

**GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS**

**LOK SABHA
UNSTARRED QUESTION NO. 1803
ANSWERED ON FRIDAY, THE 27th JULY, 2018/
SHRAVANA 5, 1940 (SAKA)**

RESTRICTION ON COMPANIES RAISING FDs

QUESTION

1803. SHRI BIDYUT BARAN MAHATO:

SHRI T. RADHAKRISHNAN:

SHRI S.R. VIJAYAKUMAR:

SHRI S. RAJENDRAN:

SHRI CH. MALLA REDDY:

SHRI SUDHEER GUPTA:

KUNWAR HARIBANSH SINGH:

SHRI GAJANAN KIRTIKAR:

Will the Minister of CORPORATE AFFAIRS

कारपोरेट कार्य

मंत्री

be pleased to state:

- (a) whether the International Monetary Fund (IMF) has written to the Government that the provision for companies to access deposits from the public should be reviewed and if so, the details thereof and the response of the Government thereto;**
- (b) whether companies are raising fixed deposits from the public, which often offer two-three percentage points higher interest rate than banks, but are seen to be riskier;**
- (c) if so, whether the Government has taken cognizance that in many cases companies have not refunded fixed deposits amount with interest of the depositors and if so, the details of these companies along with the action taken by the Government in this regard;**
- (d) whether the Government proposes norms on the amount of deposits that can be raised and linking it to the turnover or other financial parameters to ensure that companies remain credit worthy and if so, the details thereof; and**
- (e) the steps taken/being taken by the Government to restrict companies from raising fixed deposits from the public and the time by which such restriction is likely to be imposed?**

ANSWER

**MINISTER OF STATE FOR LAW AND JUSTICE
CHAUDHARY)**

(SHRI P. P.

AND CORPORATE AFFAIRS

(श्री पी. पी. चौधरी)

विधि और न्याय एवं कारपोरेट कार्य मंत्रालय में राज्य मंत्री

(a) to (e):- The Reserve Bank of India (RBI) had forwarded a reference from the International Monetary Fund (IMF) on the subject “Assessment of Observance of the Basel Core Principles for effective Banking Supervision –Financial Sector Assessment Program (FSAP), IMF” wherein it has been stated therein that IMF had undertaken a detailed assessment of observance of the Basel Core Principles under its Financial Sector Assessment Program (FSAP) in India and the final report was published on 19.01.2018. In the said report, IMF has recommended certain actions which inter-alia include the following:-

‘Deposit taking by institutions that are not regulated as banks, should be prohibited, notwithstanding the very small volume of such deposits’.

Section 76(1) of the Companies Act, 2013 (CA, 2013) read with rule 2(1)(e) of the Companies (Acceptance of Deposits) Rules, 2014 already provides that only an eligible public company, is allowed to raise deposits from the public. As such, only a public company having a net worth of not less than one hundred crore rupees or a turnover of not less than five hundred crore rupees may accept public deposits subject to compliance with the requirements provided in sub-section (2) of section 73 read with rule 3 of the Companies (Acceptance of Deposits) Rules, 2014 and proviso to section 76(1) of the CA, 2013.

Under the CA, 2013, acceptance of deposits from public has been allowed subject to a more stringent regime as compared to the erstwhile Section 58A of the Companies Act, 1956.

Section 75 provides for damages for fraud and Section 76A makes the contravention of section 73 or section 76 of the Act as a non-compoundable offence by providing for punishment upto seven years and fine for officers in default. Section 164(2)(b) of CA, 2013 restricts the defaulter director to be re-appointed as a director in defaulter company or appointment in other company for a period of five years from the date of default by the company to repay the deposits.

Thus, it is felt that adequate checks and safeguards have been placed on the acceptance of deposits from the public by companies under the Companies Act, 2013 and the Companies Acceptance of Deposits Rules, 2014. No further checks/safeguards are considered necessary at this stage.

Further, no such case has been noticed where companies are raising fixed deposits from the public, which often offer two-three percentage points higher interest rate than banks.
