

Banning of Unregulated Deposit Schemes (URDS) Ordinance, 2019 was notified w.e.f. 21st Feb 2019

What is Un-Regulated Deposit Scheme ???

- As per Section 2 sub-Section 17 of URDS Ord, “Unregulated Deposit Scheme” means a Scheme or
- an arrangement under which deposits are accepted or solicited by any deposit taker by way of business and
- which is not a Regulated Deposit Scheme.
- And As per Section 3 of URDS ord, Unregulated Deposit Scheme Shall be Banned.
- What is the confusion?

Definition of Deposit???

- As per Section 2 Subsection 4 of URDS Ord., “deposit” means an amount of money received by way of an advance or
- loan or in any other form, by any deposit taker with a promise to return whether after
- a specified period or otherwise, either in cash or in kind or in the form of a specified service,
- with or without any benefit in the form of interest, bonus, profit or in any
- other form, **but does not include :-**

Deposit does not include???

- (a) amounts received as loan from a scheduled **bank** or a co-operative bank
- (b) amounts received as loan or financial assistance from the **Public Financial Institutions**
- the Reserve Bank of India or any non-banking financial company or insurance companies;
- (c) amounts received from the **appropriate Government**,
- (d) amounts received from **foreign Governments**, the rules and regulations made thereunder;
- (e) amounts received by way of contributions towards the capital by
- partners of any **partnership firm** or a **LLP**;

Deposit does not include???

- (f) amounts received by an individual by way of loan from his relatives or
- amounts received by any firm by **way of loan** from the **relatives** of any of its partners;
- (g) amounts received as **credit** by a buyer from a seller on the sale of any property (whether movable or immovable);
- (h) amounts received by an **asset re-construction company** which is

Deposit does not include ???

- (i) any deposit made under section 34 or an amount accepted by a **political party**
- (j) any periodic payment made by the members of the self-help groups

Deposit does not include???

- (l) an amount received **in the course of, or for the purpose of, business** and bearing a genuine connection to such business including—
- (i) payment, advance or part payment for the supply or hire of goods or provision of services and
- is repayable in the event the goods or services are not in fact sold, hired or otherwise provided;
- (ii) advance received in connection with consideration of an
- immovable property under an agreement or arrangement subject to the
- condition that such advance is adjusted against such immovable property as specified in terms of the agreement or arrangement;

Deposit does not include ???

- (iii) **security or dealership deposited** for the performance of the contract for supply of goods or provision of services; or
- (iv) an **advance** under the **long-term projects** for supply of capital goods except those specified in item (ii):
- **Provided that** if the amounts received under items (i) to (iv) become refundable, such amounts shall be deemed to be deposits on the expiry of **fifteen days** from the date on which they become due for refund:
- **Provided further that** where the said amounts become refundable, due to the deposit taker not obtaining necessary permission or approval

Deposit does not include???

- **Explanation.**— For the purposes of this clause,—
- (i) in respect of a company, the expression “deposit” shall have the same meaning as assigned to it under the Companies Act, 2013;
- (ii) in respect of a non-banking financial company registered under the Reserve Bank of India Act, 1934, the expression “deposit” shall have the same meaning as assigned to it in clause (bb) of section 45-I of the said Act;
- (iii) the expressions “partner” and “firm” shall have the meanings respectively assigned to them under the Indian Partnership Act, 1932;
- (iv) the expression “partner” in respect of a limited liability partnership shall have the same meaning as assigned to it in
- clause (q) of section 2 of the Limited Liability Partnership Act, 2008;
- (v) the expression “relative” shall have the same meaning as assigned to it in the Companies Act, 2013;

Who is Deposit taker ???

- As per Section 2 sub-Section 6 of URDS Ord, “deposit taker” means
- (i) any individual or group of individuals;
- (ii) a proprietorship concern;
- (iii) a partnership firm (whether registered or not);
- (iv) a limited liability partnership registered under the Limited Liability Partnership Act, 2008;
- (v) a company;

Who is Deposit taker ??? Cont..

- (vi) an association of persons;
- (vii) a trust (being a private trust governed under the provisions of the Indian Trusts Act, 1882 or a public trust, whether registered or not);
- (viii) a co-operative society or a multi-State co-operative society; or

What is Un-Regulated Deposit Scheme ???

- As per Section 2 sub-Section 17 of URDS Ord, “Unregulated Deposit Scheme” means a Scheme or
- an arrangement under which deposits are accepted or solicited by any deposit taker by way of business and
- which is not a Regulated Deposit Scheme.
- And As per Section 3 of URDS ord, Unregulated Deposit Scheme Shall be Banned.
- Which means regulated deposit is not banned .
- Then what is Regulated Deposit ??

What is Regulated Deposit Scheme ???

- As per Section 2 sub-Section 14 of URDS Ord, “Regulated Deposit Scheme” means the Schemes specified under
- column (3) of the First Schedule;

First Schedule Point 9 of URDS Ord

S.No	Regulator	Regulated Deposit Scheme
9	Ministry of Corporate Affairs, Government of India	(i) Deposit Accepted or Permitted under the Provisions of Chapter V of Companies Act, 2013 (18 of 2013) (ii) Any scheme or an arrangement under which deposits are accepted by a company declared as a Nidhi or a Mutual Benefit Society under section 406 of the Companies Act, 2013 (18 of 2013).

Conclusion URDS Ord 9 ??

- Which means deposits which fall under Companies Act 2013
- are treated as regular deposits and do not fall under unregulated Deposit of URDS Ord 19.
- And hence are not banned.

That was Journey to
Unregulated Deposit
Schemes Ordinance 2019

Thank You
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- Journey towards
- Deposit Accepted or Permitted under the Provisions of Chapter V of
- Companies Act, 2013

- Journey towards
- Deposit Accepted or Permitted under the Provisions of Chapter V of
- Companies Act, 2013

- Journey Towards
- UNDERSTANDING DEPOSITS

Types of Deposits

- Unregulated Deposits
- Exempted deposits
- Deposits from director
- Deposits from director's relatives
- Regulated deposits
- Deposits from shareholders
- Deposits from shareholder's relatives
- Deposits from Public

Deposits.. Existing Relevant Law..Ch V

- Section 73.. Deals with law relating to acceptance of Deposits from other than Public .i.e. Director, Shareholder , Relatives of Directors, Share application Money, Advances etc. (Read with AOD Rules) (Applicable to Pvt and Pub co.)
- Section 74..Repayment of Deposits Accepted before commencement of this Act. (i..e Deposits Outstanding as on 31st March 2014.
- But which deposits i.e. Deposits as per CA 56
- Refer circular 5 dtd 30 Mar 15
- 75.. Penalty for Fraud in relation to 74
- 76..Acceptance of Deposits from public by certain companies only. (ie. Public Co and not Pvt Co)
- 76A.. Penalty for contravention of 73 and 76.

Company (Acceptance of Deposits) Rules 2014

Applicability

☐ These rules shall apply to a **company** other than:-

- i. a banking company;
- ii. a non-banking financial company as defined in the Reserve Bank of India Act, 1934 (2 of 1934) registered with the Reserve Bank of India;
- iii. a housing finance company registered with the National Housing Bank established under the National Housing Bank Act, 1987 (53 of 1987); and
- iv. a company specified by the Central Government under the proviso to sub-section (1) of [section 73](#) of the Act.

What is Deposits ???

☐ "deposit" includes any receipt of money by way of deposit or loan or in any other form, by a company, **but does not include:-**

- i. any amount received from the Central Government or a State Government,
- ii. any amount received from foreign Governments, foreign or international banks,
- iii. any amount received as a loan or facility from any **bank**.
- iv. any amount received as a loan or financial assistance from **Public Financial Institutions**
- v. any amount received against issue of any instrument in accordance with the guidelines or notification issued by the Reserve Bank of India;

Definition Cont.....

- vi. any amount received by a company from any other company;
- vii. any amount received and held pursuant to an offer made in accordance with the provisions of the Act towards subscription to any securities,
- **including share application money or advance towards allotment** of securities pending allotment, so long as such amount is appropriated only against the amount due on allotment of the securities applied for;
- **Explanation.-** For the purposes of this sub-clause, it is hereby clarified that -

Definition clause (vii) Expla.. Cont.....

- a) Without prejudice to any other liability or action, if the securities for which application money or
 - advance for such securities was received **cannot be allotted within sixty days** from the date of receipt of the application money or
 - advance for such securities and such application money or advance **is not refunded to the subscribers within fifteen days** from the date of completion of sixty days, such amount **shall be treated as a deposit** under these rules.
- b. any adjustment of the amount for any other purpose shall not be treated as refund.

Definition Cont.....

- viii. any amount received from a person who, at the time of the receipt of the amount, was a **director** of the company or a **relative of the director** of the **Private company (Not Public Company)**:
- Provided that the director of the company or relative of the director of the private company, as the case may be,
 - from whom money is received, furnishes to the company at the time of giving the money,
 - a **declaration in writing** to the effect that the amount is **not being given** out of funds acquired by him **by borrowing** or accepting loans or deposits from others and the company shall disclose the details of money so accepted **in the Board's report**;".] {(read sec 134(2) with Rule 8(5)}

Definition Cont.....

- ix. any amount raised by the issue of **bonds or debentures** secured by a first charge or
- a charge ranking pari passu with the first charge on any assets referred to in [Schedule III](#) of the Act excluding
 - intangible assets of the company or bonds or debentures compulsorily convertible into shares of the company within [Ten years]:
 - ❖ Provided that if such bonds or debentures are secured by the charge of any assets referred to in [Schedule III](#) of the Act,
 - excluding intangible assets, the amount of such bonds or debentures shall not exceed the market value of such assets as assessed by a registered valuer

Definition Cont.....

- ixa. **(Exception to (ix))** any amount raised by issue of non-convertible debenture not constituting a charge on the assets of the company and listed on a recognised stock exchange as per applicable regulations made by Securities and Exchange Board of India.”;]
- x. any amount received **from an employee of the company** not exceeding his annual salary under a contract of employment with the company in the nature of **non-interest bearing security deposit**;
- xi. any non-interest bearing amount **received and held in trust**;

Definition Cont.....

- xii. **any amount received in the course of, or for the purposes of, the business of the company,-**
 - a) as an advance for the supply of goods or provision of services accounted for in any manner whatsoever provided that such advance is appropriated against supply of goods or provision of services within a period of **three hundred and sixty five days** from the date of acceptance of such advance:
 - ❖ Provided that in case of any advance which is subject matter of any legal proceedings before any court of law, the said time limit of three hundred and sixty five days shall not apply;
 - b) as advance, accounted for in any manner whatsoever, received in connection with **[consideration for an immovable property]** under an agreement or arrangement, provided that such advance is adjusted **[against such property]** in accordance with the terms of agreement or arrangement;
 - c) as **security deposit** for the performance of the contract for supply of goods or provision of services;

Definition Clause xii Cont.....

- d) as **advance received under long term projects** for supply of capital goods except those covered under item (b) above:
- e) as an advance towards consideration for providing future services in the form of a **warranty or maintenance contract** as per written agreement or arrangement,
 - if the period for providing such services does not exceed the period prevalent
 - as per common business practice or **five years**, from the date of acceptance of such service whichever is less;

Definition Clause xii Cont.....

- f) as an advance received and as allowed by any sectoral regulator or in accordance with directions of Central or State Government;
- g) as an advance for subscription towards publication, whether in print or in electronic to be adjusted against receipt of such publications;
- ❖ Provided that if the amount received under items (a), (b) and (d) above becomes refundable (with or without interest) due to the reasons that the company accepting the money does not have necessary permission or approval, wherever required, to deal in the goods or properties or services for which the money is taken, then the amount received shall be deemed to be a deposit under these rules:
- *Explanation.-* For the purposes of this sub-clause the amount shall be deemed to be deposits on the expiry of fifteen days from the date they become due for refund.

Definition Cont.....

- xiii. any amount brought in **by the promoters of the company** by way of unsecured loan in pursuance of the stipulation of any lending financial institution or a bank subject to fulfillment of the following conditions, namely:-
- a) the loan is brought in pursuance of the stipulation imposed by the lending institutions on the promoters to contribute such finance;
 - b) the loan is provided by the promoters themselves or by their relatives or by both; and
 - c) the exemption under this sub-clause shall be available only till the loans of financial institution or bank are repaid and not thereafter;

MISC exclusions from deposits.

- (xiv) any amount accepted by a **Nidhi company** in accordance with the rules made under [section 406](#) of the Act.
- *Explanation.-* For the purposes of this clause, any amount.-
- (a) received by the company, whether in the form of instalments or otherwise, from a person with promise or offer to give returns, in cash or in kind, on completion of the period specified in the promise or offer, or earlier, accounted for in any manner whatsoever, or
- (b) any additional contributions, over and above the amount under item (a) above, made by the company as part of such promise or offer,
- 11[shall be considered as deposits unless specifically excluded under this clause]
- [(xv) any amount received by way of subscription in respect of a **chit** under the Chit Fund Act, 1982 (40 of 1982);
- (xvi) any amount received by the company under any collective investment scheme in compliance with regulations framed by the Securities and Exchange Board of India;

MISC exclusions from deposits.

- (xvii) an amount of **twenty five lakh rupees or more** received by a **start-up company**, by way of a convertible note (convertible into equity shares or repayable within a period not exceeding five years from the date of issue) in a single tranche, from a person.
- Explanation.- For the purposes of this sub-clause,-
- I. “start-up company” means a private company incorporated under the Companies Act, 2013 or Companies Act, 1956 and recognised as such in accordance with notification number G.S.R. 180(E) dated 17th February, 2016 issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry;
- II. “convertible note” means an instrument evidencing receipt of money initially as a debt, which is repayable at the option of the holder, or which is convertible into such number of equity shares of the start-up company upon occurrence of specified events and as per the other terms and conditions agreed to and indicated in the instrument.

MISC exclusions from deposits.

- (xviii) any amount received by a company from Alternate Investment Funds, Domestic Venture Capital Funds, ["Infrastructure Investment Trusts"] [Real Estate Investment Trusts] and Mutual Funds registered with the Securities and Exchange Board of India in accordance with regulations made by it.”.]

Misc. Provisions

- “depositor” means,
- (i) any member of the company who has made a deposit with the company in accordance with the provisions of sub-section (2) of [section 73](#) of the Act, or
- (ii) any person who has made a deposit with a public company in accordance with the provisions of [section 76](#) of the Act;

Misc. Provisions

- "eligible company" means a public company as referred to in sub-section (1) of [section 76](#),
- having a net worth of not less than one hundred crore rupees or a turnover of not less than five hundred crore rupees and
- which has obtained the prior consent of the company in general meeting by means of a special resolution and also filed the said resolution with the Registrar of Companies before making any invitation to the Public for acceptance of deposits:
- Provided that an eligible company, which is accepting deposits within the limits specified under clause (c) of sub-section (1) of [section 180](#), may accept deposits by means of an ordinary resolution;

Rule 3 to Rule 22

- For Rule 3 to Rule 22, See [Word Files](#)
- Lets begin Journey towards DPT 3 and DPT4

Two Types Of Returns

- DPT 3.. Return for exempted and regular Deposits. (Sec 73)
- DPT 4.. Return for deposits as on 1st April 2014 (sec 74)
- Lets begin journey towards DPT 3.

Acceptance of Deposit Rules

- Acceptance of Deposit Rules 1 To 21
- **Rule 2.. Deals with exempted deposits.**
- Other Rules relate to Deposit compliances.
- Latest Amendment
- Amendment to rules 16 and 16A of Acceptance of Deposit Rules
- Vide noti. No. 42 dtd 22 Jan 19.

Unamended Rule 16 Deposit Rules

Rule 16

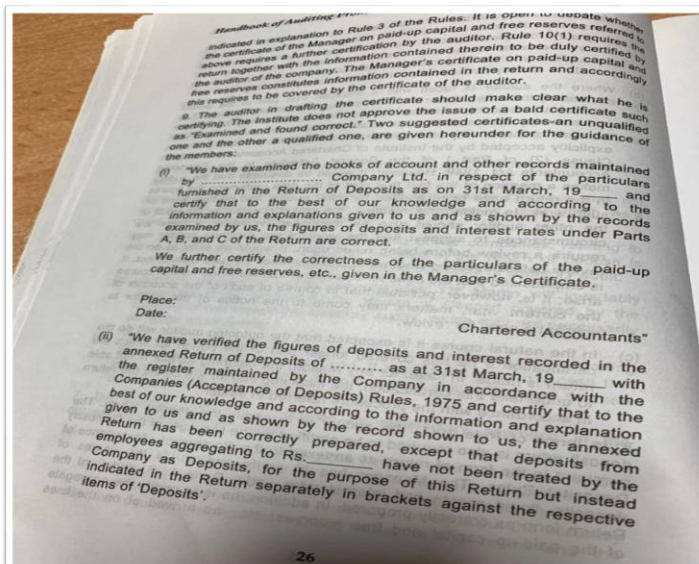
- Every company to which these rules apply,
- shall on or before the **30th day of June**, of every year,
- file with the Registrar, a return in Form DPT-3 along with the fee as provided in Companies (Registration Offices and Fees) Rules, 2014
- and furnish the information contained therein as on the **31st day of March** of that year
- duly **audited by the auditor** of the company.
- As per this law DPT 3 is applicable only to regular deposits

New Explanation -Rule 16

- **Explanation Inserted in Rule 16 .. Noti. 42 dt 22 jan 19**
- Explanation.- It is hereby **clarified**
- that Form DPT-3 shall be **used** for filing
- **return of deposit or**
- **particulars of transaction (not merely borrowings ??) not considered as deposit**
- or both by every company other than Government company.
- So as per amendment in DPT3. the scope has been extended to cover even the exempted deposits.
- To be filed before 30th June.

Audit mandatory before 30th June ???

- So wherever rule 16 will be applicable audit will have to be completed by 30th June ?? Yes or no
- No . You need to give NW as per point 8 of DPT 3 which states “NW as per latest audited BS preceeding the date of return. And No. 9 total number of deposit holders as on 1st April and in the end requires auditor certificate.
- So DPT becomes Mandatory in case of
- 1. ICD
- 2. Loan from directors or relatives
- 3.Share application money and to be allotted with in 60 days. Not allotted are deemed deposits
- 4. Advances and securities received.
- Return To be filed in DPT 3 before 30th June .
- And what about Loan from shareholders ???
- Contd..



- Till now it was journey towards Return as on 31st March every year.
- Next is journey towards status as on 22nd Jan 2019

Rule 16A Deposit Rules

Unamended Provision

Every Company, **other than a private company**, shall disclose in its financial statement , by way of notes, about the money received from the director.

Every private company shall disclose in its Financial statement , by way of notes about the money received from the directors, or relatives of directors.

Amended Sub Rule(3) to Rule 16A

Sub Rule (3) Inserted in Rule 16A..Noti.no. Dtd...

- **Every company** other than Government company
 - shall file a one time return of
- **outstanding receipt**
 - of money or loan by a company but not considered as deposits (i.e. *exempted*),
 - (*received*) from the 01st April, 2014 to the date of publication in off gaz.
 - (*Note: there is no reference to o/s as on 1st April 2014*)
 - as specified in Form DPT-3
 - within ninety days from 22nd Jan 19.(i.e.21st April 19).

- Three Types Of Returns

THREE TYPES OF RETURN and DPT3

- **1. Onetime Return for exempted deposits :-**
- **(for deposits as on 22-02-2019)**
- For disclosure of details of outstanding money or loan received by a company **but not considered as deposits** in terms of rule 2(l)(c) of the Companies(Acceptance of Deposits) Rules, 2014
- **2. Regular Return of exempted Deposit :-**
- **(As on 31st March every year)**
- Return of deposit or Return for disclosures of money or loan received by a company **but not considered as deposits** in terms of rule 2(l)(c) of the Companies(Acceptance of Deposits) Rules, 2014 or both as on 31-3-2019
- **3. Return of Regular Deposit (As on 31st March every year)**

CLAUSES APPLICABLE To 1ST AND 2ND TYPE
i.e. Exempted Deposits

Clause 14 and 15

▪ **Clause 14:-**

Total amounts of **outstanding money or loan received** by a company **but not considered as deposits** as specified in rule 16(A)(3))

▪ **Clause 15:-**

Particulars of **receipt of money or loan by a company but not considered as deposits, at the end of financial year**, in terms of clause (c) of sub-rule 1 of rule 2 of the Companies (Acceptance of Deposits) Rules, 2014

ATTACHMENTS

1. Auditor's certificate;
1. Copy of trust deed;
- (b) Copy of instrument creating charge;
- (c) List of depositors;
- (d) Details of liquid assets;
- (e) Optional attachment, if any.

Section 74 ..DPT 4

- Section 74 deals with Repayment of deposit, etc , accepted before commencement of this Act.
- Where in respect of any deposit accepted by a company before the commencement of this Act, the amount of such deposit or part there of or any interest due thereon remains unpaid on such commencement or becomes due at any time thereafter .
- **Amended Provision**
- (b) repay within **three years** from such commencement (of this Act) or **on or before expiry of the period for which the deposits** were accepted, whichever is earlier:
- *Provided that renewal of any such deposits shall be done in accordance with the provisions of Chapter V and the rules made thereunder.*
- *Note: DPT 4 is to be filed by those co. where deposits (As per CA 13) were outstanding as on 1st April 2014*

GENERAL CIRCULAR No. 27/2014 DATED 30TH JUNE, 2014

Clarification Regarding Filing of Form DPT-4 under Companies Act, 2013:-

- **Extension of time for the period of 2 months** i.e up to 31-08-2014 was **granted**,
- **without any additional fees** to enable the companies for filing of statement under Form DPT-4 with the Registrar
- (earlier it was to be filed up to 30-06-2014 under section 74 of the Companies Act, 2013).
- So no DPT 4. only repay such loans within three years of 22 Jan 2019.

GENERAL CIRCULAR No. 05/2015 DATED 30TH MARCH, 2015

1. Amount received by private companies from their members, directors or their relatives before 1st April, 2014.

- It is clarified that such amount received by private companies prior to 1st April, 2014 shall not be treated as 'deposits' under the Companies Act, 2013
- 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 amount have been shown in the financial statement

Utility Not Updated on MCA Site??

Compliance Related Filing

Description	e-Form with Instruction kit	e-Form	Form Version updated on
Form for filing Cost Audit Report with the Central Government.	Form CRA-4 [zip] (741 KB)	Form CRA-4 [zip] (252 KB)	13-Oct-2017
Return of deposits	Form DPT-3 [zip] (616 KB)	Form DPT-3 [zip] (179 KB)	19-August-2018
Information to the Registrar by Company for appointment of Auditor	Form ADT-1 [zip] (639 KB)	Form ADT-1 [zip] (192 KB)	03-August-2018
Notice of Resignation by the Auditor	Form ADT-3 [zip] (506 KB)	Form ADT-3 [zip] (174 KB)	22-Nov-2018
Statement regarding deposits existing on the commencement of the Act	Form DPT-4 [zip] (642 KB)	Form DPT-4 [zip] (188 KB)	25-Aug-2018
One Person Company- Intimation of exceeding threshold	Form INC-5 [zip] (600 KB)	Form INC-5 [zip] (136 KB)	06-Dec-2018
Return of allotment	Form PAS-3 [zip] (800 KB)	Form PAS-3 [zip] (311 KB)	08-Mar-2019

- Lets begin journey to MSMED

Originator of 45 days and MSME 1?

• A) The notification issued by MSME Ministry ..2nd Nov 2018

1. In exercise of powers conferred by Section 9 of MSMED Act. the CG hereby directs that
2. all companies who get **supplies of goods or services** from **micro and small enterprises**
3. and whose payments to micro and small enterprises **exceed forty five days**
4. from the date of acceptance or the date of deemed acceptance of the goods. or services as per the provisions of the Act,
5. shall submit a half yearly return to the **Ministry of Corporate Affairs** stating the following:
 - (a) The amount of payments due and
 - (b) The reasons of the delay.

w.e.f. 22nd Jan 2019

1. These instructions have been issued by MSME ministry by using power given to it under section 9 of MSMED Act.
2. Based on above notification
3. MCA issued notification no. 368E dtd 22nd January 2019 which merit mandatory for the company to file return in MSME 1 within **30 days**.

Important Terms

- 1. Supplier***
- 2. Goods or services***
- 3. Micro and small enterprises***
- 4. Exceed forty five days***

Supplier?

- As per Sec. 2(n), "**supplier**" means a micro or small enterprise, **which has filed a memorandum**
- with the authority referred to in sub-section (1) of section 8, and includes,-
- any company, co-operative society, trust or a body, registered or constituted under any law for the time being in force and
- engaged in selling goods produced by micro or small enterprises and rendering services which are provided by such enterprises;

Meaning of Buyer and Enterprises as per MSMED Act 2006

- As per Sec. 2(d), "**buyer**" means whosoever buys any goods or receives any services from a supplier for consideration;
- As per Sec. 2(e), "**enterprise**" means an industrial undertaking or a business concern or
- any other establishment,
- engaged in the manufacture or
- production of goods
- rendering of any service or services;

Manufacturing and Services Definition

1.As per sec 2 of MSMED Act

2.Manufacturing Enterprises-the enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the first schedule to the industries (Development and regulation) Act, 1951) or employing plant and machinery in the process of value addition to the final product having a distinct name or character or use. The Manufacturing Enterprise are **defined in terms of investment in Plant & Machinery**.

3.Service Enterprises:-The enterprises engaged in providing or rendering of services and are **defined in terms of investment in equipment**.

- The limit for investment in plant and machinery / equipment for manufacturing / service enterprises, as notified, [vide S.O. 1642\(E\) dtd.29-09-2006](#) are as under

Manufacturing Sector	
Enterprises	Investment in plant & machinery
Micro Enterprises	Does not exceed twenty five lakh rupees
Small Enterprises	More than twenty five lakh rupees but does not exceed five crore rupees
Medium Enterprises	More than five crore rupees but does not exceed ten crore rupees
Service Sector	
Enterprises	Investment in equipment's
Micro Enterprises	Does not exceed ten lakh rupees:
Small Enterprises	More than ten lakh rupees but does not exceed two crore rupees
Medium Enterprises	More than two crore rupees but does not exceed five crore rupees

Sec 15..Liability of Buyer to make Payment to Micro and Small Enterprises. (45 Days)

- As per Section 15, Where any supplier supplies any goods or renders any services to any buyer,
- the Buyer shall make payment therefor on or before the date agreed upon
- between him and the supplier in writing or, where there is no agreement in this behalf, before **the appointed day**.
- Provided that **in no case** the period agreed upon between the supplier and the buyer in writing
- shall **exceed forty-five days** from the day of acceptance or the day of deemed acceptance.

Appointment Day Sec 2(b) MSMED Act

- As per Section 2 (b), "**appointed day**" means the day following immediately after the expiry of the period of fifteen days from the day of acceptance or
- the day of deemed acceptance of any goods or any services by a buyer from a supplier.
- *Explanation.-For the purposes of this clause,-*
- (i) "**the day of acceptance**" means,-
- (a) the day of the actual delivery of goods or the rendering of services; or
- (b) where any objection is made in writing by the buyer regarding acceptance of goods or services within fifteen days
- from the day of the delivery of goods or the rendering of services,
- the day on which such objection is removed by the supplier;

Appointment Day contd..

- (ii) "**the day of deemed acceptance**" means, where no objection is made in writing by
- the buyer regarding acceptance of goods or services within **fifteen days**
- from the day of the delivery of goods or the rendering of services,
- the day of the actual delivery of goods or the rendering of services;

Sec 8(1) Registration as MSME ?

- As per Section 8(1), Any person who intends to establish,-
- (a) a micro or small enterprise, may, at his discretion; *or*
- (b) a medium enterprise engaged in providing or rendering of services may, at his discretion; *or*
- (c) a medium enterprise engaged in the manufacture or production of goods pertaining to
- any industry specified in the First Schedule to the Industries (Development, and Regulation) Act, 1951,
- shall file the memorandum of micro, small or, as the case may be, of medium enterprise with such authority
- as may be specified by the State Government under sub-section (4) or the Central Government under sub-section(3).

Type of Companies required to File Form MSME 1 ? When to file ?

- 1.It is applicable to **all type of companies** whether trading , manufacturing, small or large
- 2.But the information has to be provided for all the suppliers which are micro and small enterprises (and not medium) where payment exceeds 45 days from acceptance/ deemed Acceptance of goods and services. (termed as **Specified Companies.**)
- 3.Status of Debtor vs supplier
- 4.Following detail has to be given in prescribed form
 - a) Amount of Payment due
 - b) Reason for delay

Specified Company

- **Initial return status as on 22nd Jan 2019**
- Specified company > MSME 1 > within thirty days of 22nd Jan 2019.
- Why not 2nd Nov 2018 ??
- **Regular return**
- Every specified company shall file a return
- as per MSME Form I annexed to this Order,
- by 31st October for the period from April to September and
- by 30th April for the period from October to March.

New proposed criteria

Old definition of Criteria for MSME is on Investment based still valid, new criteria is turnover base

Classification of the MSME	New Classification (annual turnover)	Prev. classification – Ceiling on Investment in Plant and Machinery (in Rs)	Previous classification – Ceiling on Investment in Equipment (in Rs)
Micro	Not exceeding Rs 5 crores	Not Exceeding 25 lakhs	Not Exceeding 10 lakhs
Small	Between Rs 5 crores to Rs 75 crores	25 lakhs to 5 crores	10 lakhs to 2 crores
Medium	Rs 75 to Rs 250 crores	5 crores to 10 crores	2 crores to 5 crores

Interest on Delayed Payment?

- Section 16, Where any buyer fails to make payment of the amount to the supplier,
- as required under section 15, the buyer shall, not Withstanding anything contained in any agreement
- between the buyer and the supplier or in any law for the time being in force,
- be liable to pay compound interest with monthly rests to the supplier on that amount from
- the appointed day or, as the case may be, from the date immediately following the date agreed upon,
- at **three times of the bank rate** notified by the Reserve Bank.

Universal Aadhar memorandum

- From 2015 onwards Central government has mandated
- to file UAM (Universal Aadhaar Memorandum) with Ministry of MSME.
- You can tell your client to ask your supplier to give the UAM number.
- You can check Vendor UAM details to verify investment made in P&M from the portal
- to check whether it classify under Small or Micro enterprises.
- Previous EM-1, EM-2 and SSI Certificates are still valid if UAM not filed after 2015.

Supplier does not provide their registration details

- If the Co.'s vendor does not give UAM/EM/SSI number
- and also does not disclose whether or not it has filed UAM within a reasonable time then
- Company can presume that they are not covered.
- But do not forget to write this disclaimer in the form filed with ROC.
- Also, one should have documentary proof of having proof of sending the queries to supplier but no reply received.
- **Can we attach disclaimer on other attachment of MSME I Form?**

Company itself an MSME ??

- Whether any public/private company who itself is MSME
- needs to file ROC form on MSME if they have vendor o/s of Small/Micro enterprises.
- Yes, if they get supply from MSME. i.e it falls under definition of “Specified Companies”

Mandatory Fields of MSME 1

- Choose whether Initial return or regular half yearly return.
- Point 1(a) for CIN of company
- Point 1(c) for PAN of company.
- Point 2 (a) (b) & (c) for Name, Address & email id of company respectively.
- Point 3 deals with **Initial Return** of outstanding dues to Micro or Small Enterprises suppliers.
- Point 4 applies to **regular return** of o/s dues to MSE.

Details to be filled about supplier

Fin. Years /Partic ulars	Name of Supplier	PAN of Suppliers	Amount Due	Specify the date from which amount is Due

Who can sign MSME I form.

- This form can be signed by
- Director , CEO & CS of company
- Signing person should mention their Designation.
- Also required to mention DIN no. in case of Director, PAN no. in case of CEO and M.No. in case of CS.
- Whether CS employed or Practicing?

Penalty on Incorrect information

- If any information provided on MSME I form
- Is incorrect or incomplete in any material respect
- Attracted penalty under subsection 4 of section 405 of Companies Act 2013.

Response Sheet by supplier

- Date:.....
- From:.....

Name:	
Address:	
Phone:	
Email:	
PAN:	

Response Sheet by supplier

- Dear sir,
 - In reference to your letter/email <dated>, we would like to conform that *(select any one option out of following three:*
1. *We are registered under the MSME Act and following are our registration details:*

Registration Number / Udyog Adhar Number*	
Category of registration (Tick any one)	<input type="checkbox"/> Micro Enterprises <input type="checkbox"/> Small Enterprises <input type="checkbox"/> Medium Enterprises

Response Sheet supplier

2. We are not registered under the MSME Act and we are not a private/public limited company.
3. We are not registered under the MSME Act, but we are private/public limited company with following detail:

Response Sheet

CIN:	
category of enterprise under MSME Act:	<input type="checkbox"/> Micro Enterprises <input type="checkbox"/> small Enterprises <input type="checkbox"/> Medium Enterprises (Tick any one) (Only if applicable)
Are you engaged in selling goods or product by micro or small enterprises and rendering services, which are provided by such enterprises	<input type="checkbox"/> Yes <input type="checkbox"/> No (Tick any one)

That was Journey to
DPT 3 and DPT 4
MSME 1 Form

Thank You
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