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OPENING ACCOUNTS OF VARIOUS TYPES OF CUSTOMERS

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INDIVIDUALS ACCOUNTS: As per Sec 11 of Indian Contract Act, 1872, every person is competent to contract who is of the age of majority and who is of sound mind and is not disqualified from contracting by any law such as insolvent and resident of enemy country.

JOINT ACCOUNTS: Two or more (competent) persons can open a joint account. Their operational instructions must be clear for operation of the account, including for payment of the balance in event of death of one or more joint account holders.

HINDU UNDIVIDED FAMILY (HUF)

- Hindu Undivided Family (HUF) or Joint Hindu Family is not based on any Act, however the share in ancestral property is decided based on Hindu Succession Act, 1956 amended in 2004.
- **Management of the HUF:** The HUF are managed by the eldest male member called **Karta**. As per the latest amendment of the Hindu Succession Act, female members of HUF enjoy the same rights as male members.
- Consequently, the Karta is now the eldest member of the HUF, male or female. There are no restrictions on the number of coparceners.
- **Powers of Karta:** As per law, Karta has powers to incur debt, execute documents, pledge securities on behalf of the family business, for that, consent of the co-parcener is not required.

- Karta's **liability** is unlimited but co-parceners are liable to the extent of their share in HUF property. However, if the documents are signed by all the co-parceners, only then they are personally liable.
- If Karta stays abroad most of the time, he continues to be Karta and for operating the a/c he can give mandate to any one, may be the outsider or any member of the family.
- **A coparcener cannot countermand the** cheques unless the Karta has delegated the authority to operate the account. As per Supreme Court decision, HUF cannot become the partner in any other partnership firm as HUF does not have legal entity and it is not formed by the act of parties.

JOINT STOCK COMPANIES

	PVT LTD	PUBLIC LTD
MEMBERS MIN	TWO	SEVEN
MEMBERS MAX	Two hundred	No LIMIT
DIRECTORS	MIN-2, Max -15	MIN-3, Max-15

- It should be formed or incorporated as per the provisions of Companies Act. It should be registered with the Registrar of Companies (RoC). Though a company consists of a number of persons, yet it is a separate single entity.
- It has perpetual succession.
- Documents required for opening account:



- Memorandum of association
 - Articles of association
 - Certificate of incorporation
 - Certificate of commencement of business.
 - Copy of resolution from board of directors.
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- **BORROWING POWERS OF THE COMPANY** Board of Directors of Private Ltd Co, has unlimited powers to borrow. However, Board of Public Ltd Co can borrow up to paid-up-capital plus free reserves of the company.
 - **DEATH OF A DIRECTOR**: As the company has an existence separate from that of the shareholders / directors, the death of a director does not affect the operations in the account.
 - **SECTION 125 OF THE COMPANIES ACT**: Provides that all **charges created on a company's assets** (except pledge, lien, set-off, appropriation, trust receipt has to be registered with the Registrar of Companies within 30 days of creation of the charge. Otherwise, the charge is void.

If there is delay in registration of charge in 30 days

Registrar may, on an application by the company, allow such registration to be made:

- In case a charge is created before the commencement of the **Companies (Amendment) Ordinance, [2019]** the charge should be registered within 300 days of such.
- In case the charge is created on or after the commencement of the **Companies (Amendment) Ordinance, [2019]** it shall be registered within 60 days and by paying additional fees.



Provided further that if registration is not made within the period specified:

- The proviso to clause (a) states that if the charge created is not registered within 300 days, it shall be registered within 6 months from the commencement of the Companies (Amendment) Ordinance, [2019] by paying additional fees.
- The proviso to clause (b) states on payment of additional fees the registrar may extend the further period of 60 days.

SEC 2(62) - ONE PERSON COMPANIES (OPC)

- 'One Person Company means a company which has only one person as a member.
- It is a private limited company.
- Only a natural person who is an Indian citizen and resident can set up the company or become nominee for the sole member of OPC.

MINORS

- As per Section 3 of the Indian Majority Act, 1875. every person who is domicile in India will become major on completion of age of 18 years.
- According to the Indian Contract Act. 1872 a minor is not capable of entering into a valid contract and the contract entered into by him is **void ab initio**.
- **On attaining majority**, there is no need to close the account and after obtaining signature and identification of the erstwhile minor, the account will be continued as it is no consent of the guardian is required.
- RBI on the basis of Supreme Court Judgment has allowed mother to operate all types of accounts under all system of personal law even

though the father is alive, i.e. **both mother and father will act in the capacity of natural guardian simultaneously**

- After the death of both the guardian is to be appointed by the court. **In case the minor dies**, the balance in the account will be paid to the legal heirs of the minor and in case of joint account, the balance will be held at the disposal of the guardian.
- **No overdraft/ loan** should be granted to a minor, even if security is provided.
- **In case an advance is granted to a minor on the guarantee** of a third party, the guarantor will not be held liable because the contract is void ab – initio.
- **According to Section 26 of NI Act**, a minor can draw or endorse or negotiate a cheque or a bill but he cannot be held liable on such cheque or bill.
- **A minor can be admitted to the benefits of partnership** with the consent of other partners as per Section 30 (1) of the Partnership Act. Within six months after he attains majority or when it comes to his knowledge after becoming major whichever is later, minor will have to give public notice whether he wants to continue as a partner if he remains silent during this period, it amounts to his implied consent.
- **Minor cannot give stop payment instructions in partnership account**, but he has every right to demand statement of a/c from bank. A minor may be appointed as an agent to act on behalf of his principal, but legally he cannot be held responsible to his principal as well as third parties.

Types of Guardians:

1. Natural Guardian
2. Testamentary Guardian (appointed by the will of the father/ mother)



3. Legal Guardian (Appointed by the court)

TRUST ACCOUNTS

- **No bank account of public trust** can be opened without taking the registration certificate issued by the Charity Commissioner.
- **For Private trusts, registration is optional**, and, for public trusts, registration is compulsory.
- **If any of trustee dies**, the provisions of trust deed will operate.
- **If the sole trustee dies**, further operation in the account should be stopped and cheque already signed be paid.
- **Stop payment instructions** for cheque can be given by any trustee including those who is not authorized to operate trust account.
- **Trustee cannot delegate his powers** unless it is provided in trust deed.
- **Power to Borrow:** Trustees cannot borrow unless it is specifically provided in trust deed.

PARTNERSHIP FIRMS

- Partnership firms are **governed by Indian Partnership Act, 1932**.
- **MINOR:** Minor can be admitted to the benefits of partnership with the consent of all the partners. He is not personally liable but his share of property is liable.
- **REGISTRATION:** Registration of partnership firms is done with Registrar of Firms Banks normally do not grant any type of credit facility to the non-registered firms because unregistered firm cannot enforce any suit against the third parties

- **NUMBER OF PARTNERS**: Maximum number of partners in partnership firm is 50 as prescribed under rules.
- **HUF cannot be a partner**. However, since the Company has separate legal entity; it can become the partner if permitted by Articles of Association.

