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**THE CHIT FUNDS (AMENDMENT) BILL, 2018**

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# THE CHIT FUNDS (AMENDMENT) BILL, 2018

## INTRODUCTION

The Chit Funds Act, 1982 was enacted to provide for the regulation of chit funds which are indigenous business in India and have conventionally satisfied the financial needs of the low-income households. The chit is a mechanism which combines credit and savings in a scheme, in which a group of individuals come together for a pre-determined duration and subscribe a certain sum of money by way of periodical instalments and each such subscriber, in his turn as determined by lot or by auction or by tender or any other specified manner, gets the collected sum. In this way, people who are in need of funds and those who want to save are able to meet their requirements simultaneously.

In the past, concerns had been expressed by various stakeholders regarding the existing legal, regulatory and institutional framework for Chit Funds and its efficacy. The Government constituted a key Advisory Group to suggest legal and regulatory initiatives required for orderly growth of the said sector and protection of subscribers. The Parliamentary Standing Committee on Finance in its twenty-first report presented to Parliament on 3 December 2015 had also made similar recommendations. Accordingly, the Government decided to amend the Chit Funds Act, 1982 and the Cabinet approved the proposal on 20 February 2018. The Chit Funds (Amendment) Bill, 2018<sup>1</sup> was introduced in the Lok Sabha on March 12, 2018.

## SALIENT FEATURES OF THE BILL<sup>2</sup>

- **Fraternity fund:**

The Chit Funds Act, 1982, section 2(b) and 11(i) specify various names which may be used to refer to a chit fund. These include chit, chit fund, and kuri. The Bill inserts ‘fraternity fund’ to this list.

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<sup>1</sup> For statement of objects and reasons, see **Annexure- I**

<sup>2</sup> A comparative statement of the provisions of the Principal Act and the Amendment Bill is given at **Annexure- II**

- **Presence of subscribers through video-conferencing:**

The Act , Section 16(2) specifies that a chit will be drawn in the presence of at least two subscribers. The Bill seeks to allow these subscribers to join either in person or through video-conferencing.

- **Foreman's commission:**

Under the Act, Section 21 the 'foreman' is responsible for managing the chit fund. He is entitled to a maximum commission of 5 per cent of the chit amount. The Bill seeks to increase the commission to 7 per cent.

- **Application of the Act:**

Currently, the Act (Section 85(b)) does not apply to: (i) any chit started before it was enacted, and (ii) any chit (or multiple chits being managed by the same foreman) where the amount is less than Rs 100. The Bill removes the limit of Rs 100, and allows the State Governments to specify the base amount over which the provisions of the Act will apply.

## **STANDING COMMITTEE REPORT**

The Chit Funds (Amendment) Bill, 2018 was referred to the Standing Committee of Finance of Lok Sabha on 24 April 2018. The The Committee (Chair: M. Veerappa Moily) submitted its report on on August 9, 2018. The Committee endorsed the specific amendments proposed in the Bill, and also suggested further amendments to improve the functioning of chit funds and ensure greater financial access to people.

Key observations and recommendations of the Committee include:

- **Nomenclature and classification of chit funds:**

The Act specifies various names which may be used to refer to a chit fund. These include chit, chit fund, and kuri. The Bill inserts 'fraternity fund' to this list. The Committee recommended that the list be expanded to also include Rotating Savings and Credit Association (ROSCA) fund. Further, the Committee noted that chit funds are currently classified as miscellaneous non-banking finance companies (NBFCs) by the Reserve Bank of India. It recommended that chit funds be classified as NBFC-Chit Funds or NBFC-ROSCA. This will differentiate chit funds from other NBFCs, and help them play a greater role in facilitating financial inclusion.

- **Presence of subscribers while drawing a chit:**

The Act specifies that a chit will be drawn in the presence of at least two subscribers. The Bill allows these subscribers to join via video conferencing. The Committee noted that the mandatory requirement of the presence of two subscribers during the drawing of chits may delay the process, especially when a subscriber is in urgent need of funds. Further, video conferencing and its recording may not be implementable in rural and semi-urban areas. The Committee recommended that: (i) the requirement of presence of two members during the drawing of chits be done away with, and (ii) modern communication modes such as text message or WhatsApp may be incorporated to introduce flexibility during drawing of chits. This will enable needy subscribers to get funds quickly and without any procedural delays.

- **Ceiling on aggregate chit amount:**

Under the Act, ceilings are prescribed for the aggregate chit amount. The ceiling amount is one lakh rupees when the fund is managed by an individual, and six lakh rupees when managed by a firm. The Committee noted that the prescribed ceilings

make running chit funds unviable. It recommended that the ceilings be revised upwards to make operating chit funds more profitable for the foreman.

- **Exemptions:**

Under the Act, a State Government may exempt certain chit fund companies from any or all provisions of the Act. This can be done through a notification, after consultation with the Reserve Bank of India. The Committee noted that safeguards in the law are rendered ineffective by these exemptions. It recommended that such discretionary exemptions should be done away with.

- **Insurance coverage for subscribers:**

The Committee recommended that a provision be brought in the Bill which provides insurance coverage to chit fund subscribers, as a protection measure.

- **Changes in terminology:**

The Committee recommended changes to certain terminology used in relation with chit funds. It suggested that: (i) 'foreman' (section 2(j) of the 1982 Act) be replaced by 'chit promoter', as this will help to put the onus on the promoter, (ii) Similarly the provision of 'dividend', under the Act (section 2(G)) used to denote the share of the subscriber in the discount at each drawing, be replaced by 'share of discount' to reduce confusion, and (iii) 'chit amount' (section 2(d) be replaced by 'gross chit amount' and 'prize amount' (section 2(m)) be replaced by 'net chit amount' to help distinguish registered chit fund companies from banned prize chit schemes.

**REFERENCES:**

1. Lok Sabha, *The Chit Funds (Amendment) Bill, 2018*; Bill No. 72 of 2018.  
[http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/72\\_2018\\_LS\\_Eng.pdf](http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/72_2018_LS_Eng.pdf)
  
2. Lok Sabha, Standing Committee on Finance, *Chit Funds(Amendment) Bill, 2018(62<sup>nd</sup> Report)*, 9 Aug 2018.  
[http://164.100.47.193/lsscommittee/Finance/16\\_Finance\\_62.pdf](http://164.100.47.193/lsscommittee/Finance/16_Finance_62.pdf)
  
3. Lok Sabha, Standing Committee on Finance, *Efficacy of Regulation of Collective Investment Schemes, Chit Funds, Etc. (21<sup>st</sup> Report)*, 7 Oct. 2015.  
[http://164.100.47.193/lsscommittee/Finance/16\\_Finance\\_21.pdf](http://164.100.47.193/lsscommittee/Finance/16_Finance_21.pdf)
  
4. *Amendments in Chit Fund Act*, Lok Sabha Unstarred Question No. 1625 dated 10.3.2017.  
<http://164.100.47.190/loksabhaquestions/annex/11/AU1625.pdf>

## **STATEMENT OF OBJECTS AND REASONS**

The Chit Funds Act, 1982 was enacted to provide for the regulation of chit funds which are indigenous business in India and have conventionally satisfied the financial needs of the low-income households. The chit is a mechanism which combines credit and savings in a scheme, in which a group of individuals come together for a pre-determined duration and subscribe a certain sum of money by way of periodical instalments and each such subscriber, in his turn as determined by lot or by auction or by tender or any other specified manner, gets the collected sum. In this way, people who are in need of funds and those who want to save are able to meet their requirements simultaneously.

2. In past, concerns had been expressed by various stakeholders regarding challenges being faced by the chit business. Therefore, the Central Government constituted a Key Advisory Group on Chit Funds to review the existing legal, regulatory and institutional framework for Chit Funds and its efficacy and to suggest legal and regulatory initiatives required for orderly growth of the said sector. The Key Advisory Group submitted its recommendations relating to improvements in the institutional and legal structure to further develop the chit business in order to reduce the regulatory burden of the chit business and to protect the interest of the subscribers of the chits.

3. The Parliamentary Standing Committee on Finance (Sixteenth Lok Sabha), in its twenty-first Report on Efficacy of Regulation of Collective Investment Schemes (CIS), Chit Funds, etc., had also recommended to finalise the legislative and administrative proposals for strengthening and streamlining of the registered Chit Fund sector. Further, the said Committee, in its thirty-fifth Report on the Action Taken by the Government on the Recommendations contained in the twenty-first Report, had recommended the need to quickly firm up the legislative and administrative proposals for the Chit Funds sector.

4. In view of the above, it has been decided to amend the Chit Funds Act, 1982. Accordingly, the Chit Funds (Amendment) Bill, 2018, inter alia, proposes—

- (a) the use of “fraternity fund” also for chits by amending sections 2(b) and 11;
- (b) to allow the mandatory presence of two subscribers, as required under section 16(2), either in person or through video conferencing duly recorded by the foreman;
- (c) that where the presence of the mandatory two subscribers was through videoconferencing, the minutes of proceedings should be signed by them within two days;
- (d) the increase of ceiling of foreman’s commission from five per cent. to seven per cent. under section 21;
- (e) to enable the foreman to have a right to lien for the dues from subscribers, so that set-off is allowed by the chit fund for subscribers who have already drawn funds, so as to discourage default by them;
- (f) to amend section 85(b), so as to confer power upon the State Government to specify the amount, by notification, upto which any chit fund shall be exempted under the said section.

5. The Bill seeks to achieve the above objects.

<b>The Chit Funds Act, 1982</b>	<b>The Chit Funds (Amendment) Bill, 2018</b>
<b>Section 2(b)</b> "chit" means 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 instalments 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.	In the Chit Funds Act, 1982 (hereinafter referred to as the "principal Act"), in section 2, in clause (b), after the word "kuri", the words, " <b>fraternity fund</b> " shall be inserted.
<b>Section 11</b> (1) No person shall carry on chit business unless he uses as part of his name any of the words "chit", "chit fund", "chitty" or "kuri" and no person other than a person carrying on chit business shall use as part of his name any such word.	11. (1) No person shall carry on chit business unless he uses as part of his name any of the words "chit", "chit fund", "chitty", "kuri" or " <b>fraternity fund</b> " and no person other than a person carrying on chit business shall use as part of his name any such word.
<b>section 16.</b> (2) Every such draw shall be conducted in accordance with the provisions of the chit agreement and in the presence of <b>not less than two subscribers</b>	In section 16 of the principal Act, in sub-section (2), after the words "two subscribers", the words " <b>present in person or through video conferencing duly recorded by the foreman</b> " shall be inserted.
<b>Section 17</b> (1) The minutes of the proceedings of every draw shall be prepared and entered in a book to be kept for that purpose immediately after the closure of the draw and shall be signed by the foreman, the prized subscribers, if present, or their authorised agents, and at least two other subscribers who are present, and where a direction has been made under sub-section (3) of section 16, also by the Registrar or the person deputed by him under that sub-section.	"Provided that where two subscribers required to be present under sub-section (2) of section 16 are present through video conferencing, the foreman shall have the minutes of the proceedings signed by such subscribers within a period of two days of the date of the draw."
<b>Section 21.</b> (b) to such amount not exceeding <b>five per cent.</b> of the chit amount as may be fixed in the chit agreement, by way of commission, remuneration or for meeting the expenses of running the chit;	(i) in clause (b), for the words "five per cent.", the words " <b>seven per cent.</b> " shall be substituted;
<b>Section 85.</b> (b) any chit the amount of which, or where two or more chits were started or conducted simultaneously by the same foreman, the aggregate amount of which does not exceed <b>one hundred rupees.</b>	In section 85 of the principal Act, in clause (b), for the words "one hundred rupees", the words " <b>such amount as may be specified, by notification in the Official Gazette, by the State Government</b> " shall be substituted.