



## FAQ- Collective Investment Schemes

### 1. What is meant by Collective Investment Schemes?

A Collective investment scheme is any scheme or arrangement, which satisfies the conditions, referred to in sub-section (2) of section 11AA of the SEBI Act. Any scheme or arrangement made or offered by any company under which the contributions, or payments made by the investors, are pooled and utilised with a view to receive profits, income, produce or property, and is managed on behalf of the investors is a CIS. Investors do not have day to day control over the management and operation of such scheme or arrangement.

### 2. Which are the schemes not treated as CIS?

The following do not constitute a collective investment scheme:

- i. any scheme or arrangement made or offered by a co-operative society or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;
- ii. any scheme or arrangement under which deposits are accepted by non-banking financial companies
- iii. any scheme or arrangement being a contract of insurance to which the Insurance Act, applies;
- iv. any scheme or arrangement providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952
- v. any scheme or arrangement under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);
- vi. any scheme or arrangement under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);
- vii. any scheme or arrangement falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);
- viii. any scheme or arrangement under which contributions made are in the nature of subscription to a mutual fund;

### 3. What is a Collective Investment Management Company?

A Collective Investment Management Company is a company incorporated under the provisions of the Companies Act, 1956 and registered with SEBI under the SEBI (Collective Investment Schemes) Regulations, 1999, whose object is to organise, operate and manage a Collective Investment Scheme.

### 4. What is an existing Collective Investment Scheme?

Entities, which were operating a collective investment scheme at the time of commencement of CIS Regulations i.e. (October 15, 1999), are deemed to be an existing collective investment scheme.

### 5. Can an existing Collective Investment Scheme raise further funds?

An existing Collective Investment Scheme cannot launch any new scheme or raise money from the investors even under the existing scheme, unless a certificate of registration is granted to it by SEBI. In other words, after notification of regulations an existing collective investment scheme, even after obtaining provisional registration as well as after obtaining credit rating cannot mobilise funds from the public unless a certificate of registration is granted to it.

**6. Under what circumstances a company registered as a Collective Investment Management Company can raise funds from the public?**

A registered Collective Investment Management Company is eligible to raise funds from the public by launching schemes. Such schemes have to be compulsorily credit rated as well as appraised by an appraising agency. The schemes also have to be approved by the Trustee and contain disclosures, as provided in the Regulations, which would enable the investors to make informed decision. A copy of the offer document of the scheme has to be filed with SEBI and if no modifications are suggested by SEBI within 21 days from the date of filing then the Collective Investment Management Company is entitled to issue the offer document to the public for raising funds from them.

**7. Will the unit certificates be listed on Stock Exchanges?**

Yes, they have to be compulsorily listed on the Stock Exchanges as mentioned in the Offer document.

**8. Are the investors entitled to receive information about the schemes where they have invested and at what interval?**

The investor are entitled to receive a copy of the Balance Sheet, Profit and Loss account and a copy of the summary of the yearly appraisal report from CIMC within two months from the closure of the financial year. Further, the scheme wise annual report or an abridged form thereof has published in a national daily as soon as possible but not later than two calendar months from the date of finalisation of accounts. Also, scheme wise un-audited quarterly financial results have to be published in a national daily by CIMC within one month from the close of each quarter.

**9. Does filing of offer document of a scheme by a CIMC with SEBI mean that investment in that scheme is safe and sound?**

It is to be distinctly understood that submission of offer document to SEBI should not in any way be deemed or construed that the same has been cleared or approved by SEBI. SEBI does not take any responsibility either for the financial soundness of any scheme for which the offer document has been filed or for the correctness of the statements made or opinions expressed in the offer document. It is the responsibility of the Collective Investment Management Company to ensure that the disclosures made in the offer document are generally adequate and are in conformity with the Regulations.

**10. Under what circumstances can an existing Collective Investment Scheme be wound up?**

An existing collective investment scheme which failed to make an application for registration, or was not desirous of obtaining provisional registration, or has not been granted provisional registration, or having obtained provisional registration fails to comply with the provisions as laid down in the Regulations, was / is required to wind up the existing scheme.

**11. What is the procedure for winding up of an existing Collective Investment Scheme?**

First of all an existing collective investment scheme has to send an information memorandum to the investors who have subscribed to the schemes, detailing the state of affairs of the scheme, the amount repayable to each investor and the manner in which such amount is determined. The said information memorandum has to

be dated and signed by all the Directors of the scheme. The information memorandum has to explicitly state that investors desirous of continuing with the scheme will have to give a positive consent, within one month from the date of the information memorandum, to continue with the scheme. If, positive consent to continue with the scheme is received from only 25% or less of the total number of existing investors, the scheme shall be wound up and payment be made to the investors within three months of the date of the information memorandum.

**12. What are the redressal mechanisms available to an investor in Collective Investment Schemes who invested before the date of notification of the Regulations (i.e. before October 15, 1999)?**

Investors may note that many of the existing collective investment schemes had collected funds from the public prior to coming into force of the regulatory jurisdiction of SEBI and any action by SEBI against defaulting entities does not necessarily ensure the refund of money invested by the investors in such entities.

**13. Is there some institution, which guarantees repayment of money now?**

As a regulatory body SEBI can not guarantee or undertake the repayment of money to the investors.

**14. Whom to approach for Grievance Redressal ?**

Investors should approach CIS in this regard. If investors do not get satisfactory response thereto, they may write to SEBI. Further, investors can approach district consumer redressal forums in case entities fail to honour their commitments or for any deficiency in service. For bouncing of cheques, investors can move the courts under section 138 of the Negotiable Instruments Act as the right to file criminal complaint exclusively vests with the beneficiary of the cheque. Investors should further note that wherever they do not have a right to the land or to the produce arising out of the land such investment may be a deposit and where a company fails to repay the deposits, it attracts the provisions of section 58A of the Indian Companies Act, 1956. It is clarified that SEBI has no jurisdiction over such deposits.

**15. What are the mechanisms available to an investor to know about the registration status of various entities either existing or new?**

On grant of registration as a collective investment management company, SEBI shall issue a Press Release giving the name and address of the entities which have been granted registration. Further, the same shall be posted on the SEBI website: [www.sebi.gov.in](http://www.sebi.gov.in)

**16. What are the penal provisions if a registered collective investment management company violates certain provisions of the Regulations? If, a registered collective investment management company violates certain provisions of the regulations, then action in terms of suspension/ cancellation of certificate may be initiated against the entity.**

**Further, SEBI may, in the interests of the securities market and the investors, initiate criminal prosecution under Section 24 of the SEBI Act, apart from passing of directions such as**

- a. requiring the person concerned not to collect any money from investor or to launch any scheme;
- b. prohibiting the person concerned from disposing of any of the properties of the scheme acquired in violation of the Regulations;
- c. requiring the person concerned to dispose off the assets of the scheme in a manner as may be specified in the directions;
- d. requiring the person concerned to refund any money or the assets to the concerned investors along with the requisite interest or otherwise, collected under the scheme;

- e. prohibiting the person concerned from operating in the capital market or from accessing the capital market for a specified period

Note: The answers given here are general in nature. The questions and the answers have been structured to enable the readers to gain a broad understanding of SEBI(Collective Investment Schemes) Regulations, 1999. For exact details the reader is advised to refer to the SEBI (Collective Investment Schemes) Regulations, 1999 which are available on our website. Readers may also note that these answers do not aim to explain the Regulations in force, since answers to questions involving particular case / fact pattern may depend upon administrative decisions and Court orders, if any, in respect of the same.

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