



Compliances with Companies Act, 2013 by Private Limited Companies – Part I

The following is intended to provide a general overview of the Companies Act, 2013 (“Act”) as applicable to private limited companies. This first part deals with changes to stationery and company material as well as repayment of deposits prior to commencement of the Act:

Stationery

One of the changes that companies need to effect immediately is in relation to their letterheads and other official communication. Section 12 of the Companies Act, 2013 as notified, prescribes that the following details should be included in business letterheads, faxes, bills, notices, all communication and other official publication:

1. Name and Registered Office Address
2. Corporate Identity Number (CIN)
3. Telephone Number
4. Fax Number
5. Email
6. Website

Where a company has changed its name in the last 2 years, it shall print along with its name the former name or names so changed during the last 2 years on such communication as provided above.

Similarly, the said section also prescribes that every company shall paint or affix its name, and address of its registered office and keep the same painted or affixed on the outside of every office or place of business in a conspicuous position in legible letters and also in the language that is in use in the locality where such place of business is situate.

For any default in complying with this section, the company and every officer in default shall be liable to pay a penalty of INR 1000 (Rupees One Thousand) for every day during which the default continues with a maximum limit of INR 1,00,000 (Rupees One Lakh).

Repayment of deposits accepted prior to commencement of the Act

Section 74 of the Act provides that all companies that have accepted any deposit prior to the commencement of the Act i.e. prior to April 1, 2014 and which deposit remains unpaid on April 1, 2014 or becomes due for payment at any time after the commencement shall comply with the following:

- a) file with the Registrar a statement of all deposits accepted by the company and amounts remaining unpaid on the deposits along with details of interest and arrangements made for such repayment. This statement shall be in form DPT – 4 as per Rule 20 of Chapter V Rules.
- b) Repay within 1 year from commencement (i.e before 31st March 2015) or from the date on which such payments are due *whichever is earlier*.

It therefore follows that:

- a) Amounts that were due / deposits that matured or were to be repaid prior to the commencement of the Act but continue to remain outstanding shall be paid within 1 year from their due date or
- b) Amounts that were due deposits that matured or were to be repaid only after the commencement of the Act shall be repaid (irrespective of their due dates) on or before 31st March 2015.



This is quite an onerous provision applicable to all companies including private companies that have deposits outstanding as on date. The definition of deposit under the Chapter V rules *inter alia* excludes from its ambit:

- a) amount received from another company;
- b) amount received from a director who furnishes a declaration that the deposit so provided has not been provided by accepting the same from a third party;
- c) share application or allotment provided the same meets the criteria specified and securities are in fact allotted and no adjustments of any sort are made on the said amounts.

However, it is not clear whether the above exception applies to existing deposits that specifically fall under Section 74. A strict reading of Section would suggest that all deposits shall be returned or repaid. The Chapter V Rules only pertain to deposits made after the commencement of the Act.