

PROCEDURE FOR REPAYMENT OF PRE-MATURE DEPOSITS

102

{Section 73(3) of the Act read with Rule 15 of the
Companies (Acceptance of Deposits) Rules, 2014}

Synopsis

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Relevant Sections, Rules and Forms at a Glance

Particulars	Section(s), Rule(s) and Name of e-Form(s)
The Companies Act, 2013	Sections 73, 75 and 173
The Companies (Acceptance of Deposits) Rules, 2014	Rule 15
Secretarial Standard-1 of ICSI	Clauses 3, 4, 5, 6, 7 and 8
e-Forms to be filed	No form is to be filed

Significant Relevant Approvals and Requirements

- ❖ Board resolution
- ❖ Intimation to the deposit trustee, if any
- ❖ Request from the depositor for pre-mature payment

102.1 PROCEDURE WITH CHECK POINTS

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1.	Pre-mature period means a period after the expiry of a period of six months from the date of accepting of deposit but before the expiry of the period for which such deposit was accepted {Rule 15 of the Companies (Acceptance of Deposits) Rules, 2014}.
2.	Ensure that— <ul style="list-style-type: none"> • the written request for pre-maturity of deposits along with original receipt of deposit have been received, and • a period of six months have elapsed from the date of acceptance of the deposit
3.	Note that— <ul style="list-style-type: none"> • Rule 15 shall not apply to the repayment of any deposit before the expiry of the period for which such deposit was accepted by the company, if such repayment is made solely for the purpose of— <ul style="list-style-type: none"> (a) complying with the provisions of rule 3; or (b) providing war risk or other related benefits to the personnel of the naval, military or air forces or to their families, on an application

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	<p>made by the associations or societies formed by such personnel, during the period of emergency declared under article 352 of the Constitution {<i>First proviso to Rule 15 of the Companies (Acceptance of Deposits) Rules, 2014</i>}.</p> <ul style="list-style-type: none"> • if the company permits a depositor to renew his deposit, before the expiry of the period for which such deposit was accepted by the company, for availing of a higher rate of interest, the company shall pay interest to such depositor at the higher rate if such deposit is renewed in accordance with the other provisions of these rules and for a period longer than the unexpired period of the deposit {<i>Second proviso to Rule 15 of the Companies (Acceptance of Deposits) Rules, 2014</i>}.
4.	<p>Complete formalities regarding calling of board meeting in the following manner:</p> <ul style="list-style-type: none"> • Prepare notice of board meeting along with draft resolution(s) to be passed in the board meeting. • Send notice of board meeting to all the directors <ul style="list-style-type: none"> – at least 7 days before the date of board meeting or – in such manner as prescribed under section 173(3) of the Companies Act, 2013 and clause 1 of the Secretarial Standard-1.
5.	<p>Convene board meeting to pass the following resolutions for—</p> <ul style="list-style-type: none"> • considering the written request of the depositor for the payment of deposit before the maturity • authorising directors to do the necessary formalities for payment regarding such pre-matured deposits.
6.	<p>Complete formalities regarding minutes of the board meeting as per Section 118 of the Companies Act, 2013 in the following manner:</p> <ul style="list-style-type: none"> • Prepare draft minutes of the board meeting and circulate, within a period of fifteen days from the date of conclusion of that meeting, to all directors, by hand/speed post/registered post/courier/e-mail or by any recognised electronic means, for their comment(s). • All directors shall communicate their comment(s), if any, on the draft circulated minutes within a period of seven days from the date of circulation of the draft minutes. • Add the suggested comment(s) given or suggested by any director and finalise the minutes. • Enter the minutes, in the minute book of the board meeting, within thirty days from the date of conclusion of the board meeting. • Minutes of the board meeting shall be signed and dated by the chairman of that meeting or by the chairman of the next meeting. • The signed minutes duly certified by Company Secretary/any director where Company Secretary is not appointed shall be circulated within 15 days of signing to all the directors as on the date of meeting and appointed thereafter, except those directors who have waived to receive such signed minutes.

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	<p>The subscribers, who are individuals in the Memorandum of Association (MOA) shall be deemed as first directors until the directors are duly appointed by the members in accordance with Section 152 of the Companies Act, 2013 and rules made thereunder (Section 152 of the Act).</p> <ul style="list-style-type: none"> • Not the person intended/proposed to be appointed a director of a company has a valid Director Identification Number (DIN) under section 174 or any other number as may be prescribed under section 174 of the Companies Act, 2013, however, in case of first directors of a new company, the DIN up to 3 (three) persons can be obtained through incorporation with integrated form SPICe-1 (INC-32) (Section 152 of the Act read with rule 152 of the Companies Incorporation Rules, 2014). • Not a total number of directors, at least one director has stayed in India for a total period of not less than 182 days during the financial year. Provided that in case of newly incorporated company, residential status shall be determined proportionately. However, it is not required in case the director is appointed by the Central Government or State Government (Section 152 of the Act). • A person, who is intended to be appointed, shall not be eligible for appointment, if he/she has any disqualification for appointment under section 164 of the Act (Section 164 of the Act read with company provisions of government company and regulations in COA 2012 about COA 2012). • A person proposed to be appointed as a director in a company other than a company registered under Section 8 (non-profit company) of the Companies Act, 2013 (Section 152 of the Act) <ul style="list-style-type: none"> - shall not hold office as a director including any alternate directorship in more than 20 companies including directorship in dormant companies. - shall not hold office in more than 10 public companies including the private companies which are holding or subsidiary of public companies.
1.	In case of one person company, an individual being sole member is deemed to be the first director of the company, if the articles of association has not mentioned the names of first directors (Section 152 of the Act).
2.	Forms created in writing, on or before appointment, from the appointed director to act as director in the company as Form 208-2 (Part 2 of the Companies Appointment and Qualification of Directors) Rule, 2014.
3.	Form created in writing, on or before appointment, from the appointed director as Form 208-3 regarding that he/she is not disqualified under Section 164 of Companies Act, 2013, to act as a Director (Section 164 of the Act read with rule 164 of the Companies Appointment and Qualification of Directors) Rule, 2014.
4.	The particulars of first directors to be integrated with Form SPICe-1 (INC-32) at the time of incorporation of company.

For the detailed procedure, please refer Company Law Procedures & Compliances by Dr. Sanjeev Gupta, 2nd edn, 2021. You can buy from your bookseller or online at www.bharatlaws.com

[COMPANY LAW Procedures & Compliances \(in 2 vols.\)](#)