

An Analysis on the “Declaration of Beneficial Interest in any shares”

navneet k. arora & co.
COMPANY SECRETARIES

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Proprietor 's Profile at a Glance

Navneet K. Arora & Co., Company Secretaries

BASIC DETAILS

- ✂ Name of the Proprietor – **CS Navneet Arora**
- ✂ Year of Passing of ICSI Final Examination – **June 1990**
- ✂ Date of becoming Associate Member of ICSI (ACS - 8421) – **3rd March 1992**
- ✂ Date of becoming Fellow Member of ICSI (FCS - 3214) – **21st July 1997**
- ✂ Date of holding Certificate of Practice (CP - 3005) – **20th November 1998**
- ✂ Experience (No. of Years) – **25 Years (15 Years in Practice)**



EDUCATIONAL QUALIFICATION:

- ✂ Master of Commerce.
- ✂ Fellow Member of The Institute of Company Secretaries of India
- ✂ Post Graduate Diploma in Financial Management

PROFESSIONAL ASSOCIATION / RECOGNITION / MEMBERSHIP OF CONFEDERATION BODIES:

- ✂ Member - **All India Management Association New Delhi (AIMA).**
- ✂ Professional Member - **PHD Chamber of Commerce and Industries, New Delhi.**
- ✂ Appointed as **Peer Reviewer** by ICSI to conduct peer review of Practicing Member of ICSI.
- ✂ ICSI Certified participant of **National Workshop on Diligence Report for Banks.**
- ✂ **Convener South Delhi Study Group of NIRC of the ICSI** -2011, 2012, 2013 & 2014. Also Past Governing Body Member of Kanpur Chapter of NIRC of the ICSI & Past Member of various Professional Development Committee of NIRC of the ICSI.
- ✂ Regular Participant, Speaker of Seminars / Workshop on the Professional Development Program of various Professional Management Institutes including Institute of Company Secretaries of India (ICSI), Asia Pacific Institute of Management (AIM), National Foundation for Corporate Governance (NFCG) etc.

Overview of Beneficial Interest in the Shares

- ❑ Beneficial interest, generally, is a "Profit, benefit or advantage resulting from a contract, or the ownership of an estate as distinct from the legal ownership or control." A beneficial interest is also "distinguished from the rights of someone like a trustee or official who has responsibility to perform and/or title to the assets but does not share in the benefits."
- ❑ Beneficial interest in shares depicts the situation where the shares are held in the name of one person but originally relates to some other person. In that case, the person enjoying such privilege have to give a declaration to the Company and the person whose interest in involved have to give a declaration too. Further the Company is also required to give a disclosure in the prescribed form to the Registrar of Companies as per Companies Act 2013.
- ❑ **Section 89 of the Companies Act, 2013 and Companies (Management and Administration) Rules, 2014 govern the law and procedure regarding the declaration in respect of beneficial interest in any share.**

Law Related to Declaration of Beneficial Interest in any Shares

- ❑ **Extract of the relevant provisions prescribed in Section 89 of the Companies Act, 2013 as under:-**
 - Where the name of a person is entered in the register of members of a company as the holder of shares in that company but who does not hold the beneficial interest in such shares, such person shall make a declaration within such time and in such form as may be prescribed to the company specifying the name and other particulars of the person who holds the beneficial interest in such shares.
 - Every person who holds or acquires a beneficial interest in share of a company shall make a declaration to the company specifying the nature of his interest, particulars of the person in whose name the shares stand registered in the books of the company and such other particulars as may be prescribed.
 - Where any change occurs in the beneficial interest in such shares, the person referred to in sub-section (1) and the beneficial owner specified in sub-section (2) shall, within a period of thirty days from the date of such change, make a declaration to the company in such form and containing such particulars as may be prescribed.
 - The Central Government may make rules to provide for the manner of holding and disclosing beneficial interest and beneficial ownership under this section.
 - If any person fails, to make a declaration as required under sub-section (1) or sub-section (2) or sub-section (3), without any reasonable cause, he shall be punishable with fine which may extend to fifty thousand rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.

Law Related to Declaration of Beneficial Interest in any Shares

- Where any declaration under this section is made to a company, the company shall make a note of such declaration in the register concerned and shall file, within thirty days from the date of receipt of declaration by it, a return in the prescribed form with the Registrar in respect of such declaration with such fees or additional fees as may be prescribed, within the time specified under section 403.
- If a company, required to file a return under sub-section (6), fails to do so before the expiry of the time specified under the first proviso to sub-section (1) of section 403, the company and every officer of the company who is in default shall be punishable with fine which shall not be less than five hundred rupees but which may extend to one thousand rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the failure continues.
- No right in relation to any share in respect of which a declaration is required to be made under this section but not made by the beneficial owner, shall be enforceable by him or by any person claiming through him.
- Nothing in this section shall be deemed to prejudice the obligation of a company to pay dividend to its members under this Act and the said obligation shall, on such payment, stand discharged.
- Where it appears to the Central Government that there are reasons so to do, it may appoint one or more competent persons to investigate and report as to beneficial ownership with regard to any share or class of shares and the provisions of section 216 shall, as far as may be, apply to such investigation as if it were an investigation ordered under that section.

Rules Related to Declaration of Beneficial Interest in any Shares

- ❑ **Relevant Rules in the Companies (Management & Administration) Rules, 2014 as under :-**
 - A person whose name is entered in the register of members of a company as the holder of shares in that company but who does not hold the beneficial interest in such shares hereinafter referred to as “the registered owner”), shall file with the company, a declaration to that effect in Form No.MGT.4 in duplicate, within a period of thirty days from the date on which his name is entered in the register of members of such company, provided that where any change occurs in the beneficial interest in such shares, the registered owner shall, within a period of thirty days from the date of such change, make a declaration of such change to the company in Form No.MGT.4 in duplicate.
 - Every person holding and exempted from furnishing declaration or acquiring a beneficial interest in shares of a company not registered in his name (hereinafter referred to as “the beneficial owner”) shall file with the company, a declaration disclosing such interest in Form No. MGT.5 in duplicate, within thirty days after acquiring such beneficial interest in the shares of the company, provided that where any change occurs in the beneficial interest in such shares, the beneficial owner shall, within a period of thirty days from the date of such change, make a declaration of such change to the company in Form No.MGT.5 in duplicate.
 - Where any declaration under section 89 is received by the company, the company shall make a note of such declaration in the register of members and shall file, within a period of thirty days from the date of receipt of declaration by it, a return in Form No.MGT.6 with the Registrar in respect of such declaration with fee.

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Thanking you

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Assuring of best services at all times

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