Companies Act, 1956

Section 58A - Deposits Not to Be Invited Without Issuing an Advertisement

---

1**[58A. Deposits not to be invited without issuing an advertisement**

(1) The Central Government may, in consultation with the Reserve Bank of India, prescribe the limits up to which, the manner in which and the conditions subject to which deposits may be invited or accepted by a company either from the public or from its members.

(2) No company shall invite, of allow any other person to invite or cause to be invited on its behalf, any deposit unless -

(a) such deposit is invited or is caused to be invited in accordance with the rules made under sub-section (1),2[***]

(b) an advertisement, including therein a statement showing the financial position of the company, has been issued by the company in such form and in such manner as may be3[prescribed, and]

4[(c) the company is not in default in the payment of any deposit or part thereof and any interest thereupon in accordance with the terms and conditions of such deposit.]

(3) (a) Every deposit accepted by a company at any time before the commencement of the Companies (Amendment) Act, 1974, in accordance with the directions made by the Reserve Bank of India under Chapter IIIB of the Reserve Bank of India Act, 1934 (2 of 1934), shall, unless renewed in accordance with clause (b), be repaid in accordance with the5[terms and conditions of such deposit].

(b) No deposit referred to in clause (a) shall be renewed by the company after the expiry of the term thereof unless the deposit is such that it could have been accepted if the rules made under sub-section (1) were in force at the time when the deposit was initially accepted by the company.

(c) Where, before the commencement of the Companies (Amendment) Act, 1974, any deposit was received by a company in contravention of any direction made under Chapter IIIB of the Reserve Bank of India Act, 1934 (2 of 1934), repayment of such deposit shall be made in full on or before the 1st day of April, 1975, and such repayment shall be without prejudice to any action that may be taken under the Reserve Bank of India Act, 1934 for the acceptance of such deposit in contravention of such direction.

6[(3A) Every deposit accepted by a company after the commencement of the Companies (Amendment) Act, 1998, shall, unless renewed in accordance with the rules made under sub-section (1), be repaid in accordance with the terms and conditions of such deposit.]

(4) Where any deposit is accepted by a company after the commencement of the Companies (Amendment) Act, 1974, in contravention of the rules made under subsection (1), repayment of such deposit shall be made by the company within thirty days from the date of acceptance of such deposit or within such further time, not exceeding thirty days, as the Central Government may, on sufficient cause being shown by the company, allow.

(5) Where a company omits or fails to make repayment of a deposit in accordance with the provisions of clause (c) of sub-section (3), or in the case of a deposit referred to in sub-section (4), within the

time specified in that sub-section, -

(a) the company shall be punishable with fine which shall not be less than twice the amount in relation to which the repayment of the deposit has not been made, and out of the fine, if realised, an amount equal to the amount in relation to which the repayment of deposit has not been made, shall be paid by the court, trying the offence, to the person to whom repayment of the deposit was to be made, and on such payment, the liability of the company to make repayment of the deposit shall to the extent of the amount paid by the court, stand discharged;

(b) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

(6) Where a company accepts or invites, or allows or causes any other person to accept or invite on its behalf, any deposit in excess of the limits prescribed under subsection (1) or in contravention of the manner or condition prescribed under that subsection or in contravention of the provisions of sub-section (2), as the case may be, -

(a) the company shall be punishable, -

(i) where such contravention relates to the acceptance of any deposit, with fine which shall not be less than an amount equal to the amount of the deposit so accepted.

(ii) where such contravention relates to the invitation of any deposit, with fine which may extend to[7][ten lakh rupees] but shall not be less than[8][fifty thousand rupees];

(b) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

(7) (a) Nothing contained in this section shall apply to, -

(i) a banking company, or

(ii) such other company as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.

(b) Except the provisions relating to advertisement contained in clause (b) of subsection (2), nothing in this section shall apply to such classes of financial companies as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.

[9][(8) The Central Government may, if it considers it necessary for avoiding any hardship or for any other just and sufficient reason, by order, issued either prospectively or retrospectively from a date not earlier than the commencement of the Companies (Amendment) Act, 1974, grant extension of time to a company or class of companies to comply with, or exempt any company or class of companies from, all or any of the provisions of this section either generally or for any specified period subject to such conditions as may be specified in the order:

Provided that no order under this sub-section shall be issued in relation to a class of companies except after consultation with the Reserve Bank of India.]

[6][(9) Where a company has failed to repay any deposit or part thereof in accordance with the terms and conditions of such deposit the[10][Tribunal] may, if it is satisfied, either on its own motion or on the application of the depositor, that it is necessary so to do to safeguard the interests of the company, the depositors or in the public interest direct, by order, the company to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order:

Provided that the[10][Tribunal] may before making any order under this sub-section give a reasonable opportunity of being heard to the company and the other persons interested in the matter.

(10) Whoever fails to comply with any order made by the[10][Tribunal] under sub-section (9) shall be punishable with imprisonment which may extend to three years and shall also be liable to a fine of[11] [not less than rupees five hundred] for every day during which such non-compliance continues.]

[12][(11) A depositor may, at any time, make a nomination and the provisions of sections 109A and 109B shall, as far as may be, apply to the nomination made under this sub-section.]

Explanation. -For the purposes of this section "deposit" means any deposit of money with, and includes any amount borrowed by, a company but shall not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India.]

---

1. Inserted by Act 41 of 1974, Section 7 (w.e.f. 1-2-1975).

2. The words "and" omitted by Act 5 of 1997, Section 4 (w.e.f. 1-3-1997).

3. Substituted by Act 5 of 1997, Section 4, for "prescribed" (w.e.f. 1-3-1997).

4. Inserted by Act 5 of 1997, Section 4 (w.e.f. 1-3-1997).

5. Substituted by Act 31 of 1988, Section 9, for "terms of such deposit" (w.e.f. 1-9-1989).

6. Inserted by Act 31 of 1988, Section 9 (w.e.f. 1-9-1989).

7. Substituted by Act 53 of 2000, Section 18, for "one lakh rupees" (w.e.f. 13-12-2000).

8. Substituted by Act 53 of 2000, Section 18, for "five thousand rupees" (w.e.f. 13-12-2000).

9. Inserted by Act 46 of 1977, Section 3 (w.e.f. 24-12-1977).

10. Substituted Act 11 of 2003, Section 9, for "Company Law Board".

11. Substituted by Act 53 of 2000, Section 18, "not less than rupees fifty" (w.e.f. 13-12-2000).

12. Inserted by Act 21 of 1999, Section 3 (w.r.e.f. 31-10-1998).