

Review

Corporate Strategy & Finance



Companies Act 2006: statement of capital: problem area identified

In this article, we discuss the problem that has recently been high-lighted regarding the new form of “statement of capital” which companies will be required to file with Companies House as from 1 October this year.

We also advise on the practical solution to the problem, pending the outcome of the Government’s review of the situation.

INTRODUCTION

As from 1 October this year, the Companies Act 2006 (the 2006 Act) introduces a new requirement for companies to file a “statement of capital” on incorporation, as part of the annual return and following an allotment of shares or any other change in share capital.

The 2006 Act also requires companies to supply a member with a current statement of capital on request.

The statement of capital will, as appropriate, be a stand-alone form (for example, on a reduction of capital) or an integral part of a larger form (the annual return, for example).

The statement of capital calls for more detail than has been required by Form 88(2), filed under the Companies Act 1985 on an allotment of shares, and must include:

- the total number of issued shares of the company;
- the aggregate nominal value of those shares;
- prescribed particulars of the rights attaching to each class of share; and
- the amount paid up and the amount (if any) unpaid on each share, whether on account of the nominal value of the share or by way of premium.

THE PROBLEM

The Institute of Chartered Secretaries and Administrators (ICSA) alerted the Government to the fact that the final of these requirements could cause problems for certain companies (perhaps older or larger companies) which historically may not have tracked share premium on a per share basis or where the share premium account has been used in circumstances where there is no requirement to attribute this use to particular shares (for example, on a reduction of capital).

THE PRACTICAL SOLUTION

Acknowledging the problem, the Government appears to have taken a realistic approach and advised that companies should do what they can ‘to provide numbers in their statements of capital that provide a pragmatic allocation of their share premium reserve between shares or classes of shares’.

ICSA has recently produced practical guidelines, endorsed by the Government, to help companies make such an allocation based on the information they have available.

In this article, we discuss the “statement of capital” which companies will be required to file with Companies House as from 1 October this year.

It is important, however, that companies include as much detail in the form of statement of capital as they can. In addition, all parts of the statement should be completed otherwise Companies House will automatically reject the form.

THE LONGER TERM POSITION

The Government will be considering whether any amendments are needed to the 2006 Act or to the relevant Companies House forms to deal with the problem. We will monitor the situation and keep you up-dated with developments.

HOW HAMMONDS CAN HELP

Our Company Secretarial Unit would be pleased to help you with the completion of the new form of statement of capital and also to advise on the other new Companies House forms and filing requirements effective as from 1 October this year.

FURTHER INFORMATION

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