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NOTIFICATION

No.No. B-14015/9/2023-F.Est, the 15th July, 2024: In exercise of the powers conferred by sub-section (1) and (2) of section 38 of the Banning of Unregulated Deposit Schemes Act, 2019 (No. 21 of 2019), the State Government, in consultation with the Central Government, is pleased to make the following rules, namely:-

1. Short title, extent and commencement. -

- (1) These rules may be called the Mizoram Banning of Unregulated Deposit Schemes Rules, 2024.
- (2) It shall extend to the whole of Mizoram.
- (3) It shall come into force from the date of publication in the Official Gazette.

2. Definitions. -

(1) In these rules, unless the context otherwise requires, -

- a) “Act” means the Banning of Unregulated Deposit Schemes Act, 2019 (21 of 2019);
- b) “Application” means an application filed by the Competent Authority under section 14 of the Act;
- c) “Designated Court” means a Designated Court notified by the Government with the concurrence of the Chief Justice of the concerned High Court under section 8 of the Act;
- d) “Form” means forms appended to these rules; and
- e) “Government” means the State Government of Mizoram;

(2) Words and expressions used herein and not defined but defined in the Act shall have the meanings assigned to them in the Act.

3. Information and particulars to be considered. -

The information and particulars which the Competent Authority shall consider for provisionally attaching the property of the deposit taker under sub-section (3) of section 7 of the Act shall include the following: -

- (a) any complaint against the promotion or operation of an Unregulated Deposit Scheme, whether the complainant is a depositor in the said Unregulated Deposit Scheme or not;
- (b) any information received from the Central Government, or any State Governments or Union territory Administrations, or any law enforcement authority or agency or body under the charge of such Governments or Administrations, regarding the promotion or operation of an Unregulated Deposit Scheme;

- (c) information of any advertisement, whether in print or electronic media or both, inducing another person to invest in, or become a member or participant of any Unregulated Deposit Scheme; and
- (d) any other information that the Competent Authority has, that a deposit taker is soliciting or accepting deposits in contravention of the provisions of the Act.

4. Powers and duties of the Competent Authority to conduct investigation and inquiry. -

- (1) Where the Competent Authority or officer(s) appointed under sub-section (2) of section 7 of the Act, has reason to believe (the reason for such belief to be recorded in writing), on the basis of such information and particulars as prescribed in rule 3, that any deposit taker is soliciting deposits in contravention of section 3 of the Act, he may, by an order in writing, provisionally attach the deposits held by the deposit taker and the money or other property acquired either in the name of the deposit taker or in the name of any other person on behalf of the deposit taker from the date of the order, in such manner as prescribed in rule 5 of these rules.
- (2) If the Competent Authority or an Officer(s) appointed to assist the Competent Authority is satisfied that the facts of the case necessitate identification of the properties or assets acquired either in the name of the deposit taker or in the name of any other person on behalf of the deposit taker, the Competent Authority or the Officer(s) appointed to assist the Competent Authority, may procure such details from police authorities utilizing the provisions of sub-section (1) of section 31 of the Act or any other authority as deemed fit or from public through a public notification seeking the details of properties or assets.
- (3) Where the information is sought from the public through the public notification specified in sub-rule (2) of this rule, an advertisement may be released in two prominent local newspapers within a period of fifteen days of receipt of report from the police authorities informing that a prima facie case exists.
- (4) If the Competent Authority, after collecting additional information, is of the opinion that some additional properties of the deposit taker require to be attached, it may do so in accordance with rule 5 of these rules.
- (5) Where the Competent Authority is satisfied that it is necessary to conduct an investigation or inquiry under sub-section (4) of section 7 of the Act, the Competent Authority may issue the following notices :-
 - (i) notice for Information in Form A;
 - (ii) notice for additional information, if any, required in Form B;
 - (iii) final notice for personal attendance of deposit taker or other persons and witnesses in Form C.
- (6) Where an order of Provisional attachment is issued by the Competent Authority under sub-section (3) of section 7 of the Act, it shall, to the extent possible contain the following: -
 - (i) details of the Complaint;
 - (ii) details of the Deposit Taker or Financial entity;
 - (iii) inquiry report from the Police;
 - (iv) report received from regulator if any;
 - (v) complaints received from public;
 - (vi) details of the Proceedings, reasons for attaching such properties, effective date of attachment;
 - (vii) copies of the Notices issued or served and delivery proof, if any;
 - (viii) summary of the findings;
 - (ix) details of property attached, bank account numbers, amount attached, securities including

shares and bonds, attached movable property, approximate value of such property, and in case of immovable property the extent of land, survey numbers and boundaries of such property and name of the title holder of such property; and

- (x) conclusion; and
 - (xi) evidences (attach the evidences or proof).
- (7) The proceedings of the Competent Authority shall record the proceedings under sub section (4) of section 7 of the Act and shall follow due process of law diligently.

5. Manner of provisional attachment and administration of provisionally attached property. –

- (1) A copy of the order of provisional attachment shall be served on the owner of the property, or any person who claims to be in possession of the property or any other person who has an interest in the said property.
- (2) The order of provisional attachment shall be published in a leading local newspaper having wide circulation in the area or jurisdiction in which the deposit taker is located.
- (3) Where the Competent Authority is not able to serve the order of provisional attachment to a person specified in sub-rule (1), then such person shall be deemed to be served the order by the publication of the order in the manner provided under sub-rule (2).
- (4) The Competent Authority shall take possession of the immovable property by affixing the order of provisional attachment at a conspicuous place of such immovable property.
- (5) Where the property to be attached is a moveable property, the Competent Authority shall take actual physical possession of such property and retain it in his custody or the custody of any other officer appointed to assist him.
- (6) The Competent Authority shall maintain a record of the property provisionally attached which shall include details of any expenditure incurred or any costs of management of the property and of any income received from the property.
- (7) The Competent Authority shall assess the assets and the liabilities of the deposit taker and prepare a complete record of depositors from whom the deposit taker has collected deposits pursuant to an Unregulated Deposit Scheme.
- (8) The Competent Authority may appoint a valuer for the purposes of assessing the assets and liabilities of the deposit taker under sub-rule (7).
- (9) Where any property of which possession has been taken is of a perishable nature, the Competent Authority may sell the same keeping in mind the best interest of the depositors.
- (10) The details and proceeds of the sale under sub-rule (9) shall be entered separately by the Competent Authority and maintained in the record as specified in sub-rule (6).

6. Impounding and retention of records. –

- (1) The person from whose custody records are impounded under sub-section (8) of section 7 of the Act may make copies thereof, or take extracts there from, in the presence of an officer authorised by the Competent Authority, at such place and time as the Competent Authority may appoint in this behalf.
- (2) The officer(s) appointed under sub-section (2) of section 7 of the Act shall retain such records in his custody without taking approval from the Competent Authority for a period up to three months, and if the records are necessary to be retained beyond the said period, approval of the Competent Authority shall be required.
- (3) If the person from whose custody records are impounded objects for any reason to the records being impounded, he may make an application to the Competent Authority stating therein the

reasons for such objection and requesting for the return of the records, and the Competent Authority may, after giving the applicant an opportunity of being heard, pass such orders as he thinks fit.

- (4) The officer(s) shall ensure the safe custody of the records impounded and retained in his custody.

7. Application for confirmation of provisional attachment. –

The Competent Authority while filing an application before the Designated Court for making the provisional attachment absolute shall contain the particulars, namely: –

- (a) a complete list of the property, money or deposits attached;
- (b) in case of immoveable property, the name or names and particulars of the owner of the property, any person who claims to be in possession of the property, and any other person who has an interest in the said property;
- (c) the record of the provisionally attached property specified in sub-rule (6) of rule 5 and the valuation report, if any, specified in sub-rule (8) of rule 5;
- (d) a list of the depositors from whom the deposit taker has accepted or collected deposits; and
- (e) a list of dues owed to depositors including amounts that may be realized from sale of any attached property of the deposit taker.

Lalthansanga

Secretary to the Government of Mizoram
Finance Department.

**Form A (see rule 4 (5) (i))
Notice for Information**

To,

Sub :

Sir /Madam,

Based on the information or reports received it is prima facie apparent that _____ (the financial entity or deposit taker) is involved in the Act which are cognizable under the provisions of section 3 of the Banning of Unregulated Deposit Schemes Act, 2019.

In this connection, you are required to submit the following:

- (a) Details of financial entity, registration of the entity, permissions to accept deposits from regulators if any, including unique identification number or Registration and PAN numbers.
- (b) Details of the Promoters, Managing Directors, Directors, Partners, Management persons etc., including unique identification number or Registration and PAN numbers.
- (c) Latest audited Balance Sheet and Profit and Loss accounts filed.

- (d) Details of the Regulator and the copy of registration certificates, permissions to undertake the activity of deposit taking.
- (e) Produce full details of the Scheme of Deposits under which deposits are being collected from public.
- (f) List of the Depositors along with Deposit accepted, Rate of interest, Maturity Date, terms of repayment of interest and principle, any other promises or assurances or commissions payable etc.
- (g) Details of defaults if any in repayment of Deposit or any specified service promised against such deposit along with date of default.
- (h) Total amount in default and number of depositors affected, if any
- (i) Reasons for default, if any
- (j) Steps taken or proposed to repay the amount in default
- (k) Details of the Bank accounts of the financial entity with latest balance in the accounts.
- (l) Details of movable/immovable assets acquired either in the name of the financial entity/deposit taker or any other person on behalf of the financial entity/deposit taker

You are hereby required to submit the full details listed above duly attested, to my office on _____ at _____ either in person or through representative duly authorised in writing in this behalf or produce or cause to be produced at the said time any documents, accounts and any other evidence you may rely in support of the activity or the acts in the matter.

In case you fail to comply with the orders of the under signed, it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a Best Judgment Assessment or an ex-parte order.

Yours faithfully,

(Competent Authority)

Form B (see rule 4 (5) (ii))
Notice for additional information

To,

Sub :

Ref. : 1) Notice in Form A, dated _____

Sir /Madam,

Based on the information or reports received it is prima facie apparent that _____ (the financial entity or deposit taker) the subject financial entity or deposit taker is involved in the Act which are cognizable under the provisions of section 3 of the Act.

Certain further details or clarifications or additional information listed here below are required in connection with the _____ (Deposit Scheme or Chit funds Scheme/Default in repayment of Deposit/or any specified service promised against such deposit). Additional information as mentioned below may be furnished immediately.

- i.
- ii.
- iii.

You are hereby required to attend my office on _____ at _____ either in person or through representative duly authorized in writing in this behalf or produce or cause to be produced at the said time any documents, accounts and any other evidence you may rely in support of the activity or the acts in the matter.

In case you fail to comply with the orders of the under signed, it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a Best Judgment Assessment or an ex-parte order.

Date:

Yours faithfully,

(Competent Authority)

Form C (see rule 4 (5) (iii))
Final Notice

To,

Sub :

Ref. : 1) Notice in Form A, dated _____
2) Notice in Form B, dated _____

Sir /Madam,

Based on the information or reports received it is prima facie apparent that the subject financial entity or deposit taker is involved in the Act which are cognizable under the provisions of section 3 of the Act.

As per Notice in Form A calling details and documents No. _____ dated: _____ you were asked to submit the details and documents but you have failed to submit the details and document called for.

and/or

As per Notice in Form B you were asked to furnish certain additional documents or details and also to attend my office on_____ at _____ either in person or through a representative duly authorized in writing on his/her behalf or produce or cause to be produced at the said time any documents, accounts and any other evidence you may rely in support of the activity or the acts in the matter, but you have failed to appear before me along with the details and document called for.

In view of your not complying with the orders of the under signed, a final opportunity is given to you to submit the details and document called for and/or appear before me along with the details and document called for on_____ at_____ failing which it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a Best Judgment Assessment or an ex- parte order.

Yours faithfully,

Date:

By Order and etc.

(Competent Authority)