Companies Act, 2013

Fund Raising

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Delhi | Gurgaon | Mumbai | Bangalore | Hyderabad
Share Capital

- Public Offer and Private Placement
- Equity Share Capital
  - With voting rights
  - With differential rights as to dividend, voting or otherwise
- Preference Share Capital
- Shareholders can contractually agree on restriction on transfer of shares even in a public company
- Variation of rights by one class which affects other class to require consent of 3/4th of the other class
- Dissenting shareholders being 10% of a class can approach NCLT to have the variation cancelled, such variation not to be effective unless confirmed by NCLT
- Bonus issuance specifically provided - certain conditions imposed - cannot be issued from revaluation reserve and in lieu of dividend
- Minimum gap of one year between two buy-backs of securities
- Offer for sale concept by certain members introduced
Share Capital

- Redeemable Preference Shares can exceed 20 years for specified infrastructure projects (Refer Schedule VI)
- Voting rights in respect of preference shares - no distinction between cumulative and non-cumulative preference shares
- Prohibition of issue of shares at discount except as sweat equity - issue at discount to be void
- Preferential issue value to be determined by registered valuer
- Differential voting rights shares preserved
- Clear definition and concept of ‘Private Placement’
- No restriction on voting rights and transfer during rectification of register of members
- Specific mention of issue of convertible debentures subject to shareholders’ resolution
Deposits, Loans / Investments, Charges

- Allows acceptance of deposits from members and public
- Private company can accept only from members
- Resolution of shareholders required
- Issuance of circular to members with statement of financial position, credit rating obtained, outstanding amount of previous deposits
- Deposit Repayment Reserve Account in a separate bank account - 15% of the amount of deposits maturing during a financial year and financial year next following
- Deposit Repayment Reserve Account shall be used only for repayment of deposit, no other purpose
- Public company can accept even from public
- Provided it has prescribed “net worth” or “turnover”
- Banking company and NBFCs exempted
- Stringent penalties provided - Unlimited liability of officers responsible of accepting deposit with intent to defraud
Private companies to comply with restrictions

Rate of interest on a loan cannot be lower than the prevailing yield of one year, three year, five year or ten year Government Security closest to the tenor of the loan

Interest free loans by holding company to its wholly owned subsidiary not permissible

Investment company only upto two layers permitted - there are two exceptions
● New definition of the term “charge”. All types of charges would be required to be registered, no specific list has been provided

● Section 125 of the Companies Act requires registration of certain types of charges

● Registration of charges created outside India or charge in India on property situated outside India

● Grace period extended to 300 days from 30 days
Thank you!

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