

**MINUTES OF THE MEETING FOR SEMINAR/TRAINING ON REGULATION AND SUPERVISION OF NON-BANKING FINANCIAL COMPANIES (NBFCs) AND UNINCORPORATED BODIES (UIBs) ORGANIZED BY CID, SHILLONG WITH THE RESOURCE PERSON FROM THE RESERVE BANK OF INDIA, GUWAHATI ON 1<sup>ST</sup> DECEMBER 2011 AT 10:00 AM IN THE CONFERENCE ROOM OF THE OFFICE OF DIRECTOR GENERAL OF POLICE.**

**Members Present :-**

1. Shri B. Kezo, IPS  
Addl. DGP, (R/PR) , Meghalaya, Shillong
2. Shri M.R Vijaya Kumar, IPS  
IGP(R/PR) Meghalaya, Shillong
3. Shri B.R. Rana, IPS  
IGP(Hqr/CID) Meghalaya, Shillong
4. Shri H. Marbaniang, IPS  
DIG (CID) Meghalaya, Shillong.
5. Shri N.K Sunraniam, IPS  
SP(R/PR) Meghalaya, Shillong.
6. Shri A. Kumar, IPS  
SSP(CID) Meghalaya, Shillong.
7. Shri N, Kharmalki, MPS  
AIG(R) Meghalaya, Shillong
8. Shri M. Kharkrang, MPS  
SP(City) Meghalaya, Shillong
9. Shri Darwin Sangma, MPS  
SP, (F&ES) Meghalaya, Shillong
10. Shri W. Shabong, MPS  
AIG(E) Meghalaya, Shillong
11. Shri M.N. Borah  
Director (FSL), Meghalaya, Shillong
12. Shri P. Shimrah,  
Dy. General Manager  
RBI, Guwahati.
13. Shri P.N. Murthy,  
Asstt. General Manager  
RBI, Guwahati.
14. Shri P. Choudhury,  
Dy. SP (CID) Meghalaya, Shillong.
15. Shri L. Lakiang, MPS  
Asstt. CO 1st MLP Bn, Mawiong.
16. Smti K.C. Chadap, MPS  
Dy. SP (City), EKH, Shillong.
17. Shri H.K Gogoi, MPS  
Dy. SP(Crime), Nongpoh.
18. Insp. J.K. Sinha  
C.I (North), Resubelpara.
19. Insp. M.C. Marak  
CID/HQS Shillong.
20. Insp. R.S Kylla  
CID/HQS Shillong.
- 21 Insp. N.R. Jyrwa  
CID/HQS Shillong.
21. Insp. P. Suchen  
CID/HQS Shillong.
- 22 Insp. D.W. Kharbuki  
CID/HQS Shillong.
- 23 WP/SI K.Nongspung  
SCRB, Shillong.
- 24 WP/SI E. Shangpliang  
SCRB, Shillong.

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25. S.I W. Suting  
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26. SI D.Nongtdu  
Jaintia Hills, DEF.
27. WP/SI I. Nongrum  
Jaintia Hills, DEF.
28. SI S.Kharjana  
Jaintia Hills, DEF.
29. SI K. Bharali  
SCRB, Shillong.

Seminar started with a condolence and observing two minutes silence for (L) Shri M. Kharbuli, Dy. SP.

DIG/CID while welcoming the respected DGP, Senior officers and subordinate officers of Meghalaya Police and 2(two) experts from RBI, Guwahati, stated that "Training-cum-Seminar on Regulation and Supervision of NBFCs and UIBs" is being organized based on the Minutes of the last meeting of SLLC which was held in Guwahati where they felt that such training-cum-seminar which is part of an awareness programme is required to be organized for Police officers working in the field. He also said that this sort of training was also held last year where Shri P.N. Murthy, AGM, RBI, Guwahati and around 40 (forty) officers from Meghalaya Police attended this training. As far as NBFCs and UIBs and registration of the applications are concerned, it is found that 5(five) UIBs have applied for starting their business here in Shillong and we have just forwarded their applications to the Govt. for seeking legal advise, and also at the same time asking the district SPs to conduct verification in this regard. In this connection, I believe the officers from RBI, Guwahati will be able to throw more light and impart more knowledge to the Police officers on the need to conduct investigation in such cases. With these few words, he ended his speech and requested the DGP to address the inaugural meeting.

In the inaugural address, Shri B. Kezo, IPS, ADGP (R/PR) welcomed all the officers and men of Meghalaya Police and 2(two) expert officers from RBI, Guwahati, Shri P.Shimran, Dy. General Manager RBI and Shri P.N. Murthy, Asstt. General Manager, RBI, Guwahati. During the meeting he stated that the more the laws we have the more difficult it becomes for the Police to enforce them, because the latest laws are more elaborate or more complicated in a way, and the criminals are also becoming more intelligent, and so the laws are made to catch up with the smartness of the criminals. He also added that only people in the field know the laws best. The police are expected to know the laws passed by the parliament, but unfortunately they are not up to the mark. Therefore, the Police needs some expert from outside to help and to guide the Police, and today it will be a very good opportunity for Meghalaya Police to have these officers from RBI to help to enlighten the Police about the various aspects of implementing the laws. Ultimately the police have the legal power to investigate the fraud cases. He also said that due to the ignorance of law or the negligence of the police officers some of the cases are not successful. Lastly he requested all the officers to listen attentively to the points to be presented by the officers from RBI.

Resource persons from RBI, Shri P. Shimrah and Shri P.M. Murthy spoke elaborately on the following points.

### **Multilevel marketing schemes & Their Regulation.**

1. A MLM Scheme is a Pryamid. Also called as Pyramid Structure Money Circulation Scheme.
2. A Pyramid scheme is defined as a non sustainable business model that involves the exchange of money primarily for enrolling other people into the scheme, usually without any product of service being delivered.
3. There are also huge incentives for people to earn money by the simple method of introducing new members to grow the pyramid.

## **MLM Entities**

1. Majority of the entities involved are either UBIs or recently incorporate companies.
2. Reported to have been possibly originated in the Balasore district in Orissa.
3. Understood to have spread a various states of the country.

## **Some Known MLM Entities.**

- Some of the known entities involved in MLM Schemes are:
- Gold Quest International (Multinational)
- Unipay 2U Marketing Pvt. Ltd (Multinational)
- Amway India Enterprises (Multinational)
- Fine India sales Pvt. Ltd. (Kanpur)
- Tridant Advertising & Trade Links Pvt. Ltd (Vashi, Mumbai)
- Super Life Link Distributors (Indore, MP)
- Lue Brain Education Society (Najafgarh, New Delhi)
- Many Mantra Marketing (Jaipur)
- Lakshya Levels Marketing (Kandivali, Mumbai)
- Eve Industries (Kanpur, UP)

## **Known through Market Intelligence**

- Rainbow
- Jagaran
- Sahajog Plan
- Amrit Sagar
- VIP
- Rose Land
- Obiram
- Arohan
- Sambhab
- Daffodails Associates Ltd.
- Phenix Peoperties Ltd.

## **Modus Operandi**

- People do not deposit a certain amount (say Rs 10000/-) in a designated bank account
- Incredible return (say rs 1000/- per month) to be offered on the deposited amounts.
- Return of the original investment to be made at the end of a year or so.
- Each depositor to introduce mostly two or more other depositors to maximize the returns.
- Collection of huge sum of money through leading private sector banks as Axis Bank and ICICI Bank.
- Under the guise of providing goods and services.
- Agents falsely claiming private sector banks such as Axis Bank and ICICI Bank as their channel partners to enhance credibility.
- RBI already addressed the Secretary , Home dept. of all State Govt. and CEOs of SCBs for taking appropriate action in the matter.

## **Legal Coverage**

- These operations/schemes are covered under Prize Chits and Money Circulation Schemes(banning) Act 1978.
- It is a Central Act enacted by the Parliament.
- The offences under the aforesaid Act are cognizable offences.
- State Govt. is the competent authority to take appropriate action under the act.

## **Important Provisions for Banning Act, 1978**

- Sec 2 (c) : Definition "money Circulation Scheme"
- Money Circulation Scheme' means 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 periodic subscriptions.

#### **Statutory Provision-**

- Sec 2(e) : definition of Prize Chit"
- "Prize Chit" includes any transaction or arrangement by whatever name called under which a person collects whether as a promoter, foreman. Agent or in any other capacity, monies in one lump sum or in installments by way of contributions or subscription or by sale of units, certificate or other instrument in any other manner or as membership fees or admission fees or service charges to or in respect of any savings, mutual benefits thrift, or any other scheme or arrangement by whatever name called, and utilized the monies so collected or any part thereof or the income accruing from investment or other use of such monies for all or any of the following purposes, namely

#### **Statuary Provisions –**

- Sec 3- Banning of Money Circulation Schemes:
- No person shall promote or conduct any prize chit or money circulation scheme, or enroll as a member of any such chit or scheme, or participate in it otherwise of receive or remit any money in pursuance of such chit or scheme.
- Sec 4- Penalty for contravening provision of Sec 3:
- Whoever contravenes the provision of section 3 shall be punishable with imprisonment for a term which may extent to three years, or with fine which may extend to five thousand rupees, or with both.

#### **Statuary Provisions –**

- Sec 5 Penalty for other offences
- Penalty for other offences committed in connection with prize chit or money circulation scheme (printing, publishing, selling, distribution, advertisement etc.of ticket, coupon, documents etc)
- Sec 6 : In case of a company
- Penalty for the offences committed by a company
- Sec 7: Conduct of search operation Etc.
- Any police officer not below the rank of an officer in charge of a police station or any officer authorized by the State Government in this behalf may conduct search and other related operations.

#### **Chapter III C of RBI Act 1934 (If the entity is a UBI)**

- Sec 45 S:
- UBI shall not accept any deposit if their business wholly or partly includes any of the activities specified in clause (C) of Sec 45-I or if their principal business is that of receiving of deposits under any scheme or arrangement or in any other manner, or lending in any manner
- Sec 47 T:
- In case an UBI is violating the provisions of Sec 45 S RBI has no power to inspect the books of UBIs but can approach a Court of Law for issue of search warrant which can also be done by an authorized officials of a state government.

#### **Concerns arising out of MLM entities**

- Entities involved claim that their schemes are not pyramids schemes.

- However they may be treated as pyramid schemes since introduction of new members is also involved.
- Though underlying transaction is sale of goods or service, introduction of new members is also involved.
- Thus the scheme violate the provision of the Prize chit and Money Circulation Schemes (Banning Act) 1978.

#### **Action taken by RBI**

- The Department of banking Supervision has taken appropriate action for banks by issuing cautionary letter addressed to All Chairman/CEOs of SCB advising them to be careful in opening accounts of marketing/trading agencies.
- They have been advised to review the accounts where a large number of cheque books have been issued to such entities.

#### **Role of RBI**

- The issue of MLM Schemes. Pyramid Scheme comes under the jurisdiction of the concerned State government.
- Since State Government is the administrator of the Prize Chit and Money Circulation Scheme (Banning Act( 1978)
- Whenever such incidences are brought to the notice of RBI, RBI immediately takes up the matter with State Police.

#### **NBFCs (NON-BANKING FINANCIAL COMPANIES).**

- It is a company which has to be registered with the registrar of Companies, and it can accept deposit or lending in any matter as its principal business depending upon which licence they are having to operate its business.

#### **IMPORTANCE OF NBFCs.**

- Broadening access to financial services.
- Enhancing competition.
- Diversification of the financial sector.
- Have greater outreach.
- Constitute an important link between banks and users of financial services.
- Recognized as complementary to the banking system capable of absorbing shocks and spreading risks at the time of financial distress.

#### **DIFFERENCE BETWEEN NBFCs AND A BANK.**

- RBI has no control over the management of NBFCs.
- Chit Funds Companies-It function under the administrative power at State Govt.
- Nidhi Company (NBFC)-It is regulated by the Ministry of Corporate Affairs, Govt. of India.
- Housing Finance Companies-It is regulated by the National Housing Bank (NHB).
- Insurance Companies- Regarding insurance, it is regulated by the Insurance Regulatory Development Authority (IRDA).
- SEBI- Stock broking merchant banking, venture capital fund companies, plantation companies is regulated by Stock Exchange Bank of India and the rest are regulated by Reserve Bank of India.

#### **CHIT FUNDS COMPANIES (MNBC).**

- It is also called Miscellaneous Non-Banking Companies and it is managing, conducting or Supervising Chit Fund Transactions. These companies are working under the administrative power of the State Govt. Chit Fund



Companies are prohibited of accepting deposit from the public except the shareholders.

### **NIDHI COMPANY (MBFC)**

- It is also called Mutual Benefit Financial Company and this company is regulated by the Ministry of Corporated Affairs, Govt. of India. This company is prohibited of accepting deposit from the public and it can accept deposit only from its members.

### **ALL THOSE NOT REGISTERED WITH ANY REGULATOR ARE UIBs (UNINCORPORATED BODIES).**

- If an entity is not registered with any regulator is called Unincorporated Bodies (UIBs).

### **PENALTY FOR CONTRAVENTION.**

- Thus, the UIBs are prohibited from collection of public deposits. They are also prohibited from issuing any advertisement in any form for soliciting deposits.
- Receipt of deposits in contravention of the above provision would amount to an offence punishable with imprisonment for a term which may extend to two years or with fine which may extend to twice the amount of deposit so received, or two thousand rupees whichever is more, or with both.

### **ENFORCEMENT.**

- Both reserve Bank of India and the State Governments have concurrent powers to enforce the provision of Chapter III C.
- Most of the State Governments have notified Police Officials in the rank of Inspector and above as "Authorised Officers".
- Police has the powers of Search and Seizure by invoking the provisions of Section 420 of the IPC.

### **REMEMBER (Must remember to inform the public a few important points).**

- Only a few Non-Banking Finance Companies have been permitted by Reserve Bank of India (RBI) to accept deposit from the public.
- So do not deal with any individual/Conman who promises, gives assurances of very high returns.

### **CHECK (Must remember to inform the public a few important points).**

- Must visit the office of NBFC and also check the genuineness of NBFC with RBI before depositing money.
- (RBI Guwahati has not given permission to any NBFC to accept deposit from the public).

### **PLEASE NOTE NBFC CANNOT (Must remember to inform the public a few important points).**

- Offer more than 12.5% interest on deposit.
- Offer any gift/incentive.
- Accept deposit for less than 12 months or more than 60 months.
- Please make proper enquiry into past performances of the company, background of directors/management of the company.

### **CARE (Must remember to inform the public a few important points).**

- Payment of money deposited with NBFCs and interest thereon are not guaranteed or insured by RBI.
- Please read terms and conditions of the offer document carefully before depositing money.
- Please do not get allured by promises of high returns.

### **Vanishing Companies**

- A registered/unregistered NBFC which is not traceable in the given address of the registered office and whose directors do not respond to the Reserve Bank's communications, is declared as a "Vanishing Company"
- It may be deposit taking or non -deposit taking company
- It may be listed or unlisted Public Ltd. Company or a Private company
- Co-operation of Police is very important to trace the vanishing companies.

### **Pyramid Scheme**

- A pyramid scheme is a non sustainable business model that involves the exchange of money primarily for enrolling other people into the scheme
- There are other commercial models using cross-selling such as multi level marketing. Most pyramid scheme take advantage of confusion between genuine business and complicated but convincing money making scams.
- The essential ideas behind each scam is that the individual makes only one payment , but is promised to somehow receive exponential benefits from other people as a reward. A common example might be an offer that , for a fee, allows the victim to sell the same offer people. Each sale includes a fee to the original seller.
- Clearly, the flaw is that there is no end benefits, the money simply travel up the chain, and only the original members earn.

### **GET RICH QUICK SCHEMES**

- Don't! Don't be stupid! Don't be foolish!
- You get wealthy by adding little to little to proper investment, wise savings, honest work, good stewardship and investing in things that count and in people..
- Don't worry about scheme and dreams
- The quicker you make it, the quicker you can loose it.

### **Investigation of NBFCs cases (Some aspects for consideration).**

#### **Special features of NBFC investigations**

- Documents bases cases, finding out logic behind the fraud is key to investigative efficiency
- Tracing the funds is the key relief for the victims. Money back to victim
- Interlocking financial data can give crucial evidence, funds flow analysis will help in tracing the funds movements and presenting evidence
- Team work: IOs, Accountants, Prosecutors, experts
- Prolonged investigation & trials.

### **CAMOUFLAGED DEPOSITS**

- Security deposits
- Check whether the deposit is offered as a security by the depositor against any loss that may be caused by the depositor to the other party: like the
- Employee giving security to employer
- Tenant giving security to landlord etc.

### **CAMOUFLAGED DEPOSITS –**

- Advance for goods or service
- Check invoices, capacity to deliver goods or service etc

- Collecting advance for good without either manufacturing or having commitment to buy them and promised to repay advance with interest if goods are not delivered.
- Collecting advances for providing accommodation in resorts and hotels in different places without owing or having arrangement with hotels and resorts there and promising to repay advance with interest if accommodation is not provided.

**Suggestions for investigation misuse of money collected by issue of debentures**

- Consult the concerned regulator
- Check whether the value of underlying assets are more than or equal to the value at which charge is created
- Ascertain the purpose of raising funds.
- Check the physical assets created out of the money
- Check the flow of funds out of the company.

**WHY POLICEMAN?**

RBI has no power to arrest?

Weight of Uniform

Traditional faith of people in the police department (CH/HM/DM/or DC/SP)

No other department is capable.

The Training/Seminar ended with the vote of thanks from Shri Anurag Kumar, IPS, Spl. Superintendent of Police, CID, Meghalaya, Shillong.

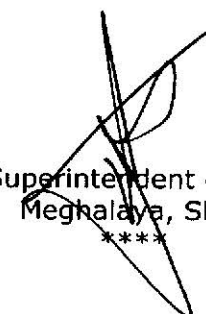
Memo No. EOW/6-2006/Vol-II/CID/Cell-III/NBFC/247 Dtd. Shg. the 22<sup>nd</sup> Dec. 2011.

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1. The Asstt. Inspector General of Police (A) Meghalaya, Shillong for favour of information of the Director General of Police Meghalaya, Shillong.
2. The Inspector General of Police (R/PR) Meghalaya, Shillong for favour of kind information.
3. The Inspector General of Police (CID/HQR) Meghalaya, Shillong for favour of kind information.
4. The Dy. Inspector General of Police (CID) Meghalaya, Shillong for favour of kind information.
5. The Superintendent of Police (R/PR) Meghalaya, Shillong for favour of information.
6. The Asstt. Inspector General of Police (R) Meghalaya, Shillong for favour of information.
7. The Superintendent of Police, West Khasi Hills, Nongstoin for favour of information.
8. The Superintendent of Police, East Khasi Hills, Shillong for favour of information.
9. The Superintendent of Police, Jaintia Hills, Jowai for favour of information.
10. The Superintendent of Police, Ri- Bhoi, Nongpoh for favour of information.
11. The Superintendent of Police, West Garo Hills, Tura for favour of information.
12. The Superintendent of Police, East Garo Hills, Williamnagar for favour of information.
13. The Superintendent of Police, South Garo Hills, Baghmara for favour of information.
14. The Superintendent of Police (City) East Khasi Hills, Shillong for favour of information.
15. The Asstt. Inspector General of Police (E) Meghalaya, Shillong for favour of information.
16. The Director, FSL Meghalaya, Shillong for favour of information.
17. The Dy. General Manager RBI, Guwahati, Deptt. of Non-Banking Supervision, Station Road Pan Bazar, Guwahati - 781001 for information.



18. The Asstt. General Manager RBI, Guwahati, Deptt. of Non-Banking Supervision, Station Road Pan Bazar, Guwahati - 781001 for information.
19. The Asstt. CO 1st MLP Bn, Mawiong for information.
20. The Dy. Superintendent of Police (Crime) Nongpoh for information.
21. The Dy. Superintendent of Police (City) East Khasi Hills, Shillong for information.

  
Spl. Superintendent of Police, CID  
Meghalaya, Shillong.

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