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THE CURIOUS CASE OF SARADHA: A TALE OF CHIT FUNDS AND PONZI SCHEMES IN INDIA

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ABSTRACT

In the wake of the biggest ponzi scheme being unearthed in India in the form of the Saradha scam, the question concerning the scapegoating of the chit funds as ponzi schemes has assumed alarming importance. The fraudulent transactions involved in the Saradha scam had almost negligible characteristics of a chit fund. Recently, such ponzi schemes are being run under the guise of chit funds in the country which has become a worrying cause for the enforcement agencies. In the light of the same, the present article discusses the concepts of chit funds (registered and unregistered) and ponzi schemes in the wake of the Saradha scam.

The author argues that the Saradha scam being termed as a 'chit fund scam' is a mere misnomer and the truth is far from that. The article also attempts to distinguish between a chit fund and a ponzi scheme and differentiates the Saradha scandal as a ponzi scheme. The author further talks about the existing regulations governing chit funds, and Ponzi schemes, their inadequacy and clarifies the scope of governance to be exercised by the regulatory bodies on such schemes. In conclusion, the article argues for the need to establish an independent regulator of the whole chit fund industry so as to bring about greater transparency and accountability.

I. INTRODUCTION

‘The diversification of the financial sector of India received a tremendous impetus with the growth of the non-banking financial companies (NBFCs) in the post-liberalization period. Chit fund companies, which are a type of NBFC, gained quick popularity. In a country like India, where almost 63% of the population consists of the low-income group who do not have adequate access to banking facilities, people started investing their money in huge chunks with these companies, which claimed to relieve the financial burden of these individuals. But gradually, these companies started charging an inflated rate of interests on the loans. However, it did not stop there. This eventually gave rise to certain financial operators coming up with different types of Ponzi schemes to exploit the less-educated and less-aware mass of the population. With the growth of the unregulated chit fund market, Ponzi schemes started thriving. Ironically, a venture, which once started as a means to provide for the livelihood of the people, became the cause of misery for the very same people who trusted such schemes with their life’s worth. The Saradha scam, unearthed some disturbing statistics regarding the amount of money which was involved in it and how the perpetrators managed to get away with the loot.

The sheer statistical impossibility of the financial bubble created could not have sustained itself any longer. This is the characteristic of a ponzi scheme which after running for some time is bound to fail under the financial burden it had built up. This is what has happened in the case of Saradha Group of Companies. But questions linger as to whether it was a ‘chit fund scam’ or a mere ponzi scheme which was given the name of a chit fund. The fraudulent financial transactions of Saradha Group of Companies have no trappings whatsoever of chit fund characteristics. These transactions are typical of ponzi schemes intended to generate huge money for its perpetrators at the cost of gullible investors. Saradha scam detection has led to the unearthing of many such ponzi schemes going on in other parts of the country. The investors have reportedly been duped of astronomical amount of more than 40,000 crores, with Saradha

scam amount being pegged at about 30,000 crores.¹ Apart from the Saradha group firms, various other inter-connected entities from such as Rose Valley, Icore E-Services and Sunshine India Land Developers were also involved.² However, with this revelation, the operational and jurisdictional ambits of various governing bodies like the Securities and Exchange Board of India (SEBI), the Reserve Bank of India (RBI), the Central Bureau of Investigation (CBI) etc came to the fore. With the absence of demarcation of roles of the aforementioned bodies in relation to such illegal schemes, the unregulated chit fund market and Ponzi schemes are flourishing.

The first part of the article makes a comprehensive study of chit funds in the Indian scenario, including the regulatory aspects of the governing legislations. The second part discusses the Saradha Scam and the Supreme Court's opinion on the same. The third part deals with the different regulatory bodies associated with such illegal schemes and analyses their duties and functions. The fourth part of the article contains suggestions and recommendations to improve the existing legal structure. The last part is the conclusion of the research article with the personal views of the authors.

II. UNDERSTANDING CHIT FUNDS AND PONZI SCHEMES: CONCEPTUAL AND LEGAL CONNOTATIONS

A. BRIEF HISTORY AND MODUS OPERANDI OF CHIT FUNDS

The chit fund is an age old, traditional non-banking savings scheme prevalent particularly in Southern India and is in general legal, trustworthy and beneficial to the participating members. The generic name of such savings schemes practiced in different countries in the world under

¹ The Economic Times, *Ponzi Schemes stump investors; at least Rs 40,000 cr in limbo*, December 23, 2013, available at http://articles.economictimes.indiatimes.com/2013-12-23/news/45510396_1_saradha-ponzi-schemes-illegal-money-pooling (Last Visited on September 18, 2016).

² Moses Raj G S, *Everything That Chit Funds Can Do : Another Ponzi Scheme Towards Total Bankruptcy*, ISSN 2321 – 4171, available at http://jsslwcollege.in/wp-content/uploads/2013/05/EVERYTHING-THAT-CHIT-FUNDS-CAN-DO_-ANOTHER-PONZI-SCHEME-TOWARDS-TOTAL-BANKRUPTCY.pdf (Last Visited on September 18, 2016).

different names is 'Rosca' or Rotating Savings and Credit Association.³ Rosca is a voluntary grouping of individuals who agree to contribute financially at each of a set of uniformly-spaced dates towards the institution of a fund, which is then assigned to each member of the group in turns; in accordance to a set of predetermined principles.⁴ The Rosca plays a significant role by acting as a financial intermediary in a number of regions of various developing countries. They thrive in both rural and urban settings and in particular cases where a large chunk of the population fails to seek assistance provided by the formal financial institutions. It is also pertinent to note that the turnover of the formal Roscas in the south-Indian state of Tamil Nadu was estimated at a whopping 100 billion rupees (\$2.5 billion) in the year 2001.⁵ For poor and middle class families in rural areas, the meaning of chit funds extended to being introduced to an organized finance outside the sphere of family.

The *modus operandi* goes like this: members assemble at periodic intervals of time to pool in their savings and thereafter a lottery determines who will be the first receiver of the pool.⁶

Though the winner is dropped out of the lottery but he is required to continue contributing to the pool and also to repay the amount at an agreed rate of interest. Such an interest earned is divided amongst the members of the group as their profit. It has been agreed by the economists that such funds play a vital role in giving the required financial help and assistance to poor families. These are also used by micro-finance institutions to set up their own self-help groups. While the initial capital comes from the institution often; it is rolled over by the group and is added to over time.⁷

B. REGISTERED CHIT FUNDS: ANALYSIS OF THE GOVERNING LAW AND ITS REGULATORY ASPECT

The Parliament is competent to enact the chit legislation in view of the provision contained in

³ Olivia Anku-Tsede, *Susu: A Dynamic Microfinance Phenomenon in Ghana*, 151, ISSN 2222-2855(Online), Vol. 4, No. 3, Journal of Economics and Sustainable Development, (2013).

⁴ Catomiris & Indira Rajaraman, *The role of ROSCA, lumpy durables or event insurance?*, National Institute of Public Finance of Public Finance and Policy, available at www.nipfp.org.in/media/pdf/working_papers/WP_1998_169.pdf (Last Visited on September 18, 2016).

⁵ Stefan Klonner, *Understanding Chit Funds: Price Determination and the Role of Auction Formats in Rotating Savings and Credit Association*, Economic Growth Center, Yale University, USA, available at <http://www.web.williams.edu/Economics/neudc/papers/klonner1.pdf> (Last Visited on September 18, 2016).

⁶ The Indian Express, *When Chit Funds are Legit, and how Cheats thrive on Concept*, April 29, 2013, available at <http://archive.indianexpress.com/news/when-chit-funds-are-legit-and-how-cheats-thrive-on-concept/1108915/> (Last Visited on September 19, 2016).Id.

Entry 7 of List III (Concurrent List) of Schedule VII to the Constitution of India.⁸ Chit funds are governed by the Chit Fund Act, 1982. The Prize Chits and Money Circulation Schemes (Banning) Act, 1978 also defines and prohibits any illegal chit fund schemes (e.g. schemes where auction winners are not liable to future payments). The State Governments have regulatory power to control and minimize illegal chit funds and various kinds of ponzi schemes.⁹

1. Chit Funds Act, 1982

Chit Fund Act, 1982 is a central legislation which gives the Central Government power to notify the Act in different states.¹⁰ The Chit Fund Act defines chit as a transaction whether called chit, chit fund, chitty, kuri or by any other name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical installments over a definite period and that each such subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to the prize amount.¹¹

The Act prohibits the operation of those chit funds which are not duly registered under this Act.¹² The Act also says that chit fund business cannot be carried on unless it has a paid-up capital of not less than rupees one lakh.¹³ The Act also provides for the advisory role of the RBI wherein it says that the RBI may provide to any State government such advice on questions of policy concerning the Chit Funds Act if it thinks fit. The RBI may do the same either on its own motion or on the request made by the State Government.

⁸ *Chit Funds – The Evolution, Operational Scernario, Role and Regulatory Framework*, 117, available at http://ir.inflibnet.ac.in:8080/jspui/bitstream/10603/8650/12/12_chapter%204.pdf (Last Visited on September 18, 2016).⁹ Nitin Nemani, *Enacting SEBI's Powers*, The PRS Blog, September 4, 2013, available at <http://www.prsindia.org/theprsblog/?tag=sebi> (Last Visited on September 18, 2016).

¹⁰ See generally The Central Act, 1982 has repealed the state laws of the Andhra Pradesh Chit Fund Act, 1971; the Kerala Chitties Act, 1975; the Maharashtra Chit Fund Act, 1974; the Tamil Nadu Chit Fund Act, 1961; the Uttar Pradesh Chit Fund Act, 1975; the Goa, Daman and Diu Funds Act, 1973 and the Pondicherry Funds Act, 1966.

¹¹ See The Chit Funds Act, 1982, § 2(b).

¹² *Id.*, § 4.

¹³ *Id.*, § 8.

Some of the state legislations governing chit funds are the Tamil Nadu Chit Funds Act 1961, the Kerala Chitties Act 1975, the Maharashtra Chit Fund Act 1975, the Chit Funds (Karnataka) Rules 1983 etc. However, there are certain states which are yet to enact rules regulating chit funds in their respective states. A recent issue regarding state legislations on chit funds has been the provision for the mandatory registration of chit funds only in certain states. This has led to chit fund companies belonging to one particular state, operating their chit fund business in another state where the Act doesn't provide for mandatory registration. The stringency of some of the Kerala Chit Act provisions like the 5% cap on foreman's commission or the amount of foreman's deposit etc pushed some of the private chit fund operators from Kerala to Haryana.

However, the Supreme Court in the year 2012, out a stop to this practice by ruling that the scope of operation of a chit fund extends only to the boundaries of the state where it is registered.¹⁵

Section 61 of the Act empowers the respective state government to appoint the Registrar to deal with all the chit fund schemes functioning in territory of that state.¹⁶ The Registrar has been given vital power to scrutinize the working of chit funds which includes his power to audit the scheme if he is of the opinion that the accounts of any chit are not properly maintained.¹⁷ The Act also makes the respective State Governments as the Appellate Authority to the Registrar in case of appeal against the order of the Registrar. The Act also gives responsibility to the respective State Governments to wind up the working of a chit fund in case it is running in losses.¹⁸ For investigative purposes, the power lies in the hands of the State Police authorities and more specifically with the Anti-Criminal Breach of Trust Section – Economic Offence Wing of State.¹⁹ Thus, it can be concluded that the Chit Fund Act, 1982 is a well-defined legislation for registered chit funds but it falls short when it comes to the governance of unregistered chit funds.

¹⁵ Narendra Nathan , *Are Chit Funds for You? Tips to gain from them*, The Economic Times, May 6, 2013, available at http://articles.economictimes.indiatimes.com/2013-05-06/news/39065483_1_chit-fund-kitty-party-first-month (Last Visited on September 18, 2016).

¹⁶ *See generally* The Chit Funds Act, 1982, § 61(3) (states that all the inspectors of chits and chit auditors shall discharge the duties imposed upon them or by under this Act under the general superintendence and control of the Registrar).

¹⁷ The Chit Funds Act, 1982, § 61(4).

¹⁸ *State govts responsible for regulating Chit Funds: Officials*, April 24, 2013, available at http://articles.economictimes.indiatimes.com/2013-04-24/news/38790628_1_saradha-group-chit-funds-act-money-circulation-schemes (Last Visited on August 18, 2015).

¹⁹ *White Paper*, The HinduBusinessLine, May 2013, available at http://www.thehindubusinessline.com/multimedia/archive/01091/WhitePaper_BackMon_1091518a.pdf (Last Visited on September 18, 2016).

The Central Board of Excise and Customs (CBEC) in the year 2007 confirmed that Service Tax was chargeable on Chit fund business.²⁰ In the Circular, CBEC included Chit fund business under the 'Banking and Other Financial services' head. Thus, the foreman was required to pay Service tax for conducting Chit fund businesses. However, the aforementioned Master Circular was quashed by the Andhra Pradesh High Court in *Andhra Pradesh Federation of Chit Funds v. Union of India*.²¹ This decision was further confirmed by the Supreme Court in *Union of India v. Andhra Pradesh Federation of Chit Funds*,²² wherein the Apex Court dismissed the special leave petition which was filed against the decision of the AP HC.

The CBEC by an Abatement Notification,²³ provided that for services provided in relation to Chit funds, only 70% of the gross amount is chargeable to Service Tax. However, the Delhi High Court, in the case of *Delhi Chit Fund Association v. Union of India*,²⁴ quashed the Entry No. 8 of the aforementioned Abatement Notification and held that the activities of the foreman conducting the Chit fund, does not fall under the ambit of 'service' as provided under Section 65B(44) of the Finance Act, 1994. The Supreme Court further cemented this decision by dismissing the SLP filed against the judgment of the Delhi High Court.²⁵

However, in the recent Financial Budget of 2015, the Union Finance Minister of India has withdrawn the service tax exemption on chit funds (which of course will be largely applicable on registered chit funds),²⁶ and higher service tax will lessen the profit margin of the foremen and will make them opt for unregistered chit funds wherein the profit margin would be much higher. This would eventually lead to such foremen falling prey to illegal Ponzi schemes.

2. The Price Chit and Money Circulation Schemes (Banning) Act, 1978

²⁰ *Master Circular No. 96/7/2007-ST*, Ministry of Finance, Government of India, August 23, 2007, available at http://www.servicetax.gov.in/circular/st-circular07/st_circ_96-2k7.htm (Last Visited on September 18, 2016).

²¹ *Andhra Pradesh Federation of Chit Funds v. Union of India*, 2009 [13] ST.R. 350 (AP).

²² *Union of India v. Andhra Pradesh Federation of Chit Funds*, (2015) 53 taxmann.com 237 (SC).

²³ *Entry No. 8 of the Abatement Notification No. 26/2012-ST*, (effective from July 1, 2012), June 20, 2012, available at <http://www.servicetax.gov.in/notifications/notfns-2012/st26-2012.htm> (Last Visited on September 18, 2016).

²⁴ *Delhi Chit Fund Association v. Union of India*, 2013 [30] STR 347 (Del.).

²⁵ *Union of India v. Delhi Chit Fund Association*, (2014) 42 taxmann.com 52 (SC).

²⁶ *Budget : Chit funds & Lottery Ticket Sales to face Wrath of Service Tax*, News-Portal India, March 2, 2015, available at <http://newsportalindia.com/budget-chit-funds-lottery-ticket-sales-to-face-wrath-of-service-tax/> (Last Visited on September 18, 2016).

On the recommendations of a study group headed by Dr. J.S. Raj constituted by the RBI in 1974, the Prize Chit and Money Circulation Schemes (Banning) Act, 1978 (PCMCS (Banning) Act, 1978) became a central legislation in India.²⁷ The PCMCS (Banning) Act, 1978 defines and prohibits any illegal chit fund schemes (e.g. schemes where auction winners are not liable to future payments),²⁸ and , if a chit fund company cheats by way of a fraudulent scheme, the same will amount to an offense.²⁹ The rule-making power under the Act is vested in the concerned State Governments by delegation and hence, the implementation of the same would be done by the respective state governments. The State Governments have power to make necessary rules with the consultation of the RBI under the PCMCS (Banning) Act, 1978.³⁰ However, the powers of amendment have been vested with the Parliament and an amendment can be moved by the Ministry of Finance, the Ministry of Industry and the Commerce and Ministry of Consumer Affairs.

Under the PCMCS (Banning) Act, 1978, money circulation scheme is defined as, “*any scheme, by whatever name called, for the making of quick or Easy money, or for the receipt of any money or valuable thing as the consideration for a promise to pay money, on the event or contingency relative or applicable to the enrollment of members into scheme, whether or not such money or thing is derived from the entrance money of the members of such scheme or periodical subscriptions*”.³¹ Section 3 of the Act bans such aforementioned activities and provides for imprisonment extending up to three years and fine extending up to five thousand rupees as penalty for offences in connection with prize chits and money circulation schemes.³² Under the same provision of the Act, the power of investigation has been vested with the respective State Police Departments and includes the power to search and seize, examine any person who is connected with money circulation scheme, etc. A complaint can be filed against any of these

²⁷ *Money Circulation Scheme or Money Cheating Scheme act*, available at <http://apextelecomscam.blogspot.in/2015/05/money-circulation-scheme-or-money.html> (Last Visited on August 18, 2015).

²⁸ Vishnu, *Chit Funds: Q & A*, May 23, 2013, available at <http://www.prindia.org/theprsblog/?p=2678> (Last Visited on September 19, 2016).

²⁹ *Chit Fund Companies*, Press Information Bureau, Ministry of Corporate Affairs, Government of India, February 24, 2015, available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=115736> (Last Visited on September 20, 2016).

³⁰ See The Prize Chits and Money Circulation Schemes (Banning) Act, 1978. § 13 (*hereinafter* the PCMCS (Banning) Act, 1978).

³¹ *Id.*, § 2(c).

³² *Id.*, § 4.

banned schemes with the State Police or the Economic Offence Wing so as to stop the scheme from operating. Section 4 of the Act imposes penalty for the contravention of Section 3 of the Act which bans promotion and conduct of any prize chit or money circulation scheme.³⁴

Operating and accepting money on behalf of such schemes is a cognizable offence and collecting of prize chit is punishable under Section 294-A of the Indian Penal Code, 1860.³⁵ The scope of the penalty also extends to every person who is in-charge of the companies which are responsible for running such businesses except in the situation where it is proved that the offence was committed without their knowledge or that they exercised due diligence to prevent the commission of such offence.³⁶

Companies (Incorporation) Rules, 2014 framed under the Companies Act, 2013, to ensure better identification of Chit Fund Companies, provides that if the company's main business is financing, leasing, chit fund, investments, securities or combination thereof, its incorporation shall not be allowed unless its name is indicative of such related financial activities, viz., Chit Fund or Investment or Loan, etc.³⁷

The government has formed an inter-ministerial group which has been reportedly working fast on the changes to be made in the Act so as to curb the practices effectively.³⁸ It is suggested that the Central Government should take all the regulatory and administrative aspects into consideration before amending the Act.

A. UNREGISTERED CHIT FUNDS: NEED OF IMMEDIATE REGULATION

³⁴ See generally The PCMCS (Banning) Act, 1978, § 3 (prohibits to promote or conduct any prize chit or money circulation scheme, or enroll as a member to any such chit or scheme, or participate in it otherwise, or receive or remit any money in pursuance of such chit or scheme).

³⁵ *All You Wanted to know about NBFCs*, available at http://www.dif.mp.gov.in/faq_rbi_finentities.pdf (Last Visited on September 18, 2016).; See generally The Indian Penal Code, 1860, § 294-A (prohibits acts relating to the business of lottery).

³⁶ See The PCMCS (Banning) Act, 1978, § 6.

³⁷ See Companies (Incorporation) Rules, 2014, Rule 8(2)(b)(iii), Notification, Ministry of Corporate Affairs, available at http://www.mca.gov.in/Ministry/pdf/NCARules_Chapter2.pdf (Last Visited on September 18, 2016).

³⁸ The Economic Times, *Ponzi menace: Government starts process to plug loopholes in rules*, February 22, 2015, available at http://articles.economictimes.indiatimes.com/2015-02-22/news/59386692_1_ponzi-schemes-fraudulent-investment-schemes-chit-funds (Last Visited on September 18, 2016).

With so much transparency and legality surrounding the working of registered chit funds in the country, negative speculations still haunt them. The primary reason for creation of a negative image of chit funds is the mushrooming of certain unregistered chit funds.

Generally, the working of unregistered chit funds is almost similar to that of a registered chit fund but with the sole exception of not being included under Chit Funds Act, 1982. Due to the highly unregulated market of unregistered chit funds and illegal money pooling schemes in the country, the organizers of the same are likely to dupe the investors of their money. Unlike the registered chit fund industry where it is obligatory on the part of the organizer to keep the money in a bank equivalent to the value of scheme, there are no such obligations on organizers of unregistered chit funds, which lessens the chances of refund of the money. It is necessary for a foreman to either register his chit scheme or take sanction from the respective state government to conduct or commence his chit fund scheme.³⁹ Unregistered chit funds are not legalized schemes and these are run informally by the people who are generally members of the religious group or a reputed person in an area or village, reliable to everyone in that community.⁴⁰

Unsurprisingly so, the business of unregistered chit funds is far bigger than the registered or legal chit funds in India. A chit fund organizer faces less stringent conditions in the running of the unregistered chit fund scheme and moreover, he also has high profit margin due to less cost incurred by him in the same.⁴¹ *Vox populi* suggests that unregistered chit funds promise to provide a higher rate of outcome in comparison to registered chit funds. Thus, even though there is a huge risk of losing money in unregistered chit funds, the natural human tendency of earning higher benefits makes people go for unregistered chit funds even in metropolitan cities, where people are considered to be more aware. That is the reason why even in city like Delhi, the unregistered chit fund industry is 67 times larger than the registered chit fund industry.⁴² In addition, there are other reasons as well which make people invest in unregistered chit funds like

³⁹ See The Chit Funds Act, 1982, § 4(1).

⁴⁰ *supra* note 8, 172.

⁴¹ Preethi Rao, *Chit Funds – A Boon to the Small Enterprises*, Institute for Financial Management and Research, 5, (Small Enterprise Financial Centre, Working Paper Series), available at <http://www.aiacf.com/sites/default/files/table%20reports/Chit-Funds-Boon-to-Small-Enterprises.pdf> (Last Visited on September 20, 2016).

⁴² Namrata Acharya, *Unregistered Chit Funds having a Field Day*, July 25, 2010, available at http://www.business-standard.com/article/finance/unregistered-chit-funds-having-a-field-day-110072500020_1.html (Last Visited on September 20, 2016).

easy access to money, no processing delays, quick arrangement of money, lesser procedural formalities, and accessibility to low income people.⁴³ Hence, in general, the size of the unregistered chit fund industry is estimated to be almost 100 times that of the registered chit fund industry.⁴⁴ In 2010, the total size of unregistered chit funds was almost 30 lakh crore,⁴⁵ and the industry's growth has increased manifolds since then, which is a serious concern for the country's economy as it amplifies the black money market in the country.

B. PONZI SCHEMES: DRAWING THE DISTINCTION

The concept of Ponzi schemes which was started by Charles Ponzi in the 1920s,⁴⁶ continues till the present date in myriad different versions. The USA Securities and Exchange Commission describes ponzi scheme as an investment fraud that involves the payment of purported returns to existing investors from funds contributed by new investors.⁴⁷ The *modus operandi* of ponzi schemes begins with persuading people by offering an opportunity to invest in a business which is projected as a legal and promising scheme with huge dividends to investors. As the scheme progresses, the money of the new investors is given to the old investors as profit so as to create an illusion in the minds of the investors that they have indeed earned the promised profits. Observing the same, new investors start becoming members of this so-called profitable venture and the scheme grows bigger. As the scheme increases in leaps and bounds in a short span of time, it becomes a highly complicated 'financial bubble', which ultimately bursts and causes a financial catastrophe in which all the investors associated with the scheme take a major hit while the organizers walk free with fat pockets of cash. These illegal ponzi schemes can also start in the form of legal collective investment schemes (CIS) and multi level marketing schemes (MLMs).

⁴³ *supra* note 8, 173.

⁴⁴ R Vaidyanathan, *Don't kill the chit fund; Saradha wasn't a chit anyway*, May 22, 2013, available at <http://www.firstpost.com/business/dont-kill-the-chit-fund-saradha-wasnt-a-chit-anyway-804601.html> (Last Visited on September 20, 2016).

⁴⁵ RAO, *supra* note 41.

⁴⁶ *Charles Ponzi Biography*, Criminal (1882-1949), available at <http://www.biography.com/people/charles-ponzi-20650909> (Last Visited on September 20, 2016).

⁴⁷ *Ponzi Schemes – Frequently Asked Questions*, U.S Securities and Exchange Commission, June 23, 2012, available at <http://www.sec.gov/answers/ponzi.htm> (Last Visited on September 20, 2016).

Every financial scheme has certain basic principles which if not followed could result in a collapse of the whole process. For that matter, a financial scheme embodies a basic principle that the investors are not just supposed to take new investors' money as their profit which in fact happens in a ponzi scheme. A ponzi scheme works similarly as it keeps continuing till the flow of money takes place by the addition of new investors. Thus, these schemes have earned the infamous epithet 'Robbing Peter to Pay Paul'. This method was followed by Charles Ponzi as he paid dividends on his notes with money collected from subsequent investors which in turn required him to find yet more investors to cover his increasing liabilities.⁴⁸

However, it is of utmost essence that rather than going by the name of the scheme, an investor should scrutinize the nature of the scheme by checking legal procedural compliances, the⁴⁹ frequency of profit making, background of the promoters of the Chit fund, etc. Since these kinds of schemes carry a huge chunk of the investor's money, the regulatory bodies or the appropriate government bodies should also tread carefully while identifying the true nature of scheme and deal with them accordingly.

III. SARADHA SCAM: WAKE UP CALL FOR THE GOVERNMENT

A. BACKGROUND OF THE CASE

While Charles Ponzi perfected the scheme to lure and dupe the investors, Mr. Sudipto Sen, a highly enterprising fraudster, took the scheme to a higher level by collecting investments on promises of high returns from more than a hundred companies established for the purpose mostly in 2006. Not only that, he gave his companies an aura of religiosity and faith by naming the group 'Saradha', after 'Saradha Devi', a revered spiritual figure in West Bengal. It is apt to state here that the illegal schemes of Saradha group of companies were allowed to run virtually under

⁴⁸Becky Laughner, *Robbing Peter to Pay Paul: Ponzi Schemes Throughout History*, 16, Financial History – Spring 2010, available at http://www.moaf.org/publications-collections/financial-history-magazine/97/_res/id=File1/Ponzi%20article.pdf (Last Visited on September 18, 2016).

⁴⁹*What is a Chit Fund, Chit Fund*, available at <http://business.mapsofindia.com/investment-industry/chit-funds.html> (Last Visited on September 18, 2016).

patronage of the ruling party bigwigs and Government officials in West Bengal, everybody involved getting a windfall from investors' money.

The Saradha group, a pool of 200 private companies ran collective investment schemes which turned out to be ponzi schemes,⁵⁰ and collected a staggering amount of Rs 200 to 300 billion,⁵¹ from over 1.7 million depositors.⁵² The mega ponzi scam came down in April 2013 following the suicides of many investors who had lost their hard-earned money in the scheme. The Central Government through the Enforcement Directorate and the Income Tax Department launched a probe to investigate into the Saradha scheme and similar other schemes.⁵³ Complaints were filed against the perpetrators under Sections 107 (Abetment of Crime), 120B (Criminal Conspiracy), 403 (Dishonest misappropriation of property), 406 (Criminal breach of trust), 409 (Criminal breach of trust by public servant), 415 (Cheating), 418 (Cheating with knowledge that wrongful loss will be caused), 419 (Punishment for cheating by impersonation) and 477A (Falsification of accounts) of the Indian Penal Code, 1860.⁵⁴

Along with other investigative agencies, the Serious Fraud Investigation Office (SFIO) came out with its finding that the 'chit fund scam' of 14 Saradha group firms was in fact running 'ponzi schemes'.⁵⁵ Thus, what started out like any other chit fund scheme, turned out to be an illegal ponzi scheme which affected the lives of hundreds of investors. It is vital to mention here that chit funds are made scapegoats by the ponzi operators when they tag their illegal schemes as chitfund schemes. The jurisprudence on this aspect, in the Indian scenario, is still marred by multiple questions and confusions.

⁵⁰ The Telegraph, *Chitti Chitti Bang Bang*, April 30, 2014, available at http://www.telegraphindia.com/1130501/jsp/bengal/story_16847319.jsp#.VFomeTSUePR (Last Visited on October 1, 2016).

⁵¹ Soudhriti Bhabani, *Anger mounts over Saradha fund crisis as thousands of depositors face ruin*, Daily Mail, April 23, 2013, available at <http://www.dailymail.co.uk/indiahome/indianews/article-2313658/Anger-mounts-Saradha-fund-crisis-thousands-depositors-face-ruin.html> (Last Visited on October 1, 2016).

⁵² Romita Dutta, *Saradha raised deposits from 1.7 mn people, probe finds*, LiveMint, June 20, 2012, available at <http://www.livemint.com/saradha/deposits> (Last Visited on October 1, 2016).

⁵³ Mithun Dasgupta, *60 firms like Saradha Group operating in Bengal*, The New Indian Express, April 26, 2013, available at <http://www.newindianexpress.com/nation/60-firms-like-Saradha-Group-operating-in-Bengal/2013/04/26/article1562747.ece?service=print> (Last Visited on October 1, 2016).

⁵⁴ *Saradha was Running Ponzi Schemes, to Face Serious Fraud Investigation Office*, September 15, 2014, available at <http://www.ndtv.com/india-news/saradha-was-running-ponzi-schemes-to-face-prosecution-serious-fraud-investigation-office-666615> (Last Visited on October 1, 2016).

⁵⁵ *Saradha group cos will face prosecution for violation of several laws: SFIO*, September 15, 2014, available at <http://www.thehindubusinessline.com/news/sfio-completes-probe-in-saradha-scam/article6412254.ece> (Last Visited on October 1, 2016).

B. **REMARKS OF THE SUPREME COURT**

After the transfer of the investigation to the CBI in May, 2014 by the Supreme Court, the Central Agency so far has found that a maze of 338 bank accounts and 224 companies, which were used by the perpetrators of the ponzi scam for duping investors in various states including West Bengal, Odisha and Assam.⁵⁶ The Supreme Court is dissatisfied with the role of regulatory bodies like RBI and SEBI as it slammed both by saying that these were largely responsible for ‘scams of such magnitude not just taking birth but flourishing unhindered’.⁵⁷ The Central agency has also questioned the role of one of the SEBI officials for the alleged role in the Saradha Scam.⁵⁸ A bench of Justices T S Thakur and Adarsh Kumar Goel said that the court, at the time of ordering a CBI probe into chit fund scams in West Bengal, had also entrusted the CBI with the task of conducting a probe into the role of the RBI and the SEBI in the entire episode.⁵⁹

The SEBI has also argued before the Court that since these schemes are in the nature of Ponzi Schemes and other fraudulent collective investment schemes which are operated via chit-fund companies, they do not fall within the SEBI’s jurisdiction.⁶⁰ However, the Court took into consideration the two notices sent by the SEBI to these companies which include ordering them to wind up their allegedly fraudulent operation and refunding the money borrowed from the people.⁶¹ Moreover, the alleged role of the SEBI official also compelled the Court to make such a strong remark on the SEBI.

⁵⁶ *Saradha Scam: To pay back investors, ED asks Court’s nod to auction assets*, May 20, 2015, available at <http://www.firstpost.com/india/saradha-scam-to-pay-back-investors-ed-seeks-courts-nod-to-auction-assets-2254724.html> (Last Visited on October 1, 2016).

⁵⁷ Harish V Nari, *Apex Court slams RBI and SEBI over chit fund scams*, February 13, 2015, available at <http://www.dailymail.co.uk/indiahome/indianews/article-2952866/Apex-court-slams-RBI-SEBI-chit-fund-scams.html> (Last Visited on October 1, 2016).

⁵⁸ Devesh K. Pandey, *Saradha Scam: accused say bribes paid to SEBI official*, January 27, 2015, available at <http://www.thehindu.com/news/national/other-states/saradha-scam-accused-say-bribes-paid-to-sebi-official/article6824588.ece> (Last Visited on October 1, 2016).

⁵⁹ *Investigate role of RBI, SEBI, apex court tells CBI*, February 14, 2015, available at <http://indianexpress.com/article/india/india-others/investigate-role-of-rbi-sebi-apex-court-tells-cbi/> (Last Visited on October 1, 2016).

Saradha Scam – SEBI, RBI Upbraided by the Supreme Court for Looking the Other Way, February 14, 2015, available at <http://lawyerslaw.org/saradha-scam-sebi-rbi-upbraided-by-the-supreme-court-for-looking-the-other-way/> (Last Visited on October 1, 2016).

⁶⁰ *Id.*

IV. CURRENT REGULATORY PARADIGM: DISARRAYED REGULATORY

BODIES?

As previously mentioned, both unregistered chit fund schemes and ponzi schemes are highly unregulated financial markets. In the same aspect, it is pertinent to discuss the regulatory aspects of chit fund schemes (both registered and unregistered) and ponzi schemes so as to have a better legal understanding of the topic.

A. RESERVE BANK OF INDIA

Chit Funds are a type of Non-Banking Financial Companies (NBFC), but they are exempted from the requirement of registering with the RBI in order to run the schemes.⁶² Hence, the term ‘deposit’ under Section 45(1)(bb) of the RBI Act, 1934 does not include the amount received by way of subscriptions in respect of a Chit.⁶³ Though the RBI does not have regulatory powers over chit fund schemes, it can give suggestions to State Governments for the effective regulation of schemes in their respective states. Since the money involved in the chit fund schemes go through the banks, the RBI has taken steps from time to time like prohibiting chit fund companies to accept deposits from the public from 2009.⁶⁴ Very recently, the RBI has allowed the Non-Resident-Indians (NRIs) to invest in Chit Funds on non-repatriation basis without a particular limit, which is being hailed as welcome step in the development of chit fund industry.⁶⁵

Non-Banking Financial Companies, FAQs, The Reserve Bank of India, available at <https://www.rbi.org.in/Scripts/FAQView.aspx?Id=71> (Last Visited on October 3, 2016).

⁶³ *See generally* The RBI Act, 1978, § 45(1)(bb) (defines ‘deposit’ as to have included any receipt of money by way of deposit or loan or in any other form. However, exception of amount received by way of subscriptions in respect of a chit has also been included in the definition of ‘deposits’ to exclude the regulatory power of RBI over Chit Fund Schemes).

All You Wanted to know about NBFCs, available at http://www.dif.mp.gov.in/faq_rbi_finentities.pdf (Last Visited on October 3, 2016).

RBI/2014-15/636, Notifications, Subscription to Chit Funds by Non-Resident Indian on Non-Repatriation Basis, June 11, 2015, available at <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=9780&Mode=0> (Last Visited on October 3, 2016).

B. SECURITIES AND EXCHANGE BOARD OF INDIA

The SEBI Act, 1992 regulates the Collective Investment Schemes (CIS), in which the funds of investors are pooled, and profits yielded are managed on behalf of investors.⁶⁶ Earlier, Section 11 AA of the Securities and Exchange Board of India Act, 1992 specifically excluded a chit fund business (as defined under Section 2(d) of the Chit Fund Act, 1982) from the purview of the CIS Regulations”.⁶⁷ However, after the collapse of Saradha Scam in West Bengal, a need for a new regulator for chit funds was felt and it was decided that the SEBI should act as the regulator of such illegal schemes till a new regulator is decided. There was an ordinance promulgated in July, 2013 which provided additional powers to SEBI but it lapsed in the month of January, 2014, after three ordinance periods.

Following that, the Parliament passed the Securities Law (Amendment) Bill, 2014 which brought two important amendments in Section 11AA of the Act.⁶⁸ Firstly, a new sub-section 2A has been inserted into the Act which empowers the SEBI to frame regulations for any scheme which is considered as a collective investment scheme, without prescribing any guidelines on the same. Secondly, a proviso under sub-section (1) has been added to enable the SEBI to investigate any corpus of funds equivalent to Rs. 100 crore or more which is not regulated by any other sectoral regulator.⁶⁹ Now, since the SEBI has been given power to deal with illegal schemes, it is important for SEBI to exercise the same effectively so that these schemes are nipped in the bud. There have also been some skeptical views regarding the scope of power granted to the SEBI that if the delegated authority provided to SEBI to frame regulations for collective investment scheme is tested on the anvil of constitutionality and in the backdrop of the Supreme Court⁷⁰ judgment in the case of *In Re Delhi Laws Act* it might be considered as a case of excessive

⁶⁶ NEMANI, *supra* note 9.

See generally Home, Securities and Exchange Board of India, available at http://www.sebi.gov.in/faq/cis_faq.html (Last Visited on October 3, 2016).

⁶⁸ *See also* The Securities (Amendment) Bill, 2014 was passed by the Lok Sabha on 6th August 2014 and subsequently by the Rajya Sabha on 12th August, 2014.

Securities Law (Amendment) Bill, 2014, available at http://www.indiacode.nic.in/acts2014/27_of_2014.pdf (Last Visited on October 1, 2016).

⁷⁰ *In Re the Delhi Laws Act, 1912 v. The Part C States (Laws) Act, 1950*, AIR 1951 SC 332.

delegation of power.⁷¹ Barring fundamental flaws as discussed above, if SEBI exercises newly acquired powers effectively, the present amendment can be a significant step to regulate the numerous illegal schemes in India.

C. STATE LAWS TO PROTECT THE INTERESTS OF DEPOSITORS

After the Hon'ble Supreme Court's upholding of the constitutionality of 'Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997',⁷² there have been many states which have passed similar Acts to provide relief to the depositors/investors in their respective states.⁷³ The State Governments' role is not only to take steps to stop the emergence of illegal schemes at the earliest, but also to refund the money which had been extracted from innocent investors. Through these Acts, the State Governments aim to include punitive provisions for the culprits as well as relief provisions for the depositors by way of attaching and selling the culprit's property and distributing the proceeds amongst the depositors.⁷⁴ Moreover, these Acts also provide power to District Magistrates to take actions against any entity collecting unauthorized deposits from its premises. Thus, not just passing of these Acts is important but their effective implementation should be the top priority of State Governments.

Thus, from the aforementioned discussion on regulatory bodies, it can be observed that despite being granted with sufficient powers for regulation, the lack of co-ordination and proper demarcation of their governing roles, these bodies have been unsuccessful in curbing the growth of illegal money schemes.

⁷¹ Mubashshir Sarshar, *The Securities Laws (Amendment) Act, 2014 – A Critical Analysis*, September 7, 2014, available at <http://indiakorplaw.blogspot.in/2014/09/the-securities-laws-amendment-act-2014.html> (Last Visited on October 1, 2016).

K.K. Baskararn v. State of Tamil Nadu, (2011) 3 SCC 793.

⁷² See generally The Maharashtra Protection of Interest of Depositors, 1999; the Bihar Protection of Interest of Depositors Act, 2002; the Jharkhand Protection of Interest of Depositors (in Financial Establishments) Act, 2011; the Karnataka Protection of Interest of Depositors (in Financial Establishments) Act, 2004; and the very recent one after Saradha Scam in West Bengal, i.e., the West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2013.

⁷³ See generally The Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997, § 5 (provides 10 years' imprisonment and Rs. 1 Lac Fine for the culprits, and Section 3 & 4 of the Act enables the competent authorities to attach & sell the properties and disburse the money to the depositors).

V. DILAPIDATING GOVERNING STRUCTURE: NEED FOR DRASTIC

OVERHAULS

The most worrying aspect of Chit Funds is the potential for abuse by the foreman who in order to secure illegal gains resorts to unfair methods. An example of such a practice is the enrolment of fictitious members to fulfill the requisite number of members in a chit process. At times, a desperate non-prized member might face exploitation at the hands of a foreman when he is given the prize at a very high discount. The foreman might also employ delaying tactics to disburse the prize amount on grounds of inadequacy of security offered, while he uses the prize money devoid of interest.⁷⁵ The aforementioned scenarios prove the huge scope of misuse and abuse of chit funds in the absence of proper and effective regulatory measures.

Amendment of the most important legislation in the country governing Chit Funds is the need of the hour in light of the growing menace of illegal activities concerning such funds. In section 2(b) of the Chit Funds Act, which gives the definition of 'chit funds', there is a requirement to insert an explanation to distinguish chit funds from 'Prize chits', which are prohibited under a different legislation. The word 'prohibition' in the heading of Section 12 of the Act which talks about transacting other business with State Government's permission, is misleading and should be replaced with a word like 'permission' to give it more clarity. The 'physical presence' of two subscribers at a chit fund auction as provided under Section 16 of the Act, should be replaced by 'proxy presence' so as to bring about more practicality to the process and ensure better transparency. Keeping in mind the interests of the subscribers' emergency financial needs, the restrictions provided under Section 14, 21(1) and 22 of the Act should be suitably modified to cater to such emergency needs.

The Advisory Group's report is yet to materialize due to the lack of central-state cooperation. It is surprising that the perception of the government is still negative even after discovering the potential of the industry and conducting a detailed study on the same.⁷⁶ The Advisory Group suggested Insurance Coverage on the money of the subscribers which remain in the hands of the

⁷⁵ *supra* note 8, 153.

R Vaidyanathan, *Don't kill the Chit fund; Saradha wasn't a chit anyway*, May 22, 2013, available at <http://www.firstpost.com/business/dont-kill-the-chit-fund-saradha-wasnt-a-chit-anyway-804601.html> (Last Visited

on October 1, 2016).



foreman. This initiative could serve a dual purpose of safeguarding the subscribers' money as well as bring good business to chit fund companies. Another pertinent suggestion is revamping the management structure of Chit Fund companies so as to ensure better reliability and effective handling of transactions. Constitution of a Grievance Redressal Cell may help in smoothening out the disputes relating to such companies.

Unregistered chit funds have mushroomed in plenty over the last few years and are operating ceaselessly without any governmental control. In consequence of the same, registered companies have ceased operating small ticket schemes. Steep operating costs is another reason which has pushed registered companies to close down operations and thus forcing low income people to beat the doors of unregistered chit fund companies where money accessibility is easy but comes at high risks. While formulating a regulatory structure, the Government should keep in mind the interests of such low income people and make efforts to ensure that they are not duped of their hard-earned money by corrupt foremen operating chit funds. There is over-regulation of chit funds but very little governance. The stringency of the chit fund regulations are higher than that of banking regulations, which compels people to go to unregistered chit fund companies.⁷⁷

According to the Deputy Governor of RBI, Mr. S.S. Mundra, many of the illegal activities which are carried out by chit fund companies fall under a regulatory vacuum and determining the governing body for the same is very difficult.⁷⁸ This situation has arisen because instead of an activity-based regulation we have institution-specific regulation, which pushes certain activities into the gray area.⁷⁹ The State Governments play a vital role in this place to monitor the unauthorized collection of deposit and prosecute the offenders. The State Governments should also try to develop a two-way communication system with the regulatory bodies to immediately inform the other of any illegal or unauthorized financial activities that take place. The absence of any sort of coordinated effort fails to create deterrent effect for fraudsters.

The authors are of the opinion that the governing ambit of Ponzi Schemes becomes impossible to determine because they fall outside the regulatory radar. To prevent people from falling prey to

⁷⁷RAJ G S, *supra* note 2.

Oommen A. Ninan, *Regulators should coordinate to end ponzi scheme menace, says RBI*, June 8, 2015, available at <http://www.thehindu.com/business/Economy/regulators-should-coordinate-to-end-ponzi-scheme-menace-says-rbi/article7295282.ece> (Last Visited on October 1, 2016).

⁷⁸*Id.*

such schemes, new small and payments banks, which support the case of financial inclusion shall be established. The immense importance on business correspondents for reaching out to people has also helped in furthering the ambit of people who can now bank through authorized channels.⁸⁰ A fragmented regulatory system ignores the need for coordinated action amongst regulators and addressing the solvency of financial entities on a group-wide basis.⁸¹ Inconsistent treatment meted out to chit funds make them vulnerable to ponzi schemes because of varying enforcement levels across different states.⁸² Thus, a regulation should clarify the jurisdiction of a particular institution in governing a chit fund and shouldn't be kept open for multiple interpretations. The need of the hour is the establishment of a regulator, which would be formed by the Central Government and shall be given enough machinery to operate and bring the perpetrators to justice by coordinating with the State Governments and the local police force.⁸³ Presently, an Inter-Ministerial Group constituted by the Government is working on a comprehensive set of guidelines to deal with illegal money-pooling activities.⁸⁴ It is also important on the part of the investor to look into the registration details of a chit fund company, if it is incorporated under the Companies Act or the Chit Funds Act. It is recommended that in order to commence chit fund business in India, the promoters of the said company should first start a Private Limited Company with the object of carrying out chit fund business. Once incorporated, the company can apply to the Chit Fund Registrar of the state to obtain registration. The Central Government's Jan Dhan Yojna, which seeks to bring in the poor into the banking network, will hinder them from going to chit fund companies.⁸⁵ Providing the poor people with a bank account will gradually cease the operations of chit funds. Two major impediments faced by people are the lack of financial literacy and discipline, and unawareness. Financially illiterate

⁸⁰ *Banks should share blame for Ponzi Schemes: Mundra*, June 9, 2015, available at http://www.business-standard.com/article/current-affairs/banks-have-to-share-blame-for-ponzi-schemes-s-s-mundra-115060800801_1.html (Last Visited on October 5, 2016).

⁸¹ Shambha Dev, *An Analysis of Ponzi Schemes and The State of Financial Regulations in India*, 16, Corporate Law E-Journal, Issue 4, September 2014, available at <https://www.nliu.ac.in/publication/others/cbcliv.pdf> (Last Visited on October 4, 2016).

Id.

Dinesh Unnikrishnan, *Lessons from Saradha Sam : India needs a chit fund regulator, now*, November 25, 2014, available at <http://www.firstpost.com/business/finance/lessons-from-saradha-scand-india-needs-a-chit-fund-regulator-now-2012273.html> (Last Visited on October 4, 2016).

Govt. forms high-powered panel to plug holes in anti-Ponzi Schemes, February 23, 2015, available at <http://businesstoday.intoday.in/story/govt-forms-highpowered-panel-to-plug-holes-in-anti-ponzi-schemes/1/215999.html> (Last Visited on October 4, 2016).

Dr. Debashis Acharya, *Financial Inclusion in India: Why Not Happened*, September, 2013, available at <http://www.iibf.org.in/documents/reseach-report/Final-Report-on-FI-for-IIBF-by-DAcharya-and-TParida.pdf> (Last Visited on October 5, 2016).

people fail to calculate the proper interest rates and are also not well versed with the cost borrowing concept of chit funds. Illegal chit fund companies thrive at such ignorance of people and leave no stone unturned in exploiting them.

VI. CONCLUSION

The financial scam of the Saradha Group of Companies is termed as ‘chit fund scam’, which is wrong and clearly a misnomer resulting out of ignorance of the working of chit funds. There has been a huge lack of awareness in the public about the distinction of *modus operandi* of chit funds and ponzi schemes. Unfortunately, our media, including both print and electronic, project a fraud scheme as a chit-fund scheme when the scheme, even *prima facie*, doesn’t look like a chit-fund scheme.

The curious nature of the ponzi scheme is probably that almost everybody involved ultimately loses, including the schemers. The investors in the scheme are the worst sufferers who never learn to stay away from such fraudulent schemes. To curb these illegal schemes, a multi- dimensional approach needs to be adopted both by the Central Government and the State

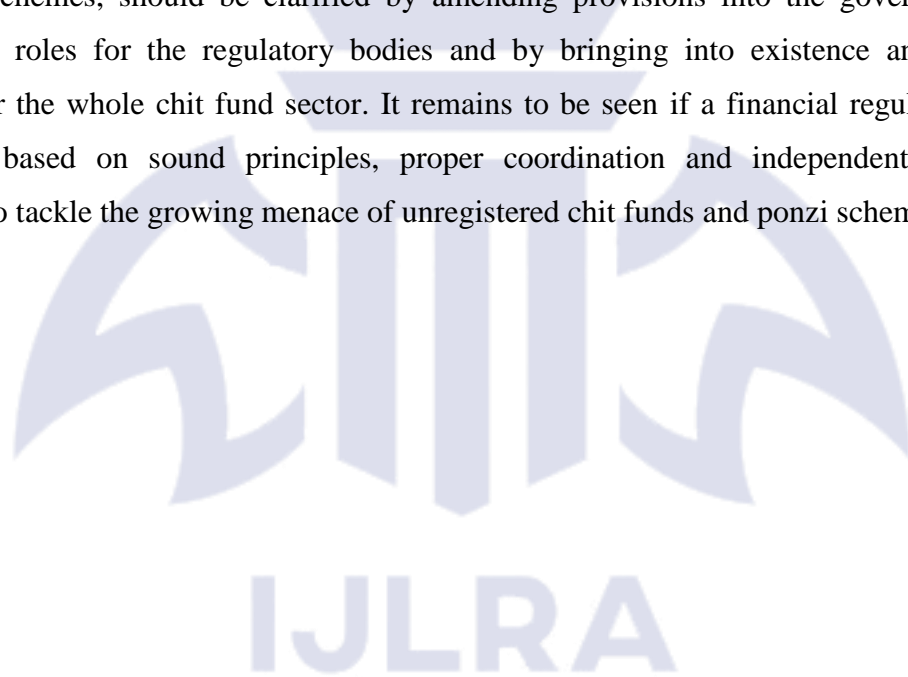
Government(s). In this regard, the latest Central Government scheme, “Jan Dhan Yojna”, for financial inclusion of everyone by opening maximum possible bank accounts, is an appreciable move from the Central Government. By having bank accounts, there will be fewer chances of people entering into ponzi schemes which ultimately cause losses to people. However, the fatal attraction of ponzi schemes can be a psychological one, as Gary North puts,⁸⁶ that the essence of ponzi scheme is a not only its statistical unsustainability, but a psychological one. The latest Bernard Madoff’s ponzi scheme,⁸⁷ and ATM ponzi scheme,⁸⁸ in a country like USA where financial security and level of awareness is far more than India, seems to validate the theory.

⁸⁶ Gary North, *Social Security, Ponzi Schemes, and Leprechaun Economics*, January 7, 2013, available at <http://www.garynorth.com/public/10521.cfm> (Last Visited on October 8, 2016).

⁸⁷ The LE Pandoptique, *Preventing Madoff-Type Ponzi Schemes and Corporate Scandals*, March 1, 2009, available at <http://www.lepanoptique.com/sections/politique-economie/preventing-madoff-type-ponzi-schemes-and-corporate-scandals/> (Last Visited on August 18, 2015).

The recent amendment in SEBI Act should be considered as first step to curb the high value carrying illegal schemes as the power given to the SEBI is only to curb schemes valued INR 100 crore or more. However, for schemes working in the market which are of less than INR 100 crore, no step has been taken by the Central Government. Also, for the former schemes, there is a requirement for all the regulatory bodies including the respective State Governments to work together in order to minimize the vicious effects of these illegal ponzi schemes.

Nevertheless, we need to make all efforts to stop schemes like Saradha, which not only lead to loss of money but also cause death of many people. The confusion and incoherency surrounding the jurisdictional ambits of various regulatory bodies and the governance of the unregistered chit funds and ponzi schemes, should be clarified by amending provisions into the governing statutes, demarcating roles for the regulatory bodies and by bringing into existence an independent regulator for the whole chit fund sector. It remains to be seen if a financial regulatory body is established based on sound principles, proper coordination and independent enforcement machinery to tackle the growing menace of unregistered chit funds and ponzi schemes.



⁸⁸ *SEC shuts down \$123 Million ATM Ponzi Scheme in California*, U.S. Securities and Exchange Commission, available at <http://www.sec.gov/litigation/litreleases/2014/lr23106.htm> (Last Visited on October 8, 2016).