

Chapter 4: Issue of Debentures

EXERCISE 1 [PAGES 76 - 78]

Exercise 1 | Q 1.01 | Page 76

Select the correct answer from the option given below and rewrite the statement:

A company cannot issue _____ with voting rights

1. Equity shares
2. **Debentures**
3. Securities

SOLUTION

A company cannot issue **Debentures** with voting rights.

Exercise 1 | Q 1.02 | Page 76

Select the correct answer from the option given below and rewrite the statement:

A company can issue _____ convertible debentures.

1. Only partly
2. **Only fully**
3. Partly or fully

SOLUTION

A company can issue **Only fully** convertible debentures.

Exercise 1 | Q 1.03 | Page 76

Select the correct answer from the option given below and rewrite the statement:

Money from _____ Account is used for redemption of debentures

1. Capital
2. **Debenture Redemption Reserve**
3. Profit or loss

SOLUTION

Money from **Debenture Redemption Reserve** Account is used for redemption of debentures

Exercise 1 | Q 1.04 | Page 76

Select the correct answer from the option given below and rewrite the statement:

_____ protects the interest of debenture holders

1. **Debenture Trustees**
2. Debenture holders
3. Redemption Reserve

SOLUTION

Debenture Trustees protects the interest of debenture holders

Exercise 1 | Q 1.05 | Page 76

Select the correct answer from the option given below and rewrite the statement:

Secured debentures must be redeemed within _____ from the date of its issue

1. 10 days
2. **10 years**
3. 15 years

SOLUTION

Secured debentures must be redeemed within **10 years** from the date of its issue

Exercise 1 | Q 1.06 | Page 76

Select the correct answer from the option given below and rewrite the statement:

A company issuing _____ debenture must create a charge on the assets of the company

1. **Secured**
2. Unsecured
3. Redeemable

SOLUTION

A company issuing **Secured** debenture must create a charge on the assets of the company

Exercise 1 | Q 1.07 | Page 76

Select the correct answer from the option given below and rewrite the statement:

Debenture certificate must be issued within _____ of allotment of debentures

1. 3 months
2. **6 months**
3. 60 days

SOLUTION

Debenture certificate must be issued within **6 months** of allotment of debentures

Exercise 1 | Q 1.08 | Page 76

Select the correct answer from the option given below and rewrite the statement:

The details of allotment of Debentures must be entered in _____.

1. **Register of debenture**
2. Register of members
3. Register of creditors

SOLUTION

The details of allotment of Debentures must be entered in **Register of debenture**

Exercise 1 | Q 1.09 | Page 76

Select the correct answer from the option given below and rewrite the statement:

A company which issues prospectus or invites more than 500 persons to buy its debenture has to appoint _____.

1. Register of companies
2. Debenture holders
3. **Debenture trustees**

SOLUTION

The details of allotment of Debentures must be entered in **Debenture trustees**.

Exercise 1 | Q 1.10 | Page 76

Select the correct answer from the option given below and rewrite the statement:

The contract between company and Debenture trustees of companies is called as _____.

1. **Debenture trust deed**
2. Letter of offer
3. Prospectus

SOLUTION

The contract between company and Debenture trustees of companies is called as **Debenture trust deed**.

Exercise 1 | Q 1.11 | Page 76

Select the correct answer from the option given below and rewrite the statement:

Procedure for allotment of Debenture should be completed within _____ from the date of receipt of applications.

1. 6 months
2. 3 months
3. **60 days**

SOLUTION

Procedure for allotment of Debenture should be completed within **60 days** from the date of receipt of applications.

Exercise 1 | Q 2 | Page 76

Match the pairs.

Group 'A'	Group 'B'
a) Debenture Trustees	1) Power to issue debentures
b) Debenture holders	2) Protects interest of shareholders
c) Charge on assets	3) Secured debentures

d) Board of Directors	4) NCLT
e) Debenture certificate	5) No voting rights
	6) Unsecured debentures
	7) Protects interest of debenture holders
	8) Voting rights
	9) Proof of ownership of shares
	10) Issued within 6 months of allotment of debentures

SOLUTION

Group 'A'	Group 'B'
a) Debenture Trustees	7) Protects interest of debenture holders
b) Debenture holders	5) No voting rights
c) Charge on assets	3) Secured debentures
d) Board of Directors	1) Power to issue debentures
e) Debenture certificate	10) Issued within 6 months of allotment of debentures

Exercise 1 | Q 3.01 | Page 76

Write a word or a term or a phrase which can substitute the following statement.

Type of resolution needed to issue convertible debentures.

SOLUTION

Special resolution

Exercise 1 | Q 3.02 | Page 76

Write a word or a term or a phrase which can substitute the following statement.

Account to be created for redemption of debentures.

SOLUTION

Debenture Redemption Reserve

Exercise 1 | Q 3.03 | Page 76

Write a word or a term or a phrase which can substitute the following statement.

Institution appointed by company to protect the interest of debenture holders.

SOLUTION

Debenture Trustees

Exercise 1 | Q 3.04 | Page 76

Write a word or a term or a phrase which can substitute the following statement.

Period within which secured debentures should be redeemed.

SOLUTION

10 Years

Exercise 1 | Q 3.05 | Page 76

Write a word or a term or a phrase which can substitute the following statement.

Type of debentures on which company has to create a charge on its assets.

SOLUTION

Secured Debentures

Exercise 1 | Q 3.06 | Page 76

Write a word or a term or a phrase which can substitute the following statement.

The document which contains terms and conditions agreed upon by the company and the Debenture trustees.

SOLUTION

Debenture Trust Deed

Exercise 1 | Q 3.07 | Page 76

Write a word or a term or a phrase which can substitute the following statement.

Time period within which the procedure for allotment of debenture is to be completed from the date of receipt of applications.

SOLUTION

60 Days

Exercise 1 | Q 3.08 | Page 76

Write a word or a term or a phrase which can substitute the following statement.

Period within which debenture certificate must be issued by a company.

SOLUTION

6 months

Exercise 1 | Q 3.09 | Page 76

Write a word or a term or a phrase which can substitute the following statement.

Institution which redresses grievances of debenture holders.

SOLUTION

Debenture Trustee

Exercise 1 | Q 3.10 | Page 76

Write a word or a term or a phrase which can substitute the following statement.

Authority which has power to issue debentures.

SOLUTION

Board of Directors

Exercise 1 | Q 4.01 | Page 76

State whether the following statement is or false.

Debenture holders have no voting rights.

1. True
2. False

SOLUTION

True

Exercise 1 | Q 4.02 | Page 76

State whether the following statement is or false.

Company cannot issue non-convertible debentures.

1. True
2. False

SOLUTION

False

Exercise 1 | Q 4.03 | Page 76

State whether the following statement is or false.

Special Resolution is needed to issue convertible debentures.

1. True

2. False

SOLUTION

True

Exercise 1 | Q 4.04 | Page 76

State whether the following statement is or false.

Debentures holders are paid interest.

1. True
2. False

SOLUTION

True

Exercise 1 | Q 4.05 | Page 76

State whether the following statement is or false.

Debenture Trustees cannot approach NCLT to redress grievances of debenture holders.

1. True
2. False

SOLUTION

False

Exercise 1 | Q 4.06 | Page 76

State whether the following statement is or false.

All secured debentures should be redeemed within 20 years from date of its issue.

1. True
2. False

SOLUTION

False

Exercise 1 | Q 4.07 | Page 76

State whether the following statement is or false.

Company has to create a charge on its assets when it issues secured debentures.

1. True
2. False

SOLUTION

True

Exercise 1 | Q 4.08 | Page 77

State whether the following statement is or false.

Debenture trustees are appointed to protect the interest of shareholders.

1. True
2. **False**

SOLUTION

False

Exercise 1 | Q 4.09 | Page 77

State whether the following statement is or false.

Debenture certificate is issued within 6 six months of allotment of debentures.

1. **True**
2. False

SOLUTION

True

Exercise 1 | Q 4.10 | Page 77

State whether the following statement is or false.

After allotment of Debentures their names are entered in the register of members.

1. **True**
2. False

SOLUTION

True

Exercise 1 | Q 5.1 | Page 77

Find the odd one.

1. **Debenture holders**
2. Interest
3. Dividend

SOLUTION

Dividend

Exercise 1 | Q 5.2 | Page 77

Find the odd one.

1. Debenture Trustees
2. **Court**

3. NCLT

SOLUTION

Court

Exercise 1 | Q 5.3 | Page 77

Find the odd one.

1. Secured Debentures
2. Convertible debentures
3. **Irredeemable debentures**

SOLUTION

Irredeemable debentures

Exercise 1 | Q 5.4 | Page 77

Find the odd one.

1. Debenture trustees
2. Trust Deed
3. **Shareholders**

SOLUTION

Shareholders

Exercise 1 | Q 6.01 | Page 77

Complete the sentence.

A legal instrument conveying the assets of a company to the Debenture trustees is called _____.

SOLUTION

A legal instrument conveying the assets of a company to the Debenture trustees is called **Debenture Trust Deed**

Exercise 1 | Q 6.02 | Page 77

Complete the sentence.

To protect the interest of Debenture holders, a company appoints _____.

SOLUTION

To protect the interest of Debenture holders, a company appoints **Debenture Trustees**.

Exercise 1 | Q 6.03 | Page 77

Complete the sentence.

On receipt of application and money, the procedure for allotment of debentures should be completed within _____.

SOLUTION

On receipt of application and money, the procedure for allotment of debentures should be completed within **60 days**

Exercise 1 | Q 6.04 | Page 77

Complete the sentence.

Authority to create charge on company's assets is with the _____.

SOLUTION

Authority to create charge on company's assets is with the **Debenture Trustees**.

Exercise 1 | Q 6.05 | Page 77

Complete the sentence.

Secured debentures should be redeemed within _____.

SOLUTION

Secured debentures should be redeemed within **10 years**.

Exercise 1 | Q 6.06 | Page 77

Complete the sentence.

To stop a company from incurring further liabilities, the Debenture trustee can approach _____.

SOLUTION

*To stop a company from incurring further liabilities, the Debenture trustee can approach **NCLT**.*

Exercise 1 | Q 6.07 | Page 77

Complete the sentence.

A company which issues prospectus or invites more than 500 persons to subscribe for its debentures, has to appoint _____.

SOLUTION

A company which issues prospectus or invites more than 500 persons to subscribe for its debentures, has to appoint **Debenture Trustees**.

Exercise 1 | Q 6.08 | Page 77

Complete the sentence.

Return on investment on debenture is called _____.

SOLUTION

Return on investment on debenture is called **Interest**.

Exercise 1 | Q 6.09 | Page 77

Complete the sentence.

For public issue of debentures of ₹100 crores, minimum subscription should be _____.

SOLUTION

For public issue of debentures of ₹100 crores, minimum subscription should be **75%**.

Exercise 1 | Q 7 | Page 77

Select the correct option from the bracket

Group 'A'	Group 'B'
a) Debenture Trustees	1) _____
b) _____	2) Charge on assets
c) Register of Debenture	3) _____
d) _____	4) Debenture certificate
e) No voting rights	5) _____

(Issued within 6 months of allotment, Names of debenture holders, Secured debentures, Trust deed, Debenture holders.)

SOLUTION

Group 'A'	Group 'B'
a) Debenture Trustees	1) <u>Trust deed</u>
b) <u>Secured debentures</u>	2) Charge on assets
c) Register of Debenture	3) <u>Name of Debenture holders</u>

d) <u>Issued within 6 month of allotment</u>	4) Debenture certificate
e) No voting rights	5) <u>Debenture holders</u>

Exercise 1 | Q 8.01 | Page 78

Answer in one sentence:

Who are debenture holders?

SOLUTION

Debenture holders are the creditors of the company.

Exercise 1 | Q 8.02 | Page 78

Answer in one sentence:

What do debenture holders receive as return on investment?

SOLUTION

Debenture holders receive fixed rate of interest as per quantum as return on investment.

Exercise 1 | Q 8.03 | Page 78

Answer in one sentence:

Whom does the company appoint to protect the interest of debenture holders?

SOLUTION

To protect the interest of debenture holders, the company appoints Debenture Trustees.

Exercise 1 | Q 8.04 | Page 78

Answer in one sentence:

Within what period should secured debentures be redeemed?

SOLUTION

Secured debentures must be redeemed within 10 years from the date of allotment.

Exercise 1 | Q 8.05 | Page 78

Answer in one sentence:

Name the document which is an agreement between the debenture trustee and company?

SOLUTION

Debenture Trust Deed is an agreement between the debenture trustee and the company.

Exercise 1 | Q 8.06 | Page 78

Answer in one sentence:

Who has the authority to create charge on assets of a company?

SOLUTION

Debenture Trustees has the authority to create charge on assets of a company.

Exercise 1 | Q 8.07 | Page 78

Answer in one sentence:

Name the meeting in which approval for increasing the borrowing powers of board of directors is passed?

SOLUTION

In Extra-Ordinary General Meeting the approval for increasing the borrowing powers of the board of directors is passed.

Exercise 1 | Q 8.08 | Page 78

Answer in one sentence:

Within what period should be debenture certificate be issued?

SOLUTION

Within 6 months the debenture certificate should be issued.

Exercise 1 | Q 8.09 | Page 78

Answer in one sentence:

What is the minimum subscription that a company must collect for an issue of debentures of 100 crores?

SOLUTION

The minimum subscription that a company must collect for an issue of debentures of Rs.100 crores is 75% of the base issue size.

Exercise 1 | Q 8.10 | Page 78

Answer in one sentence:

When should a company appoint a credit rating agency?

SOLUTION

A company should appoint a credit rating agency at the time of Public Issue or Rights Issue.

Exercise 1 | Q 9.1 | Page 78

Correct the underlined word and rewrite the following sentence:

The details of debenture holders are entered in Register of Members.

SOLUTION

The details of debenture holders are entered in Register of Debenture holder.

Exercise 1 | Q 9.2 | Page 78

Correct the underlined word and rewrite the following sentence:

Secured debentures must be redeemed within 15 years from the date of its issue.

SOLUTION

Secured debentures must be redeemed within 30 days from the date of its issue.

Exercise 1 | Q 9.3 | Page 78

Correct the underlined word and rewrite the following sentence:

A company issuing irredeemable debentures must create a charge on assets of the company.

SOLUTION

A company issuing Secured debentures must create a charge on assets of the company.

Exercise 1 | Q 9.4 | Page 78

Correct the underlined word and rewrite the following sentence:

Return on investment on debenture is dividend.

SOLUTION

Return on Investment on debenture is interest.

Exercise 1 | Q 9.5 | Page 78

Correct the underlined word and rewrite the following sentence:

Debenture trustees redress the grievances of Shareholders.

SOLUTION

Debenture trustees redress the grievances of Debenture holders.

Exercise 1 | Q 9.6 | Page 78

Correct the underlined word and rewrite the following sentence:

Debenture certificates are issued within 3 months of allotment of debentures.

SOLUTION

Debenture certificates are issued within 6 months of allotment of debentures.

Exercise 1 | Q 9.7 | Page 78

Correct the underlined word and rewrite the following sentence:

Procedure for allotment of debentures should be completed within 90 days from date of receipt of application.

SOLUTION

Procedure for allotment of debentures should be completed within **60 days** from date of receipt of application.

Exercise 1 | Q 9.8 | Page 78

Correct the underlined word and rewrite the following sentence:

To rate its debentures a company appoints underwriters.

SOLUTION

To rate its debentures a company appoints **Credit Rating Agency**.

Exercise 1 | Q 10.1 | Page 78

Arrange in proper order.

- a. Obtain Credit Rating.
- b. Entry in register of debenture
- c. Receive application with money

SOLUTION

- (a) Obtain credit rating
- (c) Receive application with money
- (b) Entry in register of debenture

Exercise 1 | Q 10.2 | Page 78

Arrange in proper order.

- a. Issue debenture certificate
- b. Issue prospectus
- c. Open bank Account

SOLUTION

- (c) Open bank account
- (b) Issue prospectus
- (a) Issue debenture certificate

Exercise 1 | Q 10.3 | Page 78

Arrange in proper order.

- a. Hold Board Meeting for allotment
- b. Issue debenture certificate
- c. Receive application with money

SOLUTION

- c. Receive application with money
- a. Hold Board Meeting for allotment
- b. Issue debenture certificate

EXERCISE 2 [PAGE 78]

Exercise 2 | Q 1 | Page 78

Explain the following term/concept.

Debenture Certificate.

SOLUTION

- (1) Debenture certificate is the certificate given to the debenture holder. It certifies that the holder is the creditor of the company to the limit of the number of debentures.
- (2) The company has to issue debenture certificate within 6 months of allotment of debentures. Debenture certificates are prepared by the secretary, signed by at least two (3) directors and issued under common seal.

Exercise 2 | Q 2 | Page 78

Explain the following term/concept.

Debentures Trustee.

SOLUTION

- (1) Debentures Trustee is a person or institution which protects the interest of the debenture holders. The Trustees become the custodian of the assets on which charge has been created.
- (2) According to SEBI Rules, 1993 "debentures trustee" means a trustee of a trust deed for securing any issue of debentures of a body corporate (section 2 (bb)). (Applicable to public companies only).

Exercise 2 | Q 3 | Page 78

Explain the following term/concept.

Charge on assets.

SOLUTION

- (1) Company has to create a charge on the assets of the company or its subsidiary company or holding company. The value of charge should be sufficient for the repayment of the amount of debentures and interest thereon.
- (2) If a Government company issues secured debentures which has Central or State Government's guarantee, then it need not create any charge on its assets.

Exercise 2 | Q 4 | Page 78

Explain the following term/concept.

Debenture Trust Deed.

SOLUTION

(1) The agreement created by the company, whereby trustees are appointed to protect the interest of debenture - holders before they are offered for public subscription is known as Debenture Trust Deed.

(2) Company enters into a contract with one or more Debenture Trustees. The terms and conditions of the agreement is written in the Debenture Trust Deed. It is a legal instrument conveying the assets of a company to the Trustees.

EXERCISE 3 [PAGE 79]

Exercise 3 | Q 1.1 | Page 79

Study the following case/situation and express your opinion.

Rose limited company proposes to issue debenture to the public to raise funds. After discussions, the board of directors have decided to issue secured, redeemable, non - convertible debentures with a tenure of ten years. Please advise the board on the following matters:

Should the company appoint a debentures trustee?

SOLUTION

Yes. The company should appoint a Debentures trustee. This is because, in the above case, Rose Limited Company proposes to issue debenture to the public to raise funds. Thus, the company issuing debenture must appoint one or more debentures trustees.

Exercise 3 | Q 1.2 | Page 79

Study the following case/situation and express your opinion.

Rose limited company proposes to issue debenture to the public to raise funds. After discussions, the board of directors have decided to issue secured, redeemable, non - convertible debentures with a tenure of ten years. Please advise the board on the following matters:

Should the company create a charge on its assets?

SOLUTION

Yes. The company should create a charge on tangible assets. The charge is created in the favour of the Debenture Trustee and they become the custodian of the assets on which charge has been created.

Exercise 3 | Q 1.3 | Page 79

Study the following case/situation and express your opinion.

Rose limited company proposes to issue debenture to the public to raise funds. After discussions, the board of directors have decided to issue secured, redeemable, non - convertible debentures with a tenure of ten years. Please advise the board on the following matters:

Can the tenure of debentures be less than ten years?

SOLUTION

A company can issue secured debentures with a date of redemption not exceeding ten (10) years from the date of issue.

Exercise 3 | Q 2.1 | Page 79

Study the following case/situation and express your opinion.

Violet Ltd. company plans to raise 10 crores by issuing debentures. The Board of Directors have some queries. Please advise them on the following:

Can the company issue unsecured debentures?

SOLUTION

Yes. The company can issue secured and unsecured debentures. But they have to get the approval of shareholders in a general meeting by passing a special resolution.

Exercise 3 | Q 2.2 | Page 79

Study the following case/situation and express your opinion.

Violet Ltd. company plans to raise 10 crores by issuing debentures. The Board of Directors have some queries. Please advise them on the following:

Can they issue irredeemable debentures?

SOLUTION

No. All the debentures are redeemable i.e, have to be repaid. Thus, the company cannot issue irredeemable debentures.

Exercise 3 | Q 2.3 | Page 79

Study the following case/situation and express your opinion.

Violet Ltd. company plans to raise 10 crores by issuing debentures. The Board of Directors have some queries. Please advise them on the following:

As the company is offering debentures to its members, can such debentures have normal voting rights?

SOLUTION

As per the Companies Act, 2013, the company cannot issue debentures with voting rights. Debenture holders are the creditors of the company. So, they don't have normal voting rights. They can vote only matters related to them.

Exercise 3 | Q 3.1 | Page 79

Study the following case/situation and express your opinion.

DDS financial plans to raise 10 crores by issuing secured non-convertible debentures. However, as per the Articles of Association, the board of directors have authority only to raise up to 5 crores. They are also considering whether to go for private placement or make public offer. Please advise them on the following:

What can be the maximum tenure of the debentures to be issued?

SOLUTION

The maximum tenure of the debentures to be issued is of 10 years. Only certain companies permitted by the Ministry of Corporate Affairs, Central Government, or RBI can issue debentures beyond a period of 10 years but not exceeding 30 years.

Exercise 3 | Q 3.2 | Page 79

Study the following case/situation and express your opinion.

DDS financial plans to raise 10 crores by issuing secured non-convertible debentures. However, as per the Articles of Association, the board of directors have authority only to raise up to 5 crores. They are also considering whether to go for private placement or make public offer. Please advise them on the following:

Is the proposed issue within the borrowing powers of the board?

SOLUTION

No. The proposed issue is not within the borrowing powers of the board. The board can use their borrowing power up to limit permitted by Articles of Associations. In case, the Board wants to increase its borrowing power, they have to get approval from shareholders by passing a special resolution in general meeting.

Exercise 3 | Q 3.3 | Page 79

Study the following case/situation and express your opinion.

DDS financial plans to raise 10 crores by issuing secured non-convertible debentures. However, as per the Articles of Association, the board of directors have authority only to raise up to 5 crores. They are also considering whether to go for private placement or make public offer. Please advise them on the following:

Within what period should company issue debenture certificate?

SOLUTION

Debenture certificate is a document issued by a company as an evidence of debts to the holder. As per the Companies Act, 2013, company has to issue debenture certificate within 6 months of allotment of debentures.

EXERCISE Q.4 [PAGE 79]

Exercise 4 | Q 1 | Page 79

Answer in brief.

State any four provisions of Companies Act 2013 for issue of debentures.

SOLUTION

Provisions for issue of debentures as per Companies Act, 2013. Following are some of the provisions of the Act which a company has to comply while issuing debentures:

- 1. No voting rights:** A company cannot issue debentures with voting rights. Debenture holders are creditors of the company and so they do not have any voting rights except in matters affecting them.

2. Types of Debentures: A company can issue secured or unsecured debentures and fully or partly convertible debentures or non-convertible debentures. To issue convertible debentures, a Special Resolution has to be passed in the General Meeting. All debentures are redeemable in nature,

3. Payment of interest and redemption: A company shall redeem the debentures and pay interest as per the terms and conditions of this issue

4. Debenture Certificate: Company has to issue a Debenture certificate to the debenture holders within 6 months of allotment of Debentures,

5. Create Debenture Redemption Reserve: Company has to create a Debenture Redemption Reserve account out of profits of the company available for payment of dividends. This money can be used only for the redemption of debentures. As per Companies (Share Capital and Debentures) Amendment Rules 2019, MCA has removed the Debenture Redemption Reserve requirement for Listed companies, NBFCs, and Housing Finance Companies.

6. Appoint of Debenture Trustees: If the company issues prospectus or invites more than 500 people, either to Public or its Member) the company has to appoint one or more Debenture Trustees. Debenture trustees protect the interest of the debenture holders. The company has to appoint trustees by entering into a contract with them called as Debenture Trust Deed.

7. Debentures Trustee can approach NCLT: Debenture Trustees have to redress the grievances of debenture holders. If the company defaults in repaying the principal amount, on maturity or defaults in paying interest there on the Debenture Trustees can approach the National Company Law Tribunal for redressal. NCLT can direct a defaulting company to repay the principal amount or interest.

8. Impose restrictions: When the Debenture Trustee is of the opinion that the assets of the company are insufficient or likely to become insufficient to redeem the principal amount of debentures, it may approach the NCLT. NCLT can order a company to restrict incurring further liabilities so as to protect the interest of the debenture holders.

9. Punishment for contravention of provisions of the Companies Act: If the company fails to comply with any provisions of the Act, then the company and its officers shall be liable to pay fine or imprisonment or both as prescribed in the Act.

Exercise 4 | Q 2 | Page 79

Answer in brief.

What is debenture trust deed?

SOLUTION

(a) Trust Deed needs to be made between the company and trustees. (b) The agreement created by the company, whereby trustees are appointed to protect the interest of debenture-holders before they are offered for public subscription is known as Debenture Trust Deed.

(c) Company enters into a contract with one or more Debenture Trustees. The terms and conditions of the agreement is written in the Debenture Trust Deed.

(d) It is a legal instrument conveying the assets of a company to the Trustees. The Deed also defines the rights of debenture holders and the duties and powers of Debenture Trustees.

(e) Company has to execute the Deed within 3 months of closure of the issue. Members as well as debenture holders can inspect the deed and also get a copy of it by paying a certain fee.

Exercise Q.4 | Q 3 | Page 79

Answer in brief.

Who are debentures trustee?

SOLUTION

(1) Debentures Trustee is a person or institution which protects the interest of the debenture holders. The Trustees become the custodian of the assets on which charge has been created.

(2) A company which issues prospectus or invites more than 500 persons to buy its debentures has to appoint one or more Debentures Trustee. Companies issuing secured debentures also must appoint Debentures Trustee.

(3) Debentures Trustee is appointed before prospectus or letter of offer/offer letter is issued or within 60 days after the allotment of the debenture. The Trustees must give written consent to act as Debenture Trustees.

(4) According to SEBI Rules, 1993 "debentures trustee" means a trustee of a trust deed for securing any issue of debentures of a body corporate (section 2 (bb)). (Applicable to public companies only).

(5) The trustee can appoint a nominee to the board of directors of the company. Before the trustee appoints the nominee, the following conditions must be satisfied:

- Two consecutive defaults made by the company in payment of interest to the debenture holders; or
- Default in the creation of security for debentures or default in the redemption of debentures.

EXERCISE 5 [PAGE 79]

Exercise 5 | Q 1 | Page 79

Justify the following statement:

A company has to create charge on its assets for issuing secured debentures.

SOLUTION

Justification:

- (1) The company has to create a charge on the assets of the company or its subsidiary company or holding company.
- (2) The value of charge should be sufficient for the repayment of the amount of debentures and interest thereon.
- (3) If a Government company issues secured debentures which has Central or State Government's guarantee, then it need not create any charge on its assets.
- (4) Thus, it is rightly justified that, a company has to create the charge on its assets for issuing secured debentures for the security of the repayment of loans.

Exercise 5 | Q 2 | Page 79

Justify the following statement:

A company has to create charge on its assets for issuing secured debentures.

SOLUTION

Justification:

- (1) Debentures Trustee is a person or institution which protects the interest of the debenture holders. The Trustees become the custodian of the assets on which charge has been created.
- (2) A company which issues prospectus or invites more than 500 persons to buy its debentures has to appoint one or more Debentures Trustee. Companies issuing secured debentures also must appoint Debentures Trustee.
- (3) Debentures Trustee is appointed before prospectus or letter of offer/offer letter is issued or within 60 days after the allotment of the debenture. The Trustees must give written consent to act as Debenture Trustees.
- (4) Thus, it is rightly justified that, debentures trustee is appointed by a company issuing debentures.

Exercise 5 | Q 3 | Page 79

Justify the following statement:

A company can issue only certain types of debentures.

SOLUTION

Justification:

(1) A company can issue secured as well as unsecured debentures. It can also issue non-convertible debentures or debentures which can be converted fully or partly into equity shares.

(2) The Board of Directors of a company have the authority to issue debentures. All debentures are redeemable i.e, have to be repaid.

(3) The company can issue debentures to its members or make a public offer or offer it even through private placement.

(d) Thus, it is rightly justified that, a company can issue only certain types of debentures.

EXERCISE 6 [PAGE 79]

Exercise 6 | Q 1 | Page 79

Briefly explain the provisions of Companies Act, 2013 for issue of debentures.

SOLUTION

Section 2 (30) of the Companies Act, 2013 define debenture as "debenture" includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not.

Following are some of the provisions of the Act which a company has to comply, while issuing debentures:

1. No voting rights: A company cannot issue debentures with voting rights. Debenture holders are creditors of the company and so they do not have any voting rights except in matters affecting them.

2. Types of Debentures : A company can issue secured or unsecured debentures and fully or partly convertible debentures or non-convertible debentures. To issue convertible debentures, a Special Resolution has to be passed in the General Meeting. All debentures are redeemable in nature.

3. Payment of interest and redemption: A company interest as per the terms and conditions of their issue shall redeem the debentures and pay

4. Debenture Certificate: Company has to issue a Debenture certificate to the debenture holders within 6 months of allotment of Debentures.

5. Create Debenture Redemption Reserve: Company has to create a Debenture Redemption Reserve account out of profits of the company available for payment of dividends. This money can be used only for the redemption of debentures. As per Companies (Share Capital and Debentures) Amendment Rules 2019, MCA has removed the Debenture Redemption Reserve requirement for Listed companies, NBFCs and Housing Finance Companies.

6. Appoint of Debenture Trustees: If the company issues prospectus or invites more than 500 people, (either to Public or its Member) company has to appoint one or more Debenture Trustees. Debenture trustees protect the interest of the debenture holders. The company has to appoint trustees by entering into a contract with them called as Debenture Trust Deed.

7. Debentures Trustee can approach NCLT: Debenture Trustees have to redress the grievances of debenture holders. If the company defaults in repaying the principal amount, on maturity or defaults in paying interest there on, the Debenture Trustees can approach the National Company Law Tribunal for redressal. NCLT can direct a defaulting company to repay the principal amount or interest.

8. Impose restrictions: When the Debenture Trustee is of the opinion that the assets of the company are insufficient or likely to become insufficient to redeem the principal amount of debentures, it may approach the NCLT. NCLT can order a company to restrict incurring further liabilities so as to protect the interest of the debenture holders.

9. Punishment for contravention of provisions of the Companies Act: If the company fails to comply with any provisions of the Act, then the company and its officers shall be liable to pay fine or imprisonment or both as prescribed in the Act.

Exercise 6 | Q 2 | Page 79

Explain briefly the procedure for issue of debentures.

SOLUTION

Section 2 (30) of the Companies Act, 2013 define debenture as "debenture" includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not.

Following is the procedure to be followed by a company issuing debentures -

1. Pass resolution in Board Meeting: In the Board Meeting following resolution will have to be passed :

- i) amount and type of debentures to be issued and the terms and conditions for issue.
- ii) approve prospectus or offer letter or letter of offer.
- iii) approve appointment of Debenture Trustees and get their written consent.
- iv) authorize Board to create charge on assets of the company.
- v) call Extra-ordinary General Meeting if the Board's borrowing powers need to be increased.
- vi) authorizes Board to open a separate bank account for receiving money from

applicants

2. Hold Extra-ordinary General Meeting (EGM) : If the borrowing powers of the Board is to be increased, EGM must be held to get the shareholders' approval through a Special Resolution.

3. Filing with Registrar of Companies: Secretary has to file the Special resolution and copy of Prospectus, offer letter / Letter of offer with Registrar of Companies within 30 days of the Board Meeting.

4. Obtain Credit Rating: Company gets its debentures rated by one or more Credit Rating Agencies. The ratings must be mentioned in the prospectus/offer letter/Letter of the offer.

5. Enter into underwriting agreement: Company enters into an underwriting agreement for underwriting its debenture issue.

6. Issue prospectus / letter of offer/offer letter: Company issues prospectus, if it is inviting the public to buy its debentures. An offer Letter is issued if a company makes a private placement and Letter of an offer for Rights Issue.

7. Open Separate Bank Account: The company opens a separate bank account in a scheduled Bank to receive the money from the applicants.

8. Receiving application money: Subscribers will submit their application along with the required amount to the specified bank within the time period mentioned in the prospectus or letter of offer / Offer Letter

9. Hold Board Meeting: After the issue closes, a Board Meeting is held to decide and approve allotment of debentures. Board also approves the creation of charges on the company's assets.

10. Issue of Debenture certificate: The allotment procedure has to be completed within 60 days from the receipt of application money. The company has to issue a Debenture certificate within 6 months of allotment of debentures.

11. Make entries in Register of Debenture holders: Secretary has to make entries in the Register of Debenture holders within 7 days after the Board approval of allotment. However, if debentures are issued in Demat form, the company does not maintain the Register of Debenture holders.