

**ACCEPTANCE OF DEPOSITS BY COMPANIES**  
**[SECTION 73 TO 76 OF THE COMPANIES ACT, 2013 READ WITH**  
**COMPANIES (ACCEPTANCE OF DEPOSITS) RULES, 2014] POST**  
**COMPANIES AMENDMENT ACT, 2017**

**SECTION 73- PROHIBITION ON ACCEPTANCE OF DEPOSITS FROM**  
**PUBLIC:**

**EXEMPTION:**

1. Banking Companies
2. Non-banking financial company (NBFC Co.)
3. Private Companies-

(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 as

**“Form DPT-3.”- Notification dated 13th June, 2017 and Companies (Acceptance of Deposits) Second Amendment Rules, 2017 dated 19.09.2017.**

*Note: The above mentioned exception shall be applicable to a private company which has not committed a default in filing its financial statements under section 137 of the said Act or annual return under section 92 of the said Act with the Registrar, vide amendment notification F. No. 1/1/2014- CL-V dated 13th June 2017.*

**4. Specified IFSC Public Company –**

- a) which accepts from its members monies not exceeding one hundred per cent, of aggregate of the paid up share capital and free reserves, **and**
- b) such company shall file the details of monies so accepted to the Registrar in such manner as may be specified as **“Form DPT-3. - Notification Date 4th January, 2017 and Companies (Acceptance of Deposits) Second Amendment Rules, 2017 dated 19.09.2017.**

*Note:-Specified IFSC Public Company means an unlisted public company which is licensed to operate by the Reserve Bank of India or the Securities and Exchange Board of India or the Insurance Regulatory and Development Authority of India from the International Financial Services Centre located in an approved multi services Special Economic Zone set-up under the Special Economic Zones Act, 2005 (28 of 2005) read with the Special Economic Zones Rules, 2006.*

## MAJOR CHANGES VIDE COMPANIES AMENDMENT ACT, 2017:

### 1. DEPOSIT REPAYMENT RESERVE ACCOUNT-[SECTION 73(2)(C)]

It has been provided that an amount being not less than 20% of the amount of deposits, maturing during the following financial year be deposited on or before the 30th day of April each year and kept in a scheduled bank in a separate bank account to be called deposit repayment reserve account.

#### **IMPACT:**

- ✓ *Currently at least 15% of such amount is required to be deposited and that is also of amount of deposits maturing during a financial year and the financial year next following.*
- ✓ *This will strike the perfect balance between security and liquidity and will reduce the cost of borrowings.*

### 2. DEPOSIT INSURANCE [SECTION 73(2)(D)]

Condition of deposit insurance for public deposits is to be removed permanently.

#### **IMPACT:**

- ✓ *Considering the fact that none of the insurance companies are offering insurance products for covering company deposit default risks, the requirement to have deposit insurance is omitted.*

### 3. ACCEPTANCE DEPOSIT AFTER DEFAULT IN REPAYMENT [SECTION 73(2)(E)]

It has been provided that companies which had defaulted in repayment of deposits, can also accept deposits after a period of 5 years from the date of making good the default.

**IMPACT:**

- ✓ *In case of defaulting co.-Permanent ban from raising deposits to be reduced to a period of 5 years from the date of making default good.*

**SECTION 74- REPAYMENT OF DEPOSITS, ETC. ACCEPTED BEFORE  
COMMENCEMENT OF THIS ACT:**

Where any amount of deposit or part thereof or interest thereof remains unpaid on the commencement of the Companies Act 2013, it has been provided that such amount shall be repaid within 3 years from the date of commencement or before the expiry of the period for which the deposit was accepted, whichever is earlier.

**IMPACT:**

- ✓ *Currently the amount was to be repaid within 1 year or before the expiry of the period for which the deposit was accepted, whichever is earlier.*

**SECTION 76A- PUNISHMENT FOR CONTRAVENTION OF  
SECTION 73 OR SECTION 76**

It has been provided to change the penalty from a fine not less than rupees one crore to rupees one crore or twice the amount of deposits accepted by the company, whichever is lower.

Further it has been provided that an officer of the company who is in default shall be **punishable with imprisonment and fine.**

**IMPACT:**

- ✓ *The penalty prescribed for deposit relating to defaults is proposed to be revised to a maximum figure of twice the amount of deposits accepted.*
- ✓ *The penalty prescribed for Officer in Default has made Offence non-compoundable.*

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