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1. Introduction

This Guidance Note is designed to provide information on the procedural steps involved in the process of re-classifying shares according to the rights of the newly re-classified shares.

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2. Re-classification of shares

Companies may seek to re-classify shares simply for administrative, historical or other reasons. For example, a company may wish to hold different classes of shares. A company may have two classes of shares, 100 ordinary shares with a nominal value of £1 each. The company may wish to re-classify those shares into 50 "A" shares and 50 "B" shares.

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Although the Companies Act 2006 does not specifically cater for a conversion of shares, section 636 of the Companies Act 2006 requires a company to notify the Registrar of Companies if a new name or description is assigned to any class or description of its shares. The Companies Act 2006 does not require that, for example, ordinary shares remain classified as ordinary shares.

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As the Companies Act 2006 does not specifically cater for the classification of a share, the provisions of the Companies Act 2006 do not require that articles require a higher majority than the ordinary majority to change the classification of shares. However, the articles must **always** be checked to see whether they state a specific procedure for changing shares. If the articles do state a particular procedure, that procedure must be followed.

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In order to comply with section 636 of the Companies Act 2006, form SH08 (notice of name or other designation of class of shares) must be filed with Companies House within one month of the conversion.

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Note that shares are also sometimes issued to an investor to be brought into a business. Investors are often issued with shares which will usually have preferential rights attaching to them. When a company issues preference shares, the specific class rights attaching to those preference shares is set out in the company's articles of association. For more information on preference shares, see the separate guidance note on preference shares.

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3. Class rights & consents

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the newly created classes of shares will, following the re-classification, have the same rights attaching to them, they will be treated as ordinary shares. Following re-classification *unanimous consent* is where the holders of each new class with rights are required to give their *unanimous consent* is where the holders of the rights of their shares.

Section 630 of the Companies Act 2006 allows the rights attaching to shares to be varied either by special resolution or by ordinary resolution where the company's articles of association provide for it. The relevant class *consent* to the variation. For example, the "A" shares grant greater rights than the relevant class (shareholder) class.

Usual examples of where rights are varied relate to voting and rights to capital on a winding up. Section 630 of the Companies Act 2006 requires the consent of three-quarters in nominal value of the holders of that class passed at a separate general meeting.

Form SH10 (notice of particular variation) is required to be filed with Companies House when the variation is made.

Note that class rights and class rights are a very technical and complicated area of the law with thought needing to be given to the consent in order to make the variation. In the event of any doubt, it is recommended that legal advice is sought.

4. Amending the Articles of Association

As the rights attaching to shares are defined in the company's articles of association, (although they may also be in a separate contract, such as a shareholders' agreement), the articles may also need to be amended.

A company may, by special resolution, vary its articles and/or class rights varied, if the company's articles of association and filed with Companies House. A copy of the relevant resolution and an amended copy of the articles must be filed within 15 days of the resolution being passed. The articles will need to be amended to allow for the changes made to reflect the new rights will need to be included in the company's constitution. Any specific provisions to meet the needs of each company.

5. Alteration to share capital

When re-classifying shares, the company's share capital must be considered. This is an alteration to the company's share capital under the Companies Act 2006 (alteration of

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For example, the 50 "A" and 50 "B" shares constitute separate classes or groups of shares. If the ordinary shares had the same rights and liabilities, *unanimous consent* is sought in order to credit shares to one another. Shareholder (or class) of shares *consent* to the variation of the rights of their shares.

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Usual examples of where rights are varied relate to voting, dividends and rights to capital on a winding up. Section 630 of the Companies Act 2006 requires the consent of three-quarters in nominal value of the holders of that class, or a special resolution of that class sanctioning the variation.

Form SH10 (notice of particular variation) is required to be filed with Companies House when the variation is made.

Note that class rights and class rights are a very technical and complicated area of the law with thought from and the timing of seeking consent. In the event of any doubt, it is recommended that legal advice is sought.

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share capital of a limited company can be altered by changing its share capital, for example by issuing new shares. Section 617 does **not** include converting share capital. However, if the number of shares is increased by a conversion of shares, the company must file a statement of capital and it is **widely** **accepted** that section 617 will apply.

permitted ways a company may alter its share capital to allot new shares. Section 617 sets out the method of a company altering its share capital and the nominal value remain the same following the conversion of share capital and it is **widely** **accepted** that section 617 will apply.

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In the example above, when new shares are issued, the share capital will increase (notwithstanding the fact that the number of shares remains the same) and so a statement of capital will need to be filed. The various methods of altering share capital will be relevant, but this **must** in any case be considered.

the shares and the overall number of shares will remain the same, there will be no alteration to the share capital. The various methods in connection with the various ways of altering share capital will be relevant, but this **must** in any case be considered.

6. Statement of Capital

A statement of capital must be filed with Companies House when any relevant changes to its share capital are made. The following details regarding each class of shares:

Companies House when any relevant changes to its share capital are made. The following details regarding each class of shares:

- Particulars of any voting rights;
- Particulars of any rights attaching to a distribution;
- Particulars of any rights attaching to a distribution (including any rights to participate in a distribution);
- Whether the shares are redeemable or liable to be redeemed at the option of the company or the shareholder.

as regards dividends to participate in a distribution;

as regards capital to participate in a distribution (including any rights to participate in a distribution);

liable to be redeemed at the option of the company or the shareholder.

Therefore if following a share reclassification, see above, a statement of capital will need to be filed. However in the example used above, the statement of capital to be filed at this stage will be for the new class of shares. The requirements mentioned above will therefore apply to the new statement of capital is required to be filed with Companies House website, www.companieshouse.gov.uk.

an accompanying allotment (or other change) of capital will need to be filed. However in the example used above, the statement of capital to be filed at this stage will be for the new class of shares. The requirements mentioned above will therefore apply to the new statement of capital is required to be filed with Companies House website, www.companieshouse.gov.uk.

7. Simply Docs package of documents

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We have put together a pack of documents below in relation to the re-classification of shares. This may however be adapted to suit your requirements.

ect a particular scenario as outlined above. The accompanying change of class rights.

The assumptions made in draft documents are:

- A company has 1 class of shares with a nominal value of £1 each with the same rights.
- The company has 2 classes of shares, each with a nominal value of £1. The company has 50 "A" shares and 50 "B" shares.

each with a nominal value of £1 and the same rights. The company wishes to re-classify the shares into 2 classes of shares, each still with a nominal value of £1.

50 shares and it is proposed post re-classification that one shareholder will hold 50 "A" shares and the other shareholder will hold 50 "B" shares.

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- The company’s articles of association do not provide for the variation of class rights
- The re-classification is not permitted under the Companies Act 2006
- The rights attaching to the shares require the consent of the shareholder
- The nominal value and number of shares remain the same after re-classification, requiring no alteration to the Companies Act 2006
- The articles of association do not provide for the re-classification

entirely silent as to re-classification and variation of class rights. In order to comply with section 636 of the Companies Act 2006, the articles will be amended, requiring relevant resolutions to be passed. The nominal value and number of shares will remain the same after re-classification, requiring no alteration to the Companies Act 2006. Accordingly, the articles will be amended to enable a share re-classification and change of class rights are:

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On this basis the procedural steps for the re-classification and change of class rights are:

- Convening a board meeting to consider the re-classification and variation of class rights. Adjournment may be necessary if resolutions are not passed and consents are not obtained.
- Passing an ordinary resolution to approve the re-classification and variation of class rights. However, if the company is a public company, an ordinary resolution is not sufficient.
- Passing an ordinary resolution to amend the articles of association to provide for the re-classification and variation of class rights.
- Obtaining the necessary consents of the shareholders in accordance with section 630 of the Companies Act 2006. The nominal value of the shares to be re-classified must be at least three-quarters in value of the nominal value of the shares of the company.
- Amending the company’s articles of association to include the newly re-classified shares.
- Filing the relevant re-classification and variation of rights at Companies House with the relevant forms and fees. The time limits for filing are 15 days for the re-classification and 15 days for the variation of rights at Companies House.
- Writing up the company’s minutes and cancelling the old shares and issuing new ones.

relevant re-classification and variation of class rights. The company must ensure that for the necessary resolutions to be passed, the meeting to approve the re-classification and variation of class rights must have a stand-alone board minute. When there is no proposed variation of class rights, a stand-alone board minute is not required in limited circumstances. The company must ensure that the re-classification and variation of class rights is done in accordance with section 630 of the Companies Act 2006. The nominal value of the shares to be re-classified must be at least three-quarters in value of the nominal value of the shares of the company. The company must ensure that the re-classification and variation of class rights is done in accordance with section 630 of the Companies Act 2006. The nominal value of the shares to be re-classified must be at least three-quarters in value of the nominal value of the shares of the company. The company must ensure that the re-classification and variation of class rights is done in accordance with section 630 of the Companies Act 2006. The nominal value of the shares to be re-classified must be at least three-quarters in value of the nominal value of the shares of the company.

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Note that in providing this guidance, we have assumed that the re-classifying shares have not been classified as preference shares. If necessary, in addition, as this is a practical matter, we have made the assumptions we have made or we have made in providing legal advice.

indications that may be relevant in re-classifying shares. If necessary, tax advice should be sought if the law, whether your scenario fits the assumptions we have made or we have made in providing legal advice.

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