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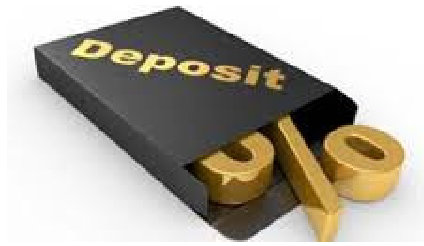
DEPOSITS UNDER COMPANIES ACT, 2013



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- SECTION- **2(31), 73, 74, 75, 76, 76A**
- FORMS- **DPT-1, DPT-2, DPT-3, DPT-4, SH-13, MGT-14**
- **Companies (Acceptance of Deposits) Rules, 2014**

DEPOSIT- Section 2(31) of Companies Act, 2013 provides that Deposit Includes any receipt of money by way of deposit or loan or in any other form by a company, but does not include-

a) Any amount received from C.G/ S.G/ L.A/ S.A
b) Any amount received from Foreign Government/ Foreign Bank/ Foreign Company
c) Any amount received as a loan from any Banking Company/ S.B.I/ P.F.I/ Insurance Company/ Schedule Bank.
d) Any amount received against issue of Commercial Paper/ Subscription to any Securities/ Issue of Bonds or Debentures
e) Any amount received by a company from any other company
f) Any amount received from a person who at time of the receipt of the amount was a director of the Company or relatives of director of the Private Company.
g) Any amount received from an employee of the company not exceeding his annual salary
h) Any amount received as advance for the supply of goods/ Services
i) Any amount brought from the promoters or nidhis company

NOTE- If the Securities for which application money was received cannot be allotted within 60 days from the date of receipt of application money and such application money is not refunded to the subscribers within 15 days from the date of completion of 60 days, such amount shall be treated as a deposit.

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Depositor

- ANY MEMBER → In accordance with the provisions of Section 73
- ANY PERSON → In accordance with the provisions of Section 76

<u>ELIGIBLE COMPANY-</u> means any Public Company

a) Having net worth of Rs. 100 Crore or more (or)
b) Turnover of Rs. 500 Crore or more

SECTION 74

SUBSECTION-1
a) File a Statement with ROC in Form DPT-4 upto ~~30th June, 2014~~ 31st August, 2014
b) Repay old Deposit within 1 Year after Commencement of this Act i.e. 31st March, 2015

SUBSECTION-2
~~NCLT~~ CLB may on application made by Company, allow further time to the Company to repay the Deposit

SUBSECTION-3
a) Fine on Company not less than 1 crore or upto 10 crore
b) Fine on Defaulted Person not less than 25 lakhs or upto 2 Crore & Imprisonment upto 7 Years

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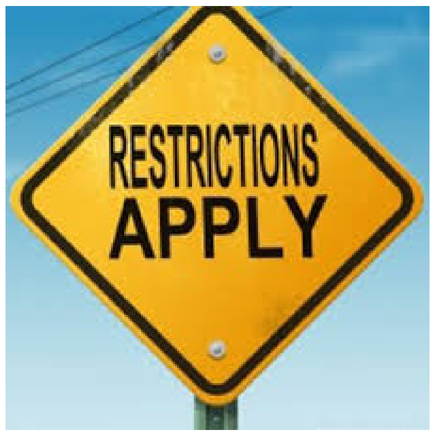
NOTIFICATIONS ISSUED BY MCA FOR SECTION 74-

1) Extend the date from 30th June, 2014 to 31st August, 2014
2) Power of NCLT given to CLB
3) If a Company had received any amount by way of Subscriptions to any Shares, Debentures, Bonds before the 1st April, 2014 and allotment is pending on the 31st March, 2015, the company shall by the 1st June, 2015 either return such amounts or allot such Shares, Bonds, Debentures.

LIMITS FOR ACCEPTING THE DEPOSITS-



1) **Eligible Company** from its members upto 10% of Paid-up Share Capital, Free reserves & Security Premium Account and from any person upto 25% of Paid-up Share Capital, Free reserves & Security Premium Account.
2) **Government Company** upto 35% of Paid-up Share Capital, Free reserves & Security Premium Account.
3) **Public Company (non-eligible Company)** from its members upto 25% of Paid-up Share Capital, Free reserves & Security Premium Account.
4) **Private Company** from its members upto 100% of Paid-up Share Capital, Free reserves & Security Premium Account. (After Notification of 5th June, 2015).

PERIODS FOR ACCEPTING THE DEPOSITS-

1) No Company shall accept any deposit which is repayable within a period of less than 6 months or more than 36 months from the date of acceptance of Deposit.
2) A Company may, for the purpose of meeting its short term requirement, accept the deposits for repayment earlier than 6 months but not earlier than 3 months & such deposits shall not exceed 10% of Paid-up Share Capital, Free reserves & Security Premium Account.

RESOLUTIONS TO ACCEPTING THE DEPOSITS-

1) Eligible Companies- Special Resolution [as per Companies (Acceptance of Deposits) rules, 2014]
2) Non Eligible Companies- Ordinary Resolution [as per Section 73(2) of Companies Act, 2013]

EXEMPTIONS TO COMPLIANCE FOR ACCEPTING THE DEPOSITS-

a) Banking Company.
b) Non Banking Financial Companies.
c) Notified by CG- Housing Finance Companies.

COMPLIANCE FOR ACCEPTING THE DEPOSITS-

1) Every Company intending to invite deposit from its members shall issue a circular to all its members registered post/ Speed Post/ Electronic Mode in **Form DPT-1.**
2) Every Eligible Company intending to invite deposits shall issue a circular in Form **DPT-1** in a English newspaper & in a Vernacular Newspaper in which the registered office of the company is situated.
3) A Copy of **DPT-1** Shall file with ROC within 30 days before the date of issue of Circular.
4) Every Company Shall enter into a Contract for providing Deposit Insurance atleast 30 days before the issue of circular.
5) Every Company Shall execute a Deposit Trust Deed in **Form DPT-2** at least 7 days before issuing the circular.
6) Every Depositor may at any time nominate any person in **Form SH-13.**

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7) Every Company Shall on the acceptance of Deposit furnish a Deposit Receipt to the Depositor within a period of 21 days from the date of acceptance of Deposit.
8) Every Company Shall maintain a Deposit Register at its registered office & made enteries within 7 days from the date of issuance of Receipt.
9) Every Company shall on or before the 30th April of each year deposit the sum with any scheduled bank i.e. Deposit Repayment Reserve Account & shall not at any time fall below 15% of the amount of deposit maturing, until the end of the current financial year and the next financial year.
10) Every Company Shall file with ROC a return in **FORM DPT-3** upto 30th June every year which is audited by auditor of the Company.
11) Every Company shall pay a penal rate of interest of 18% per annum for the overdue period.
12) Every Eligible Company shall the Form MGT-14 with ROC within 30 days after passing Special Resolution.

NOTE- Point 1 to 4 & 9 is not applicable on Private Company after notification by MCA on 5th June, 2015.

NOTE- Deposit Trustee not a Director, KMP, Employee including Relatives & indebted of the Company or its Holding, Subsidiary, Associate Company and has not any material pecuniary relationship with the company.

PENALTY UNDER SECTION 76A FOR NON COMPLIANCE UNDER SECTION 73 & 76-

a) Fine on Company not less than 1 crore or upto 10 crore.
b) Fine on Defaulted Person not less than 25 lakhs or upto 2 Crore or Imprisonment upto 7 Years or both.