# 1.2 · Investments, Loans and Deposits

P13 · Module 1 · s.73–76A, 186, 187 + debentures

SM pp. 34–43 (10 pages). 39 marks in 7 papers, with a long question in 4, **twice as a balance-sheet calculation**. Nothing in Jun'26, so it is due.

| Paper | What was asked | Marks |
|---|---|---|
| Dec'23 | Q2(a) the prohibition on accepting **deposits from the public** (s.73) | 7 |
| Jun'24 | Q8(a) must investments be held in the **company's own name**? (s.187) | 7 |
| Dec'24 | MCQ: meaning of "loan" | 2 |
| Jun'25 | Q2(a) s.187 again, with its exemptions · Q4(a) **inter-corporate loan case** from a balance sheet: s.186 limit and interest rate | 7 + 7 |
| Dec'25 | MCQ: who can be a debenture trustee · Q2(b) **public deposits case** from a balance sheet: eligibility and limits (repeated in ICMAI's MQP) | 2 + 7 |

**HOW IT IS EXAMINED · DEC'26 PREDICTION**

- **Number cases:** you get a balance sheet; compute the **s.186 limit** or the **deposit limits**. Know **what counts**: paid-up capital, **free reserves** (P&L, general reserve) and securities premium. **Revaluation reserve is not free**.
- Theory: **s.187 own-name investments** (2×), **s.73 deposits**.
- **Prediction:** Tier A, **7–9 marks**. (1) deposits case (MQP) · (2) inter-corporate loan above the s.186 limit · (3) s.185 loans to directors, never asked long (see 1.5 part 9).

**MAP**

1. Loans and investments by a company (s.186) ★★★
2. Investments in own name (s.187) ★★
3. Deposits: s.73, rules, s.74–76A ★★★
4. Debentures ★ (MCQs)
5. Model answers (both number cases) · MCQs · numbers

Loans to directors (s.185) are in 1.5 part 9.

## 1 Loans, guarantees, security and investments by a company (s.186)

**WHAT IT IS** Lending to, guaranteeing for, or investing in other bodies is the **Board's** power (s.179). s.186 sets a **ceiling**: above it, a **special resolution** is needed. It also fixes the **minimum interest rate**. A guarantee is treated like a loan, because the company may have to pay. [SM 34]

**LAYERS**
invest through **not more than two layers** of investment companies (except buying a foreign company with more layers abroad, or a subsidiary legally required) [SM 34]

→

**THE LIMIT**
loans + guarantees + security + investments ≤ **60%** of (paid-up capital + free reserves + securities premium) **or 100%** of (free reserves + securities premium), **whichever is more** [SM 34]

→

**ABOVE THE LIMIT**
prior **special resolution** in general meeting. Not needed for a holding company's dealings with its **wholly owned subsidiary or JV** [SM 34–35]

→

**ALWAYS**
Board resolution with **consent of all directors present**, plus **PFI approval** if a PFI term loan subsists (not needed if within the limit and no default) [SM 35]

**OTHER RULES**

- **Interest**: never **below the prevailing yield** of the **1-, 3-, 5- or 10-year Government security closest to the tenor** of the loan. [SM 35]
- A company **in default on deposits** (or interest) may give **no loan, guarantee, security or investment** while the default lasts. [SM 35]
- **Disclose** full particulars and the **purpose** in the financial statements. [SM 35]
- Keep a **register** (MBP-2) at the RO; members inspect and take extracts free, and get copies for a fee. [SM 35]
- A SEBI-registered intermediary (s.12, SEBI Act) of a prescribed class may not take inter-corporate loans or deposits above the prescribed limit. [SM 35]

**EXEMPT (all of s.186 except the layers rule)**

- **Loans, guarantees, security** in the ordinary course by a **banking, insurance or housing finance company**, or a company financing industry or providing infrastructure. [SM 35]
- **Investments** by an **investment company**, an **NBFC**, or a company whose principal business is acquiring securities · **rights issue** subscriptions · shares under s.62(1)(a). [SM 35]
- **Penalty:** company **₹25,000 to ₹25 lakh**; each officer up to **2 years** in jail and a fine of **₹25,000 to ₹1 lakh**. [SM 35]

**⚠ MCQ BANK vs SM**
MCQ bank Q86 "not more than ___ layer of investment companies" gives **1**, but the SM text says **two layers**. Trust the SM. [SM 34]

## 2 Investments to be held in the company's own name (s.187) · Jun'24 Q8(a), Jun'25 Q2(a)

**THE RULE**

- **All investments** in any property, security or other asset are made and held **in the company's own name**. [SM 36]
- **Proviso:** shares in a **subsidiary** may be held in the name of **nominees** where needed to keep the subsidiary's membership above the **statutory minimum**. [SM 36]
- **SM example:** ABC holds 100% of XYZ Pvt Ltd, which needs 2 members. ABC may put **one** share in a nominee's name, but only one. [SM 36]
- Shares or securities **not held in its own name** are entered in a **register** (MBP-3), open to members and debenture holders **free** during business hours. [SM 36]

**EXEMPTIONS: THE COMPANY MAY STILL …**

1. deposit shares or securities with a **bank to collect dividend or interest**
2. deposit with, transfer to, or hold in the name of **SBI or a scheduled bank** (its bankers) to **facilitate transfer**
3. deposit or transfer them as **security for a loan**
4. hold them in the name of a **depository** as beneficial owner (demat)

[SM 36]

## 3 Deposits (s.73–76A + Acceptance of Deposits Rules) · Dec'23 Q2(a), Dec'25 Q2(b)

**WHAT IT IS** "**Deposit**" (s.2(31)) includes **any receipt of money by way of deposit or loan or in any other form**, except categories prescribed with the RBI. The Act allows only two routes: **from members** (s.73(2)) and **from the public** by an **eligible company** (s.76). Banks, NBFCs and companies the CG specifies are outside. [SM 36]

### ROUTE 1: FROM MEMBERS, s.73(2)

By **resolution in general meeting**, on these conditions:

1. a **circular** to members showing the financial position, **credit rating**, number of depositors and dues on past deposits
2. the circular **filed with the ROC 30 days** before it is issued
3. by **30 April** each year, at least **20%** of deposits maturing in the year put in a **Deposit Repayment Reserve Account** in a scheduled bank
4. a certificate of **no default** on past deposits (or the default made good and **5 years** passed)
5. **security** if any; unsecured or partly secured deposits must be called "**unsecured deposits**" everywhere

[SM 36–37]

### ROUTE 2: FROM THE PUBLIC, s.76 · "ELIGIBLE COMPANY"

- A **public company** with **net worth ≥ ₹100 crore OR turnover ≥ ₹500 crore**, which has passed a **special resolution**. [SM 38–41]
- It needs a **credit rating** from a recognised agency, **every year** of the deposit tenure. [SM 41]
- **Secured deposits:** a charge on assets, not less than the deposits, within **30 days** of accepting. [SM 41]
- Circular in the form of an advertisement: **DPT-1** (MCQ bank 234).

**⚠ "AND" OR "OR"?**
SM 38 says net worth ₹100 cr "**and**" turnover ₹500 cr; SM 41 (s.76) says "**or**". The Rules say **or**. Write **or**. [SM 38–41]

### Limits and terms (Rule 3) [SM 37–38]

| Rule | Limit |
|---|---|
| **Tenure** | not repayable on demand; at least **6 months**, at most **36 months** [SM 37] |
| **Short-term** (under 6 months) | up to **10%** of (paid-up capital + free reserves), repayable **not earlier than 3 months** [SM 37] |
| Members' deposits (s.73(2) company) | all outstanding deposits ≤ **35%** of (paid-up capital + reserves + securities premium) [SM 37–38] |
| **Eligible company**, from members | ≤ **10%** of (paid-up capital + free reserves) [SM 38] |
| **Eligible company**, other (public) deposits | ≤ **25%** of (paid-up capital + free reserves + securities premium) [SM 38] |
| Government company (s.76) | ≤ **35%** of (paid-up capital + free reserves + securities premium) [SM 38] |
| Interest and brokerage | not above the **RBI's maximum for NBFC deposits** (SM MCQ 23) · joint names at most **3** · no term changed to the depositor's disadvantage after issue [SM 38] |

⚠ For the members' 10% limit, the SM's base is paid-up capital + free reserves. A later amendment to the Rules also adds securities premium. In a calculation, show the SM figure and note the other.

**SECURITY AND TRUSTEES (Rules 6–9)**

- Secured deposits: a **charge** (not a pledge) on specific movable or immovable property, for at least the amount **not covered by deposit insurance**, in favour of a **trustee for depositors**. [SM 38]
- Trustee appointed and **deposit trust deed (DPT-2)** signed at least **7 days** before the circular. The trustee may not be a director, KMP, employee or depositor, indebted to the company, financially related to it, a guarantor, or a relative of these. [SM 38–39]
- He is removed before his term only with **consent of all directors present** (with at least one ID where IDs are required). [SM 39]
- **Duties:** check the security plus insurance covers the deposits; check the circular; prevent breaches; seek remedies; call meetings; supervise security; act when it becomes enforceable; protect depositors. [SM 39]
- **Depositors' meeting:** on a requisition by **one-tenth in value**, or on a default or any event affecting depositors. [SM 39]

**REPAYMENT, REGISTERS, PENALTIES**

- **Default:** the depositor may apply to the **Tribunal** for payment and damages. The **DRRA** is used only to repay deposits; its balance never falls below **15%** of deposits maturing in the current and next financial year. [SM 37–40]
- **Register of deposits** at the RO (name, PAN, nominee, amounts, dates, rate, insurance, security); entries within **7 days** of the receipt; kept for **8 years** (SM MCQ 20: mandatory, particulars as per the Rules). [SM 40–41]
- **s.74** (deposits from before the Act): statement to the ROC within **3 months**; repay within **3 years** or by maturity, whichever is earlier (the Tribunal may extend). Fine **₹1 crore to ₹10 crore**; officers up to **7 years** in jail and/or **₹25 lakh to ₹2 crore**. [SM 40]
- **s.75 fraud:** officers who accepted deposits to defraud are **personally liable without limit**; any person or group may sue. [SM 41]
- **s.76A** (breach of s.73 or s.76): company fine of at least **₹1 crore or twice the deposit, whichever is lower**; officers up to **7 years** in jail and a fine of **₹25 lakh to ₹2 crore**; if wilful, s.447. [SM 41–42]

## 4 Debentures (MCQ material)

**s.2(30):** "debenture" includes **debenture stock, bonds or any other instrument evidencing a debt**, whether or not it creates a charge on assets. [SM 42]

| Type | Meaning |
|---|---|
| redeemable / irredeemable | fixed redemption date / none (perpetual: repaid on liquidation or by notice) [SM 42] |
| convertible / non-convertible / optionally convertible | must convert into equity / stays debt till redemption / the holder chooses [SM 42–43] |
| fully / partly convertible | all into equity / part converts, the rest redeemed. *SM example: a ₹100 debenture → 10 shares of ₹10 (fully), or ₹50 into 5 shares with ₹50 repaid after 10 years (partly)* [SM 42–43] |
| secured / unsecured | a charge on assets (mortgage) / naked. A **public issue maturing beyond 18 months must be secured**, with a **SEBI-registered debenture trustee** holding the security (SM MCQs 18, 21; Dec'25 MCQ) [SM 43] |
| fixed / floating rate · zero coupon | a fixed rate / one linked to a benchmark · no interest: issued at a **discount** ("discounted bonds"; "**deep discount**" if long-dated), sometimes with a warrant [SM 43] |

## 5 Model answers: the two number cases

**MODEL ANSWER 1 · INTER-CORPORATE LOAN (JUN'25 Q4(a)) · 7 MARKS**

**Facts (₹ lakh):** XYZ Ltd: paid-up capital 40; P&L balance 22; share premium 10; machinery revaluation reserve 11; secured loan from a nationalised bank 35 (11%). ABC Ltd asks for a secured loan of **40** for **40 months**. G-sec yields: 1 yr 6.5%, 2 yrs 6.7%, 3 yrs 6.9%. Can the loan be granted, and at what rate?

| Step | Working |
|---|---|
| Free reserves | P&L balance **22**. The **revaluation reserve (11) is not a free reserve**; leave it out. |
| Limit (a): 60% of (paid-up + free reserves + premium) | 60% × (40 + 22 + 10) = 60% × 72 = **43.2** |
| Limit (b): 100% of (free reserves + premium) | 22 + 10 = **32** |
| s.186 limit = the higher | **43.2 lakh** |
| Proposed loan | 40 ≤ 43.2: **within the limit** (assuming no other loans or investments outstanding), so **no special resolution** is needed |
| Approval | a **Board resolution with the consent of all directors present**. PFI approval is not needed: the loan is within the limit, there is no default, and a nationalised bank is not a PFI |
| Interest rate | not below the G-sec yield **closest to the tenor**. 40 months is nearest the **3-year** security, so **at least 6.9%** |

**Conclusion:** XYZ **can** grant the ₹40 lakh loan by a Board resolution with the consent of all directors present, at an interest rate of **at least 6.9%**, and disclose it in the financial statements and the s.186 register. If its existing loans and investments plus this loan crossed ₹43.2 lakh, a **prior special resolution** would be needed. [SM 34–35]

**MODEL ANSWER 2 · PUBLIC DEPOSITS (DEC'25 Q2(b), ALSO ICMAI MQP Q2(a)) · 7 MARKS**

**Facts (₹ crore):** Pearson Ltd (public, steel pipes): paid-up equity 100; general reserve 20; securities premium 5; term loan from SBI 75; turnover 575. It wants public deposits of 3 to 36 months.

1. **Eligible?** An eligible company is a **public company** with net worth ≥ ₹100 cr **or** turnover ≥ ₹500 cr that passes a **special resolution**. Net worth = 100 + 20 + 5 = **125**; turnover **575**. Both tests are met, so it is **eligible**, subject to a special resolution (filed with the ROC), a **credit rating**, and the circular (DPT-1). [SM 38–41]
2. **Limit for public deposits:** 25% of (paid-up capital + free reserves + securities premium) = 25% × 125 = **₹31.25 crore**. [SM 38]
3. **Less than 6 months?** Yes, up to **10%** of (paid-up capital + free reserves) = 10% × 120 = **₹12 crore**, repayable **not earlier than 3 months**. So the 3-month deposits are fine within ₹12 crore. Maximum tenure **36 months**. [SM 37]
4. **From members (separately):** 10% of (paid-up capital + free reserves) = **₹12 crore** (⚠ ₹12.5 crore if the securities premium is added, as the amended Rules do). [SM 38]
5. **Also:** by 30 April, **20%** of deposits maturing in the year go into the DRRA; interest and brokerage within RBI's NBFC ceilings; a charge within **30 days** if secured. The SBI term loan does not affect eligibility. [SM 37–41]

### SM exercise / MCQ bank on 1.2, with answers

| | | | |
|---|---|---|---|
| 18 secured public-issue debentures: security in favour of | **debenture trustee** | 21 a debenture trustee can be ★ | **any entity registered with SEBI as such** |
| 19 a fully convertible debenture is a | **debt instrument** (bank key) | 22 "loan" in the Companies Act means ★ | **cash credit** (bank key ⚠) |
| 20 register of deposits | **mandatory, with particulars as per the Rules** | 23 brokerage on deposits | **as per RBI** |
| bank 87: interest on deposits guided by | **RBI** | bank 233: trust deed before circular | **7 days** |
| bank 234: advertisement circular in form | **DPT-1** | bank 86: layers of investment companies | **bank key 1 ⚠ SM says two** |

⚠ The SM text has no definition of "loan"; the Dec'24 MCQ answer follows ICMAI's MCQ bank key.

## R Revision: every number in 1.2

| Rule | Number |
|---|---|
| layers of investment companies | 2 |
| s.186 limit | 60% (PUC+FR+SP) or 100% (FR+SP), higher |
| loan interest floor: G-sec tenors | 1, 3, 5, 10 yrs |
| s.186 penalty: company | ₹25,000–₹25 lakh |
| s.186 officer: jail / fine | 2 yrs / ₹25,000–₹1 lakh |
| members' circular filed before issue | 30 days |
| DRRA: deposit by / share of maturing | 30 April / 20% |
| DRRA floor | 15% |
| clean record after default | 5 years |
| eligible company: net worth / turnover | ₹100 cr / ₹500 cr |
| charge for secured public deposits within | 30 days |

| Rule | Number |
|---|---|
| tenure: minimum / maximum | 6 / 36 months |
| short-term: limit / earliest repayment | 10% / 3 months |
| s.73(2) members / Govt company | 35% / 35% |
| eligible company: members / public | 10% / 25% |
| joint depositors, at most | 3 |
| DPT-2 trust deed before circular | 7 days |
| depositors' meeting requisition | one-tenth in value |
| register entries / kept for | 7 days / 8 years |
| s.74: statement / repay within | 3 months / 3 years |
| s.74 / s.76A officer jail | 7 years |
| s.76A company fine | ₹1 cr or 2× deposit, lower |
| public debentures must be secured beyond | 18 months |