

## Issue & Allotment Checklist

	Steps		Notes
1	<b>Authorised Share Capital</b>	Does the company have a limit on its capital?	<p>This may well depend on when the company was incorporated.</p> <ul style="list-style-type: none"> <li>For companies incorporated under the Companies Act 2006 there is no ceiling on the amount of shares that a company may issue unless a provision has been expressly included in the articles.</li> <li>For companies incorporated under the Companies Act 1985 (or earlier) there will be a limit on the maximum amount of shares that can be issued unless it has been actively removed. If this has not been done already, removal is by way of shareholders' resolution or adopting a completely new set of articles (see <a href="#">Shareholders' Ordinary Resolution – Deletion of Authorised Share Capital CO.SC.02</a>).</li> </ul>
2	<b>Authority to Allot (1)</b>	Is authority to allot shares required?	<p>This will depend upon whether a statutory exception applies. Authority to allot shares is required under either section 550 or 551 Companies Act 2006. Statutory exceptions apply amongst other things to employee share schemes or a specific pre-authorised allotment after an authority has expired.</p>
3	<b>Authority to Allot (2)</b>	Is the company a private company with only one class of shares (both before & after the proposed allotment)?	<p>Section 550 Companies Act 2006 allows the directors of a private company with only <b>one</b> class of shares the power to allot shares without any further authority (unless they are prohibited from doing so by the company's articles of association). Therefore there will be no need for a shareholders' resolution.</p>

4	<b>Authority to Allot (3)</b>	If the answer to the above is NO, section 551 Companies Act 2006 will apply & a specific shareholder resolution will be required in order to allot shares.	<p>Note however that if the company was incorporated prior to 1 October 2009; the members will need to have passed an ordinary resolution giving the directors a general authority to allot shares. (This will be the same resolution as is required directly below – see <a href="#">CO.IS.02</a>)</p> <p>If the company has more than one class of shares in issue or there is a restriction in the articles of a private company with only one class of shares, it will also require a section 551 authorisation. Section 551 authority will usually be granted by ordinary resolution (but can be granted by a provision in the company’s articles of association). The authority must state the extent of the authority as well as its duration. As most companies will not have an authorised share capital (see above), there is no limit on the maximum amount of shares that can be included in the authority. The authority must specify an expiry date. This must not be more than 5 years from the date on which the resolution is passed. (See <a href="#">Shareholders’ Ordinary Resolution - Authority to Allot New Shares CO.IS.02</a>)</p>
5	<b>Pre-emption rights (1)</b>	Does the proposed allotment involve the meaning of section 560(1) Companies Act 2006?	Companies cannot by statute allot shares for cash until it has offered them to each existing shareholder in proportion to their existing shareholding. There are certain exceptions to this for example, shares being allotted as part of an employee share scheme or an allotment for non-cash consideration.
6	<b>Pre-emption rights (2)</b>	Can I dis-apply statutory pre-emption rights?	The directors of a company can be given the power by special resolution or by a provision in the company’s articles to allot shares as if the pre-emption provisions did not apply, section 570 Companies Act 2006. (See <a href="#">Shareholders’ Special Resolution - Dis-application of Pre-emption Rights CO.IS.03</a> )

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			<a href="#">Disapplication of Section 561 Pre-emption CO.CA.MR.20</a> )
7	<b>Implementing the allotment (1)</b>	Will a board meeting be required to implement the allotment?	The directors will need to resolve to approve the allotment of shares. If a members' resolution is also required to either allot shares and/or disapply pre-emption rights (see above), these will also need to be considered and approved by the board. (See Board Minutes – Directors' Resolution to Allot Shares for Cash <a href="#">CO.ASC.01</a> and <a href="#">Board Minutes – Issue &amp; Allotment of Shares CO.ITA.03</a> ).
8	<b>Implementing the allotment (2)</b>	What documents need to be sent to members?	If members' resolutions need to be passed, a notice of general meeting or a written resolution will need to be circulated to the members.
9	<b>Post allotment (1)</b>	Do any documents need to be sent to Companies House?	Several documents will need to be filed with the Registrar at Companies House including: <ul style="list-style-type: none"> <li>• the ordinary resolution under section 551 granting authority to allot shares within 15 days of it being passed;</li> <li>• the special resolution under section 570 granting power to allot shares as if section 561 (pre-emption rights) did not exist within 15 days of it being passed; and</li> <li>• a return of the allotment accompanied by a statement of capital (Form SH01) within one month of the allotment.</li> </ul>
10	<b>Post allotment (2)</b>	Do the company's internal records need to be adjusted to reflect the new allotment?	The company's register of members and register of allotments will need to be updated to reflect the allotment within 2 months of the allotment. The company will also need to issue share certificate within two months of an allotment.