

DOING BUSINESS OF PUBLIC DEPOSIT IN INDIA



Equi Corp Associates
Advocates & Solicitors



Equi Corp Associates, Advocates & Solicitors

TRANSACTION | ADVICE | LITIGATION

Noida, Delhi-NCR, INDIA

For a very long time, many companies especially in semi-urban and rural areas are accepting deposits in their firm's name and also promising two to three times returns in two to four years without taking any legal permissions. These schemes are running on the false promise of doling out high returns to the gullible investors. With the crackdown on Sahara, PACL, RoseValley, MPS etc. by SEBI and closure of their business after the Sardha scam which had duped 14 lakh investors of INR 4,000 crore, have collapsed the trust of small investors and proven to be the tip of the iceberg for deposit taking companies such as Collective Investment Schemes, Nidhi Companies, Multi-state Credit Co-operative Societies, NBFCs etc. engaged in collection of public deposit.

A SAMPLER

The Corporate Affairs Ministry and SEBI have put several companies under the scanner for operating illegal schemes. Some examples:

Rose Valley

Promoted by Gautam Kundu, a sponsor of the Kolkata Knight Riders IPL team. Kundu reportedly signed a ₹10 crore cheque when worried investors thronged his office after the Saradha scandal broke out



MPS Group

Established in 1994 and promoted by P.N. Manna. Over 13 years, parent company MPS Greenery Developers Ltd has collected ₹1,765 crore from 1.8 million investors, although it is yet to get registration certification from SEBI



iCore E-Services

Started in 2007 by Anukul Maiti, who started out selling FMCG and financial products. Diversified into cement, steel, apparel and housing finance. Maiti was vice president of football club Mohun Bagan (2008-11)



Sumangal Industries

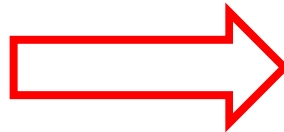
Started in 2010 by Subrata Adhikary, "mainly for operating with Multi Level Marketing", says its website. Barred by SEBI in April from raising funds through its Flexi Potato Purchase Scheme, which promised returns of up to 100 per cent

Today driven by the lack of legitimate savings scheme for the rural poor, inadequate regulations and political patronage, hundreds of illegal ponzi-schemes masquerading as collective investment schemes or chit funds have sprung up across India. Many companies are engaged in a dangerous “*money chain*” where one investor’s principal and interest is paid off with money from new investors. Such schemes collapse when no new investors come in or when suspicious investors demand their money back in one go. These companies take money from investors in the name of tour packages, investment in agriculture, solar farm or purchase of plots or homes in prime locations over a specified period of time, with a money back option added at the end of the maturity period. Investors are encouraged to cancel their bookings and re-invest the money in new projects, since in most cases, there are hardly any projects on the ground, or they fall way below the value of the investment garnered. The money thus raised goes into the pockets of the promoters of such groups.



*A ban on all deposit taking companies except banks would cause chaos since there are millions invested in these safe funds. Any general ban will cause harm on such a scale that even our nationalized banks will feel the heat. Henceforth, there have been several changes in the regulated public deposit taking companies which operate under the permission and regulatory approvals. To prevent all fraudulent/ ponzi schemes, the Government of India had introduced- “**Banning of Unregulated Deposit Schemes & Protection of Depositor’s Bill 2018**”.*

It’s time to analyze your Business Model. And, if your answer to the question/s is YES, then your Business Model falls under the category of Regulated Schemes/Arrangements & it’s time to take the help of legal expert and to restructure your business model



- i. You hadn’t applied nor aware of licenses, registrations and/or approvals requisite for your business, which is engaged in collection of deposits from members/general public?*
- ii. Are you been harass or been instructed by local authorities to close down your business, where as only RBI or SEBI or some other sector specific regulator has the power to interfere in your business operations?*
- iii. Are you puzzled with the structure and nature of business such as whether you should operate as registered Collective Investment Scheme or Real Estate Investment Trusts or rather register your business as Nidhi Company?*
- iv. You are not filing your application for registration/license/approval with the sector specific regulator as you do not fall within the ambit of threshold limit and you are operating with a belief that you can continue with your business without registration/license/approval till you reach threshold limit?*
- v. You want to operate a legally compliant and legitimate business and not to face any kind of legal issues or closure down of your business on account of non-compliance after accomplishment of your business at a stature.*

Regulated Public Deposit Companies

<i>Regulatory Authority</i>	<i>Deposit Scheme/Entity/Arrangement</i>	<i>Applicable Law/Regulations</i>
<i>Securities Exchange Board of India (“SEBI”)</i>	<i>Collective Investment Schemes</i>	<i>Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999</i>
	<i>Alternative Investment Funds</i>	<i>Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012</i>
	<i>Real Estate Investment Trust; Infrastructure Investment Trust</i>	<i>Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2012; Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014</i>
	<i>Portfolio Management</i>	<i>Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993</i>
	<i>Employee Benefits</i>	<i>Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014</i>
	<i>Mutual Funds</i>	<i>Securities and Exchange Board of India (Mutual Funds) Regulations, 1996</i>
	<i>Any other schemes or arrangements regulated under SEBI Act, 1992 or its regulations</i>	<i>SEBI Act, 1992 or its regulations</i>

<i>Regulatory Authority</i>	<i>Deposit Scheme/Entity/Arrangement</i>	<i>Applicable Law/Regulations</i>
<i>Reserve Bank of India (“RBI”)</i>	<i>NBFC, Residuary Non-Banking Company, Schedules Commercial Banks, Small Finance Banks, Payment Banks, State & District Co-operative Banks, Primary (Urban) Co-operative Banks</i>	<i>RBI Act, 1934 or its guidelines or its regulations</i>
	<i>Any scheme or arrangement under which funds are accepted by individuals or entities engaged as Business Correspondents and Facilitators by banks</i>	<i>RBI Act, 1934 or its guidelines or its regulations</i>
	<i>Any scheme or arrangement under which funds are received by a system provider operating an authorised payment system</i>	<i>Payment & Settlement Systems Act, 2007</i>
	<i>Any other schemes or arrangements regulated under RBI Act, 1934 or its regulations</i>	<i>RBI Act, 1934 or its guidelines or its regulations</i>


<i>Regulatory Authority</i>	<i>Deposit Scheme/Entity/Arrangement</i>	<i>Applicable Law/Regulations</i>
<i>The Insurance Regulatory Development Authority (“IRDA”)</i>	<i>A contract of insurance pursuant to certificate of registration</i>	<i>Insurance Act, 1938</i>
<i>National Housing Bank (“NHB”)</i>	<i>Housing Finance Companies</i>	<i>National Housing Bank Act, 1987</i>
<i>Pension Fund & Regulatory Development Authority (“PFRDA”)</i>	<i>Any scheme or arrangement under Pension Fund & Regulatory Development Authority Act, 2013</i>	<i>Pension Fund & Regulatory Development Authority Act, 2013</i>
<i>Employees Provident Fund Organization (“EPFO”)</i>	<i>Any scheme, Pension Scheme or Insurance Scheme framed under Employees Provident Fund & Miscellaneous Provisions Act, 1952</i>	<i>Employees Provident Fund & Miscellaneous Provisions Act, 1952</i>
<i>Central Registrar, Multi-State Co-Operative Societies</i>	<i>Any scheme or arrangement for acceptance of deposits from members of Multi-State Co-Operative Societies</i>	<i>Multi-State Co-Operative Societies Act, 2002</i>
<i>Ministry of Corporate Affairs (“MCA”)</i>	<i>Deposits under Chapter-V of the Companies Act, 2013; Nidhi Company or mutual benefits society; Producer Company</i>	<i>Companies Act, 2013</i>



TIME FOR LEGAL EXPERT?



Let the Professionals at EquiCorp Associates take over the matter



Prepared for all your legal needs.

We represent many different clients in a wide range of legal matters.

Equi Corp Associates, Advocates & Solicitors

1st Floor, NBBC, Inox Towers, Tower-B, Plot No.17,

Sector-16 A, Film City, Noida-201301

Connect with us: admin@equicorplegal.com | +91 1204797509 | +918448824659

To know more visit: www.equicorplegal.com | <http://equicorplegal.blogspot.in/>