the project(s) proposed to be financed. Indicate details given below stating separately the source of financing in rupees and in foreign exchange.

2. (a) Capital already raised and expenditure incurred or set apart for the project(s).
   (i) Internally generated funds (indicate the source).
   (iii) Capital raised against consent(s) already given for the project.

(b) Capital expenditure to be met from the proposed issue of capital:

<table>
<thead>
<tr>
<th>No. of shares</th>
<th>Par Value</th>
<th>Premium on shares, if any.</th>
</tr>
</thead>
</table>

(i) Equity shares.

(g) Preference shares.

(iii) Debentures including Convertible Debentures and Bonds.
### PART E—PARTICULARS OF ISSUES

<table>
<thead>
<tr>
<th><strong>1. General</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Whether the proposed issue is for cash?</td>
</tr>
<tr>
<td>(b) If the issue or part of the issue is for consideration other than cash, give complete details as to—</td>
</tr>
<tr>
<td>(i) The type of security to be issued.</td>
</tr>
<tr>
<td>(ii) The consideration involved (e.g. purchase of assets, technical services, know-how, preliminary and pre-incorporation expenses goodwill, etc).</td>
</tr>
<tr>
<td>(iii) The names of parties concerned and their present and proposed interest in the company.</td>
</tr>
<tr>
<td>(c) If the issue is to give effect to any merger or amalgamation scheme, give reasons for the merger or amalgamation and details of the amalgamation units in a separate Annexure to this application as follows—</td>
</tr>
<tr>
<td>(i) Lines of business.</td>
</tr>
<tr>
<td>(ii) Existing capital structure according to Part B of this application.</td>
</tr>
<tr>
<td>(iii) Dividends of the company for preceding five years.</td>
</tr>
<tr>
<td>(iv) Market quotation of the shares, if quoted.</td>
</tr>
<tr>
<td>(v) A copy of the valuation report fixing the rate of exchange of shares.</td>
</tr>
<tr>
<td>(vi) Copies of special resolution passed by the companies in general meetings.</td>
</tr>
<tr>
<td>(vii) Copy of the Scheme and or of the Order of a Court, if any, approving the scheme and a copy of the petition to a Court.</td>
</tr>
<tr>
<td>(viii) A list of common shareholdings of the companies showing the interest of each in the companies.</td>
</tr>
<tr>
<td>(ix) Copies of audited balance sheets and profit and loss accounts of the company making the issue and of amalgamating units for the preceding five years.</td>
</tr>
</tbody>
</table>

### 2. Issue Price

- (a) Indicate whether the equity shares are to be issued at par or at a premium stating the issue price. The regions for the issue of shares at a premium or at par if quoted at a premium, may be stated. |
- (b) In the case of existing companies state— |
  - (i) the rate at which shares of the same class as that proposed to be issued have recently been transferred; |
  - (ii) if the security is listed the latest quotation of the share specifying the date and the name of the stock exchange; |
  - (iii) dividends paid by the company for the preceding five years. |

### 3. Particulars of Preference Shares and Debentures

- (a) Rate of dividend/interest and whether taxable or tax free. |
- (b) The terms and date(s) of redemption, if any. |
- (c) Whether preference shares are cumulative or non-cumulative. |
- (d) Indicate whether the debentures and preference shares are to be issued at premium or discount and the reasons therefor. |
- (e) Indicate the security to be offered in the case of debentures. |

### 4. Particulars of Loans, etc.

- (a) Describe in detail instruments creating a charge or lien on the assets of the company or which acknowledge a loan or indebtedness of the company and are guaranteed by or entered into jointly with a third party. |
- (b) Exact amount of loan. |
- (c) Source(s) from which the loan will be raised. |
- (d) Terms on which the loan will be obtained, e.g. rate of interest, period, how repayable, etc., nature of security. |

### 5. Allotments

Indicate the proposed allotments of equity and preference shares and debentures stating the number of shares, etc., and the amount involved, separately against the following headings:—

- (a) ‘Rights’ issue. |
- (b) Firm allotments to:— |
  - (i) Foreign collaborators. |
  - (ii) Other non-residents. |
  - (iii) Promoters, directors and their friends and relations. |
  - (iv) Financial institutions indicating the name of each institutions. |
- (v) Central Government/State Governments. |
- (vi) Companies Registered under the Companies Act:— |
  - (I) Companies under ‘same management’. |
  - (II) Inter connected companies as defined in the Monopolies and Restrictive Trade Practices Act, 1998. |
- (e) Unsecured offer to be made to the Public by prospectus (enclose two copies of the draft thereof). |
- (d) Indicate the timing of the offer at (a), (b) and (c) above. |
- (e) Indicate the manner in which the calls will be made on the shares till these are fully paid up. |

### 6. Underwriting and Listing Arrangements

- (a) Has the company ever issued equity capital by making a public offer through prospectus? If so, the details thereof. |
- (b) If the issue by prospectus is to be underwritten, indicate the particulars under the following headings:— |
  - (i) Name(s) of the underwriters. |
  - (ii) Proposed underwriting obligation. |
  - (iii) Commission or brokerage payable. |
(c) State whether the company proposes to get its shares/debentures listed on the Stock Exchange(s).
(d) Indicate the interest, if any, of the promoters, directors, etc. in the underwriting arrangements.

PART F—MISCELLANEOUS

1. Indicate the interest in the company of Promoters and Directors, as under:
   (a) Name, qualifications and address.
   (b) Occupation and nationality.
   (c) Position or connection with the company as Chairman, Managing Director, Director, Promoter.
   (d) Equity or preference shares held or proposed to be held in the company.
   (e) Extent of any existing interest or proposed interest other than (d) above.
   (f) Directorships held in other companies indicating their names.

2. State whether all the Directors have agreed in writing to serve.

3. The applicant may give here any further information in support of the request, e.g., data regarding estimated profitability of the project and the rate of return on the capital employed.

PART G—CERTIFICATE FROM COMPANY’S AUDITORS TO THE FOLLOWING EFFECT

We have verified the information furnished in the above application of the company for issue of fresh capital and find the same as correct. We also certify that we have received all the information required by us for the verification.

We hereby certify that the requirements of clause 5 of the Capital Issues (Exemption) Order, 1959 have been fully met by the company for the issue of acknowledgment/consent by the Controller of Capital Issues according to the information furnished to us and to the best of our knowledge.

Place: ____________________________
Date: ____________________________
Signature: ____________________________
Auditors

Enclosures

(i) Treasury receipt for the requisite application fee credited to "104—Other General Economic Services—Other receipts—Receipts towards issue of Capital under the Capital Issues (Control) Act, 1947".
(ii) Two copies of the Memorandum and Articles of Association.
(iii) Particulars of previous applications.
(iv) Latest audited Balance Sheet and Profit and Loss Account and Auditors' report to the shareholders.
(v) List of existing non-resident shareholders.
(vi) Copy of letter of Intent/License issued under the Industries (Development & Regulation) Act, 1951, if any.
(vii) Copy of the approval by the Central Government of the terms of foreign collaboration, if any.
(viii) Copy of foreign collaboration agreement, if any.
(ix) Draft prospectus (two copies), if issue is through a prospectus.
(x) Particulars of Directors, Promoters, etc.
(xi) Other documents, as required.

APPENDIX VII

SCHEDULE-B

(See Rule 3 of the Capital Issues (Application for Consent) Rules, 1956 (Appendix V))

APPLICATION FORM FOR ISSUE OF BONUS SHARES

Application for consent to the issue of Bonus Shares should be addressed to the Controller of Capital Issues, Ministry of Finance, New Delhi, and should be made in the form of a letter which should include answers to the questions shown below as far as they are applicable.

NOTE.—The answers should follow the order of these questions and the short title of each question should be quoted against the corresponding answer. The answer should be so worded that the letter can be read independently of the form. The letter (with enclosures) should be sent in duplicate.

PART A—GENERAL

Total amount of the issue proposed Rs._________ in the ratio of_________ Bonus Shares for __________ equity shares:

1. Name of the company.
2. Date of incorporation.
3. Corporate status, whether public or private company and whether it is intended to alter the status.
4. Whether Government or non-Government company.
5. Place of Registration and location of Head Office, giving the complete address, if different.
6. Present business: Describe fully the company's present or proposed lines of business according to the location of its factories. (Mere reference to the objectives stated in the Memorandum of Association will not be acceptable.)
7. Previous applications: Give particulars under the headings as detailed below (as a separate Annexure) of any application previously made to the Government of India since 17th May, 1943 or to the Government of any former State in this connection by or on behalf of the same parties.
   (a) Date of application.
   (b) Number and date of consent order.
   (c) Amount of consent.
   (d) If refused, number and date of refusal.
   (e) Dates of announcements of last Bonus issue and proposed Bonus issue.
   (f) Number of Bonus issues made during the last five years and the dates on which the Bonus issues were made.
   (g) Date of entitlement of last Bonus issue with Stock Exchange. (In the case of unlisted shares, the date of actual despatch of share certificates and in the case of private limited companies, the date of allotment of last Bonus issue)
8. Indicate in detail the objects of the Bonus issue.

PART B—CAPITAL STRUCTURE AS ON DATE OF APPLICATION

<table>
<thead>
<tr>
<th>Equity Shares</th>
<th>Preference Shares</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of Value per</td>
<td>Amount per</td>
</tr>
<tr>
<td>Shares</td>
<td>Shares</td>
</tr>
<tr>
<td>share</td>
<td>share</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

(e) Authorised.
(b) Issued.
(c) Subscribed.
(d) Paid up.
(e) If any part of (b), (c) and (d) has been raised under Exemption Order, give details.

(2) Details of partly paid up shares, if any:—
**CAPITAL ISSUES CONTROL**

(3) Indicate the equity and preference share holding of the company, as per details given below:

<table>
<thead>
<tr>
<th>No. of share holders</th>
<th>Equity share</th>
<th>Preference share</th>
<th>Total share</th>
</tr>
</thead>
<tbody>
<tr>
<td>share amount</td>
<td>amount</td>
<td>amount percentage</td>
<td>percentage</td>
</tr>
</tbody>
</table>

(a) Non-resident holdings:

(i) Direct.

(ii) Indirect

(Enrol a list of (i) & (ii) as separate Annexures).

(b) Directors, their friends, relatives and associates as defined in the Companies Act.

(i) Directors.

(ii) Friends, relatives and associates including Associate companies.

(c) Public financial institutions, indicating the names.

(d) Central Government or State Government.

(e) Companies registered under the Companies Act.

(f) Others.

Total

(4) Is the company directly or indirectly controlled by non-residents?

(5) Details of dividends paid in the last five years.

PART C—PARTICULARS OF RESIDUAL RESERVES AND PRE-TAX PROFITS

NOTE.—A copy of the General Body Resolution authorising capitalisation of Reserves should be furnished.

1. Residual Reserve Test

(a) Total of Reserves including Development Reserve Reserve

<table>
<thead>
<tr>
<th>As on 1-1-19__</th>
<th>Rs.</th>
</tr>
</thead>
</table>

(i) General Reserves

(ii) Development Reserve Reserve

(iii) Dividend Equitable Reserve

(iv) Profit and Loss Account Surplus

(v) Other free Reserves, if any.

(b) Less

Savings, if any, on account of proposed dividend, contingent liabilities, etc. Rs. (-)

(c) Balance free reserves available for capitalisation.

(d) Amount proposed to be capitalised.

(e) Increased capital would be.

(f) Reduced reserves would be.

(g) Percentage of reduced reserves to increase paid up capital.

Reduced reserves $100

Increased paid up capital

2. Profitability (Pre-tax Profits) Test

<table>
<thead>
<tr>
<th>Year</th>
<th>Net Profits before tax</th>
<th>Development Reserve</th>
<th>Total Profits before tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>2+3</td>
</tr>
</tbody>
</table>

(a) Average Profits:

(b) 10 per cent of the average.

(c) Deduct Dividend on preference shares, if any.

(d) Balance available:

(e) 10 per cent on the increased paid up equity capital.

3. Dividend proposed to be declared on the enhanced capital.

PART D—MISCELLANEOUS

Indicate the interest in the company of Promoters and Directors

(a) Name, qualifications and address.

(b) Occupation and nationality.

(c) Position or connection with the company as Chairman, Managing Director, Director, Promoter.

(d) Equity or preference shares held or proposed to be held in the company.

(e) Extent of any existing interest other than (d) above.

(f) Direct or indirect interest in other companies indicating their names.

PART E—AUDITOR'S CERTIFICATE TO THE FOLLOWING EFFECT

We have verified the information furnished by the company in the above application for issue of bonus shares and find the same correct. We also certify that we have received all the information required by us for the verification.

We hereby certify that the proposal contained in this application for the issue of bonus shares meets all the requirements of the guidelines in force issued by the Government in this regard, according to the information furnished to us and to the best of our knowledge.

Place: ____________________

Signature: ____________________

Date: ____________________

A: ____________________

Enclosures

1. Treasury receipt for the application fee credited to "164—Other General Economic Services—Other receipt—Receipt towards issue of Capital under the Capital Issues (Control) Act, 1947".

2. Copy of the Memorandum and Articles of Association.

3. Particulars of previous application(s).

4. Latest audited balance sheet and profit and loss accounts for the last three years and Auditors' report to the shareholders.

5. List of existing non-resident shareholders.

6. Particulars of Directors, Promoters, etc.

7. Other documents, required.

I, ____________________, do solemnly affirm that the facts stated above are true to the best of my knowledge and nothing has been withheld.

Signature: ____________________

Name in Capital Letters: ____________________

Principal Officer of the Company: ____________________
CAPITAL ISSUES CONTROL

(Copy forwarded to the Reserve Bank of India, Department of Banking Operations, Bombay, with reference to Investment Trusts: Further conditions of this consent are (i) that except with the permission in writing of the Central Government, the company shall not:

(i) assign voting rights to shareholders except in accordance with the provisions of section 87 of the Companies Act, 1956;

(ii) so conduct its business that it at any time

(a) holds more than 5% of its gross assets invested in any one company or a total of more than 10% of its assets invested in the form of loans or advances; or

(b) holds more than 10% of the securities, whether shares or other securities, issued by any one Company; or

Financing Houses: Further conditions of this consent are (i) that, except with the permission in writing of the Central Government, the company shall not:

(i) assign voting rights to shareholders except in accordance with the provisions of section 87 of the Companies Act, 1956;

(ii) so conduct its business that it at any time (a) holds more than 10% of its gross assets invested in any one company or (b) holds more than 20% of the securities whether shares or other securities issued by any one company, unless that other company is its subsidiary; or

(iii) borrow money, the total of which may exceed the aggregate of the paid-up capital and free reserves except as provided in section 293 of the Companies Act, 1956.

2. The company shall be subject to any further measure of control or restriction on the working of financing houses that is or may hereafter be prescribed by law.

3. The name of the company shall not be changed, whether before or after registration, from that shown in this consent without the previous permission of the Central Government.

Private Limited Companies: No action shall be taken towards the conversion of this company into a public company in accordance with the provisions of sections 43 and 44 of the Companies Act, 1956, without the previous approval of the Central Government.

N.B. If action is taken in pursuance of the consent and if the company subsequently violates any of the conditions attached to the consent, an offence will be committed punishable under section 13 of the Capital Issues (Control) Act, 1947.

(Copy forwarded to the Registrar of Companies, with the request that a report of the action taken and of the capital issued, subscribed and paid up by the company against this sanction may be forwarded to this office in due course.

(i) Reserve Bank of India, Dept. of Research and Statistics, Bombay.)
CAPITAL ISSUES CONTROL

APPENDIX IX

REPORT AS PER LETTER OF CONSENT

to be submitted in duplicate under condition (b) of the Consent Order along with two copies of prospectus, if issued
(For directions, see notes below)

Report for the period ended

1. Name of the company
2. State in which registered
3. No. and date of consent order
4. Amount of consent: (i) Equity shares Rs.
   (ii) Preference shares Rs.
   (iii) Debentures Rs.
   (iv) Bonus shares Rs.
   (v) Loans, etc. Rs.

5. Issue made by the company:

<table>
<thead>
<tr>
<th>Type of Issue</th>
<th>Date of Issue</th>
<th>Amount</th>
<th>Type of Security</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) 'Right' issue* other than bonus</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>(ii) Firm allotments*</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>(iii) Offer to the public* by prospectus</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>(iv) Bonus shares</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>(v) Loans, etc.</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>

* The information may be given security-wise, e.g., Equity shares, Preference shares, Debentures.

6. Amount Underwritten:

<table>
<thead>
<tr>
<th>Name of the Underwriter</th>
<th>Type of Security Underwritten</th>
<th>Amount</th>
<th>Rate of Commission</th>
<th>Amount of Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>---</td>
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</tr>
</tbody>
</table>

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### CAPITAL ISSUES CONTROL

#### 7. Applications received in respect of offer of shares made to the general public by prospectus (two copies of which should be enclosed) under item 5 (iii) above and the results of subscription,

<table>
<thead>
<tr>
<th>Kind of Security</th>
<th>No. of Applications</th>
<th>No. of Shares</th>
<th>Amount of Subscription</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Applications received in respect of offer to the public</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(ii) Applications rejected</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(iii) Valid applications considered from the public for allotment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(iv) Allotments made in respect of (iii) above</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(v) Allotments to underwriters under underwriting obligations other than firm allotments</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Give the basis of allotments under item (iv) above on a separate sheet indicating also the arrangements, if any, which had been entered into by the company for allotment of shares to any person (indicating the name and number of shares allotted) as a block other than allotments of shares under items 5(i) and 7(v) above.

#### 8. Issues taken up and/or allotments made for the period under report:

<table>
<thead>
<tr>
<th>Particulars of Allotment</th>
<th>Date(s of Allotment)</th>
<th>Equity shares</th>
<th>Preference shares</th>
<th>Debentures</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Subscribed</td>
<td>Paid-up</td>
<td>Subscribed</td>
</tr>
</tbody>
</table>

(i) 'Right' shares other than bonus shares

(a) Existing residents

(b) Existing non-residents

Sub-total

(ii) Firm allotments

(a) Foreign collaborators

(b) Promoters, Directors, their friends and relatives

(c) Financial Institutions**

(d) Centre and State Governments

(e) Brokers and Underwriters other than item (iii) (d) below

(f) Existing shareholders and shareholders of other companies in case of mergers, etc.

Sub-total

(iii) Allotment of Shares offered to the General Public by Prospectus

(a) Directors, Managing Agents, Secretaries & Treasurers

(b) Financial Institutions**

(c) Central and State Governments
<table>
<thead>
<tr>
<th>Date/s of Allotment</th>
<th>Equity shares</th>
<th>Preference shares</th>
<th>Debentures</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Subscribed</td>
<td>Paid-up</td>
<td>Subscribed</td>
</tr>
</tbody>
</table>

(d) Underwriters under underwriting obligation

(e) Companies registered under the Companies Act

(f) General public

Sub-total

Grand Total (i), (ii) & (iii)

(iv) Bonus shares

(a) Existing Residents
(b) Existing Non-residents

Sub-Total

(v) Capital raised against loans, etc.

(a) Date of creation of charge on the assets  Amount of charge

(b) Date of receipt of loan  Amount

9. Total capital raised upto the end of this report against the Consent Order:

<table>
<thead>
<tr>
<th>Equity shares</th>
<th>Preference shares</th>
<th>Debentures</th>
<th>Loan, etc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subscribed</td>
<td>Paid-up</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

• Only the relevant particulars as are applicable to the company need be given

• Names of the Financial Institutions, e.g., LIC, IFC, ICICI, SFC, Investment or Unit Trusts, etc., should be separately indicated.

Notes:

1. Reports are to be submitted at the end of each quarter indicating the progress made relating to the issue made under the consent during the quarters ended 31st March, 30th June, 30th September and 31st December until the capital to which consent was given has been subscribed and paid-up. A "nil" report should be sent soon after the period referred to above if no capital was issued during that period.

2. Subsequent reports, however, need not be sent if the capital issued has been fully subscribed and paid, or if issued fully, has been partly subscribed and full subscription money has been received and there is no intention to issue the balance of the capital.

Intimation may, however, be given that no further reports will be sent in a forwarding letter.

3. If the company makes a further issue of the capital, or makes further allotment of the capital previously issued under the consent, subsequent reports on the lines indicated in paras 1 to 9 as far as these are applicable, may be sent at the end of every quarter until the capital to which consent has been fully subscribed.

4. If there is any increase in the paid-up capital of the company against subscriptions previously reported, such increase in the paid-up capital of the company may be separately reported in a letter at the end of every quarter, giving information indicated in items 1, 2, 3, 4 and 9.

5. Reports due under notes 3 and 4 above are to be submitted within 30 days from the due dates.
6. If the company has made the issue under the consent, the manner in which the proceeds of the issue were utilised may be indicated within 12 months of the making of the issue in the form indicated below:

<table>
<thead>
<tr>
<th>Name of the Company</th>
<th>Date and No. of Consent Order</th>
<th>Expenditure estimated at the time of consent</th>
<th>Actual expenditure incurred</th>
<th>Firm commitments made for incurring the balance of the expenditure</th>
</tr>
</thead>
</table>

1. Fixed capital expenditure
   (a) Land
   (b) Building
   (c) Machinery and plant
   (d) Other fixed capital expenditure

2. Expenditure on goods other than capital goods

3. Expenditure for any other object for which the consent was given, i.e., purchasing of existing concerns
CAPITAL ISSUES CONTROL

APPENDIX X

NOTIFICATION RE. MAXIMUM RATES OF DIVIDEND ON PREFERENCE SHARES AND DEBENTURE INTEREST

Government of India
MINISTRY OF FINANCE
(Department of Economic Affairs)

PRESS NOTE

In pursuance of sub-clause (ix) of clause 5 of the Capital Issues (Exemption) Order, 1969 published with the notification of the Government of India, Ministry of Finance, Department of Economic Affairs, S.O. No. 688 dated 1.2.1969, the Central Government have increased with immediate effect the rate of dividend on preference shares to be issued under the authority of the said Order as that rate which does not exceed 11% per annum (free of Companies Tax but subject to deduction of taxes at prescribed rates) subject to the provisions of the Companies (Temporary Restrictions on Dividends) Act, 1974.

2. The rate of interest on debentures and bonds etc. has been increased, with immediate effect, to 10% for a term upto and including seven years period and 10.5% for a longer period. These will be the ceiling rates of interest.

New Delhi
Dated 12th September, 1974

APPENDIX XI

GUIDELINES FOR ISSUE OF SHARE CAPITAL

Government of India
MINISTRY OF FINANCE
(Department of Economic Affairs)
Office of the Controller of Capital Issues

PRESS NOTE

Guidelines for issue of fresh Share Capital

Under the Capital Issues (Control) Act, 1947 all companies whose issue of share capital is not specifically excluded by the Capital Issues (Exemption) Order, 1969, are required to obtain the approval of the Controller of Capital Issues in the form of a letter of acknowledgement or a consent. The guidelines for the examination of issue of share capital other than Bonus Shares are indicated below for the guidance of such companies.

1. All applications should be submitted to the Controller of Capital issues in the prescribed form duly accompanied by a Treasury Challan for fees payable under the Act.

2. The applications should be accompanied by a true copy of the Industrial Licence, wherever necessary, or registration with the Director General, Technical Development, for the project.

3. A realistic estimate of the project cost will be furnished together with the precise scheme of finance. In respect of financial assistance from the financial institutions, copies of their letters indicating their participation in the financing of the capital cost should be forwarded.

4. Where issue of substantial amount is proposed to be made or where listing is a requirement of the financial institutions providing assistance the company should have the shares issued to the public and listed in one or more recognized Stock Exchanges except in case of listed company where it is proposed to issue as “Right Shares”.

5. Where the issue of equity capital involves an offer for subscription by the public for the first time, the value of equity capital subscribed privately by the promoters, directors and their friends shall not be less than fifteen percent of the total issued equity capital. If it does not exceed one crore of rupees, twelve-and-a-half per cent, if it does not exceed two crores of rupees, and ten per cent, if it is in excess of two crores of rupees.

6. Ordinarily issue of shares for consideration other than cash is not permitted. In exceptional cases where the parties desire that shares should be allowed in lieu of the assets transferred, detailed information in regard to the valuation of such assets together with the copies of necessary valuation reports should be furnished.

7. In case of companies registered under the M.R.T.P. Act they are advised to ensure that the requisite approval under the M.R.T.P. Act has been obtained before making an application to the Controller of Capital issues.

8. To finance the capital cost of the project, the capital structure should be such that an equity debt ratio of 1 : 2 is considered fair and reasonable. In case of capital intensive industries, a higher equity debt ratio can be considered on merits of each case.


10. The rate of dividend on preference shares should be within the ceiling as notified by the Controller of Capital issues from time to time.

11. No premium is allowed in respect of a new company making its first issue of shares.

12. There should be satisfactory underwriting arrangements in respect of new issues and the names of underwriters together with the amounts underwritten should be indicated in the application, except in case of “Right Shares”.

13. No company is expected to make an allotment of shares to non-residents except with the prior approval in writing of the Government of India or of the Reserve Bank of India and a copy of such approval should be attached to the application if the shares are proposed to be allotted to non-residents.

14. If any firm allotment is intended to be given in favour of the public financial institutions the particulars thereof should be furnished in the application.

15. Any arrangement reached by the company or commitment made prior to the issue of the capital which has a significant impact on the capital, cost estimate or the capital structure of the company, the same may be disclosed along with the application.

16. A certificate duly signed by the Secretary and/or Director of the company stating that the information furnished is complete and correct be annexed to the application. Similarly, a certificate from the auditors of the company stating that the information in the application has been verified by them and is found to be true and correct to the best of their knowledge and information, be furnished.

NEW DELHI
Dated 14th May, 1976.
APPENDIX XII

GUIDELINES FOR ISSUE OF BONUS SHARES

Issued by
the Office of the Controller of Capital Issues
(Revised upto 31st December 1975)

Under the Capital Issues Control Act, 1947 all companies are required to obtain the approval of the Controller of Capital Issues for issue of bonus shares. The detailed guidelines for the examination of such applications are indicated below for the guidance of such companies while seeking approval under the Capital Issues Control Act, 1947:

(1) There should be a provision in the Articles of Association of the company for capitalisation of reserves etc. If not, the company should produce a Resolution passed at the General Body Meeting making provision in the Articles of Association for Capitalisation.

(2) Consequent to the issue of Bonus shares if the subscribed and paid up capital exceeds the authorized capital, a Resolution passed at the General Body Meeting in respect of increase in the authorized Capital is necessary.

(3) The company should furnish a Resolution passed at General Body Meeting for bonus issue before an application is made to the Controller of Capital Issues. In the General Body Resolution the management's intention regarding the rate of dividend to be declared in the year immediately after the bonus issue should be indicated.

(4) The bonus issue is permitted to be made out of free reserves built up out of genuine profits or share premium collected in cash only.

(5) Reserves created by revaluation of fixed assets are not permitted to be capitalised.

(6) Development Reserve Reserve is considered as free reserves for the purpose of calculation of residual reserves test and is also allowed to be capitalised.

(7) The residual reserves after the proposed capitalisation should be at least 33 1/3% of the increased paid up capital.

(8) The capital redemption reserve, if any, existing in the company, will not be included in computing the minimum reserves of 33 1/3%.

(9) All contingent liabilities disclosed in the Audited Accounts which have a bearing on the Net Profit shall be taken into account in the calculation of the minimum residual reserves of 33 1/3%.

(10) 30% of the average profits before tax of the company for the previous 3 years should yield a rate of dividend on the expanded capital base of the company at 9%.

(11) Declaration of bonus issue in lieu of dividend is not allowed.

(12) Not more than two bonus issues will be allowed to a company over a period of 5 years.

(13) Between two successive announcements of bonus issues of a company there should be a time lag of at least twentyfour months (24).

(14) The company may make a further application for issue of bonus shares twelve (12) months after the scrip in respect of last bonus issue is listed (if the company's shares are quoted on the Stock Exchange) or after the completion of dispatch of the share certificates.

(15) Bonus issues are not permitted unless the partly paid shares, if any, existing are made fully paid up.

(16) In the case of composite proposals for issue of right shares and bonus shares, the bonus issue application will be sanctioned first and then the rights issue after some time lag.

(17) Capital Reserves appearing in the Balance Sheet of the company as a result of revaluation of assets or without accrual of cash resources will neither be allowed to be capitalised nor taken into account in the computation of the residual reserves of 33 1/3% for the purpose of bonus issue.

(18) At any one time the total amount permitted to be capitalised for issue of Bonus Shares out of free reserves shall not exceed the total amount of paid up equity capital of the company.

NOTE —

(1) The relaxation of guideline 18 can be considered on merits in respect of companies which want to raise capital from Indian residents

(a) to finance approved schemes of expansion or diversification; or

(b) which are required to bring down the foreign shareholdings under the Foreign Exchange Regulation Act, 1973 for continuance of existing business activities.

(i) In such cases companies are advised that a "Composite Application" i.e. alongwith the application for issue of Bonus Shares the application for issue of shares to Indian residents for cash shall be submitted to the Controller of Capital Issues, which will be considered on merits.

(ii) All applications for bonus issue should be signed by a person not below the rank of Director/Secretary together with a certificate as follows:

I, Shri _________________ in my capacity as _________________ solemnly affirm that the facts stated above are true to the best of my knowledge and nothing has been withheld.

Signature ___________________

Name in Capital Letters.

Principal Officer of the Company

(ii) A certificate from the Auditors of the Company in the proforma as under shall also be furnished:

"We have verified the information furnished by the company for issue of bonus shares and find the same as correct. We also certify that we have received all the information required by us for the verification.

We hereby certify that the proposal contained in the application for the issue of bonus shares meets all the requirements of the guidelines in force issued by the Government in this regard according to the information furnished to us and to the best of our knowledge.

Signature ___________________

Auditors.

Place:

Date: