

RBI / 2004-05 / 208

DNBS (PD) C.C. No. 44 / 02.01 / 2004-05
October 5, 2004

To,

All Non-Banking Financial Companies (NBFCs),
Miscellaneous Non-Banking Companies (MNBCs) and
Residuary Non-Banking Companies (RNBCs)

Dear Sirs,

Premature repayment of public deposits or deposits

The provisions relating to premature repayment (after the minimum lock-in period) of public deposits or deposits, are contained in -

- (i) Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 1998 in the case of NBFCs;
- (ii) Miscellaneous Non-Banking Companies (Reserve Bank) Directions, 1977 in the case of MNBCs; and
- (iii) Residuary Non-Banking Companies (Reserve Bank) Directions, 1987 in the case of RNBCs.

As stipulated therein, in terms of (i) and (ii) above, a NBFC or MNBC is not permitted to repay any public deposit or deposits as the case may be, within a period of three months from the date of acceptance of the same. Similarly, under (iii) above, a RNBC is not permitted to repay any deposit within a period of twelve months from the date of its acceptance. However, after the above lock-in period, the public deposits or deposits can be pre-paid subject to certain conditions.

2. It has been brought to the notice of the Bank that certain companies have offered to the depositors the right to premature repayment. Such repayments may vitiate the ALM discipline of companies and in case of a company whose assets may be insufficient to meet all its outside liabilities, such repayments may result in preferential treatment to those depositors who exit early. As such, the said provisions need a review, for the purpose of safeguarding the ALM discipline among the companies and to restrict preferential prepayment. Further, the provisions relating to repayment of

deposits and the applicable interest rate in the event of unforeseen death of a depositor, also need a review.

3. Prepayment of deposits – Eligibility

(1) The above issues have been reviewed in consultation with Informal Advisory Group on NBFCs. It has been decided to stratify the NBFCs, MNBCs and RNBCs for the purpose of permission to prepay the deposits into two categories viz.

- (i) Problem NBFCs, MNBCs and RNBCs (hereinafter called “problem company/ies” as defined now in the respective RBI Directions)
- (ii) Normally run companies (the expression would mean the NBFCs, MNBCs and RNBCs other than problem companies)

Minimum lock – in period

(2) It has been decided to retain the minimum lock-in period within which a NBFC, RNBC or MNBC shall not repay a public deposit (in case of NBFC) or deposit (in case of RNBC and MNBC) or grant any loan against such deposits.

Restrictions on prepayment in the case of problem companies

(3) The problem companies are prohibited from making premature repayment of any deposits (public deposits in case of NBFCs) or granting any loan against public deposits / deposits, as the case may be. However, the existing contracts conferring the right for premature withdrawal on the depositor would remain unchanged, but where the depositor, in case of a problem company does not have such a right or where the problem company has reserved the right to agree to the depositor’s request for prepayment, such company shall not effect any premature repayment. The prohibition shall not, however, apply in the following cases:

- (i) Death of the depositor

In the event of death of the depositor, the public deposit or deposit may be repaid prematurely, even within the lock – in period, to the surviving depositor/s in the case of joint holding with survivor clause, or to the nominee or the legal heir/s of the deceased depositor. The facility shall

be allowed by the problem company on the request of the joint holders with survivor clause/nominee/ legal heir only against submission of relevant proof, to the satisfaction of the company.

(ii) Special facility for tiny and other deposits

The problem company may, after the minimum lock – in period, pay, in entirety, at the request of the depositor the principal sum of deposits or grant loan against the tiny deposits up to Rs.10000/- (hereinafter called “tiny deposits”). In order to avoid any discrimination in allowing premature payment of other deposits, the deposits above Rs.10000/- may also be prepaid (or loan to that extent granted thereagainst) at the request of the sole/first named depositor for meeting expenses of an emergent nature, subject to the satisfaction of the problem company concerned about the circumstances but the amount of prepayment should not exceed Rs.10,000/- in any case. In the case of deposits above Rs.10,000/-, the remaining amount and interest on the deposit shall be payable only after maturity.

Prepayment in case of normally run companies

(4) The facility of premature repayment, after the lock-in period, of public deposits by normally run NBFCs (deposits in case of RNBCs / MNBCs) would, henceforth, be at the sole discretion of the company and cannot be claimed as a matter of right by the depositors. The existing contracts conferring the right for premature withdrawal on the depositor, would, however, remain unchanged. Further in the event of death of a depositor, the company may, even within the lock - in period, repay the deposit at the request of the joint holders with survivor clause / nominee / legal heir only against submission of relevant proof, to the satisfaction of the company.

Clubbing of deposit accounts in the same capacity

(5) All deposit accounts standing to the credit of sole/first named depositor in the same capacity shall be clubbed and treated as one deposit account for the purpose of premature repayment.

3. Rate of interest if the company agrees to the request for premature withdrawal

Where a company, at the request of the depositor or at its sole discretion, as the case may be, repays, subject to the aforesaid conditions, a deposit/public deposit before its maturity (including in the case of death of the depositor), it shall pay interest at the following rates:

NBFCs

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| Up to 3 months (Lock - in period) | No repayment (Not applicable in case of repayment in the event of death of the depositor) |
| After 3 months but before 6 months | No interest |
| After 6 months but before the date of maturity | The interest payable shall be 2 per cent lower than the interest rate applicable to a public deposit for the period for which the public deposit has run or if no rate has been specified for that period, then 3 per cent lower than the minimum rate at which public deposits are accepted by the NBFC. |

RNBCs

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| Up to 12 months from the date of deposit (Lock-in-period) | No repayment (Not applicable in case of repayment in the event of death of the depositor) |
| After the expiry of 12 months but before the date of maturity | The interest payable shall be 2 per cent lower than the interest rate applicable to a deposit for the period for which the deposit has run or if no rate has been specified for that period, then 3 per cent lower than the minimum rate at which deposits are accepted by the RNBC. |

MNBCs

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| Up to 3 months from the date of deposit (Lock-in-period) | No repayment (Not applicable in case of repayment in the event of death of the depositor) |
| After 3 months but before 6 months | No interest |
| After 6 months but before the date of maturity | The interest payable shall be 2 per cent lower than the interest rate applicable to a deposit for the period for which the deposit has run or if no rate has been specified for that period, then 3 per cent lower than the minimum rate at which deposits are accepted by the MNBC. |

4. Issue of notice of maturity to depositors

The companies shall intimate their depositors at least 2 months before maturity of their respective deposits/ public deposits, the details of such maturity, so as to ensure that matured deposits do not remain with the company due to such deposits not claimed by the depositor.

5. The amended provisions shall apply to the public deposits accepted or renewed by the NBFCs (including problem NBFCs) from the date of Notification by Reserve Bank. These shall also apply to the existing deposit contracts whereunder the depositor does not have a right to premature withdrawal of the deposit.

6. The amending Notifications Nos. 179-181 of date as also the Notifications Nos.

- a. DFC. 118 /DG (SPT) – 98 dated January 31, 1998;
- b. DFC. 55 / DG (O) – 87 dated May 15, 1987; and
- c. DNBC. 39 / DG (H) – 77 dated June 20, 1977

(as amended up-to-date) are enclosed for your information and meticulous compliance.

7. Please acknowledge receipt to the Regional Office of the Department of Non-Banking Supervision, Reserve Bank of India under whose jurisdiction the Registered Office of your company is situated.

Yours faithfully,

Sd/-
(O. P. Aggarwal)
Chief General Manager-in-Charge

Encls: 11 sheets