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ACCEPTANCE OF DEPOSITS BY COMPANIES UNDER THE CA, 2013

Section 73(1) of the Companies Act, 2013 says that **no Company (Whether Public or Private)** shall invite, accept or renew deposits under this Act from the public except in a manner provided hereinunder.

The following Companies are **exempted** :

1) A Banking Company
2) A NBFC Company
3) A housing Finance Company registered with National Housing Bank.

Section 73(2) - Now, a **Private Limited Company may accept Deposits from its members** subject to fulfillment of following conditions:

(a) Passing a resolution in General Meeting
(b) Issue of **Circular** to Members showing the Financial Position of the Company, the **Credit Rating obtained,** the total **No. of Depositors** and the amount due towards Deposits in respect of any previous Deposits accepted by the Company, etc.
(c) Circular in Form DPT – 1
(d) Deposit Trust Deed in Form DPT-2 *(to be executed 7 days before executing Circular in case of Secured Deposit)*
(e) Filing a copy of circular with the ROC within 30 days before the date of issue of the circular.
(f) Providing Deposit insurance **(exempted till 31.03.2015)**
(g) Certification by the Company that it has not defaulted in the repayment of the Deposit.
(h) Provision of Security in respect of Deposits and interests and creation of charge on Company's properties and assets.
(i) An amount of not less than 15% of the Deposits matuaring during a FY shall be deposited in Deposit Redumption Reserve A/c which shall not be used for any other purpose.

Acceptance of Deposits from public (other than its members) by certain Companies:

Section 76 – Applicable to Public Limited Companies only. Therefore, a Public Limited Company may accept Deposits **form person other than its members** subject to the compliance with the requirements provided under Section 73(2) of the Companies Act, 2013 & Rules made thereunder.

"Eligible Company" means a Public Limited Company

- having a Net Worth of not less than Rs. 100 Crore, or
- a Turnover of not less than Rs. 500 Crore and

which has obtained the prior consent of the Company in General Meeting by means of Special Resolution and also filed the said resolution with the ROC before making any invitation to the public for acceptance of Deposits.

Note :

1) Private Company and Eligible Public Company can accept Deposits from members upto 25% of the Paid up Share Capital + Free Reserves.
2) Company before 30th April each year will deposit at least 15% of amount of Deposits, whether secured or unsecured, matuarity during the year or next FY in Deposit Repayment of Reserve A/c maintained with Schedule Bank.
3) Company before 30th June every year will file DPT-3 with ROC, containing information therein as on 31st March, duly audited by the Auditor of the Company.
4) T&C of Deposits cannot be altered after the issue of Circular / Advertisement or Acceptance of Deposits.
5) A Panel ROI 18% shall be payable on nonpayment of matured Deposit.

<u>Punishment for contravention:</u>

If any Company contravenes the aforesaid provisions, the Company and every officer of the Company who is in default shall be punishable with a fine which **may extend to Rs. 5000** and where the **contravention is continuing one**, with a further fine which **may extend to Rs. 500 for every day after the first day during which the contravention continous.**

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