anujjindal.in

DECLARATION AND PAYMENT OF DIVIDEND (PART VIII)

Table of Contents

Introduction

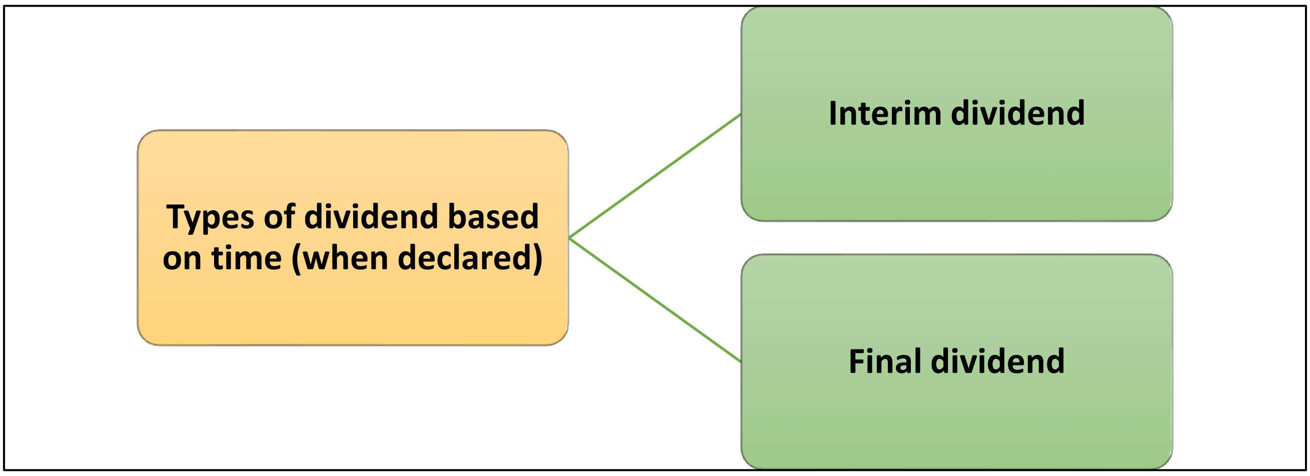
Chapter VIII of the Companies Act deals with 'Declaration and Payment of Dividend'. This chapter includes sections 123 to 127.

What is dividend?

Dividend is a part of distributable profits which is paid to the shareholders as a return on their investment in the company.

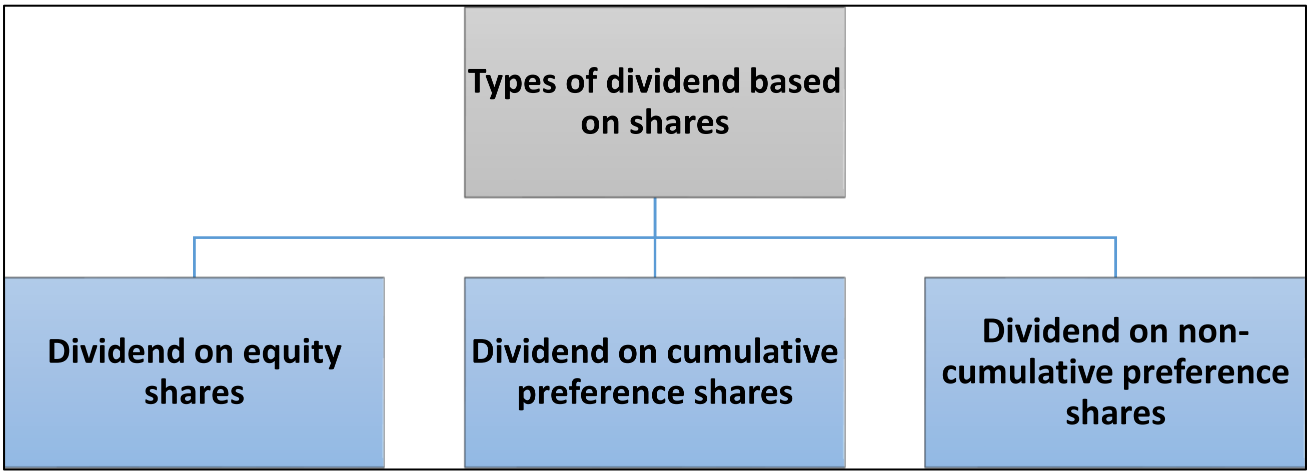
It is declared as a proportion of nominal or face value. So, for example, if a company declares a dividend of 10% and the face value of a share is Rs 10, then dividend per share is Rs 1 (10% of Rs 10).

Types of Dividend



Interim dividend: It refers to the dividend which is declared and paid before the finalization of accounts for the year.

Final dividend: It refers to the dividend recommended by BOD and approved by the shareholders at company's AGM after the close of financial year.



Dividend on equity shares: It is dependent upon the dividend policy of the company and the availability of profits after paying dividend to preference shareholders, if any.

Dividend on cumulative preference shares: It gets accumulated and arrears of dividend is payable from the profits of future years.

Dividend on non-cumulative preference shares: It does not get accumulated. In case no dividend is declared in a particular year, the right to receive dividend for that year expires.

Interim Dividend - Important Provisions

- Interim dividend may be declared by BOD at any time during the period from closure of financial year till holding of AGM. So, it is said to be declared and paid between two AGMs.

- Interim dividend is declared out of the profits before the final adoption of the accounts by the shareholders.

- According to Section 123, the sources of declaring interim dividend are:
  - Surplus in the profit and loss account; or
  - Profits of the financial year in which such dividend is sought to be declared; or
  - Profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend.

- Declaration of interim dividend shall be ratified at the upcoming AGM by the members.

- If the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average (rate of) dividend declared by the company during the immediately **preceding three financial years**.

- All other provisions are same as for final dividend.

Final Dividend – Important Provisions

- Final dividend is the dividend which is declared at the Annual General Meeting of the company.
- The rate of dividend recommended by BOD cannot be increased by the members/shareholders.

Section 123: Declaration of Dividend

- Sources for declaration of final dividend:

    a) Profits of the current financial year, arrived at after providing for depreciation; or
    b) Profits of any previous financial year(s) arrived at after providing for depreciation and remaining undistributed i.e. credit balance in profit and loss account and free reserves. (Note: only free reserves and no other reserves are to be used for declaration or payment of dividend.)
    c) Both (a) and (b) as mentioned above
    d) Money provided by the Central Government or a State Government for the payment of dividend by the company in pursuance of a guarantee given by that Government.

- Free Reserves means such reserves which, as per the latest audited balance sheet of a company, are available for distribution as dividend. The following shall not be treated as free reserves;
    a) Any amount representing unrealized gains, notional gains or revaluation of assets, whether shown as a reserve or otherwise, or
    b) Any change in carrying amount of an asset or of a liability recognized in equity, including surplus in profit and loss account on measurement of the asset or the liability at fair value.

- In computing profits, any amount representing unrealised gains, notional gains or revaluation of assets and any change in carrying amount of an asset or of a liability on measurement of the asset or the liability at fair value is excluded.

- Before declaration of any dividend, carried over previous losses and depreciation not provided in previous year or years are required to be set off against profit of the company for the current year.

- A company is free to transfer any portion of its profit to reserves before declaring dividend. It may also decide not to transfer any amount to reserves.

- In the event of inadequacy or absence of profits in any year, a company may declare dividend out of free reserves subject to the fulfilment of the following conditions:-
    a) The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by the company in the **immediately preceding three years**. (Note: this condition will not apply if the company has not declared any dividend in each of the three preceding financial year.)
    b) The total amount to be drawn from such accumulated profits shall not exceed **10% of its paid-up share capital and free reserves** as appearing in the latest audited financial statement.
    c) The amount so drawn shall first be utilised to set off the losses incurred in the financial year in which dividend is declared and only thereafter, any dividend in respect of equity shares shall be declared.
    d) The balance of reserves after such withdrawal shall not fall below **15% of its paid up share capital** as appearing in the latest audited financial statement.

- The amount of the dividend (including interim dividend), shall be deposited in a separate account maintained with a scheduled bank. This is to be done within **5 days** from the date of declaration of dividend.

- Dividend shall be payable only to the registered shareholder or to his order or to his banker.

- Dividends are payable in cash and not in kind. Dividends that are payable to the shareholders in cash may also be paid by cheque or dividend warrant or through any electronic mode.

- Declaration and payment of dividend is prohibited in the following two cases:
    - A company which fails to comply with the provisions of **section 73** (Prohibition on acceptance of deposits from public) and **section 74** (Repayment of deposits, etc., accepted before the commencement of this Act of 2013) shall not, so long as such failure continues, declare any dividend on its equity shares.
    - A company having licence under **Section 8** (Formation of companies with charitable objects, etc.) is prohibited from paying any dividend to its members. Its profits are intended to be applied only in promoting the objects for which it is formed.

Section 124: Unpaid Dividend Account

- Where a dividend has been declared by a company but has not been paid or claimed within **30 days** from the date of declaration, the company shall, within **7 days** from the expiry of the said period of 30 days, transfer the total amount of unpaid or unclaimed dividend to a special account called the Unpaid Dividend Account. This account shall be opened by the company in any scheduled bank.

- Within **90 days** of transferring any amount to the Unpaid Dividend Account, the company shall prepare a statement containing the names, last known addresses and the amount of unpaid dividend to be paid to each person and place such statement on its web-site, if any, and also on any other web-site approved by the Central Government for this purpose.

- If any default is made in transferring the total unpaid dividend amount or any part thereof to the Unpaid Dividend Account, the company shall pay, from the date of such default, interest at the rate of **12%** per annum on the amount not so transferred to the said account. The interest accruing on such amount shall be available to the benefit of the members of the company in proportion to the amount remaining unpaid to them.

- Any person claiming to be entitled to any money transferred to the Unpaid Dividend Account may apply to the company concerned for payment of the money so claimed.

- Any money transferred to the Unpaid Dividend Account which remains unpaid or unclaimed for **7 years** from the date of such transfer shall be transferred by the company along with interest accrued thereon to the Investor Education and Protection Fund. Further, the company shall send a prescribed statement containing the details of such transfer to the IEPF Authority and in turn, the Authority shall issue a receipt to the company as evidence of such transfer.

- All **shares** in respect of which dividend has not been paid or claimed for **7 consecutive years** or more shall be transferred by the company in the name of Investor Education and Protection Fund along with a statement containing the prescribed details.

- Any claimant of shares so transferred to IEPF shall be entitled to reclaim the 'transferred shares' from Investor Education and Protection Fund in accordance with the prescribed procedure and on submission of prescribed documents.

- Penalty for failure to comply with this section:

    - Company will be liable to a penalty of **Rs 1 lakh** and in case of continuing failure, with a further penalty of **Rs 500 for each day** after the first during which such failure continues, subject to a maximum of **Rs 10 lakh**.
    - Every officer of the company who is in default shall be liable to a penalty of **Rs 25,000** and in case of continuing failure, with a further penalty of **Rs 100 for each day** after the first during which such failure continues, subject to a maximum of **Rs 2 lakh**.

Section 125: IEPF (Investor Education and Protection Fund)

- IEPF is established by the Central Government. This fund is credited with specified amounts and utilized for refund of unclaimed and unpaid amounts, promotion of investors' awareness and protection of the interests of investors, etc.

- It is different from IPEF (Investor Protection and Education Fund). IPEF is created by SEBI.

Sources of IEPF (Credit of Specified Amounts to the Fund)

a) The amount given by the Central Government by way of grants after due appropriation made by Parliament.

b) Donations given by the Central Government, State Governments, companies or any other institution for the purposes of the Fund.

c) The amount lying in the 'Unpaid Dividend Account' of companies which is transferred by them to IEPF.

d) The amount in the General Revenue Account of the Central Government which had been transferred to that account under Companies Act, 1956 and remaining unpaid or unclaimed on the commencement of the Act of 2013.

e) The amount lying in the Investor Education and Protection Fund under section 205C of the Companies Act, 1956.

f) The interest or other income received out of investments made from the Fund.

g) Amount received through disgorgement or disposal of securities seized from a person who has been convicted for personation for acquisition of securities.

h) The application money received by companies for allotment of any securities and due for refund (only if such amount has remained unclaimed and unpaid for a period of 7 years from the date it became due for payment).

i) Matured deposits with companies other than banking companies (only if such amount has remained unclaimed and unpaid for a period of 7 years from the date it became due for payment).

j) Matured debentures with companies (only if such amount has remained unclaimed and unpaid for a period of 7 years from the date it became due for payment).

k) Interest accrued on the amounts referred to in clauses (h) to (j).

l) Amount received from sale proceeds of fractional shares arising out of issuance of bonus shares, merger and amalgamation for 7 or more years.

m) Redemption amount of preference shares remaining unpaid or unclaimed for 7 or more years; and

n) Such other amounts as prescribed in Rule 3 of the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016.

Note: Any person claiming to be entitled to the amounts referred above (points (a) to (n)), may apply to Investor Education and Protection Fund Authority (IEPFA) for the repayment of the money claimed.

Application of IEPF (Utilization of IEPF)

a) Refund of unclaimed dividends, matured deposits, matured debentures, the application money due for refund and interest thereon.

b) Promotion of investors' education, awareness and protection.

c) Distribution of any disgorged amount among eligible and identifiable applicants for shares or debentures, shareholders, debenture-holders or depositors who have suffered losses due to wrong actions by any person, in accordance with the orders made by the Court which had ordered disgorgement.

d) Reimbursement of legal expenses incurred in pursuing class action suits under sections 37 and 245 by members, debenture-holders or depositors as may be sanctioned by the Tribunal; and

e) Any other purpose incidental thereto in accordance with the rules framed under the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016.

IEPFA (Investor Education and Protection Fund Authority)

- For administration of Investor Education and Protection Fund, Government of India has on 7th September, 2016 established Investor Education and Protection Fund Authority under the provisions of section 125 of the Companies Act, 2013.

- The Authority is entrusted with the responsibility of administration of the Investor Education Protection Fund (IEPF), make refunds of shares, unclaimed dividends, matured deposits/debentures etc. to investors and to promote awareness among investors.

- The **Secretary, Ministry of Corporate Affairs** shall be the ex-officio Chairperson of the Authority. In addition, there shall be six members (maximum limit seven) and a Chief Executive Officer who shall be the convenor of the Authority. These members are appointed by Central Government.

- The Central Government may provide to the Authority such offices, officers, employees and other resources in accordance with the IEPF Authority (Appointment of Chairperson and Members, holding of Meetings and provision for Offices and Officers) Rules, 2016.

- The Authority shall administer the Fund and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed after consultation with the Comptroller and Auditor General of India.

- The Authority shall be competent to spend money out of the Fund for carrying out the objects specified (Utilization of IEPF).

- The accounts of the Fund shall be audited by the **Comptroller and Auditor-General of India** at such intervals as may be specified by him. Such audited accounts together with the audit report thereon shall be forwarded annually by the Authority to the Central Government.

- For each financial year, the Authority shall prepare in the prescribed form and at prescribed time its annual report giving full account of its activities during the financial year and forward a copy thereof to the Central Government. In turn, the Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor General of India to be laid before each House of Parliament.

Section 126: Right to dividend, right shares & bonus shares to be held in abeyance pending registration of transfer of shares

As per Section 126, in case any instrument of transfer of shares has been delivered by a shareholder for registration and the transfer of such shares has not been registered by the company, such company shall take the following steps:

- Transfer the dividend in relation to such shares to the Unpaid Dividend Account unless it is authorised by the registered holder of such share in writing to pay such dividend to the transferee specified in the instrument of transfer; and

- Keep in abeyance in relation to such shares any offer of rights shares and any issue of fully paid-up bonus shares.

Section 127: Punishment for failure to distribute dividends

- When a company declares dividend, it must be paid or the dividend warrant thereof must be posted within 30 days from the date of declaration of dividend to the shareholders entitled to the same.

- Posting of dividend warrants within 30 days absolves the company from any punishment irrespective of whether it is received by the shareholder concerned within this time or not.

- In case a company fails to pay declared dividends or fails to post dividend warrants within 30 days of declaration, following punishments are applicable:

- The company shall be liable to pay simple interest at the rate of **18% p.a.** during the period for which such default continues.
- Every director of the company who is knowingly a party to the default shall be
  - punishable with imprisonment of up to **two years**, and
  - liable to pay minimum fine of **Rs 1,000 for every day** during which such default continues.

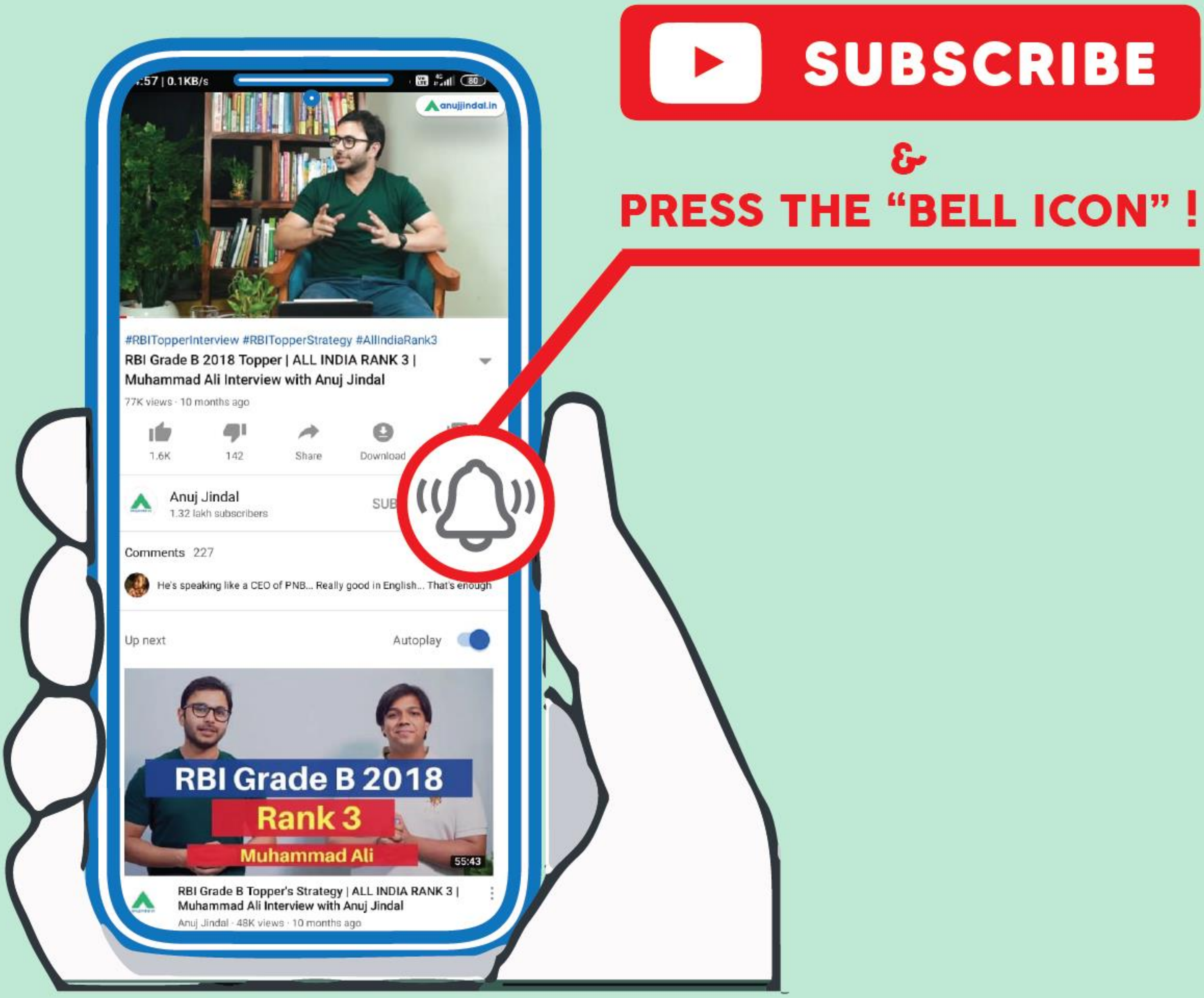
- Where the company has failed to pay declared dividend within 30 days of declaration, no offence shall be deemed to have been committed under the following cases:
  a) where the dividend could not be paid by reason of the operation of any law;
  b) where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with and the same has been communicated to him;
  c) where there is a dispute regarding the right to receive the dividend;
  d) where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder; or
  e) where, for any other reason, the failure to pay the dividend or to post the warrant within the prescribed period of 30 days was not due to any default on the part of the company.

Note: Section 127 dealing with punishment shall apply to the Nidhi Companies subject to the following modification – In case the dividend payable to a member is Rs 100 or less, it shall be sufficient compliance of the provisions of the section 127, if the declaration of the dividend is announced in the local language in one local newspaper of wide circulation and announcement of the said declaration is also displayed on the notice board of the Nidhis for at least 3 months.

Difference between Final Dividend and Interim Dividend

Final Dividend	Interim Dividend
It is recommended by the board of directors, and approved by shareholders at the company's Annual General Meeting, after the close of financial year.	It is declared and paid during an accounting year, i.e. before the finalization of accounts for the year.
It is recommended by BOD and approved by shareholders.	It is announced by BOD.
It is declared after preparation of financial statements.	It is declared before preparation of financial statements.

Once declared, it cannot be revoked.	It can be revoked with the consent of all shareholders. (But some sources say it cannot be revoked)
Any specific provision in AOA is not required for declaring final dividend.	It can be declared only when AOA specifically permits the declaration.
It is declared only once in a year at AGM.	It can be declared more than once in a year.
The rate of final dividend is generally higher than the rate of interim dividend.	The rate of interim dividend is generally lower than the rate of final dividend.


SUBSCRIBE
&
PRESS THE "BELL ICON" !
#RBITopperInterview #RBITopperStrategy #AllIndiaRank3
RBI Grade B 2018 Topper | ALL INDIA RANK 3 |
Muhammad Ali Interview with Anuj Jindal
77K views · 10 months ago
1.6K
142
Share
Download
Anuj Jindal
1.32 lakh subscribers
Comments 227
He's speaking like a CEO of PNB... Really good in English... That's enough
Up next
Autoplay
RBI Grade B 2018
Rank 3
Muhammad Ali
55:43
RBI Grade B Topper's Strategy | ALL INDIA RANK 3 |
Muhammad Ali Interview with Anuj Jindal
Anuj Jindal · 48K views · 10 months ago

anujjindal.in

HALL OF FAME


All Indian Rank 01
Rajendran S
SEBI


All India Rank 03
Ali
RBI


All India Rank 06
Aditya Sood
RBI


All India Rank 10
Sameer
RBI


All India Rank 11
Abhishek
RBI


Cleared RBI Grade B
Sanskar Vijay


Cleared RBI Grade B
Sanjay Meena


Cleared RBI Grade B
Yash Gupta


Cleared RBI Grade B
Ila Sahu


Cleared RBI Grade B
Argha Banerjee


Cleared RBI Grade B
Suchana Ghosh


Cleared NABARD
Vinay Verma


Cleared NABARD
Lal Chand Kumar


Cleared NABARD
Krishna Kumar Singh


Cleared NABARD
Anshu Goel


Cleared NABARD
Jatin Kumar


Cleared NABARD
Atul Yadav


Cleared SEBI
Abhishek Kumar


Cleared SEBI
Vishwanidh Singh


Cleared SEBI
Gopika Jayan


Cleared SEBI
Vasant Kesari


Cleared SEBI
Swetha Bodagala


NET with 98 Percentile
Anushka Keshri


JRF with 96.92 Percentile
Vaishali Jadon


NET with 89.27 Percentile
Srishti Gupta


JRF with 72 Percentage
Abhishek Mohanty


NET with 68 Percentage
Dinesh Mohan


JRF with 64.66 Percentage
Adhwaresh Pandey

ENROLL NOW !

youtube.com/anujjindal anujjindal.in Call us at : +91 9999466225