

Banning of Unregulated Deposit Schemes Bill, 2018

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Why in news?

- During the Union Budget 2016-17, the then Finance Minister Arun Jaitley had promised: “a comprehensive central legislation” to tackle illicit deposit schemes. Following this, the Union government has come up with two bills to tackle the menace of non-regulated deposit schemes.
- The Chit Funds (Amendment) Bill, 2018 was introduced in the Lok Sabha during the second leg of the Budget Session.
- The second Bill is the Banning of Unregulated Deposit Schemes Bill, 2018.
- The bill is aimed at tackling the menace of illicit deposit-taking activities in the country. Companies/institutions running such schemes exploit existing regulatory gaps and lack of strict administrative measures to dupe poor and gullible people of their hard-earned savings.
- The proposed Bill aims to provide comprehensive legislation to tackle illicit deposit schemes by completely prohibiting such activities and protect the interest of investors

Key provisions

- **Deposit:**The Bill defines a deposit as an amount of money received through an advance, a loan, or in any other form, with a promise to be returned with or without interest. Such a deposit may be returned either in cash or as a service, and the time of return may or may not be specified.

- Currently, nine regulators oversee and regulate various deposit-taking schemes. These include: (i) the Reserve Bank of India (RBI), (ii) the Securities and Exchange Board of India (SEBI), (iii) the Ministry of Corporate Affairs, and (iv) state and union territory governments. For example, RBI regulates deposits accepted by non-banking financial companies, SEBI regulates mutual funds, state and union territory governments regulate chit funds, among others. All deposit-taking schemes are required to be registered with the relevant regulator.
- **Unregulated deposit scheme:** A deposit-taking scheme is defined as unregulated if it is not registered with the regulators listed in the Bill.
- **Deposit taker:** The Bill defines deposit takers as an individual, a group of individuals, or a company who asks for (solicits), or receives deposits. Banks and entities incorporated under any other law are not included as deposit takers.
- **Competent Authority:** The Bill provides for the appointment of one or more government officers, not below the rank of Secretary to the state or central government, as the Competent Authority. Police officers receiving information about offences committed under the Bill will report it to the Competent Authority. Further, police officers (not below the rank of an officer-in-charge of a police station) may enter, search and seize any property believed to be connected with an offence under the Bill, with or without a warrant. The Competent Authority may: (i) provisionally attach the property of the deposit taker, as well as all deposits received, (ii) summon and examine any person it considers necessary for the purpose of obtaining evidence, and (iii) order the production of records and evidence. The Competent Authority will have powers similar to those vested in a civil court.
- **Designated Courts:** The Bill provides for the

constitution of one or more Designated Courts in specified areas. This Court will be headed by a judge, not below the rank of a district and sessions judge, or additional district and sessions judge.

- After provisional attachment of the deposit taker's assets, the Competent Authority will approach the Designated Court to (i) make the provisional attachment absolute, and (ii) ask for permission to sell the assets. The Competent Authority will have to approach the Court within 30 days (extendable to 60 days). It will also open a bank account to realise and disburse money to depositors under the instructions of the Designated Court.
- The Designated Court will have the power to (i) make the provisional attachment absolute, (ii) vary or cancel the provisional attachment, (iii) finalise the list of depositors and their respective dues, and (iv) direct the Competent Authority to sell the property and equitably distribute the money realised among the depositors. The Court will seek to complete the process within 180 days of being approached by the Competent Authority.
- **Central database:** The Bill provides for the central government to designate an authority to create an online central database for information on deposit takers. All deposit takers will be required to inform the database authority about their business. The Competent Authority will be required to share all information on unregulated deposits with the authority.
- **Offences and penalties:** The Bill defines three types of offences, and penalties related to them. These offences are:
 1. **Running** (Advertising, promoting, operating or accepting money for) unregulated deposit schemes→
2 to 7 years of jail + fine of 3 to 10 lakh

rupees.

2. Fraudulently **defaulting** on regulated deposit schemes→ 3 to 10 years of jail + fine of 5 to twice the amount collected from depositors.

3. **Wrongfully inducing depositors** to invest in unregulated deposit schemes by **willingly falsifying facts**. Repeated offenders under the Bill will be punishable with imprisonment between five to 10 years, along with a

- **Fine ranging from 10 lakh to five crore rupees.**
- The Bill also approves creating designated courts to tackle such cases.
- The Bill enables the creation of an online central database, for collection and sharing of information on deposit-taking activities in the country.