

Buy Back Sec 68-70

Meaning of Buy Back [BB] ⇒ Buyback means buying back its own securities by the company.

Reasons For Buy Back:-

- ① To utilize the idle funds & improve the EPS of the co.
for eg.
- ② To give confidence to the shareholders at times of falling stock prices.
- ③ To concentrate the diluted control.
- ④ To increase the promoters shareholding by preventing the co. from hostile takeovers.

Eg. sh 100 Lacs
(1 Lacs @ ₹100 each)
PAFESH 200 Lacs
∴ EPS = $\frac{200}{1 \text{ lac}} = ₹200/\text{sh}$

Now the co. decided to buyback 20,000 eq shares and return the idle funds of 20000 eq. shrs as PAFESH of ₹200 lacs was getting generated because of 80000 sh & not 1 Lacs sh.

So, Post BB:-

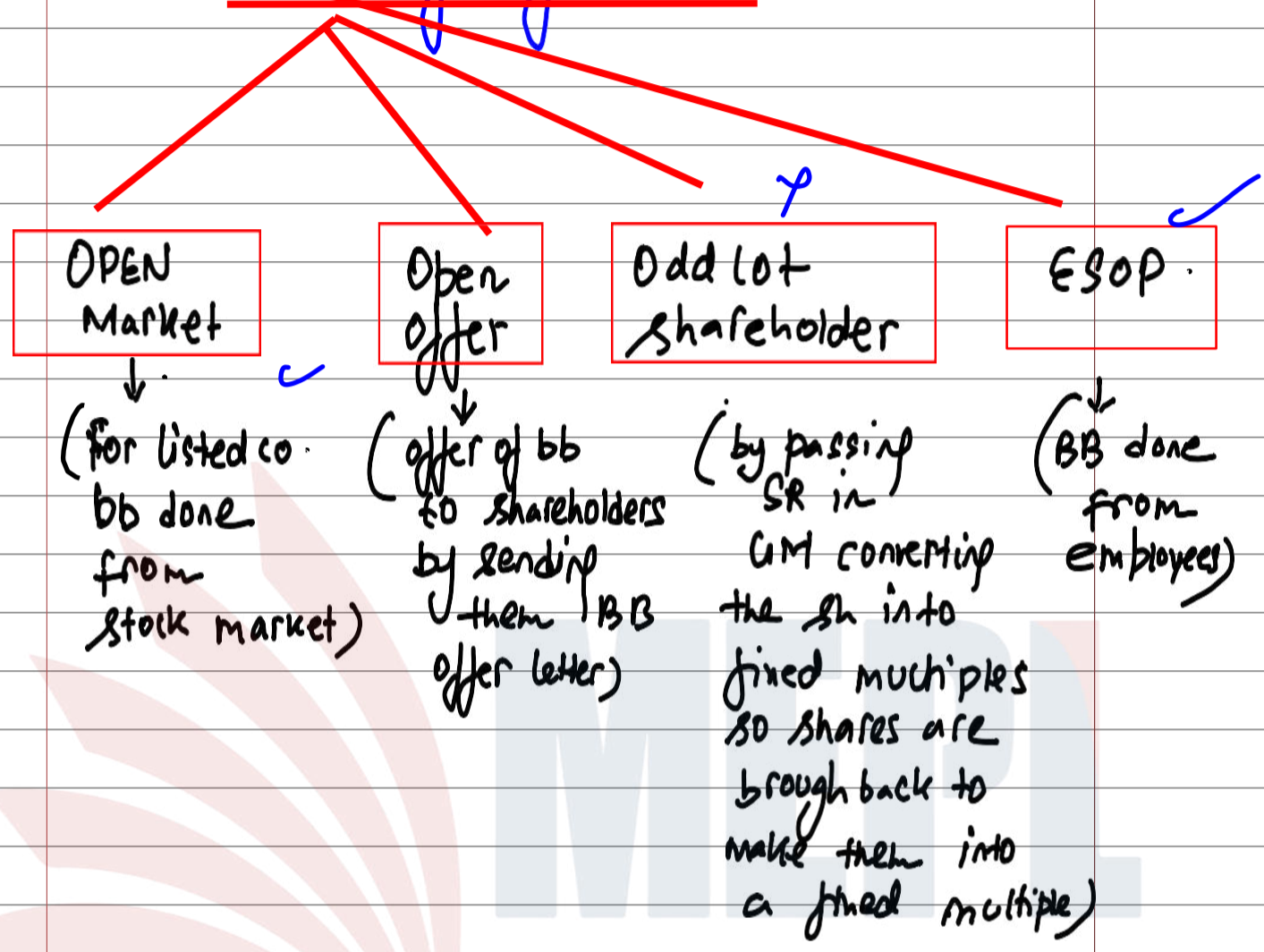
$$\text{EPS} = \frac{\text{PAFESH}}{\text{O/s Eq. sh}} = \frac{200 \text{ lacs}}{80,000} = ₹250/\text{sh}$$

∴ EPS improves after BB.

Eg:-

	Before BB	After BB
Promoters sh.	40,000	40,000
Public	60,000	35,000
	$60,000 - 25,000$	
	1,00,000	75,000
Promoters shareholding	$\frac{40,000}{1,00,000} \times 100$	53.33%
	= 40%	↓
After BB promoters shareholding increased.		$\frac{40,000}{75}$

③ Modes of Buy-Back.



Sec 68 Read with Rules:-
Pre-Buy-back formalities.

① Articles must authorize the buy-back, otherwise amend the articles by passing SR in GM.

② Pass another SR in UM for buyback. Provided that if bb does not exceeds $10\% * (PUSC + FR)$, then BR at BM can be passed instead of passing SR in UM.

③ Maximum bb allowed in a fy shall not exceeds 25% of $(PUSC + FR)$.
(AS per SEBI Regulations if a listed company does buyback from open market it cannot be more than 15% .)
Explanation: PUSC shall be construed as PUESC for the buyback of equity shares.

④ The ratio of secured loans + unsecured loan : PUSC + free reserves shall not exceed $2:1$

after buyback - Provided that in case of Govt CO. engaged in housing finance activities (NBFC) this ratio can go upto $6:1$.

⑤ CO shall submit a declaration of its solvency by filing SH 9 to ROC signed by atleast 2 directors out of which one director shall be managing director if any.

⑥ BB can be done only on fully paid up shares.

Sums on Buy-Back

Q. The co. has decided to buy-back its eq. shares @ ₹ 50 each. Compute the max. no. of shares which the co. can bb using the following details:-

ESC (1 Lac sh @ ₹ 10 each)	₹ 10 lacs
R & S	10 lacs
Debt (Secured + unsecured loan)	38 lacs

(Ans) Maximum Buyback = $25\% \text{ of } (PUSC + FR)$
 $25\% \text{ of } (10 + 10) = ₹ 5 \text{ lacs}$

BB Price of each sh : ₹ 50
 Amt. available for BB : ₹ 5 lacs
 \therefore No. of shares that can be brought back = $\frac{5,00,000}{50} = 10,000 \text{ shares}$

Now let us check the ratio:-
 After buyback

$\frac{\text{Sec Loan} + \text{Unsecured loan}}{PUSC + FR} = 2:1$

Debt will not change post BB.

$\frac{38}{PUSC + FR} = 2:1$

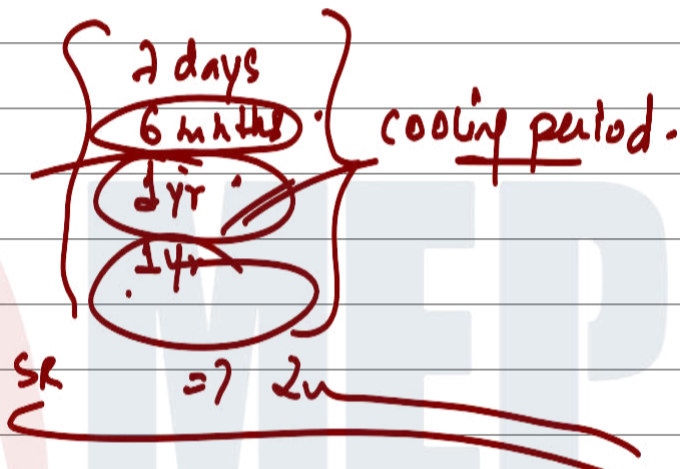
Post BB PUSC + FR = 19 lacs
 Pre BB PUSC + FR = 20 lacs

\therefore Max Amt. Available for BB = 1 lacs
 becoz (PUSC + FR) cannot go below 19 lacs to maintain the ratio at max 2:1

$$\begin{aligned} \therefore \text{Max No. of Sh that} \\ \text{Can be brought back} &= \frac{1 \text{ Lacs}}{50} \\ &= 2000 \text{ Sh} \end{aligned}$$

Ans \therefore , Maximum BB will be lower of
10,000 Sh or 2000 Sh
= 2000 Sh

Post Buy-back Form



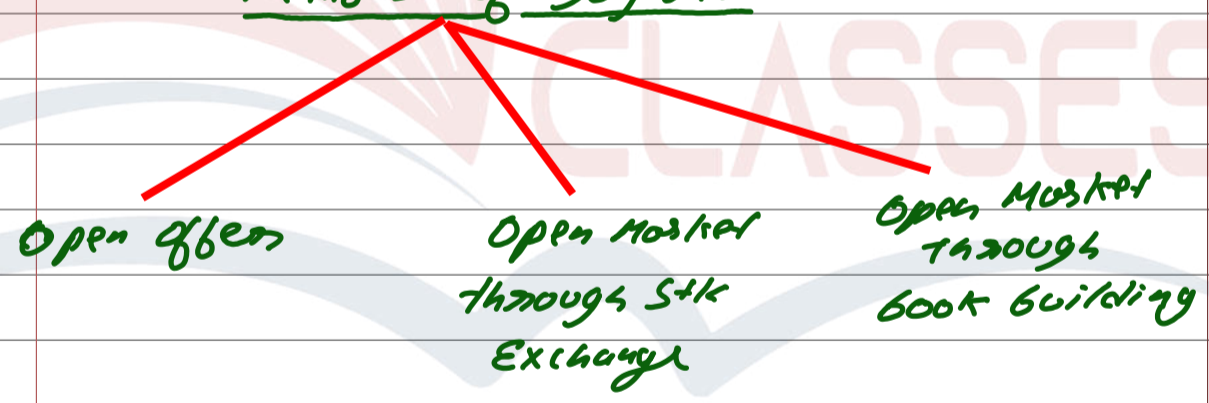
Post Buy-Back Formalities:-

- ①. CO. shall maintain a register of buy-back in SH-10.
- ②. CO. shall file return of buyback in SH-11 with ROC along with a declaration containing that all the provisions of the Act and rules relating to bb has been complied with, which shall be signed by at least 2 directors out of which 1 shall be M.D. if any.
[SH-15 stands omitted].

As per Co. Act

- ③ Co. shall destroy the shares brought back within 7 days of the buy-back.
- ④ Co. shall observe 6 months cooling period i.e. no fresh issue can be made until 6 months of buyback. (However bonus issue & conversion into eq. shares is allowed).
- ⑤ No new b.b can be done until 1 year from the closure of the previous bb offer.
- ⑥ BB must be completed within 1 yr. from the date of passing of resolution authorizing the bb.

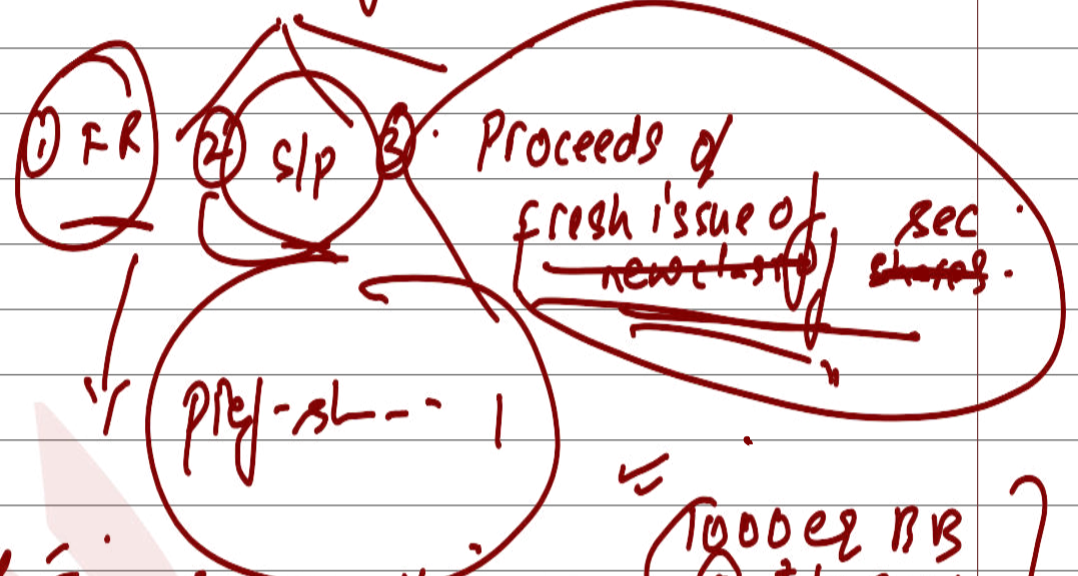
Methods of Buy back



Sec 69

↑ TO CRR ↓

Sources of BB



$$CRR = \frac{N.V / F.V \text{ of sh. brought back}}{}$$

1000 eq BB @ ₹10 each for ₹50

↓

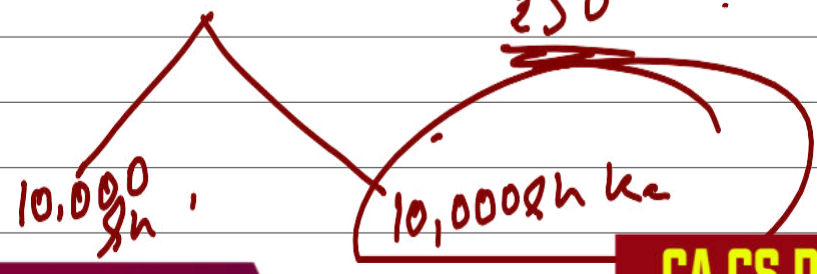
FR

$$CRR = \frac{1000 \times 10}{10,000}$$

Class A BB & 1000 sh @ ₹10 each for ₹50 each. BB has been done out of issue proceeds of class B eq sh.

CRR =

20,000 ₹ sh BB @ ₹10 each (N.V) ₹50



Sources of Buy Back :-

Free Reserves

Securities Premium

Issue Proceeds
out of fresh issue of another class of securities.

Sec 69 :- Transfer to Capital Redemption Reserve.

When buyback is done through free reserves or securities premium, then an amt. equal to the nominal value of the shares brought back shall be transferred to CRR A/c of whose disclosure shall be given by the co. in the B/S.

CRR amt. can be used for issue of bonus shares.

Section Prohibition on Buy Back :-

Buyback is prohibited in following cases :-

through any subsidiary co. including its own subsidiary

through any investment co. or group of investment companies

If co. has defaulted in the repayment of deposit or int. thereon,

If co. has done any contravention of the provisions of sec 92 (Annual Return) sec 123 (Decl.)

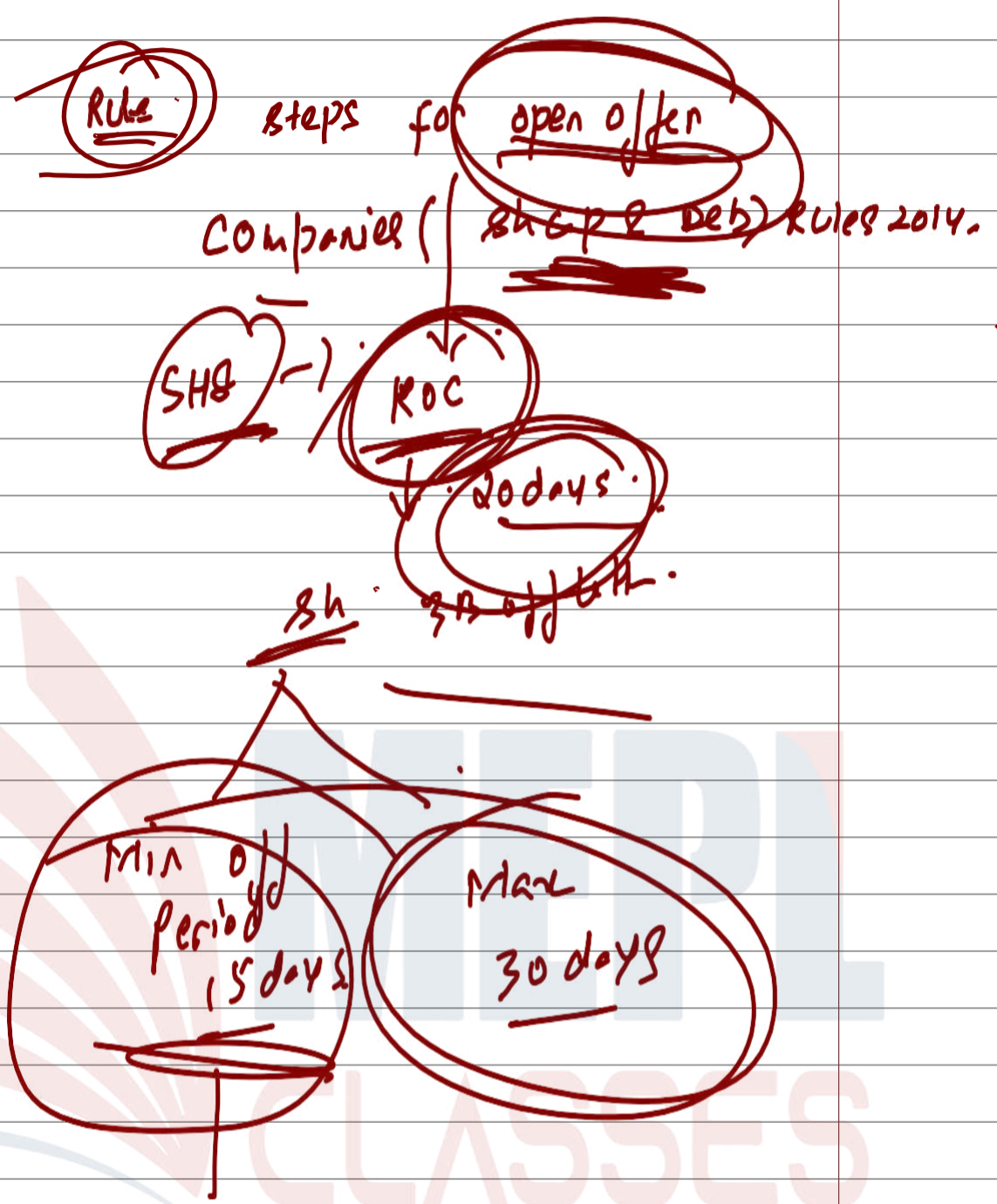
depayment of deb, pref. shcap, pynt of dividend, depayment of loan & int from banks or FIS.

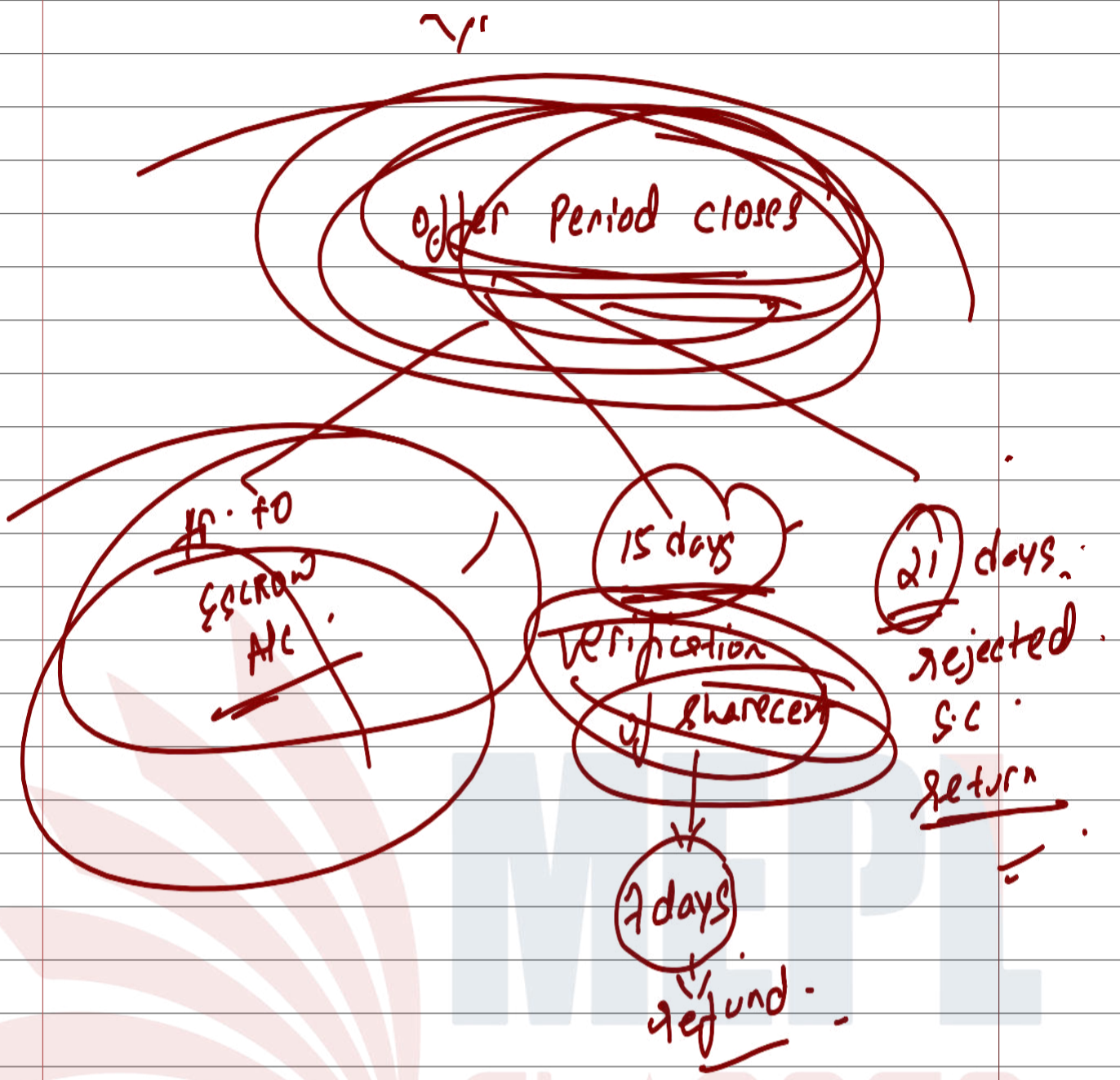
✓ of Div)
Sec 127 (Dist. of Div).
Sec 129 (fin. st)

NO BS shall be allowed until 3 years from the date when the default has been remedied.

fine for contravention in

	CO	OID
Min	1 lac	1 lac
Max	3 lac	3 lac
		or imprisonment upto 3 years or both.





Rule for BB done through Open offer as per the companies (Share Capital & Deb) Rules 2014.

- ① Submit offer letter in form SH-8 to ROC.
- ② Within 20 days of such submission dispatch the offer letter to all the shareholders for giving them a minimum offer period of 15 days & maximum 30 days.
- ③ Offer period can be less than 15 days if agreed by all the members.

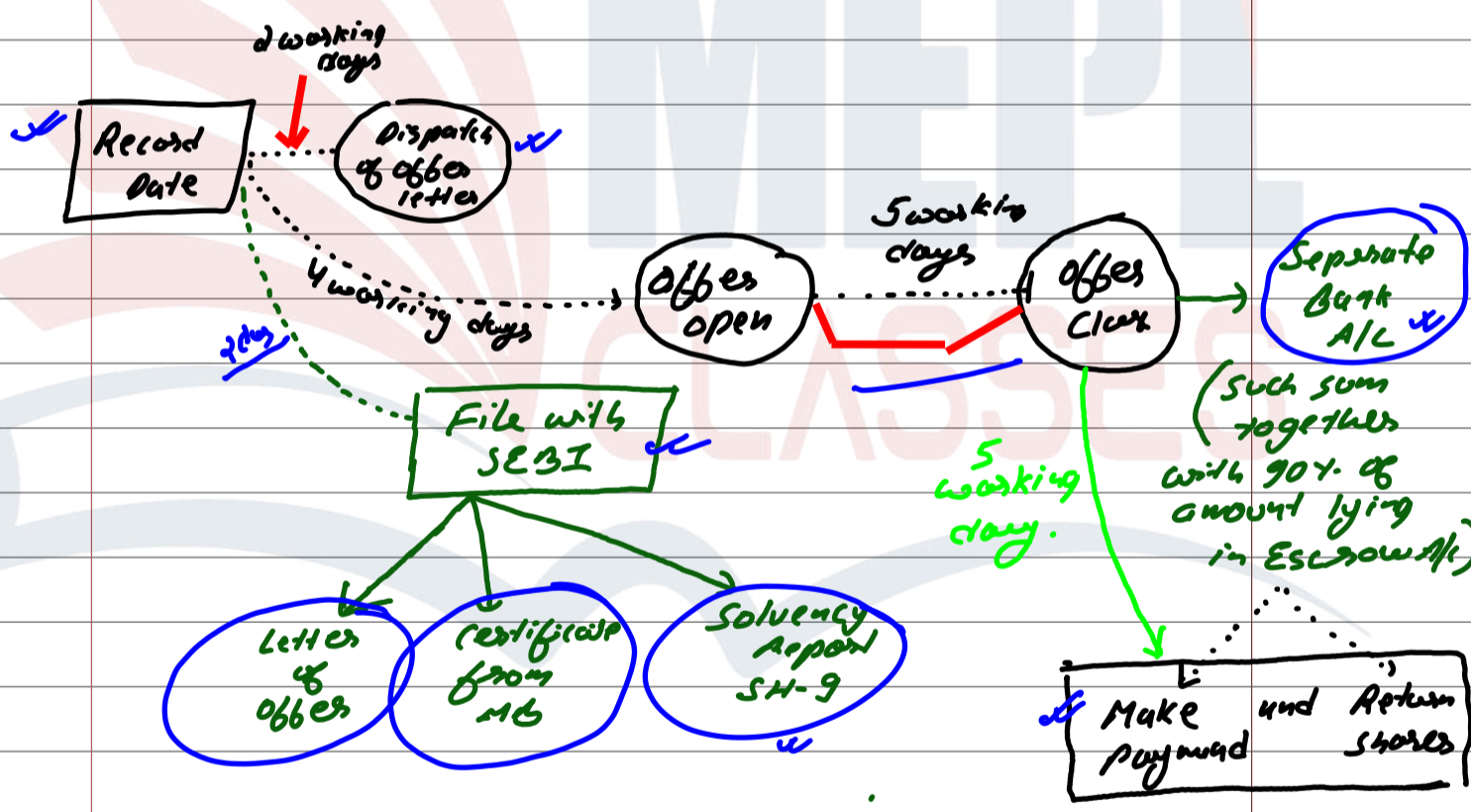
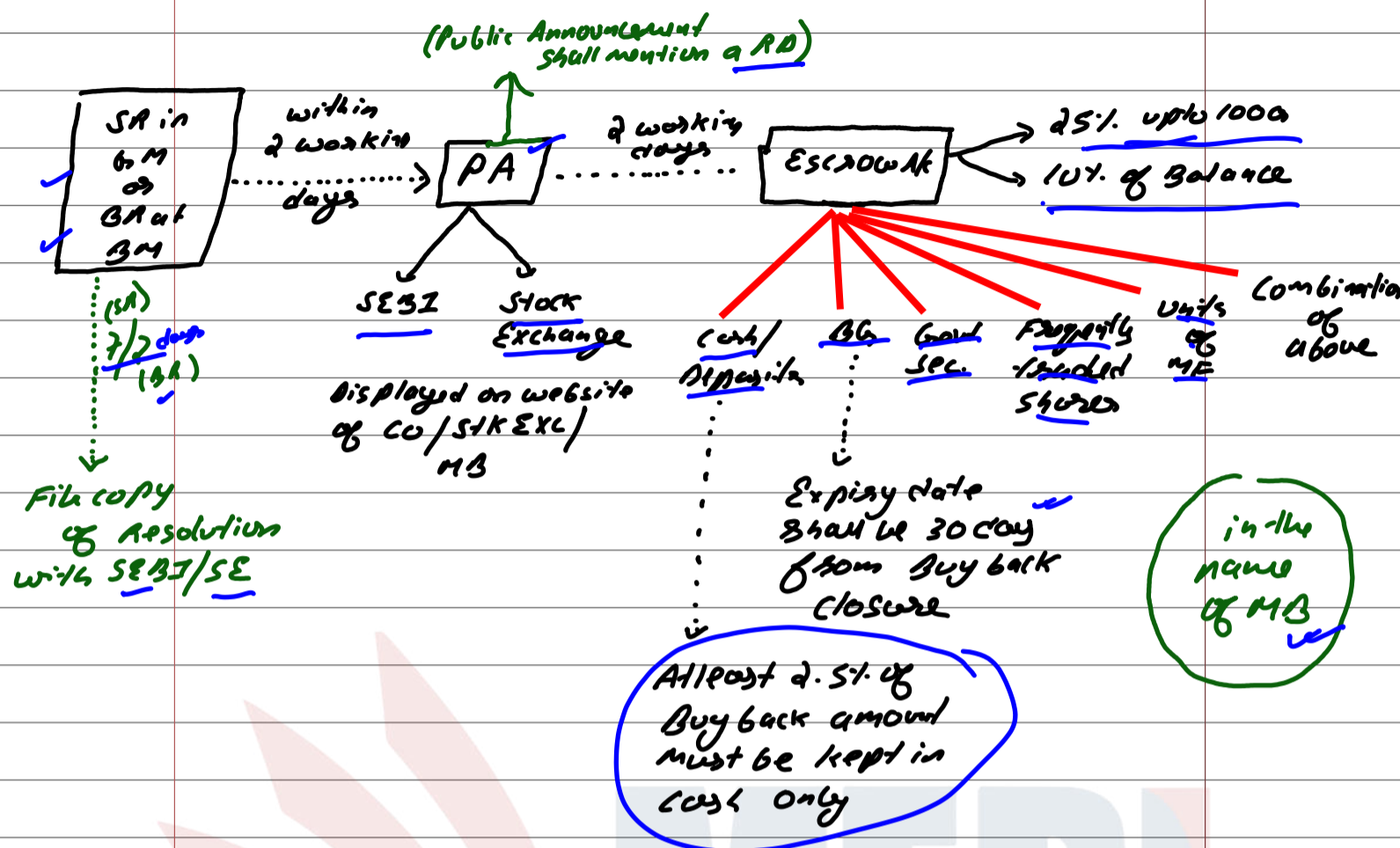
④ Close of Offer Period:

Immediately deposit the entire bb amt in a separate scheduled bank A/c with atleast 90% of the money in ESISW A/c

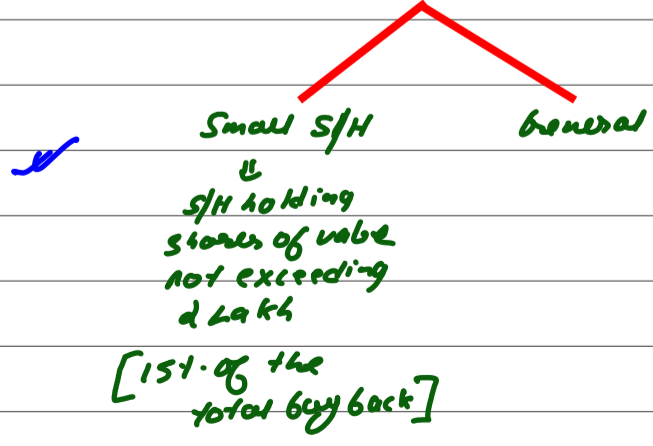
Within 15 days verification of share certificate surrendered for BB must be completed. Within 7 days from completion of verification refund the amount of BB

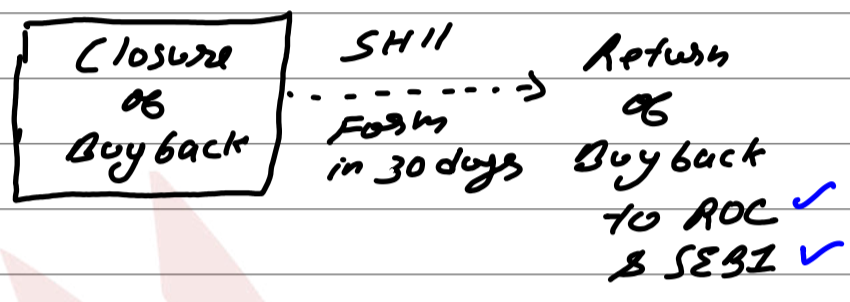
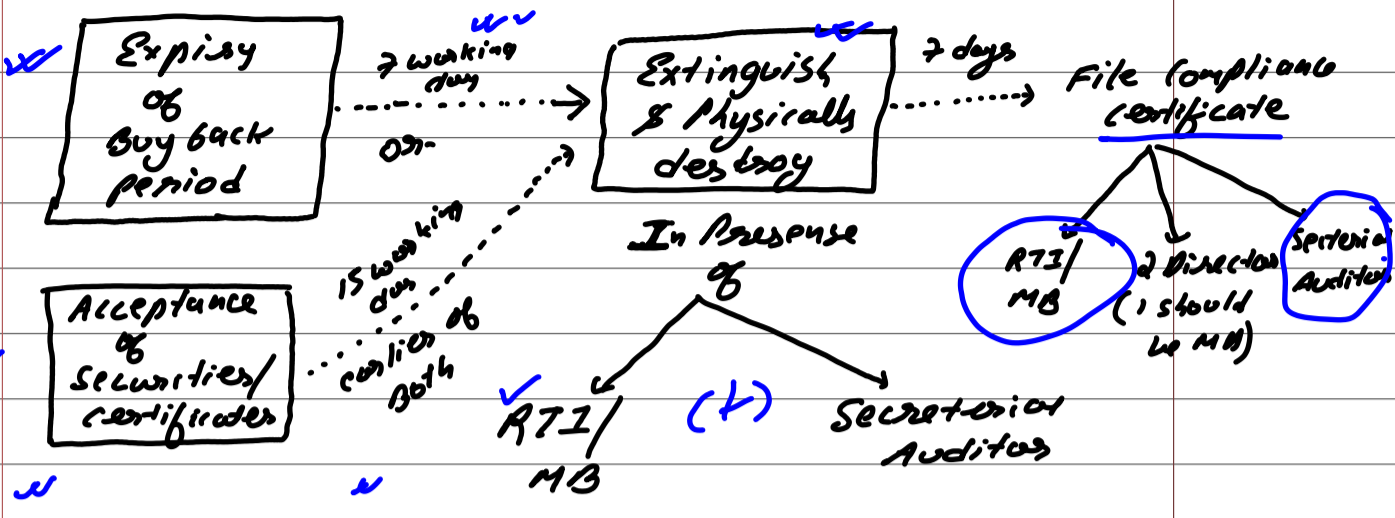
Within 21 days return back the shares which got rejected for BB

(I) Buyback through Open Offers:-

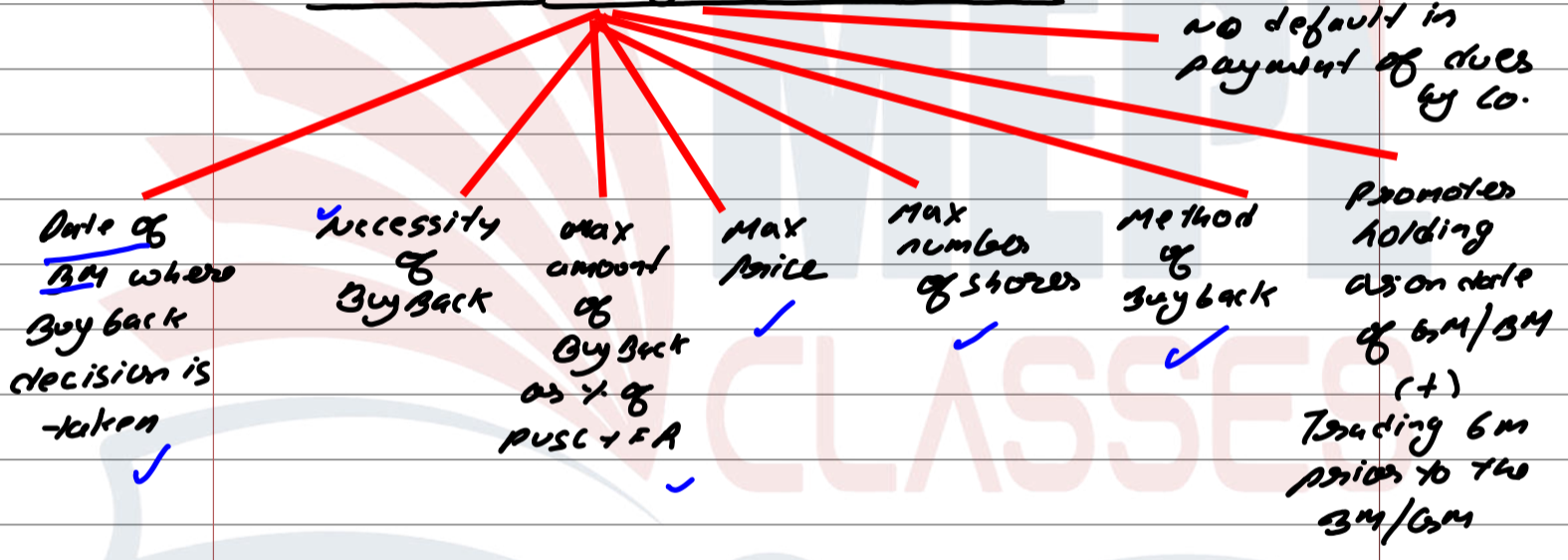


Shares to be bought back Reserved





Disclosure in Buyback notice to SH



- Note:-
- (1) Time limit of Buyback
 - (2) Class of Securities to be bought back
- Also to be disclosed in explanatory statement

Buy Back Process

- (1) Appoint MB/RTI
- (2) File Resolution to SE/SEBI [7 day/7 day]
- (3) Make PA (2 day of SA/BA)
- (4) Determination of Price
offer open - 4 day from RO
Close of Buyback - (5 day)
- (5) Acceptance & Payment of security (5 day from closure)
- (6) Extinguish & destroy (2 day from BA or 5 day from MD)

⑦ File return with AOC/SEBI (SH-11 within 30 days)

⑧ Merchant Banker file DR report with SEBI

⑨ Post Buy back PA (On completion of BA)

Buy back through Open Market

Stock Exchange

Book Building

Limit :- upto 15% (PUSC + PA) Till 31/3/23
 upto 10% Till 31/3/24
 upto 5% till 31/3/25
 From 1/4/25 → nil

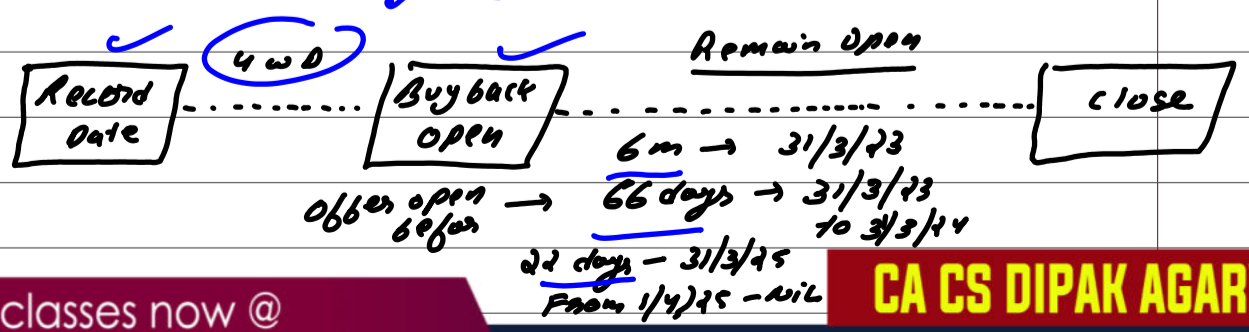
Note:- Company shall utilise 75% of fund set aside for Buy back
 (t) 40% should be used in initial half of Buy back period

Buy back through Stock Exchange

- 1) Only through SE having nationalised terminals (BSE/NSE)
- 2) no buyback through Promoters/PAC

Note:- Buyback through open offer can be made through promoters provided disclosure of holdings & trading 6m prior to 6M/3M along with price & date of acquisition to be made to SH at the time of passing of resolution

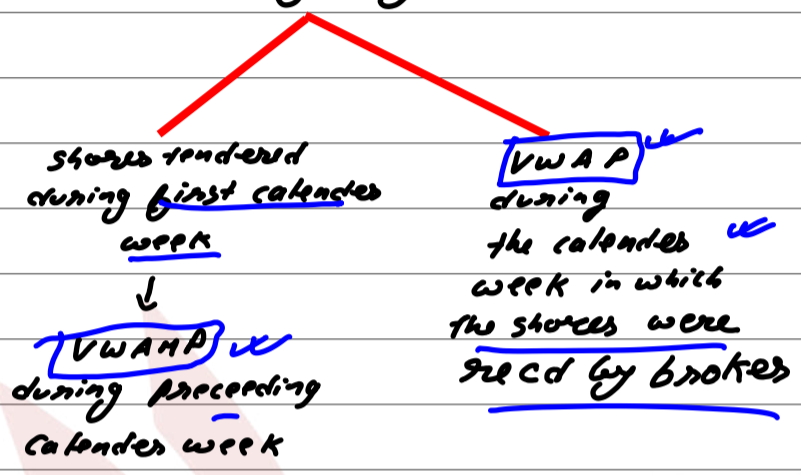
- 3) no draft letter of offer / offer letter to be submitted
- 4) Only in respect of frequently traded shares
- 5) PA in 2 working day from SA/BA
- 6) Buyback only through order matching mechanism
- 7) Copy of PA to SEBI and SE
- 8) website of SE/MQ/EG. (PA)



9) Info on daily basis regarding buy back to Stock Exchange and same shall be uploaded on CO's website

10) Separate window created by Stock Exchange of physical shares than it will open after verification of identity & address by broker

11) Price of buyback



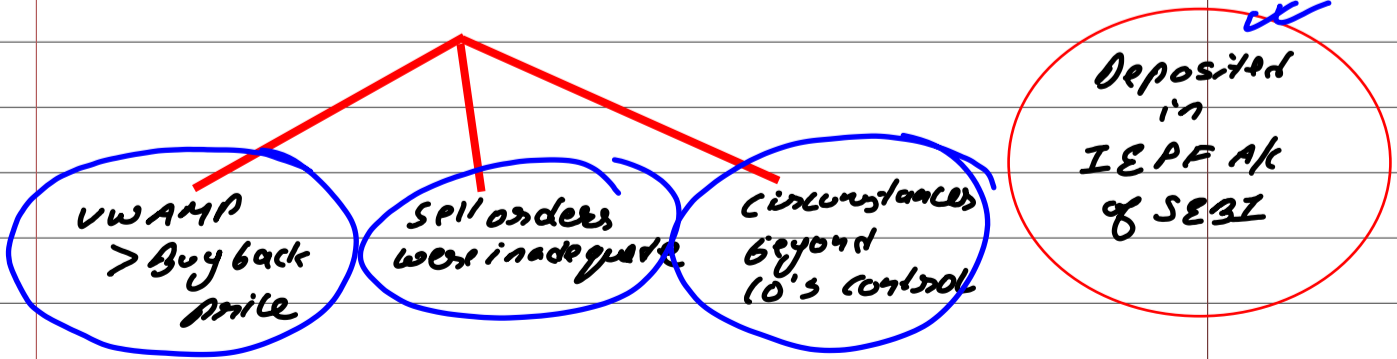
(if no trading than trading of preceding week when shares last bought back by company)

12) Escrow A/c :- Provision of Escrow same as that of open offer except

(a) 25% of entire amount of BB to be kept in escrow (no limit of 100 crores)

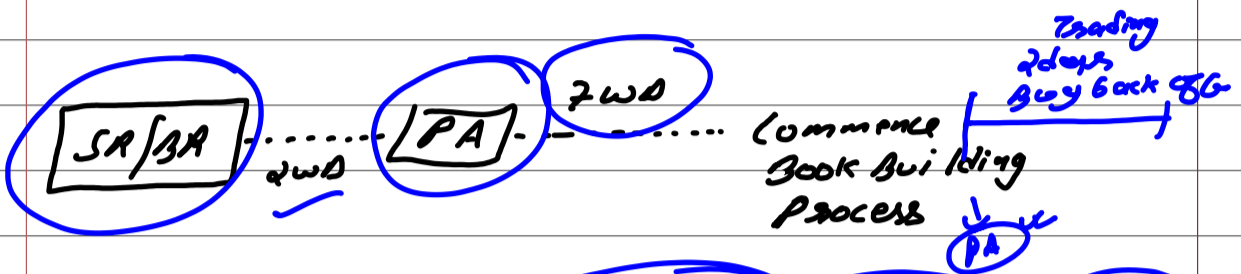
(b) 2.5% of BB shall be kept in cash form in the form of guarantee (i.e. at the time of making payment to S/H 2.5% shall remain in escrow all the time)

(c) If obligation not fulfilled of (25% & 40%) then 2.5% shall be forfeited by SEBI through MB

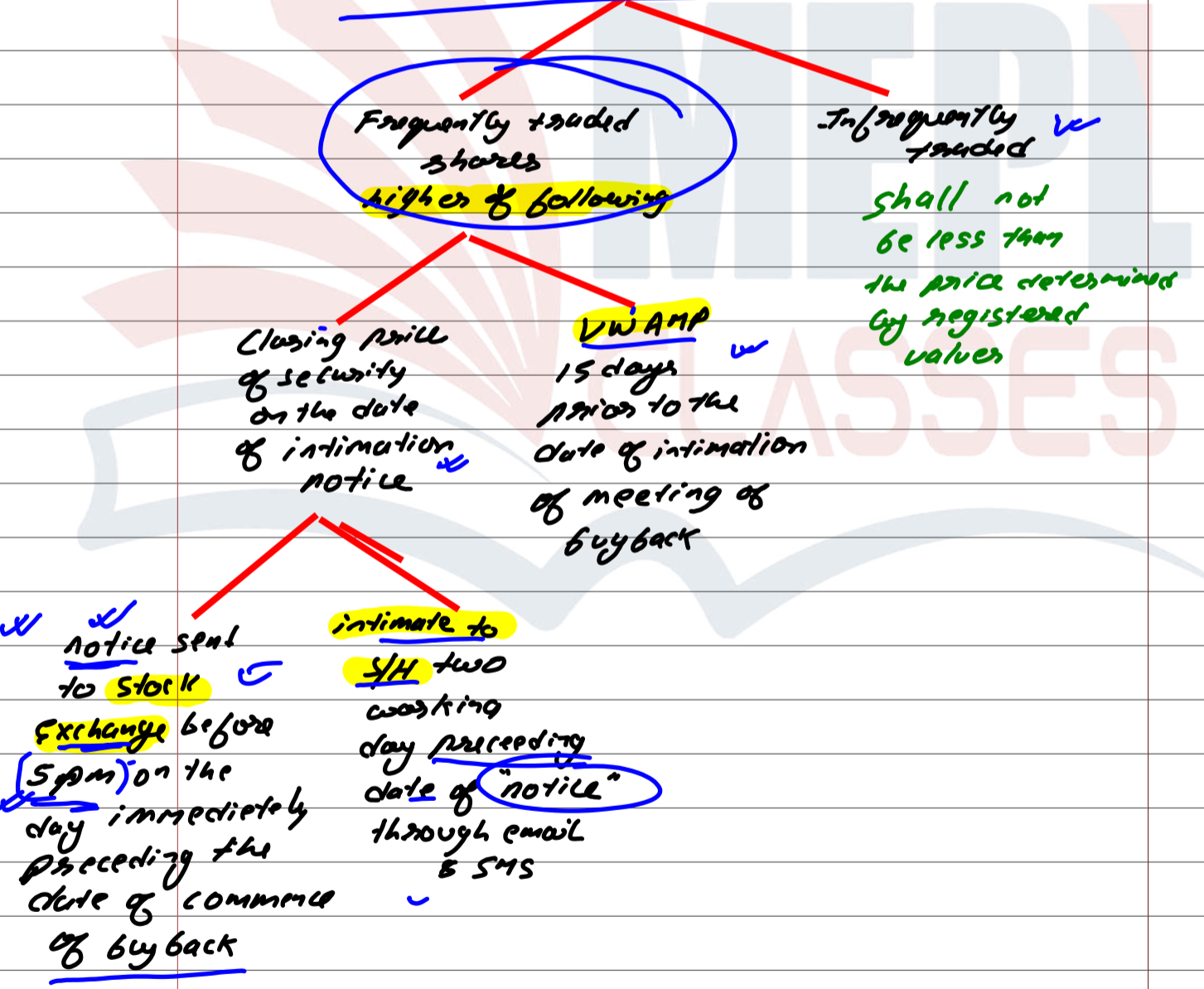


13) Extinguishing & Physically destroy → Same as open offer

Buyback through book building



- 1) Co. shall disclose Book value, Upper cap, Lower cap as decided by BOD in PA
- 2) Co. shall publish the offer opening announcement on the date of commencement of buyback
- 3) Lower end of price shall not be less than following

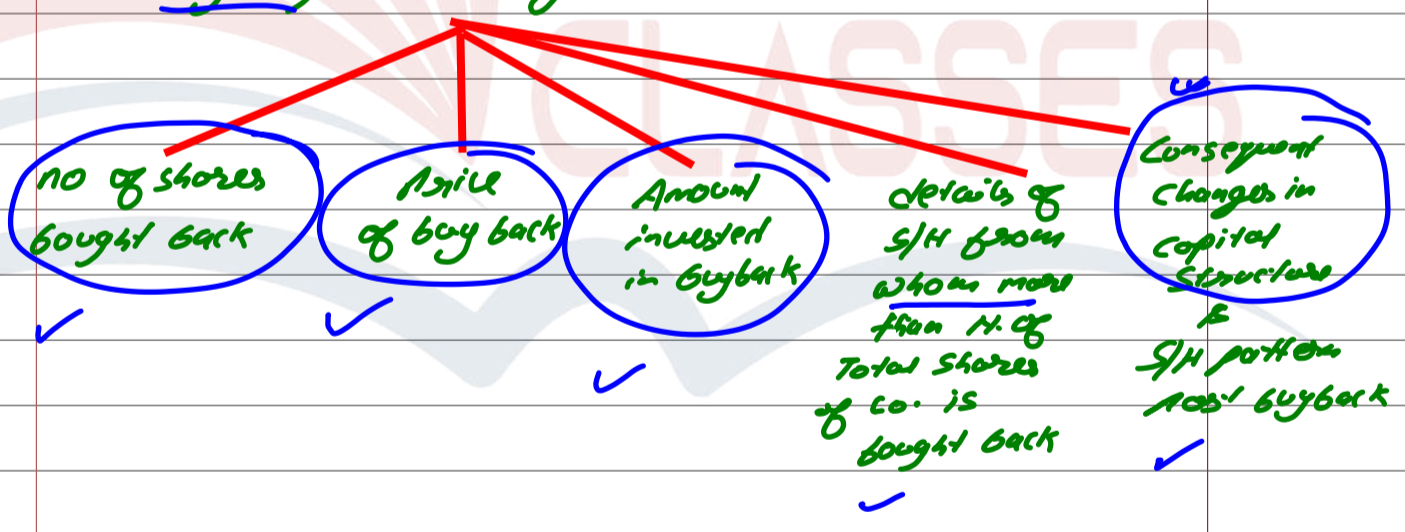


4) Price shall be determined within the range set by company (ie floor price & cap price) through Book Building

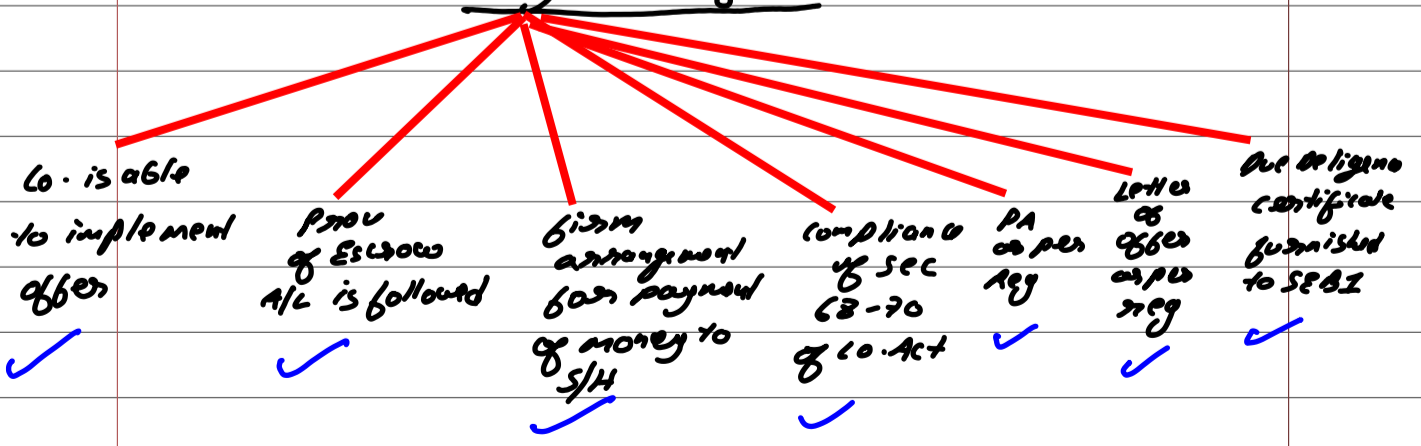
5) Extinguish & destroy same as open offer

Obligation of Company

- ① Director shall be responsible for any statement made in PA/offer letter/notice/statement/return etc
- ② consideration shall be paid within time & manner prescribed
- ③ Company shall observe cooling period as mentioned in the regulation
- ④ Promoter/Director/Officers of Co. should not indulge in insider trading
- ⑤ Company shall submit return in form SH 11 within 30 days
- ⑥ Co. shall submit certificate of extinguishment within 7 days
- ⑦ Post buy back advertisement within 4 days of closure of buyback in a national daily (Hindi/English) disclosing



Obligation of MB



Note: MB to release final report to SEBT within 15 days of completion of Buyback

Note: MB shall look into the release of money to & from Escrow a/c and also ensure that Co. maintain 2.5% of min cash balance in Escrow a/c
All money deposited in escrow shall be in favour of MB so that MB can utilize the money for the purpose of BB as and when needed.

①

	<u>₹ Lakhs</u>	
Eg St Capital	30000	Loan :- 60000
Co. Reserve	10000	
SP	3000	Debt : Equity
(PUSCFR)	43000	= 2:1
Max Limit	x 2.5%	Equity post
	= 10750	Buy :- 31000
<u>Pre Buy</u>	<u>Post Buy</u>	<u>Buyback</u>
∴ 43000	(-) 31000	= 12000