DEPOSITS

Section 73 to 76A deals with the provisions related to deposits

Section 2(31) of the Companies Act (herein after called the act) defines deposit as under

"Deposit" includes any receipt of money by way of deposit or loan or in any other form by a company, but does not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India;

AMOUNT NOT TREATED AS DEPOSITS

- *Amount received from Central Government, State Government, Local Authority, Statutory Authority*
- *Amount received from foreign government, foreign or international banks, multilateral financial institutions, foreign export credit agencies, foreign collaborators, foreign bodies corporate and foreign citizens, foreign authorities or persons resident outside India subject to the provisions of Foreign Exchange Management Act*
- *Amount received as a loan or facility from banking Company, SBI, etc notified by CG as per RBI Act*
- *Amount received as loan or financial assistance from Public Financial Institutions, Regional Financial Institutions, Insurance Companies or Scheduled Banks*
- *Amount received against Commercial Papers, etc.*
- *Amount received by a Company from any other company [which is normally termed as Inter Corporate Deposits (ICD)]*
- *Amount received pursuant to an offer towards subscription to any securities, including share application money or advance, pending allotment Exception*

: If the securities not allotted within 60 days from the date of receipt of the application money or advance and such amount 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.

- *any amount received from a Person who, at the time of the receipt of the amount, was a director of the company or a relative of the director of the Private company*:
- *Listed unsecured non-convertible debentures*
- *Interest free security deposit from employee not exceeding his annual salary*
- *Interest free amount received and held in Trust*
- *Business advances: For supply of goods or provision of services provided that such advance is appropriated against supply of goods or provision of services within a period of 365 days. However, if the advance is subject matter of any legal proceedings before any court of law the limit of 365 days would not be applicable.*
- *In connection with consideration for immovable property, provided that such advance is adjusted as per agreement.*

Security deposit for performance of contract for supply of goods or provision of services

Advance under long term projects for supply of capital goods

Advance for warranty or maintenance (AMC) as per written contract for period prevalent as per common business practice or 5 year whichever is less

Advance received and as allowed by any sectoral regulator or in accordance with directions of Central or State Government

Advance for subscription towards publication (in print or electronic) to be adjusted against receipt of such publications

***Exception**- If Company accepting money does not have necessary permission or approval to deal in goods or properties or services, then amount received shall be deemed to be deposits on the expiry of 15 days from the date they become due for refund (except security deposit). Amount brought in by promoters as unsecured loans in stipulation of any lending Financial Institution or Banks subject to:-*

Loan is brought in pursuance of stipulation imposed by lending institutions on promoters to contribute such finance; and o Loan is provided by the promoters themselves and/or by their relatives.

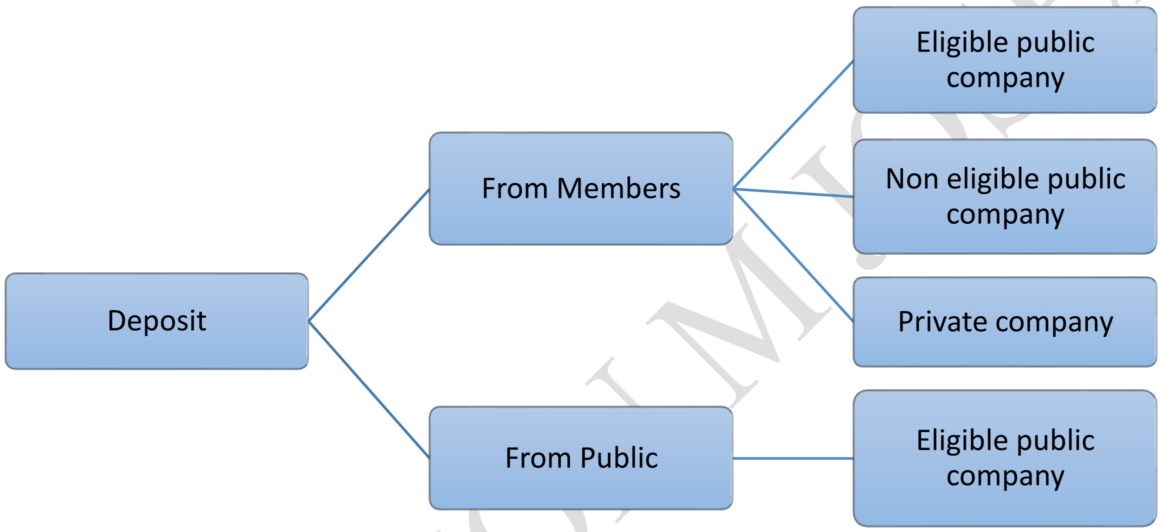
Exemption available only till loans are repaid

- *Amount received by Nidhi companies*
- *Amount received as subscription in respect of a chit under Chit Fund Act 1982 (w.e.f. 29th June 2016)*
- *Amount received under any collective investment scheme as per SEBI regulations (w.e.f. 29th June 2016)*

- *Amount of Rs. 25 Lakhs or more in a single trench from a person received by a start-up company by way of convertible note (convertible into equity shares or repayable within 5 years from date of issue)*

- *Amounts received from Alternative Investment Funds, Domestic Venture Capital Funds and Mutual Funds registered with SEBI*

FROM WHOM DEPOSITS CAN BE ACCEPTED??



Eligible companies are public companies having net worth of atleast*100*croresrupees or turnover of atleast *500* crores and are allowed to raise deposits from the person other than its members

LIMIT ON ACCEPTANCE OF DEPOSITS

DEPOSITS	FROM PUBLIC	FROM MEMBERS
By eligible companies	25% of paid up capital, free reserves and securities premium account	10% of paid up capital, free reserves and securities premium account
Non eligible public companies	Nil	35% of paid up capital, free reserves and securities premium account
By private companies	Nil	100% of paid up capital, free reserves and securities premium account

By government companies	35% of paid up capital, free reserves and securities premium account

The maximum limit in respect of deposits to be accepted from members shall not apply to following classes of private companies, namely:-

(i) a private company which is a start-up, for five years from the date of its incorporation;

(ii) a private company which fulfils all of the following conditions, namely:-

(a) which is not an associate or a subsidiary company of any other company;

(b) the borrowings of such a company from banks or financial institutions or anybody corporate is less than twice of its paid up share capital or fiffy crore rupees, whichever is less ; and

(c) such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under section 73:

CONDITIONS FULFILLED REGARDING DEPOSIT ACCEPTANCE

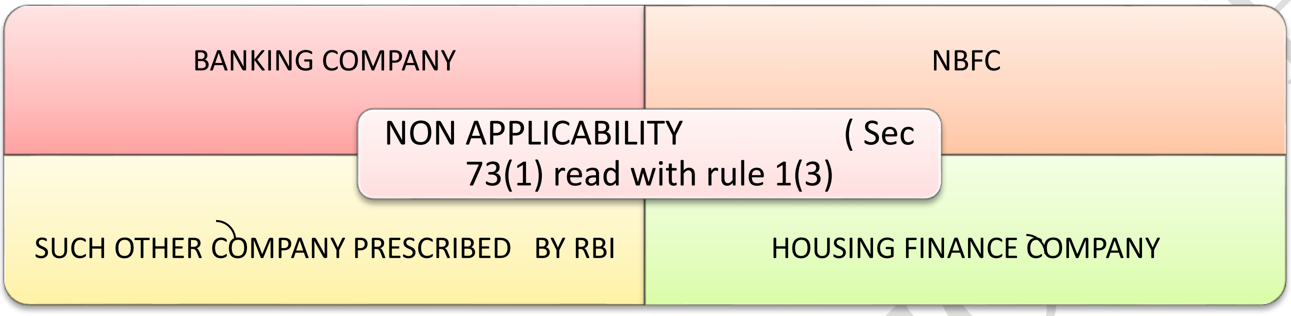
- **Issue a circular**(DPT-1) to its members including therein a statement showing the financial position of the company, the credit rating obtained, the total number of depositors and the amount due towards deposits in respect of any previous deposits accepted by the company and such other particulars in such form;
- **File a copy of the circular** and statement with the Registrar within 30 days before the date of issue of the circular.
- **Deposit Trust Deed**The Company shall execute a deposit trust deed in Form (DPT-2) at least seven days before issuing the circular.
- Maintenance of Liquid Fund Deposit sum which shall **not be less than 20% of the deposits maturing during a financial year** keep in a scheduled bank in a separate bank account to be called as **deposit repayment reserve account.**
- **Certificate from the Company** Certify that the company has not committed any default in the repayment of deposits accepted or payment of interest on such deposits.
- Security for the repayment of the amount of deposits or the interest thereon
- Deposit Receipt Furnish receipt within 21 days of amount received, to the depositors.
- Maintain deposit register and make entries within 7 days of issuance of receipt

PERIOD OF DEPOSITS

No company shall accept any deposits which is repayable within a period of less than 6 months or more than 36 months

A company may, for the purpose of meeting its short term requirement, accepts the

Deposits for repayment earlier than 6 months, but not earlier than 3 months and such deposits shall not exceed 10% of paid-up share capital, free reserves & securities premium account



OTHER POINTS

- Special resolution is required for eligible companies and ordinary for others
- Every company shall obtain, atleast once in a year, credit rating for deposits accepted by it and a copy of the rating shall be sent to registrar with the return of deposits in DPT-3 (Before 30th June of every year for FY ended 31/03)
- 18% P.A shall be penal interest for the overdue period in case of deposits, whether secured or unsecured, matured and claimed but remaining unpaid
- If any contravention of section 73 to 76. The company shall punishable 1 crore/twice amount of deposit accepted whichever is lower extend to 10 crore rupees and every officer default shall be punishable with imprisonment which may extend to 7 years with fine and shall not be less than 25 lakh rupees extend upto 2 crore rupees(Sec 447 shall be also applicable)
- Where depositors so desire, deposits may be accepted in joint names not exceeding 3

DEPOSIT REPAYMENT RESERVE-

As per section 73(2)(c) of the companies act 2013, read with rules 13 companies (acceptance of deposits rules)2014, a deposits of not less than 20% of the amount of its deposits maturing during the financial year is required to be maintained with the scheduled commercial bank in separate bank account to be called as deposit repayment reserve account on or before the 30th day of April every year