

TRAINING PROGRAMME ON NBFC & UNAUTHORIZED DEPOSITS

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Introduction

This presentation aims to help you in understanding overview of various regulated entities in general and NBFC in particular and in effect help you understand better the menace posed by the activities of certain entities by way of unauthorised acceptance of deposits offering high rates of return, Ponzi schemes, Multi-level Marketing firms, Direct Selling Rules 2021, Nidhi Companies etc.

What is an NBFC ?

- NBFC is a company incorporated under the Companies Act, 1956 (Now Companies Act 2013) & granted Certificate of Registration under the RBI Act, **u/s 45 IA** which makes it mandatory for NBFCs to get registered with RBI to commence or carry on NBFIs business as defined under sub-Section (a) of Section 45 I and
- is primarily engaged in the business of
 - loans and advances,
 - acquisition of shares/stock/bonds/debentures/securities
 - leasing, hire-purchase
 - but does not include any institution whose **principal business** is that of agriculture activity, industrial activity, sale/purchase/construction of immovable property

Difference between NBFC and Banks

- NBFCs lend and make investments and hence their activities are akin to that of banks; however there are a few differences as given below:
- NBFCs **cannot accept demand deposits** (only a few have been permitted to accept term or fixed deposits);
- NBFCs do not form part of the **payment and settlement system** and cannot issue cheques drawn on itself;
- deposit insurance (up to ₹ 5 lakh) facility is not available to depositors of NBFCs, unlike in case of banks.

How NBFCs differ from Banks

Banks	NBFCs
CA/SA facilities + FD	Only FD
No ceiling on interest on deposit rates	$\leq 12.5\%$
Deposit insurance	No
Repayable on demand	No
Cheque facility	No
Part of Payment & settlement system	No

How NBFCs differ from Banks (contd.)

Banks	NBFCs
Governed by Banking Regulations Act	Companies Act and RBI Act (chapter III B)
Deposits can be withdrawn on demand / by cheque	Not allowed
Banks provide operating account facilities like saving & current deposits, cash credits, overdraft	Do not provide
Differences between Banks & NBFCs is narrowing down - while banks have started doing non-banking functions, NBFCs are taking-up banking functions	

Principal Business Criteria

- To be an NBFC,
 - the financial assets should not be less than 50% of total assets
 - The financial income should not be less than 50% of the total income
 - NoF of Rs. 200 lakh
- If a company fulfills the above criteria, then it has to obtain Certificate of Registration (CoR) from RBI to continue to carry on NBFBI business.

Is it necessary that every NBFC should be registered with RBI

- **Yes.**
- No Non-banking Financial company can commence or carry on business of a non-banking financial institution without obtaining a certificate of registration from the Bank. Apart from requirement for registration with RBI, it must have minimum Net Owned Funds of ₹ Two crore. Financial companies such as Chit Funds, Insurance, Mutual Funds etc. are technically NBFCs but they are bound by regulations issued by other financial regulators and therefore exempted from RBI's regulations.
- Reference: **Section 45-IA** of the RBI Act, 1934,

Can all NBFCs accept deposits?

- **No.** All NBFCs are not entitled to accept public deposits automatically.
- Only those NBFCs to which the Bank had given a specific authorisation and **have an investment grade rating** are allowed to accept/ hold public deposits to a limit of 1.5 times of its Net Owned Funds (the **total money invested into the business after adjusting any losses (if any).**)
- However, as a matter of public policy, CoRs are issued nowadays to companies are without the permission to accept public deposits.

Is there any ceiling on acceptance of Public Deposits?

- Presently, the maximum rate of interest an NBFC can offer is 12.5%.
- The deposit taking NBFCs are allowed to accept/renew public deposits for a minimum period of 12 months and maximum period of 60 months.
- **They cannot accept deposits repayable on demand.**

Chapter III-B of RBI Act, 1934- PROVISIONS RELATING TO NON-BANKING INSTITUTIONS RECEIVING DEPOSITS

Definition of “deposit” under section 45I(bb) of RBI Act

Includes: Receipt of money by way of

- deposit or
- Loan or
- Any other form

Excludes:

- Amount raised by share capital
- Amount contributed as capital by partners of a firm
- Amount received from a scheduled bank or co-operative bank or banking company
- Amount received from State Financial Corporation, Financial Institution as defined under Industrial Bank of India Act, 1964 or any other institution specified by RBI
- Amount received in the ordinary course of business by way of security deposit, dealership deposit, earnest money
- Advance against orders for goods, properties and services
- Amount received from person governed by money lending Act
- Amount received by way of subscription

Chapter III-C of RBI Act, 1934- PROHIBITION OF ACCEPTANCE OF DEPOSITS BY UNINCORPORATED BODIES

1. **Section 45S- Deposits not to be accepted in certain cases-**No person, being an individual or a firm or an unincorporated association of individuals shall, accept any deposit
2. **Section 45T-** Power to issue search warrants.
3. **Section 58B(5A)-** If any person contravenes any provision of section 45S, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of deposit received by such person in contravention of that section, or two thousand rupees, whichever is more
4. **Section 58E** – “in respect of any offence punishable under sub-section (5A) of section 58B, a complaint in writing may also be made by an officer of the State Government, generally or specially authorised in writing in this behalf by that Government.”

Empowering of Police Officers under RBI Act 1934

Notification No.1

Under sub-section(1) of section 45 T of the Reserve Bank of India Act, 1934 (Central Act II of 1934), approval of the Lieutenant-Governor, Puducherry is hereby accorded to authorizes the Police Officers not below the rank of Inspector of Police to apply to any Court having jurisdiction to issue a search warrant under the Code of Criminal Procedure, 1973, (Central Act II of 1974) stating his belief that certain documents relating to acceptance of deposits in contravention of the provisions of section 45S are secreted in any place within the local limits of the jurisdiction of such Court, for issue of a warrant to search for the documents.

Empowering of Police Officers under RBI Act 1934

Notification No.II

Under the proviso to sub-section (1) of section 58-E of the Reserve Bank of India Act, 1934 (Central Act II of 1934), approval of the Lieutenant-Governor, Puducherry is hereby accorded to authorize the Police Officers not below the rank Inspector of Police to make complaint in writing in respect of any offence punishable under sub-section (5A) of section 58-B to any Court having power to try any such offence.

Investigation of unscrupulous entities engaged in financial activities

□ **NBNFC (Non-Banking Non-Financial Company)**

- Registered company under Companies Act
- under Financial or Non-Financial code
- engaged in financial activities - Call for Balance Sheet
- Memorandum of Association (MoA) & Articles of Association (AoA)

□ **Un Incorporated Bodies - (UIBs)**

- Not registered – No MoA & AoA
- Still some UIBs call themselves Company - not correct
- HUF, Proprietorship Firms, Partnership Firms, Clubs, Individuals
- engaged in financial activities

What are UIBs

- ❑ Individual
- ❑ Firm
- ❑ Unincorporated Association of individuals
- ❑ Trust
- ❑ Hindu Undivided Family
- ❑ Club etc.
- ❑ Any entity which is not incorporated

Activities of NB-NFCs and UIBs (contd.)

Deposit Taking business

- ❑ Rate of interest – very attractive
- ❑ Wide publicity – notices in public places, newspapers, magazines
- ❑ Fake Registration No. of RBI and ROC
- ❑ Operating through many branches in many places
- ❑ Payment to few customers for few months
- ❑ Changing place of operation from time to time
- ❑ Vanishing after collecting money

Multi Level Marketing

What is Multi-Level Marketing? Referral Marketing?
Network Marketing?

MLM vs Pyramid Scheme

MLM is focused more on recruiting people and adding
more distributors in exchange of commission

Normal Company is focused on Making Better Products

Multi Level Marketing

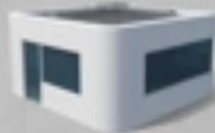
MLM company promoters make extravagant promises about earning potential. Most multi-level marketing companies do very exhaustively paid PR campaigns via social media influencers to attract people to invest, luring them with high returns. A few MLM schemes that are illegal in India are (a) Pyramid Schemes. (b) Money Circulation Scheme (c) Ponzi scheme.

Multi Level Marketing

NORMAL COMPANY



SKINCARE PRODUCTS MANUFACTURER (SELLERS)



DISTRIBUTORS (SHOPPING MALL, STORES, ETC.)



CONSUMERS

FRAUD MLM COMPANY



SELLERS



DISTRIBUTORS = CONSUMERS

Multi Level Marketing

STRATEGY OF MLMs TO EARN MONEY

DISTRIBUTORS = CONSUMERS



MLM COMPANY



STARTER PACK



ELIGIBLE TO BE A
DISTRIBUTOR AND EARN
COMMISSION

QNET: Biodisk and Chi Pendeng –
Medicinal and Spiritual Products

Multi Level Marketing

1. The basic question here is: **Who is buying that product?**
2. What's the reason for recruiting **Many level of Distributors?**

How to identify:

1. Distributors = Consumers
2. No necessity for Advertisement
3. No reason to improve their products
4. Trap more people in this scheme

Multi Level Marketing

Job

VS

MLM

#2

Money Based On Work (Fixed Salary)



Money Based On Number Of People Recruited (Commission)



Source: mlm-scams.info

Pyramid Scheme

Simply described, instead of providing a product or service to the general public, a pyramid plan guarantees participants payment or services in exchange for recruiting others to join the plan. Money continues to flow up the chain as new players bring in more recruits, forming an ever-increasing pyramid or hierarchy. **Money circulation plans** are another name for this type of arrangement.

Pyramid Scheme

The whole thrust of the firm is around promoting how members may get wealthy by being members. The emphasis is not on the products. **This MLM Pyramid fraud is disguised as a direct selling firm by using commodities.**

After a significant number of individuals have been recruited, a pyramid scheme becomes unsustainable since revenues are reduced when the money is distributed among the group rather than profiting from product sales

Pyramid Scheme

1. Pyramid Scheme = MLM (~~Products~~)
2. Recruit more people to earn more commissions
3. Owner/Boss Majority of Money
4. Pyramid schemes are illegal in most countries including India
5. MLM is sometimes legal because of its products and services. Ex- Tupperware, Herbalife etc
6. MLM companies try to hide pyramid schemes using their products as a disguise

Pyramid Scheme

In real world people pay money only for value.

Food- Satisfy Hunger

Movie Ticket- Entertainment Value

Company recruits people who bring value

MLM= unemployed, 1 2th fail== what value??

Can be fooled easily.

Job vs MLM

1. Job has screening process. Only people with certain skill sets are hired.
2. No screening process, anyone can join. As long as they can buy memberships or starter packs.
3. MLM doesn't care about advertising the product.
4. Normal company spends money on marketing and to make their products better.
5. MLM company products are usually overpriced.
6. Normal Company earns majority of money through sales of products or services.
7. MLM company earns majority of money through recruiters.
8. MLM company- Self-help motivational talks.

Chapter III-B of RBI Act, 1934- PROVISIONS RELATING TO NON-BANKING INSTITUTIONS RECEIVING DEPOSITS

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Consumer Protection(Direct Selling) Rules 2021



**Consumer Protection (Direct Selling) Rules, 2021 –
Tightening the Noose on Pyramid and Money
Circulation Schemes**

Consumer Protection(Direct Selling) Rules 2021

As per the definition provided in the [Consumer Protection Act, 2019](#), Direct selling means

“Marketing, distribution and sale of goods or provision of services through a network of sellers, other than through permanent retail location.” Direct selling is one of the approaches for the promotion and sale of goods & services.

Instead of using a retail model like a store, direct sales organizations employ representatives who purchase commodities from the firm and then directly reach out and sell the products to consumers at their residences or other locations. The proceeds from product sales are split between the direct selling company and the agent.

With the lack of a specific regulation related to direct selling, direct sellers used to be covered under – [The Prize Chits and Money Circulation \(Schemes\), Banning Act, 1978](#).

Consumer Protection(Direct Selling) Rules 2021

The rules explicitly prohibit any form of Pyramid schemes under the guise of Direct selling

These Rules are applicable to **all the goods & services** that are bought or sold through direct selling, **to all models of direct selling, to all direct selling entities** offering goods & services in India, etc.

2. Application. — (1) Save as otherwise expressly provided, these rules shall apply to—

- (a) all goods and services bought or sold through direct selling;
- (b) all models of direct selling;
- (c) all direct selling entities offering goods and services to consumers in India;
- (d) all forms of unfair trade practices across all models of direct selling:

Provided that existing direct selling entities shall comply with the provisions of these rules within ninety days from the date of publication of these rules in the Official Gazette;

(2) Notwithstanding anything contained in sub-rule (1), these rules shall also apply to a direct selling entity which is not established in India, but offers goods or services to consumers in India.

Consumer Protection(Direct Selling) Rules 2021

The rules explicitly prohibit any form of Pyramid schemes under the guise of Direct selling

Pyramid schemes are strictly prohibited. In its definition of the direct selling entity, the Rules explicitly state that **it does not include an entity that is engaged in a Pyramid scheme or Money circulation scheme.**

(d) "direct selling entity" means the principal entity which sells or offers to sell goods or services through direct sellers, but **does not include an entity which is engaged in a Pyramid Scheme or money circulation scheme;**

(f) "money circulation scheme" means the schemes defined in clause (c) of section 2 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 (43 of 1978);

Consumer Protection(Direct Selling) Rules 2021

A few of the important rules for the Direct selling entities include:

4. Mandatory maintenance of records.— Every direct selling entity shall maintain at its registered office, either manually or electronically, all such documents as are required under any law for the time being in force, including the following documents or records, as may be applicable, namely:—

- (a) Certificate of Incorporation;
- (b) Memorandum of Association and Articles of Association;
- (c) Permanent Account Number and Tax Deduction and Collection Account Number;
- (d) Goods and Services Tax registration; (e) Goods and Services Tax Returns;
- (f) Income Tax Returns;
- (g) Balance Sheet, Audit Report and such other relevant reports; (h) Register of direct sellers;
- (i) Certificate of Importer-Exporter code (in case of imported goods)
- (j) License issued under the Food Safety and Standards Authority of India Act, 2006 (34 of 2006) for the purposes of manufacture or sale of food items;
- (k) License and Registration Certificate issued under the Drugs and Cosmetics Act, 1940 (23 of 1940) for the purposes of manufacture or sale of drugs, including Ayurvedic, Siddha and Unani drugs and Homoeopathic Medicines;
- (l) Certificate of Registration of Trademark.

Consumer Protection(Direct Selling) Rules 2021

1. Entities to have **at least one physical location** in India and obtain necessary trade registrations as per Indian law.
2. Mandatory to store **customer-sensitive data** in Indian and make adequate safeguards.
3. Entities are to be responsible for **monitoring the direct sellers** and taking care of grievances arising out of goods sold by direct sellers.
4. To have a **grievance redressal officer**.
5. Maintain a **well-functioning website** and provide the prescribed information to increase transparency with customers.
6. To **regulate the direct sellers to curb any malpractices** adopted by sellers while selling the products or services.

All the entities that fall within the definition of Direct seller are to ensure compliance with these rules within 90 days.

Consumer Protection(Direct Selling) Rules 2021

The new rules also lay down obligations to be met by the Directs sellers:

1. Have a **prior written contract** with the Direct selling entity.
2. **Disclose the identity** of the direct selling entity at the time of sales initiation.
3. Provide **accurate information** on prices, terms of payment, refund policy, return policy, etc.
4. Provide an **order form containing complete information** of the direct seller or direct selling entity.
5. Obtain GST registration, PAN registration, all applicable trade licenses, etc.
6. Ensure **product delivered matches with description** of the product.
7. Take appropriate steps to ensure the protection of sensitive personal information of the consumer in accordance with laws.

Consumer Protection(Direct Selling) Rules 2021

One of the important aspects of the Rules is that **the direct selling companies are liable for the grievances arising out of the sale of goods or services** by their direct sellers.

Direct selling entities and direct sellers using e-commerce platforms for sale also need to be compliant with *The Consumer Protection (Direct Selling) Rules, 2021*.

These rules also require the State governments to set up a mechanism to monitor the activities of direct sellers and direct selling entities.

11. Monitoring by State Government.— For ensuring compliance of these rules by direct selling entity and direct sellers, every State Government shall set up a mechanism to monitor or supervise the activities of direct sellers and direct selling entity.

Amway Fraud

The Enforcement Directorate has attached assets worth over Rs 757 crore belonging to multi-level marketing (MLM) scheme promoting company, Amway India, in a money laundering case. The central agency has **accused the company of perpetrating scam by running a pyramid fraud. The agency further stated that the multi-level marketing 'scam' allegedly involves prices of most of the products offered by the company are "exorbitant as compared to the alternative popular products of reputed manufacturers available in the open market."**

The ED has said that an investigation has revealed that Amway is **"running a pyramid fraud in the guise of direct selling multi-level marketing network"**.

The ED statement about Amway suggests that the direct-seller MLM did not bother to comply with the new rules.

Armed with the new rules, the ED has cracked down on two MLMs. In March this year, it filed prosecution against Ebiz.com Pvt Ltd for allegedly running an MLM and attached assets worth Rs36 crore. **The scheme paid hefty commissions on new enrolments rather than their education courses.**

Amway Fraud

Its chairman and CEO in India, William Scott Pinckney, was arrested by the Kerala police in 2013 and by the Andhra Pradesh police in 2014 . The difference between then and now is that the earlier action was under a rather weak Prize Chit and Money Circulation (Banning) Act 1978 (PCMCA) which was considered toothless by the police across India.

Amway contends that the rewards collected by its distributors are not allocated evenly to everyone in the company's sales system. It had denied operating a pyramid system, claiming that it participates in direct selling through its members, whose pyramidal network sells the company's products, extending the network further.

Then what about the exorbitant charges for the products? Exorbitant in comparison to alternative popular items from leading manufacturers present in the free market.

How to identify MLM?

1. Recruiting more people is incentivized and empowered
2. Normal company gives incentive based on work
3. But MLM has endless chain of empowered recruiters recruiting recruiters.
4. Multiple level of hierarchy- Gold, Silver etc
5. Advancement in achievement of distributors is achieved by recruitment
6. Commission are given only if you buy a certain amount(Pay to Play)
7. MLM companies have more levels that are functionally unjustified.
8. Referral marketing at one level is justified. But?
9. Money is earned from the fees/investment of new people.
10. **Target Group: Housewives, unemployed people, vulnerable segment, retired people** etc.

Almost all MLMs are scam.

How to identify MLM?

There are a handful of online MLM scams doing the rounds on the internet. A few of the models are: getting paid for buying applications, cryptocurrencies and stocks, authoring e-books and getting paid for clicks. They use attractive slogans like (a) Earn dollars just by joining the scheme. (b) Work from home and earn Rs 50,000 per month. (c) You are the boss of your business. (d) Do you want to earn extra by sitting at home? (e) Enrol with us for a healthy and wealthy life.

Emu Farming

- ❑ **Tamil Nadu**
- ❑ **Now moving to Punjab, Haryana, WB & Maharashtra**
- ❑ Buying 10 pairs of three-month-old emu birds will cost Rs 150,000. There is a cost of fencing Rs 35,000 (one-time) and a feed cost of Rs 1,20,000
- ❑ “The total one-time investment will Rs 305,000. Income from this model project is projected as Rs 300,000 for every year (Today’s market value per egg is Rs 1,500-1,600. This income will continue for 30 years as emu will lay eggs for more than 30 years,” one website projects. The same is available in as little as one pair (Rs. 30,500/- investment)
- ❑ When an interested customer comes to these farms, he is often promised that the farm will buy back Emus if he wants money back.
- ❑ **Rs. 1000 Crore + fraud**

Various Unauthorized Deposit Scams

Kumbakonam 'helicopter brothers' accused of swindling Rs 600 crore arrested

Kumbakonam helicopter brothers: The police took the action after a couple from Kumbakonam, Feroz Banu and Zafarullah, lodged a complaint against the brothers with then Thanjavur SP Deshmukh Sekhar Sanjay on July 21.

Chennai: Sleuths from the Economic Offences Wing registered a cheating case against eight people of [Aarudhra](#) gold trading private limited for collecting money in the form of cash as deposit from the public on a false promise of returns with a high interest rate.

They conducted searches at 26 premises belonging to Aarudhra gold trading pvt ltd, and its directors in Chennai and other parts of [Tamil Nadu](#). Police decided to conduct searches after the firm announced a scheme promising 30% interest for 1 lakh investment.

மும்மடங்கு பணம் திருப்பித் தருவதாக மோசடி: திருச்சி எல்பின் நிதி நிறுவன சகோதரர்கள் மீது வழக்குப் பதிவு!



மும்மடங்கு பணம் திருப்பித் தருவதாக மோசடி: திருச்சி எல்பின் நிதி நிறுவன சகோதரர்கள் மீது வழக்குப் பதிவு!

திருச்சி எல்பின் சகோதரர்கள் ராஜா, ரமேஷ் உள்ளிட்ட 10 பேர் மீது கொலை மிரட்டல், மோசடி உள்ளிட்ட 10 பிரிவுகளில் மாநகர குற்றப்பிரிவு போலீசார் வழக்குப் பதிவு செய்து, விசாரணை நடத்தி வருகின்றனர்.

NEWS18 TAMIL

LAST UPDATED : AUGUST 06, 2021, 16:52 IST



Nidhi Companies

Under the Companies Act, 1956, a Nidhi or Mutual Benefit Society meant a company which the Central Government declared as Nidhi or Mutual Benefit Society by notification in the official gazette.

Under the Companies Act, 2013, initially there was no need for a company to get declaration from Central Government to function as a Nidhi Company. Such companies were required to only incorporate as a Nidhi and meet requirements under sub-rule (1) of rule 5 of Nidhi Rules viz., minimum membership of 200, Net Owned Fund (NoF) of Rs. 10 lakh, NOF to deposit ratio of 1:20 and keeping 10% unencumbered deposits in schedule commercial banks or post offices within one year of commencement of Nidhi Rules, 2014.

Nidhi Companies

A committee was constituted in the Ministry to make recommendations on the issues arising from the implementation of the Companies Act, 2013 etc. and it was, inter-alia, felt that the **earlier provisions under the Companies Act, 1956 requiring the approval of the Central Government for declaration as Nidhi were appropriate** since they provided a centralized and more restrictive frame work for regulation of such entities and accordingly section 406 of the Companies Act, 2013 was amended with effect from 15.08.2019 to bring back the requirement of declaration as a Nidhi by the Central Government.

Nidhi Companies

After the amendment in the Companies Act, 2013 w.e.f. 15.08.2019 and resultant amendments in Nidhi Rules, 2014 w.e.f. 15.08.2019, companies incorporated as Nidhis were required to apply to the Central Government in **Form NDH-4** for declaration within **14 months** of incorporation, if they were incorporated after the commencement of the Nidhi (Amendment) Rules w.e.f 15.08.2019 and **within 09 months** of commencement of the Nidhi (Amendment) Rules w.e.f 15.08.2019, if they were incorporated as Nidhis after 2014 but prior to 15.08.2019.

Nidhi Companies

Under the Companies Act, 1956, about 390 companies were declared as Nidhi companies only. During 2014-2019, more than ten thousand companies got incorporated. However, only about 2,300 companies have applied in form NDH-4 for declaration. It has been noticed from examination of form NDH-4 that companies have not been complying with the applicable provisions of the Act and the Nidhi Rules, 2014 (as amended).

Nidhi Companies

- **Companies to be incorporated after Nidhi (amendment) Rule, 2022**, as under:-
- A Public Company incorporated as a Nidhi with a share capital of Rs. 10 lakhs; needs to first get itself declared as a Nidhi from the Central Government by applying in form NDH-4 with a minimum membership of 200 and NOF of Rs. 20 lac within 120 days of its incorporation.
- The Promoters and Directors of the company have to meet the criteria of fit and proper person as laid down in the rules.
- For timely disposal, it has also been provided in amended Rules that in case no decision is conveyed by the Central Government within 45 days of the receipt of applications filed by companies in form NDH-4, approval would be deemed as granted. This would apply for such companies which shall be incorporated after Nidhi (Amendment) Rules, 2022.

Nidhi Companies

Ministry of Corporate Affairs

Government cautions stakeholders as 348 companies fail to meet requisite criteria for declaration as Nidhi company under Companies Act 2013 and Nidhi Rules 2014

Posted On: 24 AUG 2021 4:16PM by PIB Delhi

Under section 406 of the Companies Act, 2013 (CA, 2013) and Nidhi Rules, 2014 (as amended), companies incorporated as Nidhi Companies need to apply to the Central Government in form NDH-4 for declaration as a Nidhi Company.

It has been observed that companies have been applying to the Central Government for declaration as Nidhi under the CA, 2013 but of the **348 number of forms scrutinized upto 24.08.2021 not a single company could satisfy the requisite criteria for it to be declared as a Nidhi Company by the Central Government.** There are large number of companies which though functioning as Nidhi Company have not yet applied to the Central Government for declaration as Nidhi Company which is violation of the CA, 2013 and Nidhi Rules, 2014.


Stakeholders are advised to verify the antecedents of the company functioning as a Nidhi company and ensure that the company has been declared as a Nidhi Company by the Central Government before becoming its member and depositing / investing their hard-earned money in such companies.

Chit Funds

How Chit Fund Work?



Toll Free Number
1800 200 1766

 **Mazenet**

Chit Funds Act



The winning bidder gets access to a lump sum of ₹45,000 in the first month.

(Chit fund acts as a borrowing scheme here)



The other 49 members earn good returns on the amount they invested.

(Chit fund acts as a saving instrument here)



The organizer gets the commission.

(Chit fund allows the organizer to be compensated for putting in efforts to organize the event)

So, it's a win-win for all.

The process repeats with each member getting the opportunity to take the auction amount each month while all the other subscribers, including the previous month's winning bidder, continue to contribute their monthly instalments.

Indian Chit Funds Act 1982

"conventional chit" means a transaction whether called chit, chit fund, *kuri* or by any other name by or under which a **person responsible for the conduct of the chit enters into an agreement with a specified number of persons** that every one of them shall subscribe a certain sum of money (or certain quantity of grain instead) by way of periodical instalments for a definite period and that each such subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be provided for in the chit agreement, be entitled to a prize amount.

Indian Chit Funds Act 1982

3. Registration of bye-laws. – (1) Save as otherwise provided in this Act, no person shall start or conduct any chit unless he has registered with the Registrar the proposed by laws of the chit.

(2) For the purpose of registration, there shall be filed with the Registrar the by-laws of the chit in duplicate signed by the foreman and attested by at least two witnesses.

(3) The Registrar, on being satisfied that the by-laws are not contrary to this Act or to the rules made thereunder, shall issue to the foreman a certificate of registration and such certificate shall be conclusive evidence that the bye-laws of the chit therein mentioned are duly registered.

(4) The Registrar shall retain the by-laws of the chit and return the duplicate of the by-laws to the foreman with an endorsement that the by-laws have been registered.

4. Prohibition of invitation for subscription to chit of which by-laws have not been registered. – No person shall issue or publish any notice, circular, prospectus or other document containing the terms and conditions of any chit or inviting the public to subscribe for tickets in any chit unless such notice, circular, prospectus or other document relates to a chit the by-laws of which have been registered.

The Prize Chits and Money Circulation Schemes (Banning) Act, 1978

- Section 2(c) the PCMC Act defines “money circulation schemes” as:
- *“... any scheme, by whatever name called, for the making of quick or easy money, or for the receipt of any money or valuable thing **as the consideration for a promise to pay money, on any event or contingency relative or applicable to the enrolment of members into the scheme,** whether or not such money or thing is derived from the entrance money of the members of such scheme or periodical subscriptions”*

The Prize Chits and Money Circulation Schemes (Banning) Act, 1978

Section 3: Banning of prize chit and money circulation schemes or enrolment as members or participation therein. **No person shall promote or conduct any prize chit or money circulation scheme, or enroll as a member to any such chit or scheme, or participate in it otherwise, or receive or remit any money in pursuance of such chit or scheme**

Sections 4 and 5: are penal provisions and prescribe punishment.

Section 6: Deals with offences committed by companies.

Section 7: Authorises a police officer, not below the rank of officer in charge of a police station, to exercise power to enter and search premises and to seize things used for such scheme.

Section 8: provides for forfeiture of newspaper and publication containing money circulation scheme.

The Prize Chits and Money Circulation Schemes (Banning) Act, 1978- QNET Karnataka HC Opines:

“The activities of QNET and Vihaan, i.e., the multilevel marketing companies, do not constitute offenses under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The company’s activities do not fall within the definition of ‘Money Circulation Scheme’ under Section 2(c) of the Act, nor does it fall within ‘Prize Chit’ under Section 2(e). When the activities of these companies do not constitute either (the) Money Circulation Scheme or Prize Chits, the offenses under sections 4 and 5 of the Act do not even remotely apply to such activities and, consequently, charging the accused of such offenses is unsustainable.”

The Puducherry Money Lender's Act, 1970

- **“money-lender” means a person whose main or subsidiary occupation is the business of advancing and realizing loans, but excludes a bank or a cooperative society;**
- **Money-lender to obtain a licence**
- No person shall on and after the date on which the provisions of this Act are brought into force, carry on, or continue to carry on, business as a moneylender in the Union territory, except under and in accordance with the terms of a licence.
- Where a money-lender has more than one shop or place of business, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such shop or place of business.

The Puducherry Money Lender's Act, 1970

- Where a money-lender is a registered firm the licence shall be obtained in the firm's name.
- Where a money-lender is an undivided Hindu family, the licence shall be obtained in the name of the manager, or the karnavan or the yajaman, as the case may be, described as such in the licence.
- Where a money-lender is any other association of individuals, not required to be registered under the Companies Act, 1956 (Central Act 1 of 1956), a separate licence shall be obtained by each such individual in his name describing himself as a member of the association

The Puducherry Money Lender's Act, 1970

- **Change of place of business by money-lender**
- No money-lender shall change his place of business without previous notice to the licensing authority and without having the address of the new place of business duly endorsed on his license.
- **Money-lenders to exhibit their names over shops**
- Every money-lender shall always keep exhibited over his shop or place of business his name with the word “money-lender” and its equivalent in the regional language.

The Puducherry Money Lender's Act, 1970

- **Interest and charges allowed to money-lenders**
- Notwithstanding anything contained in the decree dated 22nd September 1935, no money lender shall charge interest on any loan, at a rate exceeding such rate as the Government may, by notification, fix from time to time:
- Provided that the rate of interest as may be fixed by the Government shall be correlated to the current bank rates of lending as may be fixed by the Reserve Bank of India, from time to time.]
- A money-lender may demand and take from the debtor such charges and in such cases, as may be prescribed.
- A money-lender shall not demand or take from the debtor any interest, profit or other sum whatsoever in excess

The Puducherry Money Lender's Act, 1970

- **Power to deposit in Court, money due on the loan**
- Where a money-lender refuses to accept the whole or any portion of the money or other property due in respect of his loan, the debtor may deposit the said money or property into the Court having jurisdiction to entertain a suit for recovery of such loan and apply to the Court to record full or part satisfaction of the loan, as the case may be.
- **Appointment of Inspectors and their powers**
- The Government may, by notification, appoint one or more persons to be Inspectors for the purposes of this Act and specify in such notification the local limits of their jurisdiction.
- Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

The Puducherry Money Lender's Act, 1970

- A District Magistrate, an Additional District Magistrate or a Sub-Divisional Magistrate may, on receiving a report from an Inspector that a person carries on without a license or that a money-lender carries on in contravention of the provisions of this Act or the conditions of the license granted thereunder the business of money-lending at any place within the jurisdiction of such Magistrate, issue a warrant empowering the Inspector to enter such place with such assistants as he considers necessary and inspect the books, accounts, records, files, documents, *[securities, safes, and vaults] in such premises.
- On receiving the warrant the Inspector may enter the place and inspect the books, accounts, records, files, and documents and may take them to his office for further investigation such books, accounts, records, files as he considers necessary

The Puducherry Money Lender's Act, 1970

- An Inspector shall have the authority to require any person whose testimony he may require regarding any loan or any money-lending business to attend before him or to produce or cause to be produced any document and to examine such person on oath.
- An Inspector may apply for assistance from an officer-in-charge of a police station and take police officers to accompany and assist the Inspector in performing his duties under this Act.

The Puducherry Money Lender's Act, 1970

- Entry of wrong sum in bond, etc., to be an offense
- Money-lender advancing smaller amount or securing higher interest than that specified in the accounts, etc., to be punishable
- No Court shall take cognizance of an offense punishable under this Act of the rules made thereunder except on a complaint in writing made by any prescribed authority.
- No Court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Unauthorized Digital Lending Apps

- RBI Press Release on December 23, 2020
- Working group on digital lending including lending through online platforms and mobile apps- RBI
- Loans Sourced by Banks and NBFCs over Digital Lending Platforms: Adherence to Fair Practices Code and Outsourcing Guidelines
- Cancellation of NBFCs licenses

Unauthorized Digital Lending Apps

4. It must be noted that outsourcing of any activity by banks/ NBFCs does not diminish their obligations, as the onus of compliance with regulatory instructions rests solely with them. Wherever banks and NBFCs engage digital lending platforms as their agents to source borrowers and/ or to recover dues, they must follow the following instructions:

- a) Names of digital lending platforms engaged as agents shall be disclosed on the website of banks/ NBFCs.
- b) Digital lending platforms engaged as agents shall be directed to disclose upfront to the customer, the name of the bank/ NBFC on whose behalf they are interacting with him.
- c) Immediately after sanction but before execution of the loan agreement, the sanction letter shall be issued to the borrower on the letter head of the bank/ NBFC concerned.
- d) A copy of the loan agreement along with a copy each of all enclosures quoted in the loan agreement shall be furnished to all borrowers at the time of sanction/ disbursement of loans.
- e) Effective oversight and monitoring shall be ensured over the digital lending platforms engaged by the banks/ NBFCs.
- f) Adequate efforts shall be made towards creation of awareness about the grievance redressal mechanism.

5. Any violation in this regard by banks and NBFCs (including NBFCs registered to operate on 'digital-only' or on digital and brick-mortar channels of delivery of credit) will be viewed seriously.

Unauthorized Digital Lending Apps

RBI cancels registration of five NBFCs due to irregular lending practices

The firms have been accused of charging excessive interest rates and harassing customers for loan recovery, among other things

SLCC (State Level co-ordination Committee)

State Level Coordination Committee (SLCC) is the joint forum formed in all States to facilitate **information sharing among the Regulators** with the **objective to control the incidents of unauthorized acceptance of deposits by unscrupulous entities**

- ❑ SLCC Meetings are convened for the purpose of taking concerted efforts / coordinated action in association with the other Regulatory Authorities / Agencies against the delinquent NBFCs and UIBs
- ❑ SLCCs were reconstituted in May, 2014 with renewed focus on the illegal activities of the unauthorised entities. In the last 2 years, the regular discussion among the Regulators and Enforcement Authorities has led to increased awareness & co-ordination and Standard Operating Procedures are being evolved for effective handling of such matter.

“SACHET”

- Is a complaint filing portal run and maintained by Reserve Bank of India.
- Any complaints against deficiency in services provided by the regulated entities of RBI, SEBI, IRDAI, RoC, PFRDA, NHB or complaints pertaining to unauthorized collection of deposits, may please register the complaint in SACHET portal www.sachet.rbi.org.in portal against such entities

Various methods of raising money from Public & Agencies regulating them

Sl. No.	Activities	Respective Regulators/ Agencies
1	Deposits taken by fraudulent financial establishments	State Governments under PID Act
2	Prize Chits/ Money Circulation/ Multilevel Marketing Schemes	State Governments under PCMCB Act, 1978
3	Chit Business under Chit Fund Act	State Governments under Chit Fund Act, 1966
4	Acceptance of deposit by Cooperative Societies	State Governments under cooperative societies Act 1972
5	Deposits accepted by NBFCs, Micro Finance Co.	RBI
6	Deposits under Companies Act including deemed deposits	MCA
7	Nidhi or Mutual Benefit Society	MCA
8	Mutual fund, CIS, AIF, PMS, Public issue or deemed public issue of securities	SEBI
9	Multi State Cooperative Societies	MoA, Gol
10	Contract of Insurance	IRDAI
11	Pension Scheme	PFRDA

REFERENCES

- www.rbi.org.in – For complaints against entities regulated by Reserve Bank of India
- www.sachet.rbi.org.in - “SACHET”- For Complaints against unregistered entities

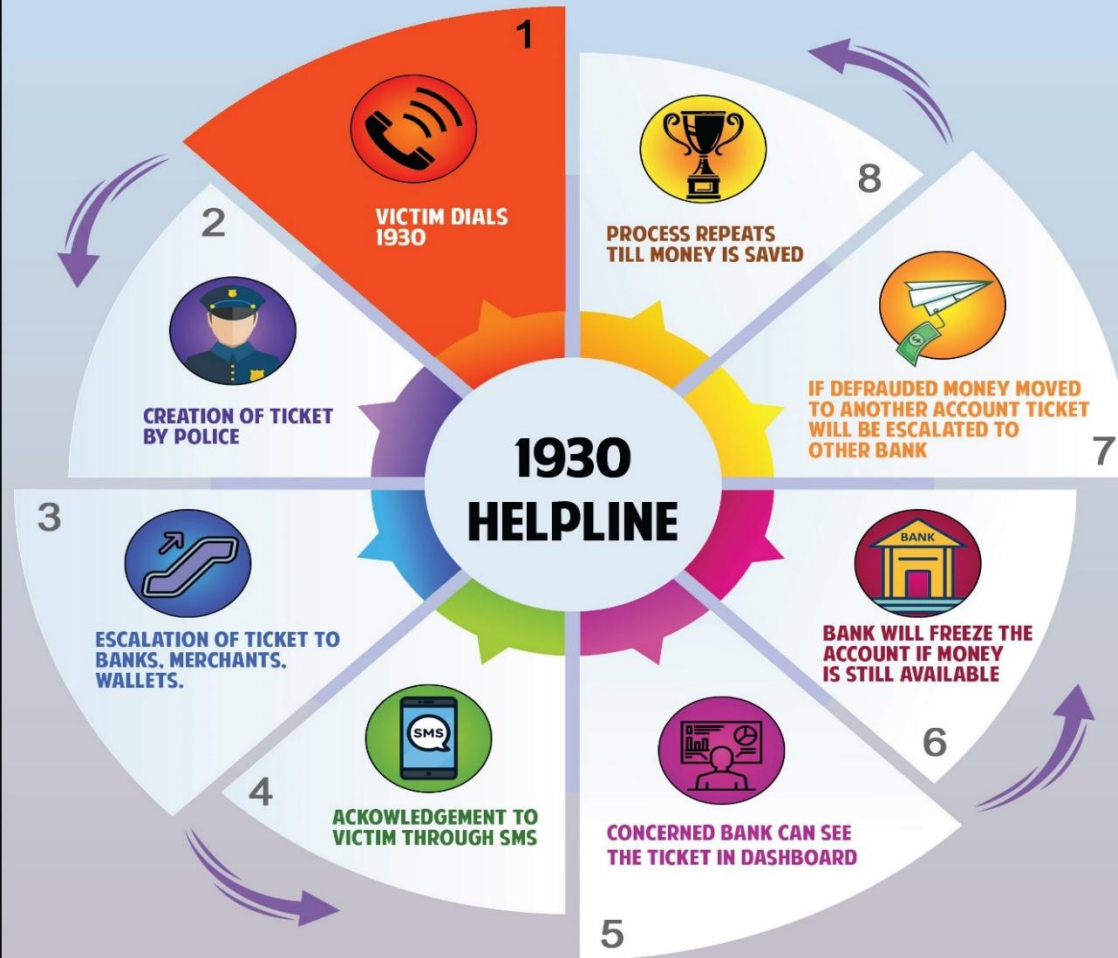
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- www.rbi.org.in – For complaints against entities regulated by Reserve Bank of India
- www.sachet.rbi.org.in - “SACHET”- For Complaints against unregistered entities

CITIZEN FINANCIAL CYBER FRAUD REPORTING AND MANAGEMENT SYSTEM

Are you a victim of Financial Cyber Fraud? #BeCyberSmart and do your part.
Dial 1930, A 24*7 Helpline for reporting financial cyber fraud.

HOW IT WORKS?



Thank you !!!

