

Regulatory Umbrella for companies/ entities

Financial Companies regulated by different regulators

- Nidhis (Mutual Benefit Funds) - Ministry of Corporate Affairs (MCA) or RoC
- Misc. Non-Banking Cos. i.e. MNBCs [Chit funds) - State Govt.
- HFCs (Housing Finance Companies) - NHB – National Housing Bank
- Insurance Companies – IRDA – Insurance Regulatory and Development Authority
- Broking Companies - SEBI- Securities and Exchange Board of India
- Merchant Bankers – SEBI
- Non-banking Financial Companies (NBFCs)- RBI

How to check registration status of any entity

- Go on the website of Ministry of Corporate Affairs (MCA) to check whether the entity is a company or not.
- Website of MCA is www.mca.gov.in
- Use the link : MCA Services- Check company name
- To get full details of the company (like directors name, registered address , date of incorporation etc.) use the link MCA Services- View Company or LLP Master Data

Investigation of unscrupulous entities engaged in financial activities

- **If a company (viz. 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 Unincorporated Bodies (UIBs)

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

NBNFCs/UIBs taking deposits and other financial activities with unethical/illegal methods

Activities of NB-NFCs and UIBs

- ❑ Deposit taking business
- ❑ Money Circulation-
 - ❑ Ponzi Scheme - Ponzi
 - ❑ Pyramid schemes (Multi-Level Marketing business without products)
- ❑ Car Rentals
- ❑ Time Sharing business (Hotels, Resorts etc)
- ❑ Real Estate business
- ❑ Lending including Money Lenders
- ❑ Forex Dealing without registration
- ❑ Agro/Animal Farming Activities

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, 1982
4	Acceptance of deposit by Cooperative Societies	State Governments under cooperative societies Act 1992
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	CRCS [Ministry of Agriculture, GoI]
10	Contract of Insurance	IRDA
11	Pension Scheme or Insurance Scheme	IRDA/EPFO

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 NBFI 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

Principal Business Criteria

- To be an NBFC, - RBI Press Release 8-4-1999
 - 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 (Earlier it was Rs.25 lakh only)

- If a company fulfills the above criteria, then it has to obtain Certificate of Registration (CoR) from RBI to continue to carry on NBF business

Different types of NBFCs

Liabilities side - based on Resource mobilization

- Deposit -taking (NBFC-D) - A category
- Non-Deposit taking (NBFC-ND) - B category

Based on Assets – deployment of funds

- Loan Companies
- Investment companies
- Asset Finance Companies
- Core Investment Companies
- Infrastructure Finance companies
- Micro Finance Institutions/Companies (NBFC-MFIs)
- Peer to Peer Lending Companies

Different types of NBFCs (contd.)

- **Micro Finance Institutions:-** An NBFC-MFI is defined as a non-deposit taking NBFC (other than a company licensed under Section 25 of the Companies Act, 1956) primarily engaged in small ticket loans to borrowers with a rural household annual income not exceeding Rs. 1,00,000 or urban and semi-urban household income not exceeding Rs. 1,60,000, subject to following conditions :
 - loan amount does not exceed Rs. 60,000 in the first cycle and Rs. 1,00,000 in subsequent cycles;
 - total indebtedness of the borrower does not exceed Rs. 1,00,000
 - loan to be extended without collateral
 - Interest charged is regulated in accordance with RBI guidelines

Different types of NBFCs (contd.)

Gold Loans companies

- Recognising the rapid increase in exposure of NBFC's to gold loans, the Reserve Bank introduced prudential measures that prescribe NBFCs to maintain a loan-to-value ratio not exceeding 75 percent for loans granted against collateral of gold jewellery and disclose in their balance sheet the percentage of such loans to their total assets
- Standardization of Value of Gold accepted as collateral in arriving at LTV Ratio
- Norms on Verification of the ownership of gold
- Safety and Security Measures to be followed by Non-Banking Financial Companies lending against collateral of gold jewellery

Action to be taken by Police–Company

Illegal acceptance of deposits / default in repayment by Company.

1. Collect the financial statements of the Company for verification and take assistance from statutory auditor of company for verification of the financial status of the Company.
2. If NBFC , refer the matter to DNBS, RBI, Bhopal Office for necessary action under RBI Act and also refer the matter to District Magistrate (Competent Authority) for necessary action under MP PID Act.
3. If non NBFC, refer the matter to Ministry of Corporate Affairs/ROC for necessary action under Companies Act and also refer the matter to District Magistrate (Competent Authority) for necessary action under MP PID Act.

Action to be taken by Police–UIB

Illegal acceptance of deposits by UIB:

1. State Govt. is empowered to take action under Section 58E (1) proviso r/w Section 58B (5A&5B) of RBI Act and also under MP PID Act.
2. Understand the tricks of nomenclature – UIBs using Pvt. Ltd, Bank, Trust etc.
3. Powers of State Govt. are concurrent with that of RBI as far as UIBs are concerned.

Financial Investigation– Documents to be collected

- ▶ Name, address of directors/partners/individuals, since when associated with the business of the entity, extent of involvement, stakes, PAN, bank accounts, particulars of assets etc.
- ▶ Licenses obtained under state legislations relating to Shops and establishments etc.
- ▶ Office copies or counterfoils of deposit receipts, Books and Registers maintained in connection with deposits.

Financial Investigation– Documents to be collected

Contd...

- ▶ Proof, if any, regarding repayment of deposits.
- ▶ Books or registers relating to loans granted or investments made in shares and other securities, loan agreements, promissory notes, mortgage deeds etc.
- ▶ Copy of advertisement inviting deposits from public and verification of source from newspaper office.

For information on companies/ entities registration status with respective regulators

Log on to website: www.sachet.rbi.org.in

- ▶ List of all registered and regulated entities with RBI, SEBI, NHB, IRDA, PFRDA, CRCS available at a single place and updated regularly
- ▶ Laws and Rules under which companies/ entities are regulated
- ▶ Details of Regulators