

## Collective Investment Scheme

### Introduction

A collective investment scheme is a **trust based scheme** that comprises a pool of assets that is managed by a collective investment scheme manager and is governed by the Collective Investment Schemes Regulations given by SEBI.

### **Collective investment scheme – Section 11AA of SEBI Act, 1992**

(1) Any scheme or arrangement which satisfies the conditions referred to in sub-section (2) or sub-section (2A)] shall be a collective investment scheme:

Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a corpus amount of ₹ 100 crore or more shall be deemed to be a collective investment scheme.

(2) Any scheme or arrangement made or offered by any person under which,—

- (i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;
- (ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;
- (iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;
- (iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

(2A) Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.

(3) Notwithstanding anything contained in sub-section (2) or sub-section (2A)], any scheme or arrangement—

- (i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 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) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934. being a contract of insurance to which the Insurance Act, 1938., applies;
- (iii) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act.:
- (iv) under which deposits are accepted under section 73 or 76 of the Companies Act, 2013
- (v) 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.
- (vi) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982.
- (vii) under which contributions made are in the nature of subscription to a mutual fund:
- (viii) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify,

shall not be a collective investment scheme.

### ***SEBI (Collective Investment Schemes) Regulations, 1999***

***Collective Investment Management Company*** means a company incorporated under the Companies Act, 2013 and registered with SEBI under these regulations, whose object is to organize, operate and manage a collective investment.

#### ***Eligibility to sponsor or launch CIS***

No person other than a Collective Investment Management Company which has obtained a certificate under the regulations should carry on or sponsor or launch a collective investment scheme.

***“Close ended collective investment scheme”*** means any collective investment scheme launched by a collective investment management company. In which the maturity period of the collective investment scheme is specified and there is no provision for repurchase before the expiry of the collective investment scheme.

***“Collective investment scheme property”*** includes:

- (i) subscription of money or money's worth (including bank deposits) to the collective investment scheme;
- (ii) property acquired, directly or indirectly, with, or with the proceeds of, subscription of money retired to in item (i); or

(iii) income arising, directly or indirectly from, subscription money or property retired to in item (i) or (ii).

### Features of Collective Investment Scheme (CIS)

"CIS" can be floated only by public companies.

- (a) Each "CIS" should obtain credit rating from a recognized Credit Rating Agency.
- (b) Scheme should be open for subscription for maximum 90 days.
- (c) The duration of the scheme should be for minimum of 3 years.
- (d) Compulsory insurance cover should be obtained for Assets of the scheme and personal Indemnity cover for the AMC.
- (e) Units issued under the CIS should be compulsorily listed on a recognized stock exchange.

### Restrictions on business activities of Collective Investment Management Company (CIMC)

- (a) Collective Investment Management Company (CIMC) should not undertake any activity other than that of managing the scheme;
- (b) CIMC should not act as a trustee of any scheme;
- (c) CIMC should not launch any scheme for the purpose of investing in securities;
- (d) CIMC should not invest in any schemes floated by it.

However, it has been provided that a CIMC may invest in its own scheme, if it makes a disclosure of its intention to invest in the offer document of the scheme, and does not charge any fees on its investment in that scheme.

### Obligations of Collective Investment Management Company

Every Collective Investment Management Company shall:

- (a) be responsible for managing the funds or properties of the collective investment scheme on behalf of the unit holders;
- (b) take all reasonable steps and exercise due diligence to ensure that the collective investment scheme is managed in accordance with the provisions of these regulations, offer document and the trust deed;
- (c) exercise due diligence and care in managing assets and funds of the collective investment scheme;
- (d) be responsible for the acts of commissions and omissions by its employees or the persons whose services have been availed by it;
- (e) remain liable to the unit holders for its acts of commission or omissions, notwithstanding anything contained in any contract or agreement;
- (f) be incompetent to enter into any transaction with or through its associates, or their relatives relating to the collective investment scheme:

Provided that in case the Collective Investment Management Company enters into any transactions relating to the collective investment scheme with any of its

associates, a report to that effect shall immediately be sent to the trustee and to the Board.

- (g) appoint registrar and share transfer agents;
- (h) abide by the Code of Conduct as specified in the Third Schedule;
- (i) give receipts for all monies received by it and give a report to the Board every month, particularly of receipts and payments;
- (j) hold a meeting of the Board of Directors to consider the affairs of collective investment scheme at least twice in every 3 months;
- (k) ensure that its officers or employees do not make improper use of their position or information to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to the collective investment scheme;
- (l) obtain adequate insurance against the property of the collective investment scheme;
- (m) comply with such guidelines, directives, circulars and instructions as may be issued by the Board from time to time, on the subject of collective investment schemes.

### *Penal Provisions*

If any registered CIMC violates provisions of SEBI Regulations . SEBI may

- (i) initiate criminal prosecution under Section 24 of SEBI Act, 1992;
- (ii) suspend/cancel certificate of registration;
- (iii) issue directions
  - (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.

### *Role of Company Secretary*

The Company Secretary shall ensure that the money mobilization carried out by the company will not trigger the parameters of CIS Regulations.