



ACCEPTANCE OF DEPOSITS BY COMPANIES

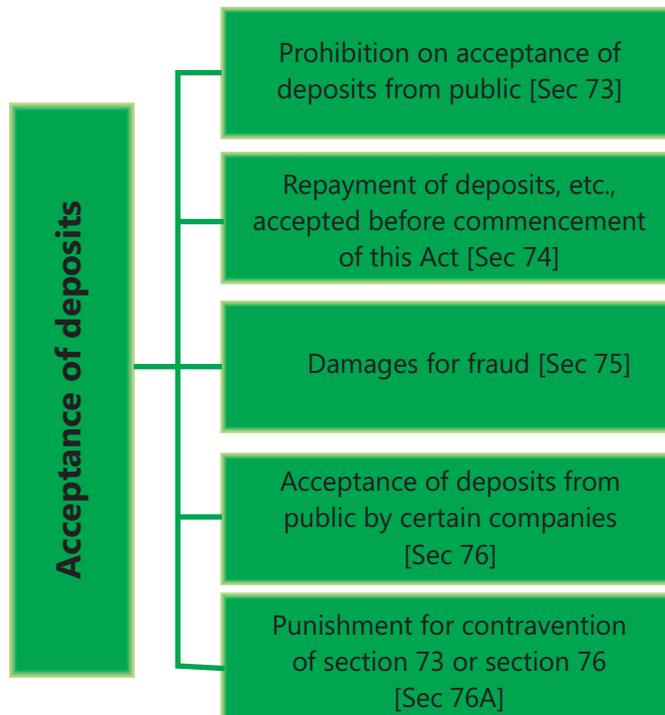


LEARNING OUTCOMES

After studying this unit, you would be able to :

- ❑ Understand the meaning of deposits
- ❑ Know the requirements and restrictions for accepting deposit from members
- ❑ Know the punishment for contravention of the provisions related to acceptance of deposits by companies

CHAPTER OVERVIEW

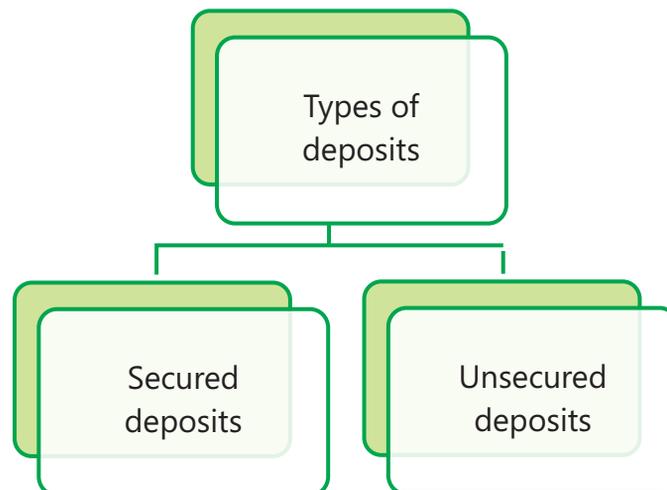


1. INTRODUCTION

Deposits from the public are an important mode of finance in the corporate sector. It is accordingly necessary to control the companies inviting deposits from the public in order to safeguard the general and wider interest of the public at large.

2. MEANING OF DEPOSIT, DEPOSITOR AND ELIGIBLE COMPANY

According to the definition given under section 2(31) of the Companies Act, 2013, the term '**deposit**' includes any receipt of money by way of deposit or loan or in any other form, by a company, but does not include such categories of amount as may be prescribed in consultation with the RBI.



According to the *Companies (Acceptance of Deposits) Rules, 2014*, following categories of amount may not be considered as deposit—

- (i) Any amount received from the Central Government or a state Government, or from any other source whose repayment is guaranteed by the Central Government or a State Government, or any amount received from a local authority, or any amount received from a statutory authority constituted under an Act of Parliament or a State Legislature
- (ii) Any amount received from foreign Governments, foreign international banks, multilateral financial institutions etc. subject to the provisions of Foreign Exchange Management Act, 1999

- (iii) any amount received as a loan or facility from any banking company.
- (iv) Any amount received as a loan or financial assistance from Public Financial Institutions
- (v) any amount received against issue of commercial paper or any other instruments issued in accordance with the guidelines or notification issued by the Reserve Bank of India;
- (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 : 1. If the securities for which application money or advance for such securities was received cannot be allotted within 60 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 15 days from the date of completion of 60 days, such amount shall be treated as a deposit under these rules.

2. Any adjustment of the amount for any other purpose shall not be treated as refund.

- (viii) any amount received from a person who, at the time of the receipt of the amount, was a director of the 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;

- (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 10 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;

- (x) 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 or held in trust;
- (xii) any amount received in the course of, or for the purposes of, the business of the company – as an advance for the supply of goods or provision of services accounted for, as advance
- (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
- (xiv) any amount accepted by a Nidhi company in accordance with the section 406 of the Act.
- (xv) any amount received by way of subscription in respect of a chit under the Chit Fund Act, 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
- (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,—

1. "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;

2. "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.

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

Meaning of Depositor

'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.



Meaning of Eligible Company

"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:



However, 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.



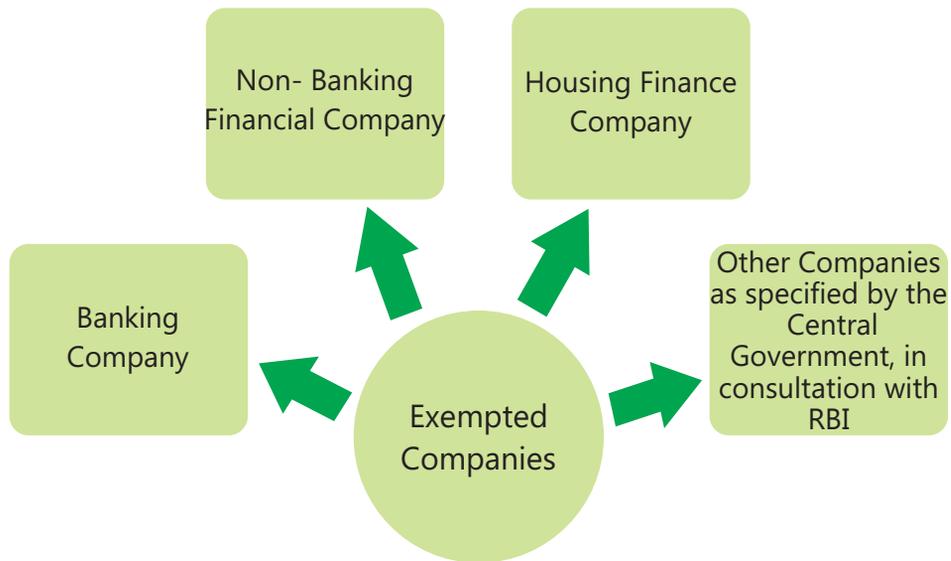
3. PROHIBITION ON ACCEPTANCE OF DEPOSITS FROM PUBLIC [SECTION 73]

According to section 73 of the Companies Act, 2013,

(1) Restriction on acceptance of deposits from public: On and from commencement of this Act, no company shall invite, accept or renew deposits under this Act from the public except in a manner provided under this Chapter of the Act.

Exception: This sub-section with respect to the acceptance or renewal of deposit from public shall not apply to the following company :

- (i) banking company,
- (ii) non- banking financial company as defined in the Reserve Bank of India Act, 1934,
- (iii) a housing finance company registered with the National Housing Bank established under the National Housing Bank Act, 1987, and
- (iv) and such other company as the Central Government may specify, after consultation with the Reserve Bank of India.



(2) When company may accept deposit from its members : A company may, subject to the passing of a resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, including the provision of security, if any, or for the repayment of such deposits with interest, as may be agreed upon between the company and its members, subject to the fulfilment of the following conditions, namely—

- (a) issuance of a circular to its members including therein a statement showing the financial position of the company, the credit rating obtained, the total number of depositors and the amount due towards deposits in respect of any previous deposits accepted by the company and such other particulars in such form and in such manner as may be prescribed;
- (b) filing a copy of the circular along with such statement with the Registrar within 30 days before the date of issue of the circular;
- (c) depositing such sum which shall not be less than fifteen per cent. of the amount of its deposits maturing during a financial year and the financial year next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account;
- (d) providing such deposit insurance in such manner and to such extent as may be prescribed;
- (e) certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits; and

- (f) providing security, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on the property or assets of the company :

Where a company does not secure the deposits or secures such deposits partially, then, the deposits shall be termed as “unsecured deposits” and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.¹

Exception :

In case of private company - Points (a) to (e) above shall not apply to private Companies which accepts from its members monies not exceeding 100%, of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such manner as may be specified.

- (3) Repayment of deposit :** Every deposit accepted by a company shall be repaid with interest in accordance with the terms and conditions of the agreement.
- (4) Failure on the repayment of deposit :** Where a company fails to repay the deposit or part thereof or any interest thereon, the depositor concerned may apply to the Tribunal for an order directing the company to pay the sum due or for any loss or damage incurred by him as a result of such non-payment and for such other orders as the Tribunal may deem fit.
- (5) Application of the amount of deposit repayment reserve account :** The deposit repayment reserve account shall not be used by the company for any purpose other than repayment of deposits

According to the Companies (Acceptance of Deposits) Rules, 2014 :

Rule 3-Terms and Conditions of Acceptance of Deposits by Companies

- (1) On and from the commencement of these rules,—
- (a) no company referred to in sub-section (2) of section 73 and no eligible company shall accept or renew any deposit, whether secured or unsecured, which is repayable on demand or upon receiving a notice within a period of less than six months or more than thirty-six months from the date of acceptance or renewal of such deposit :

1. In case of Specified IFSC Public Company - Points (a) to (e) above shall not apply to a Specified IFSC public company which accepts from its members, monies not exceeding 100% of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such manner as may be specified.

Provided that a company may, for the purpose of meeting any of its short-term requirements of funds, accept or renew such deposits for repayment earlier than six months from the date of deposit or renewal, as the case may be, subject to the condition that—

- (a) such deposits shall not exceed ten per cent. of the aggregate of the Paid-up share capital, free Reserves and securities premium account of the company, and
 - (b) such deposits are repayable not earlier than three months from the date of such deposits or renewal thereof.
- (2) Where depositors so desire, deposits may be accepted in joint names not exceeding three, with or without any of the clauses, namely, "Jointly", "Either or Survivor", "First named or Survivor", "Anyone or Survivor".
 - (3) No company referred to in sub-section (2) of section 73 shall accept or renew any deposit from its members, if the amount of such deposits together with the amount of other deposits outstanding as on the date of acceptance or renewal of such deposits exceeds thirty five per cent of the aggregate of the Paid-up share capital, free Reserves and securities premium account of the company.

Provided that a private company may accept from its members monies not exceeding one hundred per cent of aggregate of the paid up share capital, free reserves and securities premium account and such company shall file the details of monies so accepted to the Registrar in such manner as may be specified.

- (4) No eligible company shall accept or renew—
 - (a) any deposit from its members, if the amount of such deposit together with the amount of deposits outstanding as on the date of acceptance or renewal of such deposits from members exceeds ten per cent. of the aggregate of the Paid-up share capital, free Reserves and securities premium account of the company;
 - (b) any other deposit, if the amount of such deposit together with the amount of such other deposits, other than the deposit referred to in clause (a), outstanding on the date of acceptance or renewal exceeds twenty-five per cent. of aggregate of the Paid-up share capital, free Reserves and securities premium account of the company.
- (5) No Government company eligible to accept deposits under section 76 shall accept or renew any deposit, if the amount of such deposits together with the amount of other deposits outstanding as on the date of acceptance or renewal exceeds thirty five per cent. of the aggregate of its Paid-up share capital, free Reserves and securities premium account of the company.

- (6) No company referred to in sub-section (2) of section 73 or any eligible company shall invite or accept or renew any deposit in any form, carrying a rate of interest or pay brokerage thereon at a rate exceeding the maximum rate of interest or brokerage prescribed by the Reserve Bank of India for acceptance of deposits by non-banking financial companies.

Explanation : For the purposes of this sub-rule, it is hereby clarified that the person who is authorised, in writing, by a company to solicit deposits on its behalf and through whom deposits are actually procured shall only be entitled to the brokerage and payment of brokerage to any other person for procuring deposits shall be deemed to be in violation of these rules.

- (7) The company shall not reserve to itself either directly or indirectly a right to alter, to the prejudice or disadvantage of the depositor, any of the terms and conditions of the deposit, deposit trust deed and deposit insurance contract after circular or circular in the form of advertisement is issued and deposits are accepted.
- (8) (a) Every eligible company shall obtain, at least once in a year, credit rating for deposits accepted by it and a copy of the rating shall be sent to the Registrar of Companies alongwith the return of deposits in Form DPT-3.
- (b) The credit rating referred to in clause (a) shall not be below the minimum investment grade rating or other specified credit rating for fixed deposits, from any one of the approved credit rating agencies as specified for Non-Banking Financial Companies in the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998, issued by the Reserve Bank of India, as amended from time to time.

Rule 6- Creation of security

- (1) For the purposes of providing security, every company referred to in sub-section (2) of section 73 and every eligible company inviting secured deposits shall provide for security by way of a charge on its assets as referred to in Schedule III of the Act excluding intangible assets of the company for the due repayment of the amount of deposit and interest thereon for an amount which shall not be less than the amount remaining unsecured by the deposit insurance :

Provided that in the case of deposits which are secured by the charge on the assets referred to in Schedule III of the Act excluding intangible assets, the amount of such deposits and the interest payable thereon shall not exceed the market value of such assets as assessed by a registered valuer.

Explanation. I—For the purposes of this sub-rule it is clarified that the company shall ensure that the total value of the security either by way of deposit insurance or by way of charge or by both on company's assets shall not be less than the amount of deposits accepted and the interest payable thereon.

Explanation. II—For the purposes of proviso to sub-clause (ix) of clause (c) of sub-rule (1) of rule 2 and this sub-rule, it is hereby clarified that pending notification of sub-section (1) of section 247 of the Act and finalisation of qualifications and experience of valuers, valuation of stocks, shares, debentures, securities etc. shall be conducted by an independent merchant banker who is registered with the Securities and Exchange Board of India or an independent chartered accountant in practice having a minimum experience of ten years.

- (2) The security (not being in the nature of a pledge) for deposits as specified in sub-rule (1) shall be created in favour of a trustee for the depositors on:
 - (a) specific movable property of the company, or
 - (b) specific immovable property of the company wherever situated, or any interest therein.

Rule 7- Appointment of Trustee for Depositors

- (1) No company referred to in sub-section (2) of section 73 or any eligible company shall issue a circular or advertisement inviting secured deposits unless the company has appointed one or more trustees for depositors for creating security for the deposits :

Provided that a written consent shall be obtained from the trustee for depositors before their appointment and a statement shall appear in the circular or circular in the form of advertisement with reasonable prominence to the effect that the trustees for depositors have given their consent to the company to be so appointed.

- (2) The company shall execute a deposit trust deed in Form DPT-2 at least seven days before issuing the circular or circular in the form of advertisement.
- (3) No person including a company that is in the business of providing trusteeship services shall be appointed as a trustee for the depositors, if the proposed trustee—
 - (a) is a director, key managerial personnel or any other officer or an employee of the company or of its holding, subsidiary or associate company or a depositor in the company;
 - (b) is indebted to the company, or its subsidiary or its holding or associate company or a subsidiary of such holding company;
 - (c) has any material pecuniary relationship with the company;
 - (d) has entered into any guarantee arrangement in respect of principal debts secured by the deposits or interest thereon;
 - (e) is related to any person specified in clause (a) above.
- (4) No trustee for depositors shall be removed from office after the issue of circular or advertisement and before the expiry of his term except with the consent of all the directors present at a meeting of the board.

Provided that in case the company is required to have independent directors, at least one independent director shall be present in such meeting of the Board.

Rule 14- Register of Deposits

- (1) Every company accepting deposits shall maintain at its registered office one or more separate registers for deposits accepted or renewed, in which there shall be entered separately in the case of each depositor the following particulars, namely:
 - (a) name, address and PAN of the depositor/s;
 - (b) particulars of guardian, in case of a minor;
 - (c) particulars of the nominee;
 - (d) deposit receipt number;
 - (e) date and the amount of each deposit;
 - (f) duration of the deposit and the date on which each deposit is repayable;
 - (g) rate of interest or such deposits to be payable to the depositor;
 - (h) due date for payment of interest;
 - (i) mandate and instructions for payment of interest and for non-deduction of tax at source, if any;
 - (j) date or dates on which the payment of interest shall be made;
 - (k) details of deposit insurance including extent of deposit insurance;
 - (l) particulars of security or charge created for repayment of deposits;
 - (m) any other relevant particulars;
- (2) The entries specified in sub-rule (1) shall be made within seven days from the date of issuance of the receipt duly authenticated by a director or secretary of the company or by any other officer authorised by the Board for this purpose.
- (3) The register referred to in sub-rule (1) shall be preserved in good order for a period of not less than eight years from the financial year in which the latest entry is made in the register.

Rule 16- Return of deposits to be filed with the Registrar

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.

Rule 16A- Disclosures in the financial statement

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

- (2) Every private company shall disclose in its financial statement, by way of notes, about the money received from the directors, or relatives of directors.

Rule 17- Penal rate of interest

Every company shall pay a penal rate of interest of 18% p.a. for the overdue period in case of deposits, whether secured or unsecured, matured and claimed but remaining unpaid.

Rules 19- Applicability of section 73 and 74 to eligible companies

Pursuant to provisions of sub-section (2) of section 76 of the Act, the provisions of sections 73 and 74 shall, mutatis mutandis, apply to acceptance of deposits from public by eligible companies.

Explanation- For the purposes of this rule, it is hereby clarified that in case of a company which had accepted or invited public deposits under the relevant provisions of the Companies Act, 1956 and rules made under that Act (here in after known as "Earlier Deposits") and has been repaying such deposits and interest thereon in accordance with such provisions, the provisions of clause (b) of sub-section (1) of section 74 of the Act shall be deemed to have been complied with if the company complies with requirements under the Act and these rules and continues to repay such deposits and interest due thereon on due dates for the remaining period of such deposit in accordance with the terms and conditions and period of such Earlier Deposits and in compliance with the requirements under the Act and these rules;

Provided further that the fresh deposits by every eligible company shall have to be in accordance with the provisions of Chapter V of the Act and these rules.

Rule 21- Punishment for contravention

If any company referred to in sub-section (2) of section 73 or any eligible company inviting deposits or any other person contravenes any provision of these rules for which no punishment is provided in the Act, the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first day during which the contravention continues.



4. REPAYMENT OF DEPOSITS, ETC, ACCEPTED BEFORE COMMENCEMENT OF THIS ACT [SECTION 74]

According to section 74 of the Companies Act, 2013,

- (i) Where in respect of any deposit accepted by a company before the commencement of this Act, the amount of such deposit or part thereof or any interest due thereon remains unpaid on such commencement or becomes due at any time thereafter, the company shall—

- (a) file, within a period of 3 months from such commencement or from the date on which such payments, are due, with the Registrar a statement of all the deposits accepted by the company and sums remaining unpaid on such amount with the interest payable thereon along with the arrangements made for such repayment, notwithstanding anything contained in any other law for the time being in force or under the terms and conditions subject to which the deposit was accepted or any scheme framed under any law; and
 - (b) repay within one year from such commencement or from the date on which such payments are due, whichever is earlier.
- (ii) The Tribunal may on an application made by the company, after considering the financial condition of the company, the amount of deposit or part thereof and the interest payable thereon and such other matters, allow further time as considered reasonable to the company to repay the deposit.
 - (iii) If a company fails to repay the deposit or part thereof or any interest thereon within the time specified in sub-section (1) or such further time as may be allowed by the Tribunal under sub-section (2), the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees and every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both.



5. DAMAGES FOR FRAUD [SECTION 75]

- (1) Where a company fails to repay the deposit or part thereof or any interest thereon referred to in section 74 within the time specified in sub-section (1) of that section or such further time as may be allowed by the Tribunal under sub-section (2) of that section, and it is proved that the deposits had been accepted with intent to defraud the depositors or for any fraudulent purpose, every officer of the company who was responsible for the acceptance of such deposit shall, without prejudice to the provisions contained in sub-section (3) of that section and liability under section 447, be personally responsible, without any limitation of liability, for all or any of the losses or damages that may have been incurred by the depositors.
- (2) Any suit, proceedings or other action may be taken by any person, group of persons or any association of persons who had incurred any loss as a result of the failure of the company to repay the deposits or part thereof or any interest thereon.



6. ACCEPTANCE OF DEPOSITS FROM PUBLIC BY CERTAIN COMPANIES [SECTION 76]

According to section 76 of the Companies Act, 2013–

- (1) a public company, having such net worth of not less than one hundred crore rupees or turnover of not less than five hundred crore rupees², may accept deposits from persons other than its members subject to compliance with the requirements provided in sub-section (2) of section 73 and subject to such rules as the Central Government may, in consultation with the Reserve Bank of India, prescribe :

Provided that such a company shall be required to obtain the rating (including its networth, liquidity and ability to pay its deposits on due date) from a recognised credit rating agency for informing the public the rating given to the company at the time of invitation of deposits from the public which ensures adequate safety and the rating shall be obtained for every year during the tenure of deposits :

Provided further that every company accepting secured deposits from the public shall within thirty days of such acceptance, create a charge on its assets of an amount not less than the amount of deposits accepted in favour of the deposit holders in accordance with such rules as may be prescribed.

- (2) The provisions of this Chapter shall, *mutatis mutandis*, apply to the acceptance of deposits from public under this section.



7. PUNISHMENT FOR CONTRAVENTION OF SECTION 73 OR SECTION 76 [SECTION 76A]

Where a company accepts or invites or allows or causes any other person to accept or invite on its behalf any deposit in contravention of the manner or the conditions prescribed under section 73 or section 76 or rules made thereunder or if a company fails to repay the deposit or part thereof or any interest due thereon within the time specified under section 73 or section 76 or rules made thereunder or such further time as may be allowed by the Tribunal under section 73,—

- (a) the company shall, in addition to the payment of the amount of deposit or part thereof and the interest due, be punishable with fine which shall not be less than one crore rupees but which may extend to ten crore rupees; and

2. As prescribed under Rule 2(1)(e) of the *Companies (Acceptance Deposits) Rules, 2014*.

- (b) every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than twenty-five lakh rupees but which may extend to two crore rupees, or with both :

Provided that if it is proved that the officer of the company who is in default, has contravened such provisions knowingly or wilfully with the intention to deceive the company or its shareholders or depositors or creditors or tax authorities, he shall be liable for action under section 447.



SUMMARY

- Deposit includes any receipt of money by way of deposit or loan or in any other form by a company but does not include such categories of amount prescribed in consultation with RBI.
- Section 73 prohibits a company to invite, accept or renew deposits from public. This prohibition however shall not apply in case of
 - banking company
 - non- banking financial company
 - such other company as the Central Government may specify.
- If a company fails to repay the deposit or part thereof or any interest thereon, the depositor concerned may apply to the Tribunal for an order directing the company to pay the sum due or for any loss or damage incurred by him as a result of such non-payment and for such other orders as the Tribunal may deem fit.
- The deposit repayment reserve account shall not be used by the company for any purpose other than repayment of deposits
- The company accepting deposits shall maintain at its registered office one or more registers for deposits accepted or renewed.
- The Return of Deposits shall be filed in Form DPT-3 with the Registrar.
- There are stringent penal provisions (Sec. 75 and 76 A) to safeguard the interest of the depositors.

 **TEST YOUR KNOWLEDGE****Multiple Choice Questions**

1. An eligible company as per section 76, which is accepting deposits within the limits specified under section 180 (1) (c) may accept deposits by means of _____.
 - (a) ordinary resolution
 - (b) unanimous resolution
 - (c) Special resolution
 - (d) Special resolution and approval of Central Government
2. Every company shall pay a penal rate of interest ____ for the overdue period in case of deposits, whether secured or unsecured, matured and claimed but remaining unpaid.
 - (a) 9% p.a.
 - (b) 10% p.a.
 - (c) 12% p.a.
 - (d) 18% p.a.
3. A reserve account that shall not be used by the company for any purpose other than repayment of deposits is called :
 - (a) debenture redemption reserve
 - (b) deposit repayment reserve
 - (c) capital redemption reserve
 - (d) free reserve
4. Where depositors so desire, deposits may be accepted in joint names not exceeding ____
 - (a) 2
 - (b) 3
 - (c) 5
 - (d) 7
5. No deposits are repayable earlier than _____ from the date of such deposits or renewal thereof.
 - (a) 3 months
 - (b) 6 months
 - (c) 12 months
 - (d) 1 year

Answers to MCQs

1. (a)	2. (d)	3. (b)	4. (b)	5. (a)
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Question and Answer

Question 1

Atul Ltd. has passed a resolution in its general meeting regarding accepting deposits from its members. Can this company accept deposits from its members under the Companies Act, 2013 ? If yes, state the conditions to be fulfilled in this regard.

Answer

According to Section 73 (2) of the Companies Act, 2013, a company may, subject to the passing of a resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, including the provision of security, if any, or for the repayment of such deposits with interest, as may be agreed upon between the company and its members, subject to the fulfilment of the following conditions, namely :

- (a) issuance of a circular to its members including therein a statement showing the financial position of the company, the credit rating obtained, the total number of depositors and the amount due towards deposits in respect of any previous deposits accepted by the company and such other particulars in such form and in such manner as may be prescribed;
- (b) filing a copy of the circular along with such statement with the Registrar within 30 days before the date of issue of the circular;
- (c) depositing such sum which shall not be less than fifteen per cent. of the amount of its deposits maturing during a financial year and the financial year next following, and kept in a scheduled bank in a separate bank account to be called as deposit repayment reserve account;
- (d) providing such deposit insurance in such manner and to such extent as may be prescribed;
- (e) certifying that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits; and

- (f) providing security, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on the property or assets of the company :

Where a company does not secure the deposits or secures such deposits partially, then, the deposits shall be termed as "unsecured deposits" and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.

Exceptions :

1. In case of private company - Points (a) to (e) above shall not apply to private Companies which accepts from its members monies not exceeding 100%, of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such manner as may be specified.
2. In case of Specified International Financial Service Centre (IFSC) Public Company - Points (a) to (e) above shall not apply to a Specified IFSC public company which accepts from its members, monies not exceeding 100% of aggregate of the paid up share capital and free reserves, and such company shall file the details of monies so accepted to the Registrar in such manner as may be specified.

Hence, Atul Ltd. can accept deposits from its members by following the above condition and regulations.

Question 2

What is the meaning of Eligible company for the purpose of Chapter V of the Companies Act, 2013.

Answer

"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 :

However, 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.

Question 3

Referring to the provisions of the Companies Act, 2013, examine the validity of the following :

ABC Limited having a net worth of 120 crore rupees wants to accept deposit from its members. They have approached you to advise them regarding that if they fall within the category of eligible company, what special care has to be taken while accepting such deposit from members.

Answer

“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 :

However, 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.

An eligible company shall accept or renew any deposit from its members, if the amount of such deposit together with the amount of deposits outstanding as on the date of acceptance or renewal of such deposits from members exceeds ten per cent. of the aggregate of the Paid-up share capital, free Reserves and securities premium account of the company.

ABC Limited is having a net worth of 120 crore rupees. Hence, it can fall in the category of eligible company.

Thus, ABC has to ensure that acceptance deposits from members should not exceed 10% of the aggregate of the Paid-up share capital, free Reserves and securities premium account of the company.

