

**GOVERNMENT OF INDIA
FINANCE
LOK SABHA**

UNSTARRED QUESTION NO:334

ANSWERED ON:23.11.2012

FRAUDULENT INVESTMENT SCHEMES

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Will the Minister of FINANCE be pleased to state:

- (a) whether the Government has not taken action against the finance entities raising money from public through unregistered / registered finance companies and fraudulent investment schemes and if so, the details thereof for the last three years and the current year till date;
- (b) the reaction of the Government thereto;
- (c) the number of cases of fraudulent investment made by registered / unregistered companies registered during the last two years, State-wise;
- (d) the details of action taken including the number of arrests made in this regard, State-wise and details of amount/properties recovered therefrom; and
- (e) the steps taken/being taken by the Government including formulation of a strong legislation to check such cases in future?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI NAMO NARAIN MEENA)

(a) to (d): The entities raising money from public fall under the jurisdictions of various regulatory bodies, e.g. the Non-Banking Finance Companies (NBFCs) are under the regulatory and supervisory jurisdiction of Reserve Bank of India (RBI), Collective Investment Schemes (CIS) are under the Securities and Exchange Board of India (SEBI), and Chit Funds and Money Circulation Schemes fall under the executive jurisdiction of the State Governments. RBI has informed that as and when any complaint about un-authorized activities of NBFCs / un-incorporated bodies is received by RBI, prompt appropriate action is initiated and if necessary, such complaints are also forwarded to the Economic Offences Wing (EOW) of the concerned State for appropriate action. RBI also issues public advisory / notices, in the public interest, clarifying / cautioning members of public about activities of companies / NBFCs / other entities in widely circulated newspapers. The members of the public are also advised to refer their complaints against such activities to the EOW of the State Government.

SEBI notified Securities and Exchange Board of India (Collective Investment Schemes) Regulations in October, 1999. Subsequently, out of the 664 CIS entities about which SEBI had information, 54 CIS entities wound up their schemes and refunded the money to the investors. SEBI issued directions under Section 11B of the SEBI Act, 1992 to the remaining 610 entities directing them to refund the money collected under the schemes with returns due, to the investors as per the terms of the offer within a period of one month from the date of the Order. Subsequently, 21 CIS entities wound up their schemes and repaid the investors. Hence a total of 75 CIS entities (54+21) had wound up their schemes and refunded the money to investors. In 552 cases, SEBI has launched prosecution against the entities and its directors under SEBI Act, 1992. SEBI had also requested the concerned State Governments to initiate civil / criminal action against CIS entities for apparent offences of fraud, cheating and criminal breach of trust and mis-appropriation of public funds. The Ministry of Corporate Affairs has also been asked to initiate the winding-up process of CIS entities under Section 433 of the Companies Act and police authorities have been advised to file FIR against the entities and its concerned officials. Judgments have also been obtained in many prosecution cases where as on 31.03.2012, in 124 cases the accused have been convicted, 23 cases have been dismissed, 7 cases have been compounded and 2 cases have been withdrawn. However, many of the cases are still pending in the various courts and are hence sub-judice.

The Companies Act, 1956 has provisions on Regulation of Public Deposits (Section 58A), Inspection (Section 209A), Investigation (Section 235/237), Scrutiny of documents (Section 234), Search and Seizure (Section 240A), and on penalties and prosecutions, etc. to curb the financial frauds committed by the companies registered under the Act.

As and when the activities of any such entity is brought to the notice of the Government or the regulators, the same is examined for appropriate action by the concerned authorities, including the regulators, the enforcement / investigating agencies, and the State Governments. The State Governments are empowered under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 to take action against such companies.

(e): On pursuance by RBI, 14 States and 1 Union Territory have enacted legislation on the lines of Tamil Nadu Protection of Interest of depositors (in Financial Establishments) Act, 1997, which contain stiff penal provisions for promoters of financial establishments defaulting in repayment of deposit and interest. Government has also advised the remaining States / Union Territories to take

immediate initiatives to enact such law in their respective State / Union Territories. Further, Model Rules on the Multi-Level Marketing Companies have also been formulated in accordance with the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, and State Governments have been advised to adopt the same for effective regulation of Companies and even un-incorporated bodies floating Money Circulation Schemes.