



## COMPANY LAW ALERT

### **MONEY ACCEPTED FROM SHAREHOLDERS ETC.**

Chapter V of the Companies Act, 2013, vide Section 73 to 76 read with Rules enacted by the Central Government in consultation with Reserve Bank of India (R.B.I), namely Companies (Acceptance of Deposits) Rules, 2014, lays down the framework within which the invitation and acceptance of deposits from the public and matters connected thereto are regulated and control. The Companies (Acceptance of Deposits) Rules, 2014 are effective from 1<sup>st</sup> April, 2014.

Section 74(1)(b) of the Companies Act, 2013 lays down that in respect of any deposit accepted by a company before the commencement of this Act, and remaining unpaid on the commencement of this Act or becomes due at any time thereafter, the company shall apart from filing Form DPT 4 shall repay within one year from such commencement or from the date on which such payments are due, whichever is earlier.

It implies that even a private limited company which had accepted money from shareholders and relatives of directors before the commencement of this Act which were not deposits till 31.3.2014 had now become deposits under the Companies Act, 2013.

Hence the companies had to repay all such sums which it had received from shareholders and relatives of directors under the Companies Act, 1956 by 31<sup>st</sup> March 2015. Such a provision created hardship to many companies as they had received money from shareholders which was legally valid and correct under the Companies Act, 1956. But with the commencement of the Companies Act, 2013, all such money had to be repaid.

The Ministry of Corporate Affairs (MCA) has on 30<sup>th</sup> March, 2015 vide circular no. 05/2015 has sought to clarify that such amounts (money received from their members, directors or their relatives) received by private companies prior to 1st April, 2014 shall not be treated as 'deposits' under the Companies Act, 2013 and Companies (Acceptance of Deposits) Rules, 2014 subject to the

condition that relevant private company shall disclose, in the notes to its financial statement for the financial year commencing on or after 1st April, 2014 the figure of such amounts and the accounting head in which such amounts have been shown in the financial statement.

However any renewal or acceptance of fresh deposits on or after 1st April, 2014 shall, however, be in accordance with the provisions of Companies Act, 2013 and rules made thereunder.

This clarification from the MCA has brought a clear clarity amongst the stakeholders and a lot of relief to the private limited companies in respect of money accepted from shareholders and relatives of directors till 31.3.2014 as the private limited companies are no longer required to repay these amounts by 31.3.2015.

**MVDCO Advisory Services**

7/2, Mahalaxmi Industrial Estate,  
Dainik Shivner Marg,  
Lower Parel, Mumbai – 400 013.  
Branch-Pune



For any queries email at [consult@mvdco.com](mailto:consult@mvdco.com)