



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

MCA: PD: 2019

June 25, 2019

Shri Injeti Srinivas, IAS
Secretary
Minister of Corporate Affairs
Government of India
5th Floor, Shastri Bhawan
Dr. Rajendra Prasad Road
New Delhi - 110001

Sir,

Sub: Filing of Form DPT -3: Need for uniformity in procedure

We seek your kind attention towards the provisions of Chapter V of the Companies Act, 2013 i.e. 'Acceptance of Deposits by Companies' read with rule 16 and rule 16A of the Companies (Acceptance of Deposits) Rules, 2014 which deals with *filing of Return of Deposits*.

Legal Provisions

In terms of the Companies (Acceptance of Deposits) Rules, 2014, every company to which these rules apply is required to file with the Registrar:

- (i) As per Rule 16: a return in Form DPT-3 on or before the 30th day of June, of every year and furnish the information contained therein as on the 31st day of March of that year duly audited by the auditor of the company;
- (ii) As per Rule 16A: a one time return of outstanding receipt of money or loan by a company but not considered as deposits, in terms of clause (c) of sub-rule (1) of rule 2 from 1st April, 2014 to 31st March 2019, as specified in Form DPT-3 within ninety days from 31st March, 2019.

Submission

To maintain the uniform practices and ease of doing business, we request you to kindly bring out internal guidelines which may be referred to while the approval of form DPT-3 (being non-STP form) in view of the following:

- a) Auditors' certificate, in case of One Time Return and Particulars of transactions by a Company not considered as deposit as per rule 2 (1) (c) of the Companies (Acceptance of Deposit) Rules, 2014, is not mandatory as per Rule 16A above. But such certificate is being sought in case outstanding amount is above five lakh rupees.
- b) Certified True Copy of Board Resolution, List of Depositors and Auditor's Certificate are also sought, in case of One Time Return and Particulars of transactions by a Company not considered as deposit, which are nowhere prescribed mandatory under the rules or in the Form.



Vision

"To be a global leader in promoting good corporate governance"

Motto

सत्यं वद। धर्मं चर। इष्टकारं कुरु। कर्तव्यं कुरु।

Mission

"To develop high calibre professionals facilitating good corporate governance"



- c) In point 7, division code as per NIC 2004 is not as per the main business activity of the Company. This particular field is a pre-filled and stakeholder has no option to amend the same.

Stakeholders have been asked to resubmit duly filled form with all details/ documents/attachments as per the acceptance of deposit rules including auditors certificate/details of depositors/money/loan, failing which forms are getting rejected.

Further, if a clarification could be provided on the following:

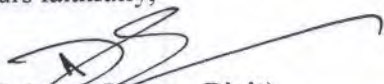
1. In case of one-time DPT -3 return:
 - a. Whether the amount received before 1st April, 2014 is to be included if that remains outstanding as on 31st March 2019.
 - b. Whether the amount of interest is to be added in the outstanding amount.
2. In case of annual DPT-3 form, the clarity is required on the transaction period for which outstanding amount as on 31st March 2019 to be reported in the annual DPT3 form in case of "Particulars of transactions by a company not considered as deposit as per rule 2(1) (c) of the Companies (Acceptance of Deposit) Rules, 2014". If amount is received from a company in March 2018 and it is outstanding as on 31st March 2019 and it is not a deposit as per rule 2(1)(c), then in such case whether the transactions that have occurred before 1st April 2018 to be also reported in Annual DPT3 form, if amount is outstanding as on 31st March 2019.
3. Whether 'Nil Return' is mandatory for annual filing.
4. According to the Rule 16, companies are required to file Return of Deposits or Annual Return of exempted deposits by 30th June every year on the basis of the audited financial statement upto 31st March.

In this regard, we have received the communications from professionals stating that Rule 16 is mandating for completion of the Audit process by June 30th, whereas as per the provisions of the Companies Act, 2013, companies can hold the annual general meeting and adopt the financial statements within a period of six months, from the date of closing of the financial year. In light of the above, we request you to kindly clarify the issue w.r.t requirement of the Audit of financials for the purpose of filing of Form DPT - 3.

We request your good self for considering the above. We shall be pleased to provide any other information as you may desire.

Thanking you,

Yours faithfully,


(CS Ashok Kumar Dixit)
Officiating Secretary, The ICSI