



BANNING OF UNREGULATED DEPOSITS

This ordinance was passed on 21st February,2019 with an intention to **ban UNREGULATED DEPOSITS**.

We have analyzed the provisions of this ordinance in the form of FAQ for simple understanding as follows:

Sr No	Question	Answer
1	What is banned under this Ordinance	Unregulated Deposits are banned under this Ordinance.
2	What is Unregulated Deposits?	A scheme under which any deposit taker by way of business accept or solicit deposits and It is not a Regulated Deposit scheme as specified
3	What are Regulated Deposits?	<ol style="list-style-type: none">1) Any scheme or arrangements registered with SEBI2) Any scheme or arrangements registered with RBI3) A contract of Insurance registered with IRDA4) Any scheme or arrangements registered with State Govt or Union Territory govt5) Any scheme or arrangements registered with National Housing Bank6) Any scheme or arrangements registered with PFRDA(Pension Fund)7) Any scheme or arrangements registered with EPF8) Any scheme or arrangements registered with Central registrar, multi state co-op soc.9) Deposits permitted under companies Act



Sr No	Question	Answer
4	What is deposit?	<p>a) Amount of Money received by any deposit taker</p> <p>b) by way of an advance or loan or in any other form</p> <p>c) with a promise to return either in cash or kind or in service</p> <p>d) with or without interest, profit, or in any other form</p>
5	What is NOT deposit?	<p>a) Partner contribution in firm or LLP</p> <p>b) Loan by firm or LLP from relatives of partner</p> <p>c) Loan by INDIVIDUAL from his relatives</p> <p>d) Loan received in the course of OR for the purpose of business and having clear nexus with business Including</p> <ol style="list-style-type: none">1) Advance received for supply of goods or services2) Booking advance received by builders3) Security or Dealership deposits4) Advance for supply of capital goods <p>Note: if any of the above 1 to 4 advances are to be returned, then it must be returned within 15 days from their due date otherwise it will be considered as deposits not connected to business and consequences will follow under this ordinance.</p> <p>e) Loan from Banks</p> <p>f) Loan from Public financial institution or NBFC</p> <p>g) Loan from appropriate government or whose repayment is guaranteed by such government</p>



Sr No	Question	Answer				
		h) Loan from foreign government or banks or institutions as allowed under FEMA i) Any amount received as credit from seller j) Any amount received by assets re-construction companies k) Any amount received by political party l) Any amount within limit to be notified as received by Self help group from its members Any other amount as may be notified by govt				
4	Who is relative under this ordinance?	As per section 2(77) of companies act Relative definition is very restrictive <table border="1" data-bbox="687 1010 1465 1453"> <thead> <tr> <th data-bbox="687 1010 1018 1055">In case of HUF</th> <th data-bbox="1018 1010 1465 1055">Members of HUF</th> </tr> </thead> <tbody> <tr> <td data-bbox="687 1055 1018 1453">In case of Individual</td> <td data-bbox="1018 1055 1465 1453"> a) Spouse b) Father c) Mother d) Son e) Son's wife f) Daughter g) Daughter's Husband h) Brother i) Sister </td> </tr> </tbody> </table>	In case of HUF	Members of HUF	In case of Individual	a) Spouse b) Father c) Mother d) Son e) Son's wife f) Daughter g) Daughter's Husband h) Brother i) Sister
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5	Who are covered as DEPOSIT TAKER under this ordinance?	<ol style="list-style-type: none"> 1) Any individual or group of individuals 2) A proprietorship concern 3) A partnership firm 4) A LLP 5) A Company 6) An Association of persons 7) A trust 8) A co-operative society <p>But does not include</p> <ol style="list-style-type: none"> a) Corporation incorporated b) A Banking company or banks 				



Sr No	Question	Answer
6	Whether loans from friends can be taken by an individual for personal purpose?	As per the strict interpretation of the Ordinance, such loans can not be taken but after looking to the chaos created, Department of Financial services has twitted that such loans can be allowed and there is no ban. However, no official notification has been issued till date.
7	Whether loan can be taken from unrelated parties in Prop, Partnership or LLP?	Yes, such loans can be taken from unrelated parties provided such loans are used for the purpose of business as specified in Sec 2(4)(L).
8	What to do with loan already taken or existing loan as on date?	This ordinance is prospective and hence there is no need to repay such loans. This law can not be applied to old or existing loan retrospectively i.e. deposits prior to 21.02.2019.
9	What are the penal consequences for non-compliance?	There are various penal provisions for non-compliance of this ordinance like imprisonment from 2 to 10 years and fine from 2lakhs to 50 Crs. depending upon the contravention.

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