

- **Prospectus**

Section 2(36)-“ any document described or issued as a prospectus and includes any notice, circular, advertisement, or other document inviting deposits from the public or inviting offers from the public for the subscription or purchase of any share in, or debentures of, a corporate body.”

Now section 2 (70) of companies act 2013 “prospectus” means any document described or issued as a prospectus and includes a red herring prospectus referred to in section 32 or shelf prospectus referred to in section 31 or any notice, circular, advertisement or other document inviting offers from the public for the subscription or purchase of any securities of a body corporate;

In simple words, any document inviting deposits from the public or inviting offers from the public for the subscription of shares or debentures of a company is a prospectus.

“The Companies Act contains a comprehensive set of regulations intended to protect the investing public from victimization”. The intention of the Legislature in making these regulations, is “to secure the fullest disclosure of material and essential particulars and lay the same in full view of all the intending purchasers of shares”

For any document to be considered as a prospectus, it should satisfy following conditions.

1. The document should invite the subscription to public share or debentures, or it should invite deposits.
2. Such an invitation should be made to the public.

3. The invitation should be made by the company or on the behalf company.
4. The invitation should relate to shares, debentures or such other instruments.

The relevant rules and regulations are-

1. Every prospectus must be dated (section 55)
2. A copy of the prospectus must be registered with the Registrar and this fact must be stated on the face of the prospectus. The Registrar can refuse to register a prospectus which does not comply with the disclosure requirements. (Section 60). The prospectus must be issued within 90 days of its registration.
3. If the prospectus includes a statement purporting to be made by an expert, consent in writing of that expert must be obtained and this fact must be stated in the prospectus. (Section 58). The expert should be unconnected with the formation or management of the company. (Section 57). Section 59 provides that the expression “expert” includes an engineer, a value, an accountant and any other person whose profession gives authority to a statement made by him. Thus the expert becomes a party to the prospectus and liable for untrue statements, if any.
4. Section 56 requires every prospectus to disclose the matters specified in Schedule II of the Act. The information required to be disclosed refers to the objects of the company, details as to shares, managerial personnel, minimum subscription, underwriting, preliminary expenses, material contracts, etc.
5. Lastly, the “golden rule” –the public is at the mercy of the company promoters. Everything must, therefore, be stated with strict and scrupulous accuracy” Under companies act 2013— Public offer and private placement.

Section 23 of companies act 2013—

(1) A public company may issue securities—

(a) to public through prospectus (herein referred to as "public offer") by complying with the provisions of this Part; or

(b) through private placement by complying with the provisions of Part II of this Chapter; or

(c) through a rights issue or a bonus issue in accordance with the provisions of this Act and in case of a listed company or a company which intends to get its securities listed also with the provisions of the Securities and Exchange Board of India Act, 1992 and the rules and regulations made thereunder.

(2) A private company may issue securities—

(a) by way of rights issue or bonus issue in accordance with the provisions of this Act; or