

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.

CHAPTER V

ACCEPTANCE OF DEPOSITS BY COMPANIES

Prohibition on Acceptance of Deposits from Public

Notified Date of
Section:
01/04/2014

73. (1) On and after the 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:

Provided that nothing in this sub-section shall apply to a banking company and non-banking financial company as defined in the Reserve Bank of India Act, 1934 (2 of 1934) and to such other company as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.

(2) 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:—

^{1,2&3}(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 thirty days before the date of issue of the circular;

⁴[(c) depositing, on or before the thirtieth day of April each year, such sum which shall not be less than twenty per cent. of the amount of its deposits maturing during the following financial year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account].

⁵~~(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;⁶[(such deposits and where a default had occurred, the company made good the default and a period of five years had lapsed since the date of making good the default] 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:

Provided that in case 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.

(3) Every deposit accepted by a company under sub-section (2) shall be repaid with interest in accordance with the terms and conditions of the agreement referred to in that sub-section.

(4) Where a company fails to repay the deposit or part thereof or any interest thereon under sub-section (3), 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) The deposit repayment reserve account referred to in clause (c) of sub-section (2) shall not be used by the company for any purpose other than repayment of deposits.

Amendment -

4. [Substituted by the Companies \(Amendment\) Act, 2017](#)

In section (73), sub section (2), clause (c)

"(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".

The following Clause shall be substituted, namely :-

"(c) depositing, on or before the thirtieth day of April each year, such sum which shall not be less than twenty per cent. of the amount of its deposits maturing during the following financial year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account."

5. [Omitted by the Companies \(Amendment\) Act, 2017](#)

6.. [Substituted by the Companies \(Amendment\) Act, 2017](#)

In section (73), sub section (2), clause (e)
for the words:- "such deposits"

The following words shall be substituted, namely :-

"such deposits and where a default had occurred, the company made good the default and a period of five years had lapsed since the date of making good the default"

Exceptions/ Modifications/ Adaptations

1. In case of private company - Clause (a) to (e) of Sub-section 2 of Section 73 shall not apply to private Companies which accepts from its members monies not exceeding one hundred per cent, 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. - [Notification dated 5th june, 2015.](#)

2. In case of [Specified IFSC Public Company](#) - Clauses (a) to (e) of subsection (2) of section 73 Shall not apply to a Specified IFSC public company which accepts from its members, monies not exceeding one hundred per cent. 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. - [Notification Date 4th January, 2017.](#)

3. In case of private company - Clause (a) to (e) of Sub-section 2 of Section 73 shall not apply to private Companies - [Notification Dated 13th June, 2017](#)

For Entry no. 6 of [Exceptions/ Modifications/ Adaptations Dated 5th June, 2015](#) (Clause (a) to (e) of Sub-section 2 of Section 73 shall not apply to private Companies which accepts from its members monies not exceeding one hundred per cent, 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) **the following entry shall be substituted -**

(A) which accepts from its members monies not exceeding one hundred per cent. of aggregate of the paid up share capital, free reserves and securities premium account; or

(B) which is a start-up, for five years from the date of its incorporation; or

(C) which fulfils all of the following conditions, namely:-

(a) which is not an associate or a subsidiary company of any other company;

(b) if the borrowings of such a company from banks or financial institutions or any body corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and

(c) such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under this section:

Provided that the company referred to in clauses (A), (B) or (C) shall file the details of monies accepted to the Registrar in such manner as may be specified." - [Notification Dated 13th June, 2017](#)