

# CABINET APPROVES PROPOSAL FOR OFFICIAL AMENDMENTS TO THE BANNING OF UNREGULATED DEPOSIT SCHEMES BILL, 2018

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Cabinet

## Cabinet approves Proposal for Official Amendments to the Banning of Unregulated Deposit Schemes Bill, 2018

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The Union Cabinet, chaired by the Prime Minister Narendra Modi, has given its approval to move official amendments to the Banning of Unregulated Deposit Schemes Bill, 2018, pursuant to the recommendations of the Standing Committee on Finance (SCF). The Banning of Unregulated Deposit Schemes Bill, 2018 was introduced in Parliament on 18th July, 2018 and was referred to the SCF, which submitted its Seventieth Report on the said Bill to Parliament on 3rd January, 2019. The official amendments will further strengthen the Bill in its objective to effectively tackle the menace of illicit deposit taking activities in the country, and prevent such schemes from duping poor and gullible people of their hard earned savings.

### Salient features:

- The Bill contains a substantive banning clause which bans Deposit Takers from promoting, operating, issuing advertisements or accepting deposits in any Unregulated Deposit Scheme. The principle is that the Bill would ban unregulated deposit taking activities altogether, by making them an offence ex-ante rather than the existing legislative-cum-regulatory framework which only comes into effect ex-post with considerable time lags;
- The Bill creates three different types of offences, namely, running of Unregulated Deposit Schemes, fraudulent default in Regulated Deposit Schemes, and wrongful inducement in relation to Unregulated Deposit Schemes.
- The Bill provides for severe punishment and heavy pecuniary fines to act as deterrent.
- The Bill has adequate provisions for disgorgement or repayment of deposits in cases where such schemes nonetheless manage to raise deposits illegally.
- The Bill provides for attachment of properties / assets by the Competent Authority, and subsequent realization of assets for repayment to depositors;
- Clear-cut time lines have been provided for attachment of property and restitution to depositors;
- The Bill enables creation of an online central database, for collection and sharing of information on deposit-taking activities in the country;
- The Bill defines “Deposit Taker” and “Deposit” comprehensively;
- “Deposit Takers” include all possible entities (including individuals) receiving or soliciting deposits, except specific entities such as those incorporated by legislation;
- “Deposit” is defined in such a manner that deposit-takers are restricted from camouflaging public deposits as receipts, and at the same time, not to curb or hinder acceptance of

- money by an establishment in the ordinary course of its business; and
- Being a comprehensive Union Law, the Bill adopts best practices from State laws, while entrusting the primary responsibility of implementing the provisions of the legislation to the State Governments.

## **Background:**

The Finance Minister in the Budget Speech 2016-17 had announced that a comprehensive Central legislation would be brought in to deal with the menace of illicit deposit taking schemes, as in the recent past, there have been rising instances of people in various parts of the country being defrauded by illicit deposit taking schemes. The worst victims of these schemes are the poor and the financially illiterate, and the operations of such schemes are often spread over many States. As per information provided by RBI, during the period between July, 2014 and May, 2018, 978 cases of unauthorized schemes were discussed in State Level Coordination Committee (SLCC) meetings in various States/UTs and were given to the respective regulators/law enforcement agencies in the states. A large number of such instances have been reported from the eastern part of the country. Subsequently, the Finance Minister in the Budget Speech 2017-18 had announced that the draft bill to curtail the menace of illicit deposit schemes had been placed in the public domain and would be introduced shortly after its finalisation.

The Banning of Unregulated Deposit Schemes Bill, 2018, which was introduced in Parliament on 18th July, 2018 provides a comprehensive legislation to deal with the menace of illicit deposit schemes in the country through, (a) complete prohibition of unregulated deposit taking activity; (b) deterrent punishment for promoting or operating an unregulated deposit taking scheme; (c) stringent punishment for fraudulent default in repayment to depositors; (d) designation of a Competent Authority by the State Government to ensure repayment of deposits in the event of default by a deposit taking establishment; (e) powers and functions of the competent authority including the power to attach assets of a defaulting establishment; (f) Designation of Courts to oversee repayment of depositors and to try offences under the Act; and (g) listing of Regulated Deposit Schemes in the Bill, with a clause enabling the Central Government to expand or prune the list.

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