

Interest on unpaid dividend: need for caution

RAJESH RELAN

Reserve Bank of India has issued a circular, advising all the banks to open fixed deposit account in respect of unpaid / unclaimed dividend lying in special banking account, opened in the form of current account, in case a request is made by a company. The circular has been issued in view of the provisions of Section 205A(1) of the Companies Act, 1956 which require every company that has declared dividend, to transfer the entire amount of dividend that remains unclaimed by shareholders within 42 days from the date of declaration of dividend to a special banking account. The unpaid (unclaimed) dividend has to be transferred to the aforesaid account within 7 days from the date of expiry of the said period of 42 days.

As per Section 205 A(5), the unpaid dividend is required to be kept in special banking account for a period of seven years from the date of such transfer after which it is required to be transferred to Investor Education and Protection Fund established by the central government in accordance with the provisions of Section 205 C(1) of the Companies Act, 1956. As the aforesaid special banking account was till now required to be maintained in the form of a current account was till now required to be maintained in the form of a current account, the companies were not entitled to receive interest on the funds lying idle in such accounts and consequently this practice resulted in loss to the Companies. Therefore, the step taken by RBI is laudable one. However, in order to ensure proper implementation and smooth functioning of the new system it is desired that RBI issues certain guidelines of general nature so that a uniform system of maintaining such fixed deposit accounts is adopted by all the banks.

The circular issued by RBI only deals with unpaid dividend on shares and not with amount lying in current accounts opened for payment of redemption proceeds at the time of maturity of debentures that has not been claimed by debentureholders. In view of the benefits of the new system it is suggested that RBI issues a circular providing similar facility for unclaimed amount relating to matured debentures also, as such amount is not only substantial but also because the possibility of such unclaimed amount is greater as compared to unclaimed dividend. This is due to the fact that at the time of final redemption payment almost all the companies require debentureholders to surrender the debenture certificate(s) duly discharged and it is only after receipt of debenture certificate(s) that the final redemption payment is made.

However, there is need for caution. Some of the fraudulent promoters may use this system as a source of earning interest income by withdrawing their own share of dividend deposited, from bank account but not mailing substantial part of dividend warrants to general public with the malafide intention that greater the amount of unpaid dividend, greater will be the interest earned by the company by converting unpaid dividend lying in current account into fixed deposit account.

Therefore, there is a big loophole in the new system and a mechanism needs to be devised for plugging this loophole. The best way to do this is by amending recently introduced Clause 49 of the Standard Listing Agreement relating to corporate governance. The amendment can be made in Para 9 of Annexure - 2 of said Clause which deals with general information to be given to shareholders in the annual report of the company by providing that information is given to shareholders not only about the amount of unpaid dividend but also about the number of shareholders who have not yet encashed their dividend warrants. Similarly, information can be provided in Company's Annual Report regarding the unpaid amount of matured debentures as well as the number of holders who have not yet claimed their redemption proceeds in respect of debentures.