

**MAHARASHTRA PROTECTION OF INTERESTS OF
DEPOSITORS (IN FINANCIAL ESTABLISHMENTS) ACT, 1999**

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CHAPTER 1: INTRODUCTION

“An Act to protect the interest of depositors in the Financial Establishments and matters relating thereto”.

The Maharashtra Protection of Interest of Depositors in Financial Establishments Act seeks to deter unincorporated entities and companies from illegally accepting deposits. The state governments and their machineries have specific provisions for the recovery by attachment and sale of assets of the defaulting companies, entities or their officials in case of customer cheating by using the provisions of the Act.

The Act makes offences, such as, unauthorized acceptance of deposits by any entity, firm or company a cognizable offence, that is entities that are indulging in unauthorized deposit acceptance or unlawful financial activities can be immediately imprisoned and prosecuted.

This Act received the assent of the President on the 20th January, 2000 which was first published in the Maharashtra Government Gazette, Part IV, on the 21st January, 2000.

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Sixteen States and 1 Union Territory have this legislation in place as on date. These States are Andhra Pradesh, Assam, Bihar, Goa, Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Mizoram, New Delhi, Tamil Nadu, Tripura, Uttaranchal, Sikkim, Meghalaya, J&K and Chandigarh Administration.

AMENDMENT TO THE ACT – 2016:

An Amendment to the Maharashtra Protection of Interest of Depositors Act, 1999 (MPID) now includes in its ambit, companies incorporated under the Companies Act, 1956 and non-banking financial firms which were originally excluded from the scope of the MPID Act, when it was originally passed. The new rules also make it binding on the courts to deliver a judgement less than 90 days from the filing of an ‘Attachment’ certificate by a district collector.

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CHAPTER 2: STATEMENT OF OBJECT AND REASONS

The sole object of the Maharashtra Protection of Interest of Depositors in Financial Establishments Act is to curb the mushroom growth of Financial Establishments which were grabbing money received as deposits from the public, mostly middleclass and poor people on false promises for exorbitant and unprecedented high attractive rates of interest or rewards and without any obligation to refund the deposit to the investors on maturity or without any provision for ensuring rendering of the services in kind in return, as assured.

This caused panic and unrest with the public as these institutions went back of their promise not only to pay interest but also to refund the principal amount to the innocent depositors on maturity, which forced them to run from pillar to post, approaching various authorities, executives as well as subordinate judiciary, for realization of the dues.

In light of this situation and after taking into consideration the public resentment as well as the public interest and safety, the Maharashtra Protection of Interest of Depositors in Financial Establishments Act, 1999 was enacted by the State.

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CHAPTER 3: SALIENT FEATURES OF THE ACT

The salient features of the Act are as follows:

- The Act restricts Deposit Takers from promoting, operating, issuing advertisements or accepting deposits in any fraudulent Deposit Scheme.
- The Act creates three different types of offences, namely, running of fraudulent Deposit Schemes, fraudulent default in Deposit Schemes, and wrongful inducement in relation to fraudulent Deposit Schemes.
- The Act provides for severe punishment and heavy pecuniary fines to act as deterrent.
- Constitution of designated court under the act to exclusively try MPID cases.
- Appointment of Competent Authority, to exercise control over the monies and the properties attached by the Government under Section 4.
- The Act has adequate provisions for disgorgement or repayment of deposits in cases where such schemes nonetheless manage to raise deposits illegally.
- The Act provides for attachment of properties/ assets by the Competent Authority, and subsequent realization of assets for repayment to depositors.

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- Clear-cut time lines have been provided for attachment of property and restitution to depositors.
- The Act has empowered the Economic Offence Wing (E.O.W) to exclusively handle multi-crore fraud cases by companies, find out the reasons for default, and refer the matter to the Competent Authority regarding disposal of properties and settlement of dues.
- The Act defines “Deposit” and “Fraudulent Default by Financial Establishment” comprehensively.
- “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.

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**CHAPTER 4: DEPOSIT, FINANCIAL ESTABLISHMENT,
FRAUDULENT DEFAULT BY FINANCIAL ESTABLISHMENT.**

The MPID Act, deals with a speedy remedy for recovery of payments in default and also provide remedy by criminal proceedings with stringent punishments and attachment of property. As per the Act, fraudulent default by a financial establishment attracts conviction for every person responsible for the management of the Establishment including the promoter, partner, director, manager or an employee.

1. **Deposit:** Section 2 (c) "deposit" includes and shall be deemed always to have included any receipt of money or acceptance of any valuable commodity by any Financial Establishment to be returned after a specified period or otherwise, either in cash or in kind or in the form of a specified service with or without any benefit in the form of interest, bonus, profit or in any other form, but does not include

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- (i) amount raised by way of share capital or by way of debenture, bond or any other instrument covered under the guidelines given, and regulations made, by the SEBI, established under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (ii) amounts contributed as capital by partners of a firm;
- (iii) amounts received from a scheduled bank or a co-operative bank or any other banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
- (iv) any amount received from,
 - (a) the Industrial Development Bank of India,
 - (b) a State Financial Corporation,
 - (c) any financial institution specified in or under; section 6-A of the Industrial Development Bank of India Act, 1964 (18 of 1964), or
 - (d) any other institution that may be specified by the Government in this behalf;
- (v) amounts received in the ordinary course of business by way of:-

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- (a) security deposit,
- (b) dealership deposit,
- (c) earnest money,
- (d) advance against order for goods or services;
- (vi) any amount received from an individual or a firm or an association of individuals not being a body corporate, registered under any enactment relating to money lending which is for the time being in force in the State; and
- (vii) any amount received by way of subscriptions in respect of a Chit.

However, inter-corporate deposit/loan made by a Company would not amount to deposit within the meaning of MPID Act, 1999. In the case of **Mr. Ashish Mahendrakar v/s State of Maharashtra and Others** (*decided on September 13, 2019*), the Hon'ble Bombay High Court declared that an inter-corporate deposit/loan, that is, a loan advanced/deposit made by a company with another company would not

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amount to a “deposit” within the meaning and for the purpose of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (“**MPID Act**”).

2. Financial Establishment: Section 2 (D) means any person accepting deposit under any scheme or arrangement or in any other manner but does not include a corporation or a co-operative society owned or controlled by any State Government or the Central Government or a banking company as defined under clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949); *Case Law: The Official Liquidator High ... v/s Aryarup Tourism Club Resorts ... on 9th June, 2017 (OLR/126/2013).*

3. Fraudulent Default By Financial Establishment: Section (3) Any Financial Establishment, which fraudulently defaults any repayment of deposit on maturity along with any benefit in the form of interest, bonus, profit or in any other form as promised or fraudulently fails to render service as assured against the deposit, every person including

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the promoter partner, director, manager or any other person or an employee responsible for the management of or conducting of the business or affairs of such Financial Establishment shall, on conviction, be punished with imprisonment for a term which may extend to six years and with fine which may extend to one lac of rupees and such Financial Establishment also shall be liable for a fine which may extend to one lac of rupees.

Explanation - For the purpose of this section a Financial Establishment, which commits default in repayment of such deposit with such benefits in the form of interest, bonus, profit or in any other form as promised or fails to render any specified service promised against such deposit, or fails to render any specific service agreed against the deposit with an intention of causing wrongful gain to one person or wrongful loss to another person or commits such default due to its inability arising out of impracticable or commercially not viable promises made while accepting such deposit or arising out of deployment of money or assets acquired out of the deposits in such a manner as it involves inherent risk in recovering

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the same when needed shall, be deemed to have committed a default or failed to render the specific service, fraudulently.

The provisions of the MPID Act are meant for the benefit and protection of the depositors only who have deposited the amounts within the meaning of section 2(c) of the said MPID Act and not for the benefit and protection of other investors and creditors of the Financial Establishments defined under section 2(d) of the said MPID Act.

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CHAPTER 5: FRAUDULENT INVESTMENT SCHEMES

Today driven by the promise of higher returns than the saving accounts or fixed deposits, most of the small and retail investors are moving their investments under the guidance of Investment Advisers. The way these scammers operate is strikingly similar-assure high returns to investors, offer to pay in instalments and pay the first few instalments as promised so that more investors are attracted through word-of-mouth publicity. Most schemes operate under the guise of Multi-Level Marketing (MLM) or Plantation Company. Some entities are registered as companies under the Companies Act, some even flaunt an ISO certification, but in most cases they do not have the approval to collect deposits from the public.

i) Ponzi Schemes:

The scheme is named after a man called Charles Ponzi, an Italian who committed the fraud a century ago. He promised to pay investors a 50% profit within 45 days or 100% profit in 90 days. He claimed that he was able to raise

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the profits by acquiring Postal Reply Coupons from countries where it was cheaper and sell these coupons in countries where they were being sold at a higher. Ponzi scheme were carried out from 1869 to 1872 by Adele Spitzeder in Germany and by Sarah Howe in the United States in the 1880s through the "Ladies' Deposit".

Ponzi schemes are fraudulent investments that promise above-average returns but always fail in the long run. Ponzi Schemes are basically structured in such a way that the money channelled from the investors go around and around in circles. This basically means that, the money collected from the investors are used to pay off the old investors. Ponzi Schemes basically function till the amount of money coming in from new investments is more than the money going out to pay the old investors. As long as this works the Ponzi Scheme can function and the day the chain is reversed is the day it goes bust.

Ponzi scheme has the following characteristics:

- a) The proposal promises the surety of high returns at very low risks.
- b) The investments aren't registered with the Securities and Exchange Commission.

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- c) The deal guarantees consistent profits, regardless of economic conditions.
- d) The workings of the business opportunity are too complicated to explain.
- e) No legal paperwork is available for the investor to examine.
- f) Investors find it difficult to get their money back.

ii) **Chit fund Scam:**

In contrast, a chit fund is a saving scheme practised for hundreds of years in India. It is either a formal or informal association of individuals to convert small savings into lump sums. "Chit" means a transaction by which the operator enters into an agreement with a number of subscribers that every one of them shall subscribe a certain sum for a certain period and each subscriber in his turn as determined by lot or by auction, shall be entitled to a prized amount. Returns generated are not fixed and depend on the maximum discount that is bid every month. The higher the discount, greater is the dividend and is distributed among the members.

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iii) Pyramid Schemes/Multi-Level Marketing

A pyramid scheme is a variation of the Ponzi scheme, which offers a promise of high investment returns that are not available from traditional types of investment. In practice, the structure of pyramid schemes induces others to recruit victims and collect money that eventually makes its way to the top of the pyramid.

In a typical setup, one person recruits a second person to invest a certain amount of money. The second person recovers his investment by recruiting people under him to invest in the scheme.

The more people he can recruit under him, the greater his profit, and a certain percentage of the profits of all recruiters work their way up the pyramid to enrich the recruiters before him. Each person must recruit a certain number of people. The process continues until there are fewer people at the bottom of the pyramid and it collapses under its own weight.

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Generally, only the people near the top of the pyramid make any significant profits and people near the bottom never recover their investments.



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CHAPTER 6: IMPORTANT PROVISIONS

SECTION 04: ATTACHMENT OF PROPERTY ON DEFAULT OF RETURN OF DEPOSITS

(1) Notwithstanding anything contained in any other law for the time being in force,

(i) Where upon complaints received from the depositors or otherwise, the Government is satisfied that any Financial Establishment has failed,

(a) to return the deposit after maturity or on demand by the depositor; or

(b) to pay interest or other assured benefit; or

(c) to provide the service promised against such deposit; or

(ii) Where the Government has reason to believe that any Financial Establishment is acting in a calculated manner detrimental to the interest of the depositors with an intention to defraud them; and if the Government is satisfied that such Financial Establishment is not likely

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to return the deposits or make payment of interest or other benefits assured or to provide the services against which the deposit is received, the Government may, in order to protect the interest of the depositors of such Financial Establishment, after recording reasons in writing, issue an order by publishing it in the Official Gazette, attaching the money or the property believed to have been acquired by such Financial Establishment either in its own name or in the name of any other person from out of the deposits, collected by the Financial Establishment, or if it transpires that such money or other property is not available for attachment or not sufficient for repayment of the deposits, such other property of the said Financial Establishment or the promoter, director, partner or manager or member of the said Financial Establishment as the Government may think fit.

(2) On the publication of the order under sub-section (1), all the properties and assets of the Financial Establishment and the persons mentioned therein shall forthwith vest in the Competent Authority appointed by the Government, pending further order from the Designated Court.

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(3) The Collector of a District shall be competent to receive the complaints from his District under sub-section (1) and he shall forward the same together with his report to the Government at the earliest and shall send a copy of the complaint also to the concerned District Police Superintendent or Commissioner of Police, as the case may be, for investigation.

SECTION 05: APPOINTMENT OF COMPETENT AUTHORITY

(1) The Government may while issuing the order under sub-section (1) of section 4, appoint any of its officers not below the rank of the Deputy Collector, as the Competent Authority, to exercise control over the monies and the properties attached by the Government under section 4, of a Financial Establishment.

(2) The Competent Authority shall have such other powers as may be necessary for carrying out the purposes of this Act.

(3) The Competent Authority shall, within thirty days from the date of the publication of the said order, apply to the Designated Court, accompanied by one or more affidavits stating the grounds on which the Government has issued the said order under section 4 and the amount of money or other

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property believed to have been acquired out of the deposits and the details, if any, of persons in whose name such property is believed to have been invested or acquired or any other property attached under section 4, for such further orders as found necessary.

SECTION 06: DESIGNATED COURT

(1) For the purposes of this Act, the Government may, with the concurrence of the Chief Justice of the Bombay High Court by notification in the Official Gazette, constitute on or more Designated Court in the cadre of a District and Sessions Judge for such area or areas or for such case or class or group of cases, as may be specified in the notification.

(2) No Court including the Court constituted under the Presidency Towns Insolvency Act, 1909 (3 of 1909) and the Provincial Insolvency Act, 1920 (5 of 1920), other than the Designated Court shall have jurisdiction in respect of any matter to which the provisions of this Act apply.

(3) Any pending case in any other Court to which the provisions of this Act apply shall, on the date of coming into force of this Act, stand transferred to the Designated Court.

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SECTION 07: POWERS OF DESIGNATED COURT REGARDING ATTACHMENT

(1) Upon receipt of an application under section 5, the Designated Court shall issue to the Financial Establishment or to any other person whose property is attached and vested in the Competent Authority by the Government under section 4, a notice accompanied by the application and affidavits and of the evidence, if any, recorded, calling upon the said Establishment or the said person to show cause on a date to be specified in the notice, why the order of attachment should not be made absolute

(2) The Designated Court shall also issue such notice, to all other persons represented to it as having or being likely to claim, any interest or title in the property of the Financial Establishment or the person to whom the notice is issued under sub-section (1), calling upon all such persons to appear on the same date as that specified in the notice and make objection if they so desire to the attachment of the property or any portion thereof, on the ground that they have interest in such property or portion thereof.

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(3) Any person claiming an interest in the property attached or any portion thereof may, notwithstanding that no notice has been served upon him under this section, make an objection as aforesaid to the Designated Court at any time before an order is passed under subsection (4) or sub-section (6).

(4) The Designated Court shall, if no cause is shown and no objections are made under sub-section (3), on or before the specified date, forthwith pass an order making the order of attachment absolute, and issue such direction as may be necessary for realisation of the assets attached and for the equitable distribution among the depositors of the money realised from out of the property attached.

(5) If cause is shown or any objection is made as aforesaid, the Designated Court shall proceed to investigate the same and in so doing, as regards the examination of the parties and in all other respects, the Designated Court shall, subject to the provisions of this Act, follow the summary procedure as contemplated under Order 37 of the Civil procedure Code, 1908 (5 of 1908) and exercise all the powers of a Court in hearing a suit under the said Code and any person making an objection shall be required to adduce evidence to

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show that on the date of the attachment he had some interest in the property attached.

(6) After investigation under sub-section (5), the Designated Court shall pass an order either making the order of attachment passed under sub-section (1) of section 4 absolute or varying it by releasing a portion of the property from attachment or cancelling the order of attachment:

Provided that the Designated Court shall not release from attachment any interest, which it is satisfied that the Financial Establishment or the person referred to in sub-section (1) has in the property, unless it is also satisfied that there will remain under attachment an amount or property of value not less than the value that is required for repayment to the depositors of such Financial Establishment.

SECTION 08: ATTACHMENT OF PROPERTY OF MALA FIDE TRANSFEREES

(1) Where the assets available for attachment of a Financial Establishment or other person referred to in section 4 are found to be less than the amount or

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values which such Financial Establishment- is required to re-pay to the depositors and where the Designated Court is satisfied, by affidavit or otherwise, that there is reasonable cause for believing that the said Financial Establishment has transferred (whether before or after the commencement of this Act) any of the property otherwise than in good faith and for consideration, the Designated Court may, by notice, require any transferee of such property (whether or not he received the property directly from the said Financial Establishment) to appear on a date to be specified in the notice and show cause why so much of the transferee's property as is equivalent to the proper value of the property transferred should not be attached.

(2) Where the said transferee does not appear and show cause on the specified date, or where after investigation in the manner provided in sub-section (5) of section 7, the Designated Court is satisfied that the transfer of the property to the said transferee was not in good faith and for consideration, the Designated Court shall order the attachment of so much of the said transferee's property as is in the opinion of the Designated Court equivalent to the proper value of the property transferred.

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SECTION 09: SECURITY IN LIEU OF ATTACHMENT

Any Financial Establishment or person whose property has been or is about to be attached under this Act may, at any time, apply to the Designated Court for permission to give security in lieu of such attachment and where the security offered and given is, in the opinion of the Designated Court, satisfactory and sufficient, it may cancel, the order of attachment or, as the case may be, refrain from passing the order of attachment.

SECTION 10: ADMINISTRATION OF PROPERTY ATTACHED

The Designated Court may, on the application of any person interested in any property attached and vested in the Competent Authority under this Act and after giving the Competent Authority an opportunity of being heard, make such order as the Designated Court considers just and reasonable for,

(a) providing from such of the property attached and vested in the Competent Authority as the applicant claims an interest in, such sums as may be reasonably necessary for the maintenance of the applicant and of his family, and for expenses connected with the defence of the applicant where criminal

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proceedings have been instituted against him in the Designated Court under section 3;

(b) safe guarding, so far as may be practicable, the interest of any business affected by the attachment and in particular, the interest of any partners in such business.

SECTION 11: APPEAL

Any person including the Competent Authority, if aggrieved by an order of the Designated Court, may appeal to the High Court within sixty days from the date of the order.

SECTION 12: SPECIAL PUBLIC PROSECUTOR

The Government may, by order appoint one or more Advocates of not less than ten years standing as a Special Public Prosecutor in consultation with the District and Sessions Judge of the concerned District or the Principal Judge of the City Civil and Sessions Court, Greater Bombay for the purpose of conducting the cases in the Designated Court.

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SECTION 13: PROCEDURE AND POWERS OF DESIGNATED COURT REGARDING OFFENCES

(1) The designated Court may take cognizance of the offence without the Accused being committed to it for trial and, in trying the accused person, shall follow the procedure prescribed in the Code of Criminal Procedure, 1973 (2 of 1974), for the trial of warrant cases by Magistrates.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall so far as may be, apply to the proceedings before a Designated Court and for the purposes of the said provisions a Designated Court shall be deemed to be a Magistrate.

SECTION 14: ACT TO OVERRIDE OTHER LAWS

Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

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SECTION 15: PROTECTION OF ACTION TAKEN IN GOOD FAITH

No suit or other proceedings shall lie against the Government or the Competent Authority or an officer or employee of the Government for anything which is in good faith done or intended to be done under this Act



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CHAPTER 7: PUNISHMENT AND FINES

The MPID Act, deals with a speedy remedy for recovery of payments in default and also provide remedy by criminal proceedings with stringent punishments and attachment of property. As per the Act, fraudulent default by a financial establishment attracts conviction for every person responsible for the management of the Establishment including the promoter, partner, director, manager or an employee.

The Act provides for offences committed by the deposit takers which include;

- Advertising, operating or accepting money for unregulated deposits schemes and fraudulently defaulting on repayment the same.
- Fraudulently defaulting on repayment and failure to render service under regulated deposit schemes.
- Wrongfully inducing depositors to invest in unregulated deposit schemes by willingly falsifying facts.
- Failure to file intimation by deposit taker about it business or to furnish statements/information to the competent authority.

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The punishment for contravention of Section 3 of the MPID Act is as follows:

Imprisonment for a term which may extend to six years and with fine which may extend to one lac of rupees and such Financial Establishment also shall be liable for a fine which may extend to one lac of rupees. Additionally, Maximum imprisonment of seven years under Sec. 420 and three years under Sec. 406 of the Indian Penal Code if attracted.

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CHAPTER 8: PROCEDURE FOLLOWED IN CASES

REGISTERED UNDER THE MPID ACT

- I.** On receipt of information from the investor and with due approval from the superiors, verification or preliminary inquiry is initiated. If prima facie a commission of a cognizable offence is disclosed, then with intimation to the District Collector, an FIR under section 4(3) of the Act is registered in the concerned police station, against the concerned financial establishment and its office bearers.
- II.** After registration of an FIR, searches or seizures are carried out with respect to the movable and immovable properties of the accused institute or office bearers, partner, directors and anyone related to them.
- III.** The property (ies) is / are secured to protect the interest of investors. Information regarding all such searches and seizures and secured properties details are forwarded to the District collector in the required format with a request to appoint competent authority. This information is also submitted to the Court as well as to the State Government.

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- IV. The government also appoints a competent authority (not below the rank of a Deputy Collector) to take charge of all such movable and immovable properties. After taking stock and verifying all such properties, the Authority submits its report in the Special Designated Court under the MPID.
- V. The Court then issues notice to all the concerned parties whose properties are attached to show cause why the attachment should not be made absolute. If cause is shown or any objection is raised, then the Court follows the Procedure laid down in the CPC and examines the evidence adduced. The Competent Authority also notifies Government of Maharashtra, who then publish the same in the Gazette.

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CHAPTER 9: DOES THE ACT DEBAR CONSUMER

COMPLAINT?

Can a consumer who is defrauded approach the Consumer forum? Or would the Maharashtra Protection of Interest of Depositors in (Financial Establishment) Act, 1999, (MPID Act) oust the jurisdiction of the consumer fora? This interesting issues has been decided in favour of the consumer in a ruling of the National Commission.

Case Study: A company viz. Shivaji Estate Livestock & Farms invited people to invest in its goat farming and allied activities by purchasing units of several schemes floated by it. The company's brochure stated it was arranging 25 to 50 sheds, each housing 500 goats. The animals would be looked after by experienced vets. The entire livestock would be insured, which would guarantee 100% safety of the invested amount. Additionally, the investors would also have hypothetical charge on 1000 Sq.ft of land owned by the Company.

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There were several types of tailored schemes to suit various investor budgets, with different frequency of returns. All the schemes assured that a one-time investment through purchase of units would give consistently attractive returns over a period of 15 years. Several gullible consumers fell for the scheme, initially the company gave some returns to the investors, but later failed to keep their commitment. Disillusioned, investors applied for premature withdrawal from the scheme, but the company failed to repay the amount. The firm did not even return the principal amount. A group of 373 investors then filed a joint complaint before the National Consumer Commission alleging deficiency in service.

The Company objected, saying that the Consumer fora would not have the jurisdiction to decide the dispute. It argued that proper remedy would be under the MPID Act, which provides for a complete machinery for recovery of deposits made by investors. The Company also claimed that the case was sub-judice as the crime branch had filed a chargesheet against it and nine of its officer on the basis of an FIR lodged by one of the investors, and the matter

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was pending before a designated court. The company, however, did not dispute the facts and merits of the case.

The National Commission, in its judgement dt. 16.02.2015 observed that the designated Court under the MPID Act cannot provide adequate redressal as it does not have the power to grant compensation to the victim. Hence, the National Commission held that the Consumer forum was the appropriate civil remedy available to such investors to claim compensation for deficiency in services.

Upholding maintainability of the Complaint, the National Commission directed the Company to repay the investment along with 9% interest from the date of filing of the complaint to the tune of 10% of the investment amount was also awarded, along with Rs. 1,000 to each of the 373 complaints

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CHAPTER 10: INDIA'S BIGGEST FRAUDULENT INVESTMENT SCHEMES

1. Saradha and allied Group:

The Saradha scam, where more than 1.74 million people lost their savings and investments worth \$3.7 billion, was exposed when Kolkata-based Saradha group went bankrupt in January 2014. The crisis did not end just there. It led to some 35 people committing suicide. Politicians from the ruling Trinamool Congress Party in West Bengal were alleged to have been the beneficiaries of the scam. Saradha group, promoted by Sudipto Sen, comprised over 200 small companies and had been running collective investment schemes across eastern India since 2006. Since access to banks is limited in rural parts of the country, many Indians depend on such schemes as an investment opportunity.

Under the Saradha scheme, investors were issued redeemable bonds and secured debentures that promised extraordinary returns upon completion of tenure—the maturity period ranging between 12 months

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and 60 months. On completion of the tenure, many investors were also offered land or apartments. Much of the group's success came from hiring local agents and roping in famous celebrities as brand ambassadors. The government is yet to retrieve the losses made by the scheme.

2. City Limouzines Scam:

Sayed Mohamed Masood, the mastermind of the scam, told investors across India that their money would buy them a stake in cars like the Toyota Innova. He would rent these out and pay them huge returns. The cars were never bought and the case is now in court. He also promised returns for bringing in new investors, and used this to finance the cheques he paid out to his original investors. He tricked more than 200,000 investors for a sum of Rs.1,000 crore.

3. The Speak Asia Scam:

Singapore-based Speak-Asia Online limited asked investors to pay Rs 11,000 and fill up online survey forms to earn Rs. 52,000 a year.

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Additional rewards were promised for those who enrolled more people into the scheme. The scammers made away with Rs. 2,276 crore from 24 lakh investors.

4. Sai Prasad Group of Companies:

The scam came to light in the year 2015, when the Securities and Exchange Board of India (SEBI) filed a complaint alleging that the Company had collected investments/deposits without its permission. The Company lured investors by promising 13.5% interest on Rs.18,000/- per month for six years on an investment of Rs. 1 Lakh, besides the principal upon maturity. It also offered 500 sq.ft land in ratio of investment of Rs. 12,000/- as collateral securities. One lakhs agent got huge kickbacks for bringing in investments. In the initial years, the company paid high returns to attract more investors.

5. Amway Scam:

William S Pinckney, the chief executive officer of Amway India, was arrested in May 2013 for allegedly involving its distributors in a

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pyramid scheme. The Amway scam did involve the sale of actual products, but these were grossly overpriced. By luring in distributors with promises of easy money if they engaged more distributors, the company made sure that its overpriced products got passed through an ever-widening net. But distributors eventually lost their money as there was no one willing to take the expensive product off their hands. The money being brought in by new distributors was used to pay off the original distributors.

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CHAPTER 11: HOW TO SPOT FRAUDULENT INVESTMENT SCHEMES

The people investing in such schemes mainly belong to economically weaker sections of the society. They lack understanding of the banking and financial system and depend on the advice of friends and relatives for their investment. However, their friends/relatives may themselves be victim of such schemes.

Fundamentally, such schemes utilize the money from new investors to payout old investors. When the fraud comes to light, many investors are afraid to take legal help or face challenges seeking proper means of recourse to get their money back which makes them an easy target.

Investors should be careful before they part with their money and watch out for these warning signs:

6 Warning Signs to Spot the Fraudulent Investment Schemes	
1.	Any scheme offering higher returns/profits above-normal profits within a short span of time, is indicative of deceit.

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2.	If a scheme is guaranteeing regular higher returns, consider it a red flag.
3.	If the scheme does not show transparency in disclosing the Risks involved, it is a sign of fraud.
4.	If any scheme isn't registered under a recognized institution or a governing body, it is not safe to invest.
5.	In the scheme related documents, if the terms are complicated to understand, it's an indicator to be cautious.
6.	If the firm/financial establishment/deposit taker is pressuring you to invest/deposit in a scheme without explaining or allowing you to go through the terms, is a big red flag.

Above normal returns/Quick profits

If the scheme is offering returns/profits that seem too good to be true, it probably is. Many a times to lure investors, scamsters offer very high returns such as more than 15% in a short span. Some may even offer to double your

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money. Initially, such schemes give regular payout to investors so that they get more investors, but eventually such payments reduce till it finally stops.

Guaranteed returns

Though some schemes have the potential to generate higher returns, it is not guaranteed. Thus, if a scheme is guaranteeing regular high returns, it should be considered a red flag.

No mention of risk

Every investment carries a certain level of risk (even the investments that are generally considered safe) though the magnitude of risk may vary. Every regulated scheme is required to disclose the risk involved in investing in that particular scheme. If the scheme does not show transparency in disclosing the risks involved, it is a sign of fraud.

Unregulated

Check if the scheme is registered with SEBI, RBI, IRDAI, PFRDA, MCA, NHB, or any other regulatory body. If it isn't, it is not safe to invest. If the scheme is unregulated, you will find it difficult to take legal recourse in case of any fraud, malpractice, and grievance. Make sure that you are able to track the

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performance of scheme on public platforms (other than company's website) whenever required.

Complicated terms/business model

If the terms of the scheme are too complicated or if you don't understand the business model, it is better to avoid investing in them. Even ace investor, Warren Buffet only invests in businesses that makes sense to him and if he fully understands the model, market, and the customer base.

Urgency/pressure to buy

If the sales person is showing urgency in selling you the scheme or pressurising you to make quick decision without explaining or allowing you to go through the policy terms, it is likely that it will not be in your best interest. The sales person may use this tactic so that you do not have the time to understand the terms and conditions of a scheme. They risk losing a potential investor if you clearly understood all the terms and disagreed with any.

To sum up...

Investors/Depositors must be mindful before making any investment decision and must avoid doing so in haste. Go through the policy terms carefully to clear any

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misunderstanding. Do not let the greed of higher returns lead to wrong decisions; remember that higher the returns promised, higher is the risk involved. If promised quick profits or high returns do not fall for it.



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CHAPTER 12: LIMITATION OF THE ACT

1. Time consuming lengthy process:-

The MPID Act ensures that the properties attached continue to rest with the state government and the accused establishments do not dispose of the assets. However, the MPID cases heard in the designated courts do not get a precedence of timeline. In addition, there are only a few designated MPID Courts situated in Mumbai Jurisdiction. Hence, there is delay in disposal of cases. There are only one to two designated Special Public Prosecutors in MPID Courts in Mumbai who are already overburdened with many pending cases.

2. Delay in appointment of Competent Authority:-

In most of the cases there is a delay in appointment of a Competent Authority by the Government of Maharashtra. As on date, several hundred cases have been registered by Economic Offences Wing under the Act out

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of which in many cases appointment of Competent Authority is pending. This also leads to delay in disposing off the seized or attached property and returning such fund to the investor.

3. Limited powers to police authority/ investigating machinery:-

In the MPID Act, there is no specific clause granting power authorizing police authority or Investigation Officer (IO) to seize or attach movable or immovable properties of the accused. Under the MPID Act, the Competent Authority has powers only to attach properties under his jurisdiction. This Act is silent on his powers to attach properties located in other states of India.

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CHAPTER 13: IMPACT OF THE ACT

The Act helps to tackle the menace of illicit deposit taking activities in the State, which at present are exploiting regulatory gaps and lack of strict administrative measures to dupe poor and vulnerable people of their hard earned money. In Maharashtra, most of the Ponzi deposits are given to a person without having a proper business or in some case, even not having a business. The Act gives some surety to the depositors that they can go to a law enforcement authority to recover the money which they could not do before in absence of any such act.

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