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Caring Beyond Imagination

The Banning of Unregulated
Deposit Schemes Ordinance
2019

BANNING OF UNREGULATED DEPOSIT SCHEME ORDINANCE, 2019

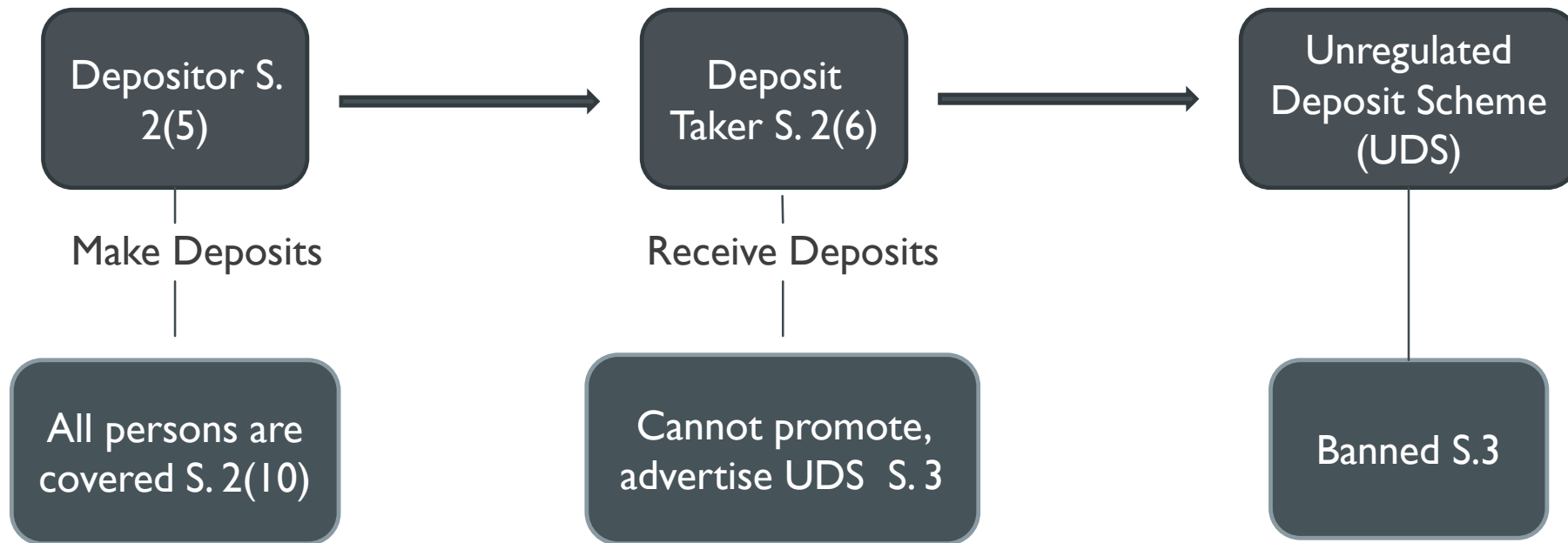
The Banning of Unregulated Deposit Schemes Bill, 2019 was passed on the 13 February, 2019 in the Loksabha but the said bill could not be taken up for consideration in RajyaSabha.

It shall come into force from the date of announcement i.e. February 21, 2019

Purpose: To provide for a comprehensive mechanism to ban the unregulated deposit schemes, to protect the interest of depositors, to bring to book perpetrators of various fraudulent schemes which dupe the poor investor.



HOW DO DEPOSITS WORK?



BASIC DEFINITIONS

- **Depositor** : A Person who makes deposits under this ordinance
- **Unregulated Deposit Scheme [UDS]** : A Scheme or an arrangement under which deposits are accepted or solicited by any deposit taker by way of business and which is not a Regulated Deposit Scheme, as specified.
- **Regulated Deposit Scheme [RDS]** : Regulated Deposit Scheme refers to those schemes as specified under First Schedule of the ordinance which are regulated by following regulators :-



WHAT IS DEPOSIT?

An amount of money received by way of an **advance** or **loan** or in any **other form**, by any deposit taker with a **promise to return** whether after a specified period **or otherwise**, either in cash or in kind or in the form of a specified service, **with or without any benefit** in the form of interest, bonus, profit or in any other form.

Term Deposit does not include amounts received from following :-

Scheduled Banks, Co-operative banks, PFI, NBFC, Foreign bank, International banks, Financial Institution registered with RBI;

Capital by partners in partnership firm or LLP;

Loan from relatives or loan by firm from the relatives of any of its partners;

Credit to a buyer from a seller on the sale of any property;

As deposit by Political party;

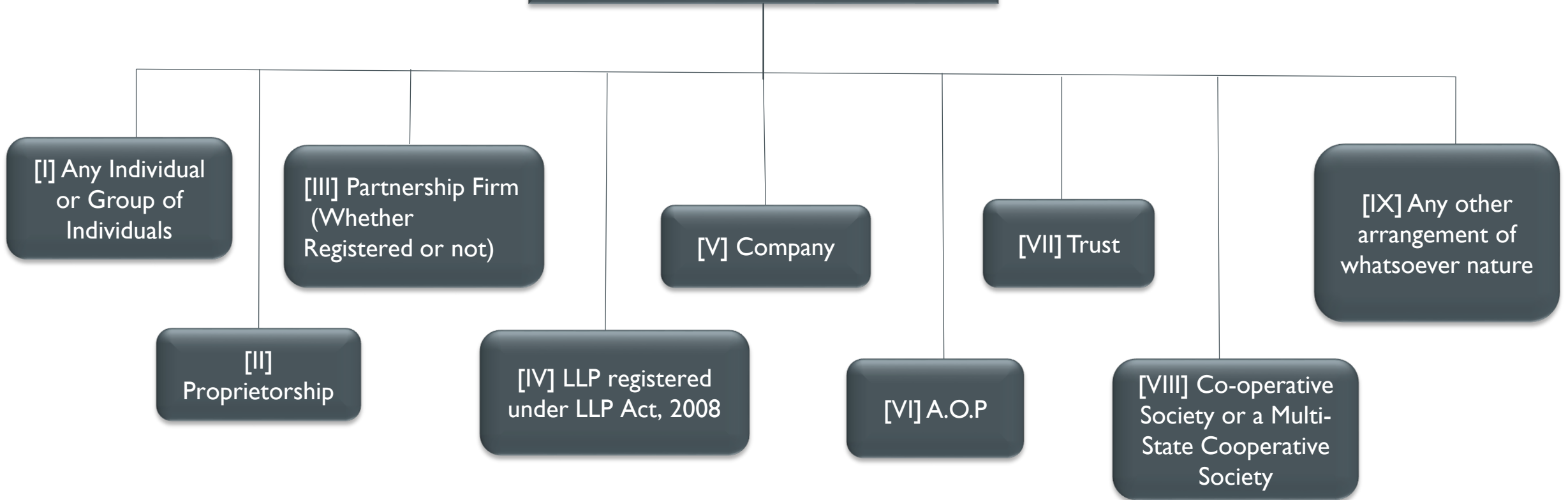
By self-help groups from Members;

In course of / for purpose of business & genuine connection to such business including for:
(a) Payment for Sale or services or hire-purchase **(b)** Advance for immovable property **(c)** security deposit for performance of contract **(d)** Advance for L.T. projects
[amounts in (a) to (d) shall be treated as deposits on expiry of 15 days if it becomes refundable]

Asset Reconstruction Company registered with RBI and under SARFAESI Act

Appropriate Govt, Foreign govts, Foreign bank, Foreign citizens subject to FEMA Act & Rules

DEPOSIT TAKER*



* but does not include:

- (i) A Corporation under an Act of Parliament.
- (ii) A Banking Company, Co-op banks

UNREGULATED DEPOSIT SCHEME (UDS)

- UDS shall be banned (Section 3)
- No deposit taker, directly or indirectly, shall promote, operate or issue any advertisement soliciting participation or accept deposit in pursuance of UDS
- No Deposit taker, while accepting deposits pursuant to RDS shall fraudulently commit any default in repayment of deposit (Section 4)
- No person shall knowingly mislead or conceal material facts or induce another person to become a member of UDS (Section 5)

BANNED

COMPLIANCE REQUIREMENTS FOR PERSON TAKING DEPOSITS

- Every deposit taker which commences or carries on business after the commencement of this ordinance (after 21st February 2019) shall intimate the authority about its business in the form and manner and within the time prescribed.
- The Competent authority may if it has reason to believe that deposits are being solicited or accepted pursuant to UDS, it may direct any deposit taker to furnish such statements, information in relation to deposits received by such deposit taker
- The Central Government may designate an authority which shall create, maintain and operate an online database for information on deposit takers operating in India.
- Such an authority may require any Regulator or the Competent Authority to share such information on deposit takers, as may be prescribed.

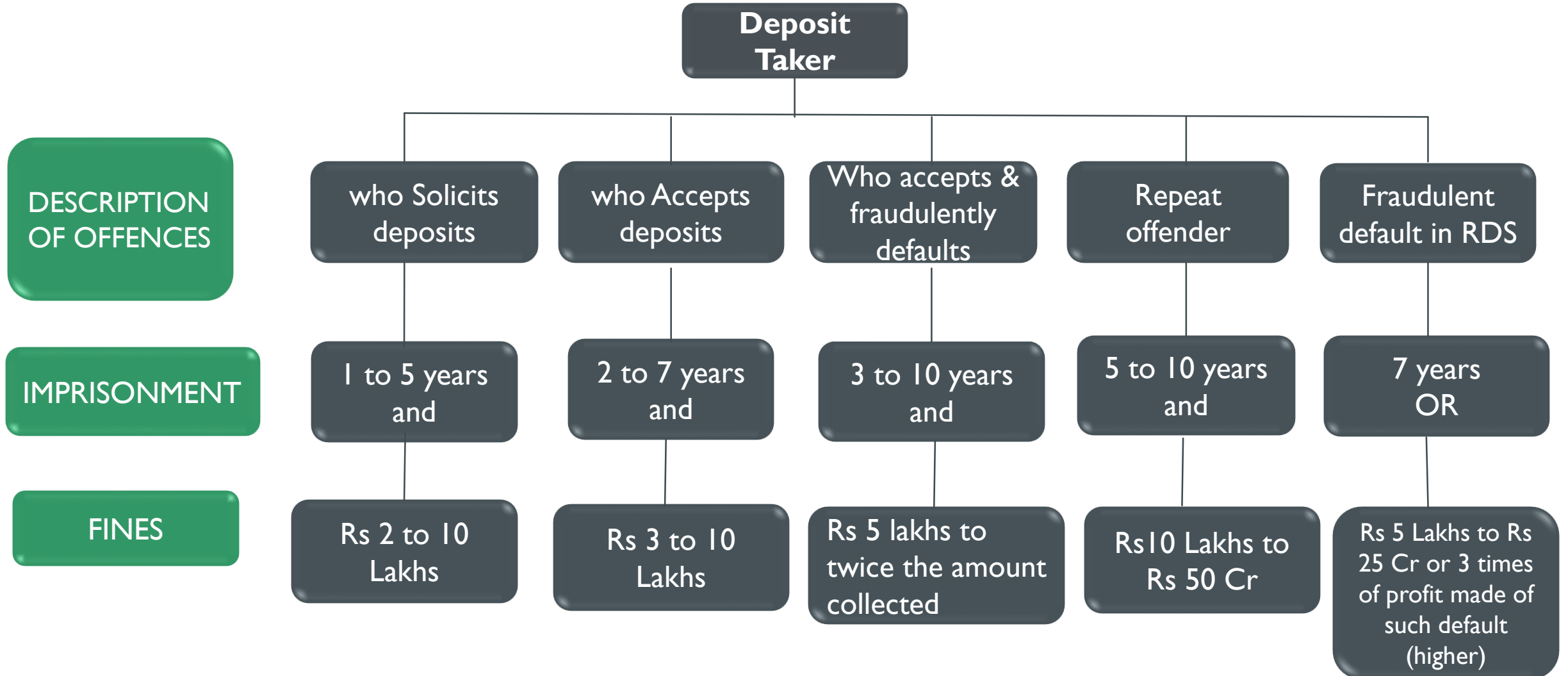


RESTITUTION (COMPENSATION OF LOSS) TO DEPOSITOR

- Any amount due to depositors from a deposit taker shall be paid in priority over all other debts, revenues, taxes & cesses (except as provided in SARFAESI Act, 2002 or IBC, 2016)
- Competent authority shall vest all attached money or property of the deposit taker.
- Competent authority shall open an account in a schedule bank for purpose of crediting or dealing with the money realised under this Ordinance as per instructions of designated court.
- Competent authority shall file an application before designated court for making provisional attachments absolute and obtain permission to sell to property attached.



OFFENCES & PUNISHMENTS



ABBREVIATIONS

- SEBI – Securities and Exchange Board of India
- RBI – Reserve Bank of India
- IRDAI – Insurance Regulatory Board of India
- NHB – National Housing Bank
- PFRDA – Pension Fund Regulatory and Development Authority
- MCA – Ministry of Corporate Affairs
- UDS – Unregulated Deposit Scheme
- RDS – Regulated Deposit Scheme

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*Thank
you*

