**CHECKLIST FOR BUY-BACK AS PER COMPANIES ACT, 2013**

1. The Articles of association authorize buy back of securities. If not, a special resolution for amending the articles of association under section 14 of Companies Act 2013 has been passed by the company in general meeting.

2. Form No. MGT – 14 as per Companies (Management and Administration) Rules, 2014 is to be filed with ROC within 30 days of passing the special resolution.

3. In case, buy back of securities are up to 10% of total paid up equity capital and free reserves, where a board resolution was passed authorizing the buy-back.

4. A special resolution has been passed in general meeting authorizing the board to buy back

(Note – This is not applicable in case the buy back is ten percent or less of paid up capital and free reserves of the company)

5. The explanatory statement is required to be annexed to the notice of general meeting, pursuant to section 102 contains the disclosures mentioned in rule 17(1) of companies (share capital and debentures) rules 2014 in this behalf

6. After passing of special resolution but before buy back, the letter of offer has been filed with ROC in Form No. SH – 8 with the required fee.

7. The letter of offer has been dated and signed on behalf of the board by not less than two directors of the company, one of whom shall be the managing director, where there is one.

8. The shares or other securities so bought back are extinguished and physically destroyed within seven days of the completion of buy back.

9. The declaration of solvency required pursuant to section 68(6) of the companies Act 2013 has been filed in Form No. SH – 9 as per Companies (share capital and debentures) Rules 2014

10. The declaration of solvency has been signed and verified by at least two directors, one of whom shall be the managing director of the company, if any.

11. The company maintains a register of shares or other securities which have been bought back in Form No. SH – 10 as per Companies (share capital and debentures) Rules 2014

12. The company has filed a return within 30 days of completion of buy back in form no. SH – 11 as per Companies (share capital and debentures) Rules 2014 with ROC and in case of listed company with SEBI

13. The Certificate of compliance in Form No. SH 15 signed by two directors of the company including the managing director, if any, and verified by company secretary in practice is annexed to return filed with ROC in Form No. SH – 11

14. The company has not issued shares of the same kind within a period of 6 Months except by way of bonus issue or discharge of subsisting obligation.

**Indicative list of documents required**

·        Articles of Association

·        Minutes of Board meeting

·        Minutes of General meeting

·        Notice authorizing buy back along with Explanatory Statement

·        Letter of offer (SH – 8)

·        Declaration of Solvency (SH-9)

·        Register of shares/other securities bought back (SH-10)

·        Return of Buy back (SH – 11)

·        Certificate of Compliance (SH-15)

·        MGT – 14 (For Special Resolution)

- Valuation Certificate

- Statement of Assets and Liabilities as on 31.03.2016

- Affidavit by the Directors of the Company

***TIME SCHEDULE SUMMARIZED:***

|  |  |
| --- | --- |
| **PROCEDURE** | **DATE** |
| Obtaining:   * Auditors Report stating maximum amount permissible for buy back * Then holding Board Meeting for considering proposal of buy back, getting resolution passed and determine price for such buy back. |  |
| Issue of notice with Explanatory Statement (along with disclosures mentioned below) to all members. |  |
| Holding AGM and passing special resolution, if required. |  |
| Holding Board Meeting for obtaining Board of Directors Affidavit regarding Solvency of company for one year. |  |
| * Filing of Form MGT-14 for Special Resolution passed at the General Meeting * Filing draft letter of Offer with the ROC along with declaration of Solvency and e-form SH9 |  |
| Maximum time for dispatch of letter of offer to all members |  |
| Opening of the Offer period **\*** |  |
| Closing of the Offer period |  |
| Verification of offer to be completed. | Within 15 days from the closure of offer |
| Open a Special Bank Account with Schedule Bank. | Immediately on Closure of offer |
| Making payment in cash to those shareholders whose offer has been accepted or return the share certificates to the shareholders forthwith | Within 7 days from completion of Verification |
| Extinguish and physically destroy the share certificates of shares bought back | Within 7 days from completion of Acceptance |
| File requisite return in e-form SH 11 with MCA21 and a declaration signed by 2 directors, one of whom shall be Managing Director, if any in e-form SH 15 | After completion of buy back |

***\* As per MCA Notification dated 29th March, 2016, the buy-back offer may remain open for a period less than fifteen days provided all the Members of the Company agree.***