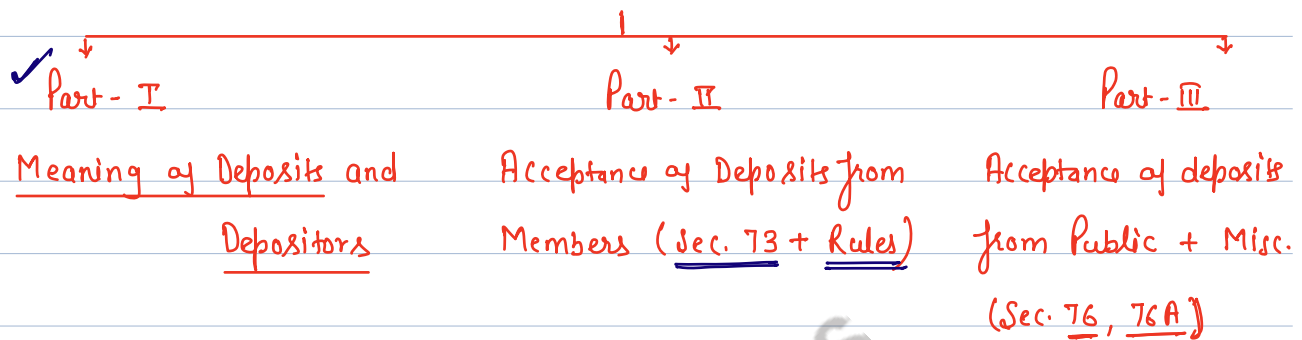


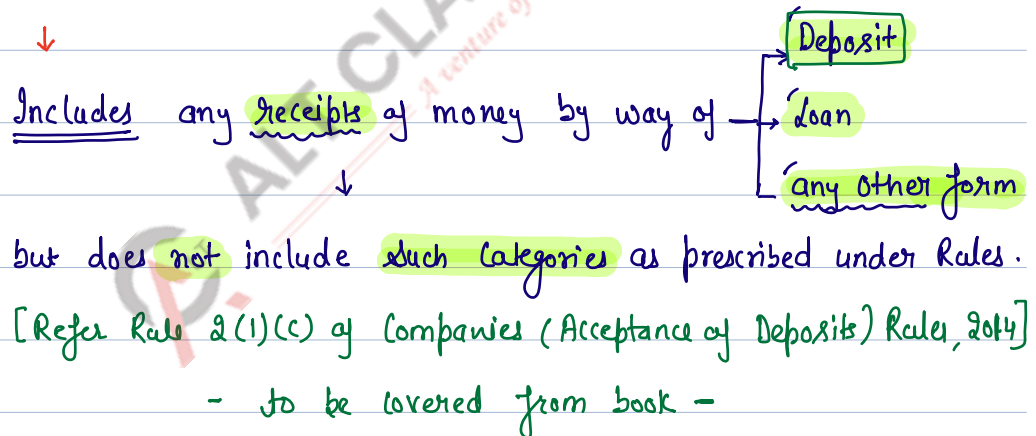
Chapter - 5 "Acceptance of Deposits"

[Chapter V of Companies Act, 2013 - Secs. 73-76A]

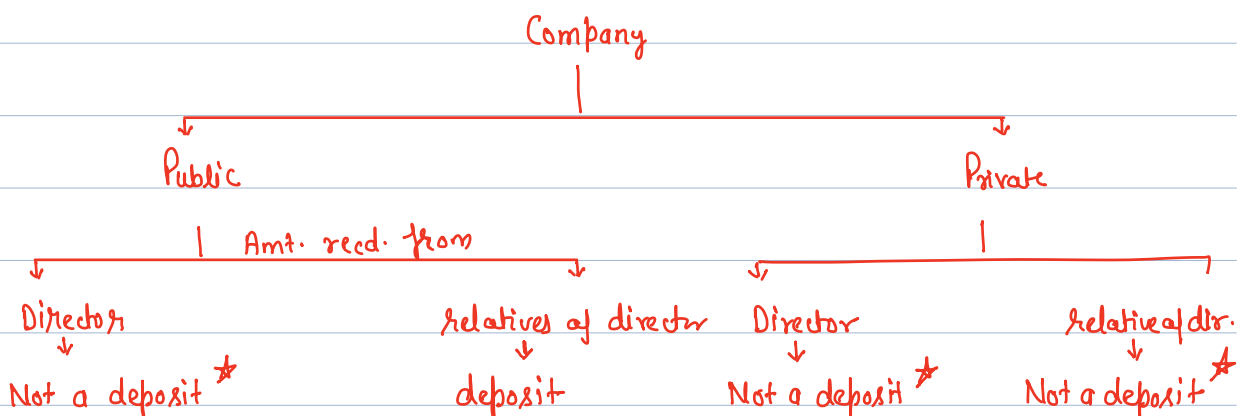
+ Companies (Acceptance of Deposits) Rules, 2014



(i) Meaning of Deposit: Sec. 2(31)



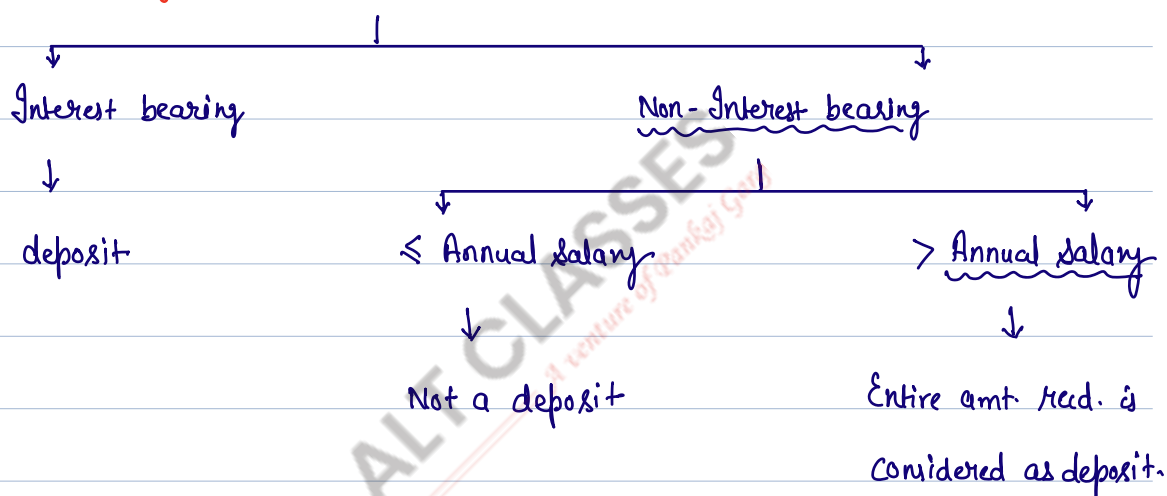
Deposits from Directors | relatives:



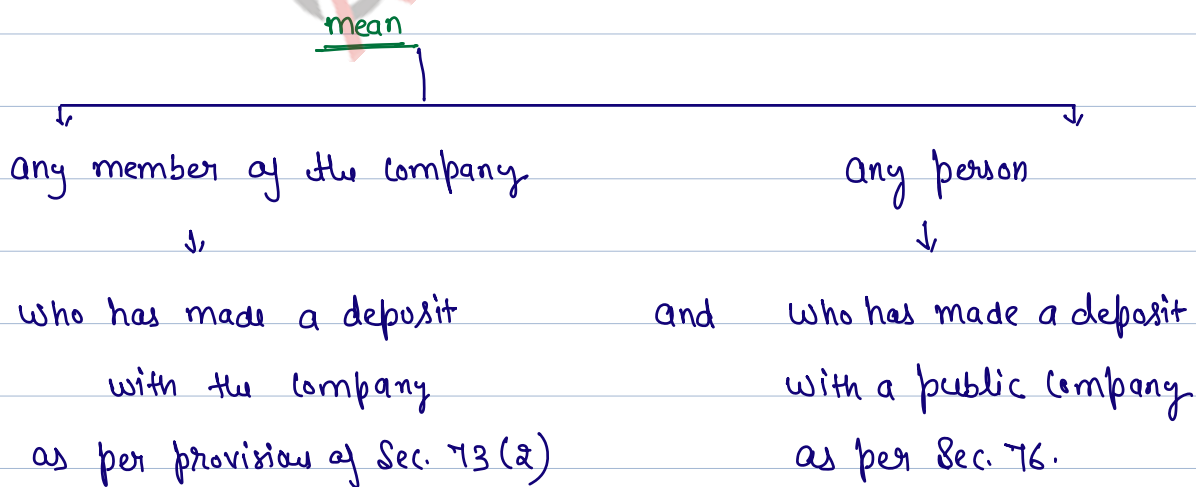
* Written declaration

- Debⁿ / Bonds:
- (i) Secured debⁿ → First charge / Pari passu charge on assets of Co.
 - (ii) Convertible debⁿ → within 10 years.
 - (iii) Non convertible debⁿ, no charge, but listed on Recognised S.E.
 - are not considered as deposits.

Security deposit from Employee:



(ii) Meaning of Depositor: [Rule 2(1)(d)]



H.w.: written practice of Questions asked in Nov. 19 and July 21.

(iii) Acceptance of deposits from the members: (Sec. 73)

Sec. 73 (1): - No company shall accept or renew deposits from the public except in the manner as provided under the Act. [Refer Sec. 76]

- This prohibition is not applicable over:

- ✓ (a) Banking Companies
- ✓ (b) NBFC
- ✓ (c) HFC regd. with NHB.
- ✓ (d) Other specified companies.

✓ Sec. 73 (2): Conditions for accepting deposits from members:

- ✓ (i) A resolution is passed in the general meeting of the company.
- ✓ (ii) A Circular is issued to members including therein a statement showing specified particulars. [Refer Rule 4]
- (iii) A copy of the circular shall be filed with ROC within 30 days before the date of issue of circular.
- ✓ (iv) $\geq 20\%$ of deposits maturing during the year should be deposited in a scheduled bank in Deposit Repayment Reserve (DRR) A/c, on or before 30th April of each FY.
- (v) Company shall certify that company has not committed any default in repayment of deposits or payment of interest on such deposits or both, at any time.

Note: In case of any default, company shall make good the default and 5 years elapsed since the date of making good the default.

(vi) Security may be provided for due repayment of deposits or interest thereon by creation of charge on the assets of the company.

Exception: Condition as stated above shall not be applicable over a private co.

✓ (a) If deposits \leq Aggregate of PUC + Free reserves + securities premium a/c.

(b) Which is a start up, for five years from the date of incorporation.

(c) which fulfills 3 conditions:

(i) Not a subsidiary or associate of other company; (+)

(ii) Borrowings from banks / financial institutions or body corporates are less than the lower of following: (a) twice of PUC (+) (b) ₹ 50 Crores.

(iii) No default in repayment of any subsisting borrowings.

Note: Such private companies shall file the details of money accepted to the Registrar in form No. DPT-3.

Sec. 73(3): Deposits accepted shall be repaid with interest as per terms and conditions on which deposited were accepted.

Sec. 73(4): If company fails to repay the deposit or part thereof or any interest thereon

↓

depositor may apply to Tribunal for an order directing the company — to pay the sum due or for any loss or damage incurred or such order as Tribunal may deem fit.

Sec. 73(5): DRR A/c shall not be used by the company for any purpose other than the repayment of deposits.

(iv) Companies (Acceptance of Deposits) Rules, 2014:

Rule 3(1): Tenure for deposits:

- A company is not permitted to accept or renew the deposits, which are repayable:
 - On demand; or
 - within a period less than 6 months or more than 36 months from date of acceptance or renewal of such deposits.
- However, to meet any short-term requirement, a company may accept or renew the deposits which is repayable within a period less than 6 months, subject to the following conditions:
 - (a) Deposit shall not exceed 10% of aggregate of PUSC, free reserves and securities premium.
and
 - (b) Deposits are repaid not earlier than 3 months from the date of acceptance of such deposits or renewal.

Rule 3(2): Joint deposits:

Deposits may be accepted in joint names, but not exceeding '3'.

✓ Rule 3 (3): Maximum amount:

= 35% of Aggregate of PUSC, free reserves and securities premium.

Exceptions:

(i) Specified IFSC Public Company and Private Companies may accept deposits upto 100% of aggregate of PUSC, free reserves and securities premium.

(ii) Maximum limit shall not apply over the private companies which:

(a) is a start-up company for 10 years from the date of incorporation.

(b) satisfies 3 conditions:

✓ (i) not an Associate or subsidiary of other company;

✓ (ii) borrowings from banks / F.I. body corporates are less than twice of PUSC or ₹ 50 Crores, whichever is lower; and

✓ (iii) no default in repayment of subsisting borrowings.

Note: Companies accepting deposits shall file the details of deposits with the Registrar in form No. DPT-3.

Rule 3(6): Rate of Interest and brokerage:

shall not exceed maximum rate as prescribed by RBI.

Rule 3(7): Right to alteration:

Company shall not reserve for itself, directly or indirectly, a right to alter any terms or condition of deposit, deposit trust deed which may prove detrimental to interests of depositors

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after circular is issued and deposits are accepted.

Rule 4: Circular to be issued before accepting deposit: already covered

Rule 5: Deposit Insurance: Not in syllabus

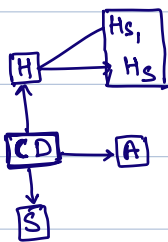
Rule 6: Creation of charge:

- W.r.t. secured deposits, a charge shall be created on tangible assets (movable or immovable) of the company in favour of deposit trustee.
- Charge cannot be created on intangible assets, like goodwill, trade mark etc.
- Total value of security shall not be lower than the amount of deposits accepted and interest payable thereon.

Imp:

Rule 7 : Appointment of deposit trustee:

- (i) For creating security of deposits, one or more trustees for depositors, shall be appointed.
- (ii) Before appointment, a written consent shall be obtained.
- (iii) Statement of consent shall appear in the circular with reasonable prominence.
- (iv) Deposit trust deed shall be executed at least 7 days before date of issue of circular in form No. DPT-2.
- (v) Following persons cannot be appointed as trustee:



- (a) Directors, KMPs, officers or employees of the company, its holding co, subsidiary co, associate co. or depositor; or relatives of such directors, KMPs, officers or employees ^{depositor}.
- (b) A person who is indebted to C/H/S/A subsidiary of holding company.
- (c) A person who has material pecuniary relationship with the company.
- (d) A person who has given any guarantee in respect of deposits or interest thereon.

- (vi) A trustee cannot be removed before expiry of his tenure except with consent of all directors present in the meeting.

In case company is required to have independent directors, at least one independent director shall be present in the meeting.

Rule 8: Duties of Trustees

Rule 9: Meetings of Depositors

Not covered in syllabus.

Rule 10: Filing of Application Form:

Rule 11: Nomination:

Rule 12: Deposit Receipt: to be issued within 21 days.

Rule 13: Deposit Repayment Reserve: already covered

Rule 14: Register of Deposit:

- to be maintained at Regd. office of the company
- must incorporate the specified particulars
- preserved for at least 8 years from the end of FY in which latest entry is made in the register.
- Entries shall be made within 7 days of issue of deposit receipt.

Rule 15: Premature payments:

- In case of premature payments rate of interest payable will be 1% lower than the rate payable for the period for which deposit has actually run.
- period of 6 months or more will be considered as one year.
- period less than 6 months to be ignored.
 - ≥ 6 months - < 1 year 6 Month = 1 year
 - ≥ 1 yr. 6 M - < 2 year 6 Month = 2 years
 - ≥ 2 year 6 M - = 3 years

Ex: Mr. A - deposit ₹ 3 Lakh @ 10% for 3 years]
 8% for 2 years
 6% " 1 year

Situation - I : 4 Mouth = Not allowed

$$9 \text{ Mouth} = 3,00,000 \times 5\% \times \frac{9}{12}$$

$$15 \text{ Mouth} = 3,00,000 \times 5\% \times \frac{15}{12}$$

$$25 \text{ Mouth} = 3,00,000 \times 7\% \times \frac{25}{12}$$

$$34 \text{ Mouth} = 3,00,000 \times 9\% \times \frac{34}{12}$$

Rule 16: Filing of return of deposits with the Registrar:

Return to be filed for every financial year in form DPT-3, with the Registrar, by 30th June of following year.

Rule 16A: Disclosures in the financial statements:

Public Company - Money recd. from the directors.

Private " - " " " " " and their relatives.

Rule 17: Penal rate of interest: @ 18% p.a. for overdue period.

Rule 18: Powers of C.G.

Rule 19: Applicability of Sec. 73/Sec. 74 over Eligible Co.

Rule 20: Transitional Provision

Rule 21: Punishment for contravention: If no penalty is provided in the Act - - - - -

[Sec 76A of Companies Act, 2013 prescribes the penalties]

H.W.
MTP - March 21

Not in syllabus



(v) Acceptance of deposits from public : Sec. 76

(a) An eligible company having such net worth or turnover as may be prescribed, may accept deposits from persons other than its members, subject to compliance of requirements as stated in sec. 73(2) and rules prescribed by C.G.

Eligible company: As per Rule 2(1)(e), eligible company means

↓
a public company, having net worth \geq 100 Cr.

Or

turnover \geq 500 Cr

AND

having obtained prior consent in general meeting

by means of a special resolution

and

filed the resolution with RoC before inviting public for acceptance of deposits.

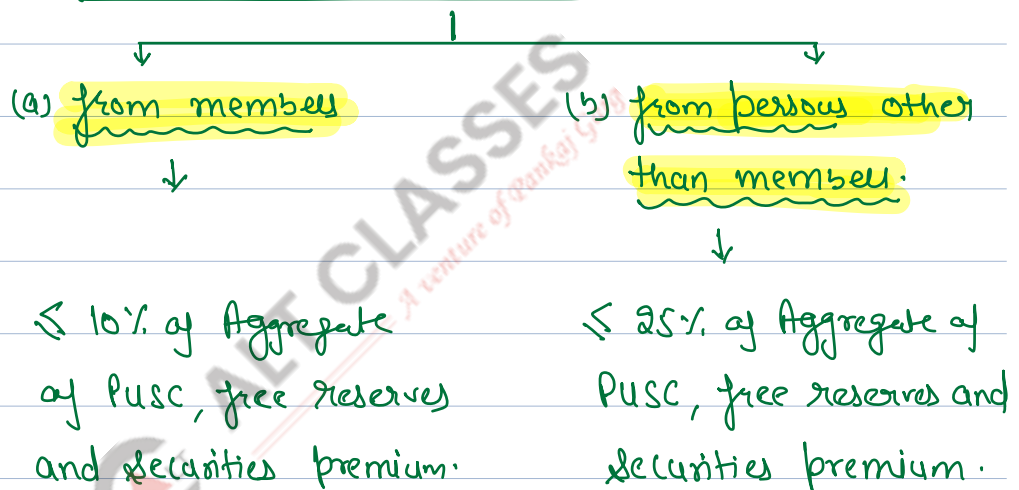
(b) Such a company shall obtain credit rating from a recognised credit rating agency, for informing the public, the rating given to the company.

[Refer 3(8)].

(c) w.r.t. secured deposits, charge shall be created within 30 days of acceptance of deposits, of an amount not less than the amount of deposits accepted, in favour of debenture holders. [Refer Rule 6]

Companies (Acceptance of Deposits) Rules, 2014:

Rule 3(4): Maximum amount of deposit:



Rule 3(5): In case of eligible government companies, limit is upto 35% of PUSC, free reserves and securities premium.

Rule 3(8): Credit rating

Rule 4(2): Issuance of circular in the form of advertisement.

- from book -