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# SUGGESTED SOLUTION

## SYJC EXAM

SUBJECT- SECRETARIAL PRACTICE

## Test Code – SYJ 6041 A

**BRANCH - () (Date :)**

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**ANSWER-1**

**ANSWER-A** **(3 MARKS)**

1. 10
2. A voluntary act
3. a shareholder dies

**ANSWER-B** **(2 MARKS)**

**a-1**
**b-4**

**ANSWER-C** **(5 MARKS)**

1. Issue of shares at par
2. The cap price or bid price
3. Prospectus
4. Allotment of shares
5. Initial public offer (IPO)

**ANSWER-2** **(5 MARKS)**

**1.**

| Sr.No. | Points | Transfer of shares | Transmission of shares |
|---|---|---|---|
| 1. | Meaning | Transfer of shares means transfer of ownership of shares from one person to another. | Transmission of shares means transfer of shares by operation of law. |
| 2. | Kind of action | Transfer of shares is a voluntary act of the parties i.e. transferor and transferee. | Transmission of shares is a kind of compulsory action on happening of specific event like death, insolvency or lunacy of share holder |
| 3. | Reason | Transfer of shares takes place when both the transferor and transferee are living. It takes place only when the transferor submits instrument of transfer. | Transmission of shares takes place only on death or insolvency or lunacy of a shareholder. The legal representative has to submit an evidence proving his legal status. |
| 4. | Initiative | Transfer of shares is affected by the shareholder i.e. transferor or by a person authorized by him. | Transmission of shares is affected by the legal representative of the share holder. |
| 5. | Consideration | Transfer of shares takes place against some consideration unless shares are transferred by way of gift. | The question of consideration does not arise in case of transmission. |
| 6. | Stamp duty | In case of transfer of shares. Stamp duty is payable on the market value of share. | No stamp duty is payable in case of transmission as it in passing of property without consideration. |

**ANSWER-3** **(5 MARKS)**

1. Bonus shares are fully paid up shares given by a company as a gift, out of its accumulated or reserves. Only existing equity shareholders are entitled to get bonus shares. Bonus shares are free of cost to equity shareholders in proportion to their existing shareholdings. Certain pro portion decided for issuing bonus shares; for example if the ratio is decided 2:1, it means that a shareholder holding two shares will get one additional share as bonus share. Company brings its reserves or profit into business by way of bonus shares. Therefore, it is also called as ‘capitalization of profit.'

   **Following are the provisions related with issuing bonus shares –**

   1. Articles of Association of company must have provision regarding issue of Bonus Shares.
   2. Bonus issue must be recommended by Board of Directors.
   3. It must be sanctioned by shareholders in general meeting.
   4. Bonus shares can be issued out of free reserves, share premium and accumulated profit.
   5. No bonus issue shall be made within 12 months of any public right issue.
   6. Company can’t issue bonus shares if interest is not paid on debentures or public deposits has defaulted repayment of principal amount or if it has defaulted in respect of employee like provident fund, gratuity, etc.
   7. Company can’t issue bonus shares if the conversion of convertible debentures is pending.

   A company which announces its bonus issue after the approval of Board of Directors must implement the proposal within a period of six months from the date of such approval and has no option of changing the decision. Bonus shares stand *paripassu* with equity shares which means they the same rights as equity shares like receiving dividend, voting rights, etc.

2. Initial Public Offer means offering shares in the beginning to the general public for subscription by issue of prospectus. Company needs share capital for its business. A private company collects privately but a public company makes an appeal to the general public to purchase shares of the company issuing prospectus. Prospectus is an invitation to the public to invest their funds in the shares of the company. Prospectus contains detail information about company, its projects and shares. An application form for shares is accompanied by prospectus. This form can be used by the investors/public to apply for the shares of the company. For raising capital from the public by issue of shares a public company has to comply with provisions of the Companies Act and SEBI guidelines.

**ANSWER-4** **(5 MARKS)**

1. **This statement is FALSE.**

   It is not compulsory to allot shares to every applicant.

   **Reasons :**

   (a) Allotment means distribution of shares among those who have submitted written application,

   (b) A public limited company cannot make allotment of shares unless

- The amount stated in the prospectus i.e. the minimum amount has been subscribed.

- The sum payable on application for such amount has been paid to and received by the company.

(c) When the applicants are not allotted any shares, they are to be intimated and a letter of regret has to be sent,

(d) A letter of regret consists of intimation that shares are not allotted to the applicant and informs him about the refund order for the application money,

(e) It is sent when the shares are over subscribed.

2. **This statement is FALSE.**

Issue of Bonus shares is not compulsory.

**Reasons:**

(a) Bonus shares are those shares which are issued by the company free of charge to the existing shareholders,

(b) It is a kind of gift to the shareholders given out of the accumulated profits and reserves. Therefore, it is called as capitalization of profits,

(c) There must be enough amount of undistributed profits for the issue of bonus shares and usually bonus shares are issued by prosperous companies,

(d) Bonus share is not an income to the company,

(e) Bonus share issue must be authorized by the Articles of Association,

(f) Bonus shares can be issued only if the shares are fully paid-up.

(g) Company cannot issue bonus shares if interest is not paid on debentures or public deposits or company has created a default in payment of employees' dues,

(h) Company cannot issue bonus shares if the convertible debentures are not converted yet.

Hence, it is not compulsory to issue bonus shares.

**ANSWER-5** **(5 MARKS)**

1. **Statutory Conditions:** The Companies Act 1956 prescribes certain conditions regarding allotment of shares by public companies. These conditions are known as statutory conditions.

**(i)** **Registration of prospectus (Sec. 60(1)) :** The company has to file a copy of prospectus with the Registrar of Companies while raising its capital by issuing shares to general public. When the company is raising capital privately it has to prepare 'Statement in lieu of prospectus' and it has to file this statement with Registrar of Companies.

**(ii)** **Application money (Sec. 69(3) :** The part of the face value of shares which is collected by the company along with share application is known as 'Application money'. Application money should not be less than 5% of the face value of share. The capital issued should be made fully paid within 12 months from the date of issue.

**(iii)** **Depositing the application money (sec 69(4) :** As per this condition all money received on application of shares, should be deposited in a separate account known as 'Share Application Money Account' opened in a scheduled bank by the company. Company is not allowed to withdraw this amount unless it gets trading certificate.

**(iv)** **Minimum subscription (sec 69 (1) :** The minimum subscription must be raised by the company for obtaining trading certificate and to start the work of allotment of shares. Minimum subscription amount should be 90% of issued capital.

A public limited company can't make any allotment of shares unless

(a) The amount stated in the prospectus as the minimum amount has been subscribed and

(b) The sum payable on application for such amount has been paid to and received by the company. If the company fails to receive minimum subscription amount within 60 days of issue of prospectus, the entire application money must be refunded to the applicants within next 8 days. If the company fails to refund the amount within the prescribed time limit, as per the provisions of Companies Act Sec. 73, it has to pay interest @ 15% p.a. on the amount.

**(v)** **Beginning of allotment work :** When the company is filing prospectus, it can start the work of allotment after 5 days from the date of opening of issue (Sec. 72) or such later date as may be specified in prospectus. When it is filing statement in lieu of prospectus, the allotment can be started after 3 days (Sec. 70). The object of the provision is to give an opportunity to the prospective subscribers to go through the contents of the prospectus before taking decision regarding purchase of shares.

**(vi)** **Closing of the subscription list :** There is no provision in the Companies Act, regarding closing of subscription list but as per SEBI guidelines the subscription list for public issue must be kept open for at least 3 working days and for not more than 10 days. (21 days in case of infrastructure companies.) and this fact must be disclosed in the prospectus.

In case of right issue, SEBI guidelines provide that the issue shall not remain open for more than 60 days.

**(vii)** **Permission to deal on stock exchange (Sec. 73):** According to Section 73, it is compulsory for every company, intending to offer shares to the public for subscription, by issue of prospectus, to make application to one or more recognized stock exchanges. Application for permission should be made within 10 days from the date of issue of prospectus.

If the prospectus states that an application has been made to the stock exchange, for permission the allotment made shall be void, if permission is not given by the stock exchange within 10 weeks from the date of closing the subscription list. In such case, the company has to return the money collected on application. If such money is not refunded within 8 days, company is liable to pay interest @ 15% on the refund amount.

**(viii)** **Over Subscription :** According to SEBI guidelines a company has to refund excess application money on oversubscription. In case money is not refunded in time, every officer of the company, responsible for the same is punishable.

2.

**Contents of the share certificate**

**Share certificate must contain the following**

i) The name and address of the registered office of the company.

ii) Share certificate number

iii) Name (s) of the share holder (s)

iv) Number and class of shares.

v) Distinctive numbers of shares included in share certificate.

vi) Nominal value and amount paid on each share.

vii) Day and date of issue.

viii) Common seal of the company.

ix) Signatures of at least two Directors and counter signature of the secretary.

**ANSWER-6** **(10 MARKS)**

1. **(A) Meaning :** Allotment of shares means distribution to the applicants all or certain number of shares in response to their applications and in accordance with the resolution to that effect passed by the Board of directors. In other words, allotment of shares means acceptance by the company of an offer made by the investor to purchase shares. An allotment which is made as per the provisions of the Companies Act and the Articles of Association is called a regular or valid allotment.

**(B)** **Procedure of allotment :** The procedure relating to allotment of shares is stated as follows :

**(1)** **Preparation of application list :** The share application forms received through the bankers are examined carefully and incomplete forms or forms with irregularities are rejected. The accepted forms are then suitably classified. The particulars of these processed forms are then entered in the 'Application and Allotment Sheets'. This makes the applications ready for the consideration of the Board.

**(2)** **Appointment of allotment committee :** In order to decide the criteria for the allotment of shares, a sub – committee of directors and a secretary, known as Allotment Committee, is appointed by the Board to consider and report on the matter of allotment of shares.

**(3)** **Decision about the basis of allotment :** If the issue is undersubscribed or just subscribed, then shares are allotted to the applicants as per actual number of shares applied for. However, if the issue is oversubscribed, the company has to adopt one of the following methods :

**(a)** **Lottery method :** According to this method, applications are selected by drawing lots.

**(b)** **Pro rata or proportional method :** In this method, each applicant is allotted shares in proportion to the number of shares applied for by him.

(c) **Preference method :** In this method, applicants who have applied either for a small number of shares or for a large number of shares are preferred.

(4) **Finalization of allotment :** The Allotment Committee considers the total number of share applications received and decides on the norms or methods to be followed for the allotment of shares. Then committee prepares its report and forwards the same to the Board of directors.

(5) **Board meeting :** The Board of directors then passes a resolution in their meeting for approval of the allotment.

(6) **Nominee of SEBI :** After having finalized the policy of allotment at company level, the secretary requests the Securities and Exchange Board of India. i.e. SEBI to send a public representative as a nominee of SEBI to finalize the policy of allotment. Especially to the case of oversubscription, such representation of the SEBI is very essential.

(7) **Sending allotment and regret letters :** The secretary then prepares letters of allotment stating thereon the number of shares allotted, the amount adjusted and payable on allotment with a request to pay allotment money and sends letters of allotment to those applicants who have been allotted shares. He also prepares and sends letters of regret along with cheques of refund of application money (refund order) to those applicants who have not been allotted any shares at all.

(8) **Receiving allotment money :** The secretary makes necessary arrangements with the company's bankers for receiving the allotment money against the allotment letters. After receiving allotment money, bank issues acknowledgement to the allottee and sends slips to the company.

(9) **Making entries on Allotment Sheet :** on receiving the slips from the bank, the secretary makes necessary entries against the names of allottees in Application and allotment sheets.

(10) **Filing return of allotment :** As per the provisions made in Section 75 of the Indian Companies Act, 1956, the secretary has to submit to the Registrar of the companies a statement known as 'Return of Allotment' within 30 days from the date of allotment of shares.

(11) **Issuing share certificate :** The secretary has to get the share certificates prepared and issue the same within 2 months from the date of allotment of shares and within 1 month after transfer or transmission of shares. It is issued in exchange of letter of allotment and receipt of allotment money.

(12) **Preparation of Register of members :** Finally the secretary prepares a 'Register of members' on the basis of the share application forms and allotment sheet. He then enters all the particulars in respect to allotment in that Register.

**2.** A public company can raise capital by issuing shares to the public by following particular procedure.

**In this procedure two main stops are involved**

a) Preliminary work

b) Issue of shares

Let us discuss the steps involved in the procedure.

**a) Preliminary work**

Financial planning
↓
Drafting and Filing of prospectus
↓
Appointment of bankers
↓
Appointment of underwriters
↓
Listing of shares with stock exchange

i) **financial planning :** Before issuing shares some important decisions are required to be taken by the Board of Directors like types of shares to be issued, number of shares to be issued, face value of shares, etc.

ii) **Drafting and filing of prospectus :** A resolution is passed in the board meeting for issue of prospectus. Accordingly prospectus is drafted. It contains information like kinds of shares, face value, application money, date and place of payment of application money and other particulars which make terms and conditions of issue of shares clear. A copy of prospectus is to be filed with the Registrar of Companies.

iii) **Appointment of bankers :** When the company issues prospectus to the public, it has to open a separate account for the deposit of share application money. The board of directors has to pass a resolution for appointment of banker. Application money for shares has to be deposited in a special account namely 'Share Application Money Account', opened for this purpose, with a scheduled bank. Bankers receive application money and share applications on behalf of the company.

iv) **Appointment of underwriters :** Company enters into an agreement with underwriters before the issue of shares to the public. Underwriters guarantee the company to purchase the unsold shares. They work on commission basis. This agreement is not compulsory but it is desirable to ensure raising of minimum subscription amount. Underwriters assure the collection of minimum subscription. Details regarding underwriters should be disclosed in the prospectus.

v) **Listing of shares with Stock Exchange :** Stock exchange is an organization established for facilitating buying and selling of securities. It assigns, controls and regulates the business in buying and selling of securities. According to SEBI guidelines every company that wants to issue shares has to list its shares with a recognized stock exchange. Listing of shares me the entry of shares of company on the official list of stock exchange. A company can list shares on more than one stock exchange. Listing increases marketability of securities and creates confidence in the minds of public.

**b) Issue of Shares**

Issue of Prospectus
↓
Receiving applications
↓
Sorting out Applications
↓
Preparation of list

i) **Issue of Prospectus :** A copy of draft prospectus must be filed with the Registrar Companies. The prospectus should be issued within 90 days from filing of it with the Registrar. Company gives an advertisement in all leading newspapers regarding the issue Investors also get information about issue on website.

ii) **Receiving applications :** An application form is supplied along with every copy of prospectus. The prospective subscribers are requested to forward the applications to the company's bankers along with application money. On receipt of applications, bank issues receipts to the applicants. The amount of application money is credited to the Share Application Money Account of the company. After the last date of issue, bank sends all the application forms to the company along with details of application money received.

iii) **Sorting out of applications :** After collecting applications from the bank they are scrutinized and sorted out. Incomplete, incorrect and invalid applications are taken out. Valid application, arc arranged serially, either alphabetically or according to number of shares applied for.

iv) **Preparation of list :** After sorting out applications, the share applications are entered in application sheet. The particulars of each application are entered in application sheet. The list is then put before the Board of Directors for further necessary action.