



RESERVE BANK OF INDIA
RESERVE BANK STAFF COLLEGE
CHENNAI



Man loses Money

Mr. Mani, a Chennai based small business man today finds his world shaken. An astute business man, he feels cheated by his lack of awareness and caution in making financial investment.

A year ago, he had invested ten lakh Rupees (which he was keeping aside for his daughter's marriage) in a new company which had promised returns much higher than any bank. When he had met them, he was treated like a king and was directly attended to by the manager. The company had promised the benefits being given by a neighborhood company.

He was so happy at the prospect of the money growing so fast deposited the entire money with the company for one year.

But today, his faith is shaken. After one year when he went to the company's office he was surprised that the company has shifted office, without giving any notice to him. He, after a lot of enquiry and running around was able to contact the owner of the premises, who informed him that the company to which he had rented the place has since moved out. But moved out where?

He is feeling cheated wondering what to do now? Has he lost his money? Often he used to read in the newspapers that people foolishly keep money with unknown companies and loose them. He used to think this can never happen to him, he is very smart. But where was he today.

*careful
with your
hand carried
money*

The Reserve Bank Staff College, located in Chennai is a premier training institute of the Reserve Bank of India. It present this brochure prepare for creating awareness amongst common man about the aspects of investments in Non-Banking Financial Companies (NBFCs.)

Later in the evening, he called at the residence of Mr Pandian, his friend. Mr Pandian, worked in the Reserve Bank of India (RBI). Mani was under the impression that deposits of companies are protected by the RBI so he thought of asking Mr Pandian about how lodge a complaint with the RBI. Mr Man told Mr Pandian about the entire episode and sought his guidance on what he should do to get his money back.

Mr Pandian : Mani, I am so sorry to hear about your loss today. Often I had mentioned to you that you should be careful with your investment, but you would not listen. Now tell me, did you lodge a FIR with the police?

Mr Mani : FIR with the police? Why should I do that? I would immediately lodge a complaint with the RBI.

Mr Pandian : Mani, first of all you need to lodge a complaint with the police as you have been cheated of your money.

Mr Mani : And what about RBI?

Mr Pandian : See, RBI deals only with companies registered with it as Non-Banking Financial Companies (NBFC).

Mr Mani : Sorry, but what is this 'company registered'

with the RBI. Aren't all the deposits, insured by the Reserve

Bank of India? I should get my money back from the RBI.

Mr Pandian : Mani, please understand, deposits placed with the companies are not insured by RBI. There is a Deposit Insurance and Credit Guarantee Corporation (DICGC) which deposits with banks, up to a certain limit. Deposits with entities other than banks are not insured. The companies registered with the RBI as Non-Banking Finance Companies are not covered under DICGC.

Mr Mani : But anyone who takes deposits is bank, isn't it?

Mr Pandian : No. Let me explain.

There are different entities which take deposit from public. There are banks – commercial and cooperative banks.

Then there are the Non-banking Financial companies (NBFCs), which have to be compulsorily registered with the RBI before undertaking the business of accepting deposit, lending money, investment in shares and securities, etc. Most of these companies do not have the permission to accept deposit from public. These deposits are not insured.

Mr Mani : Oh! I did not know that. But this company, which I went to was it a registered NBFC? How do I know?

Mr Pandian : Did that Manager give you any receipt?

*NBFC are companies
Registered with the Reserve
Bank of India for doing
specific kind of business like
giving loans, advances, etc*

*All NBFCs don't have
permission to accept
deposits.
Deposits with NBFCs
Are not insured*

Mr Pandian : I see that the name is M/S Rajesh and Company and in bracket it is written (a Firm). Did you see this while signing?

Mr Mani : Yes I did see M/s Rajesh and Company, but what does this 'Firm' mean?

*Firm and company
are different*

Mr Pandian : A Firm, unlike a company means an unincorporated body. There are different types of organizational structures. A company is registered with the Registrar of Companies under the Companies Act, 1956 (is thus called an incorporated body).

A Firm, is not registered under the Companies Act, 1956. It could be proprietorship (individual) or partnership (of two or more partners).

A cooperative society is registered under the respective State or Multi State Cooperative Societies Act with the State of Central Registrar of the Cooperative Societies, respectively.

Mr Mani : Oh! I thought they were same. Then is there a difference between private and public company?

Mr Pandian : A private company is one which restricts the right to transfer its shares, limits the membership of its members to 50 and is prohibited from accepting deposits from public. No public ownership is involved. A public company is the one which is not a private company. It should have a minimum paid-up capital of five lakh rupees. A private company which is a subsidiary of a public company is also a public company. It may or may not be listed on Stock Exchange.

Mr Mani : What did you mean when you said public ownership?

Mr Pandian : By public ownership I mean that the company allots its shares to public like you and me. This can be done through private placement, i.e. issuing shares to the investor through a public offer. If shares are issued through public offer, such shares are listed in the Stock Exchanges for trading.

Mr Mani : How does all this affect the depositor?

Mr Pandian : If the depositor is aware of the status of the entity that is accepting deposits and the limitations placed by law on such entities for accepting deposits, the depositor can make an informed decision. In your case, if you knew that M/s. Rajesh & Company was a firm and that it is not entitled to accept deposits from anybody other than the relatives of partners, I am sure you would not have deposited the money.

As I explained to you, private companies are not entitled to raise deposits from the members of the public. Even public companies which are not carrying on the business of a financial institution cannot accept deposits exceeding roughly 25% of their paid-up capital and reserves. Non-banking Financial Companies can accept deposits only if they are permitted under the Certificate or Registration issued to them by RBI to accept deposits. Even in such cases, they cannot accept deposit beyond the limits specified by RBI with respect to different categories of NBFCs.

That is how it makes sense to a depositor to know the status of the entity accepting deposits. I can understand that you may not know what is paid-up capital and reserves of the company, the limits placed by RBI on NBFCs, etc. But if a depositor knows of these restrictions, the information may be elicited from the company itself before parting with the money.

Mr Mani : We also hear about limited companies. What does that mean?

Mr Pandian : A limited company is the one where liability of the shareholders in respect of the company's debts is limited to the extent of their shareholding. This means that personal property cannot be used for paying the debt of the company.

Mr Mani : Oh! There are different forms and regulators. So an NBFC is a company?

Mr Pandian : Yes, as I mentioned earlier, NBFCs (Non-Banking Financial Companies) are financial institutions which after getting registration from the Reserve Bank of India (RBI) can do business like giving loans, hire purchase, leasing, investment in shares, etc.

Mr Mani : Can they accept deposit?

Mr Pandian : Yes, if RBI has specifically permitted them to do so.

Mr Mani : How can an ordinary person come to know about that?

Mr Pandian : The Certificate of Registration (CoR) issued by RBI to NBFCs which are entitled to accept deposits, clearly states so in the CoR itself. The company has to display a copy of this CoR at its office. A list of registered NBFCs entitled to accept deposits is also available on the website of the RBI. Let me make it clear to you that RBI does not guarantee repayment by such companies or certify about the financial position of company or the correctness of any statement/representation made by the company.

*Check for the
company's registration
with RBI*

Mr Mani : Mr Pandian, was this M/s Rajesh and Company registered with RBI? Did they have permission to accept deposits? They promised to give me 20 percent interest per annum. It must have been a good company, offering such a good return.

Mr Pandian : M/s Rajesh and Company as I told you, from the receipt which you showed me, is a 'Firm'. RBI does not give any registration to Firm. They are not permitted to accept public deposits and issue advertisement for getting deposits. Further, as you said, they were giving you 20% interest. Let me clarify that companies registered with the RBI are not permitted to give interest rate beyond 12.5% per annum.

Mr Mani : But Mr Pandian, with a registration, how could this company start accepting deposits.

Mr Pandian : Yes, this is violation of law, and that is why RBI keeps giving advertisements, always advising public that making investment and giving money, one should verify the credentials of the company. Now look,

attracted by some extra interest, you have given money to a firm which has disappeared today.

Also remember, for giving you 20% interest, a company will have to earn much higher, which can only come from some risky business which they may do. This again makes your investment unsafe.

Mr Mani : Yes I understand my mistake, but what can I do now?

Mr Pandian : Okay, let me explain the options that are available to you or any other investor. As the entity to which you have given money is a Firm, file a complaint with police which has an Economic Offences Wing (EOW). They have powers to take action under 'TN Protection of Interests of Depositors (In Financial Establishment) Act'. If you file a complaint with the RBI, RBI will forward it to EOW to look into the matter.

Mr Mani : Oh, will be able to get my money back?


Mr Pandian : The EOW would investigate and first will have to find the owners of the firm to whom you gave the money.

Mr Mani : So you mean to say, if any company does not repay the money of the depositors the EOW has to investigate?

Mr Pandian : There are other options also. In the case of NBFCs, if they fail to repay the deposit, the depositor may file a complaint with the Company Law Board. The addresses of the concerned Company Law Board, has to be given by the company in its application forms. This address is also available with the RBI offices and also on the RBI website. You can also approach the District Consumer Forum or file a civil suit to recover the deposit amount. You can approach them simultaneously.

Mr Mani : Ah, I wish I had contracted you before making this deposit! My mistake. Can you tell me which other aspects I should be careful about in future?

Mr Pandian : First of all, always check the background of the entity. Remember when you are giving you money as a deposit to NBFC, you should be sure about their status like registration, amount of deposits they are permitted to accept, details and addresses of the compliance officer. While depositing money, carefully read the application. Take a receipt for the deposit, and carefully check the information on the deposit receipt like status of the company as registered with RBI, interest rate offered, maturity date, etc. Other terms and conditions should be there on the reverse of the receipt, which should be read carefully before depositing the money. Some companies may be taking money for issue of debentures. One may also refer to FAQs on RBI website <http://www.rbi.org.in>



*Take a receipt
and check the
credentials*

Mr Mani : But Mr Pandian, If I start asking so many questions, they would not accept my deposit?

Mr Pandian : No, Mr Mani, any good company would give full

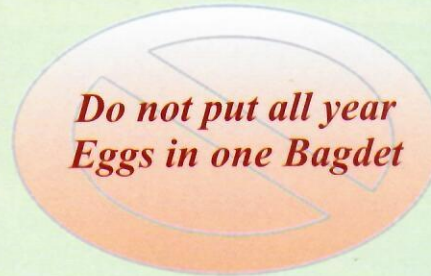
information to its depositors. If at any time you feel that the company is not giving you sufficient information, that should raise doubts about the company in your mind and you should be cautious.

Mr Mani : And what are debentures?

Mr Pandian : A debenture is a long – term debt instrument a company may issue. The company may pay a fixed return, i.e. a specific predefined interest rate or a floating return, i.e. linked to a specific rate in the market.

Mr Mani : Are these like deposits?

Mr Pandian : No, they are not deposits. The debenture could be secured i.e, a specific asset has been identified by the company and a charge created for repayment of this debenture. Otherwise they are unsecured.



Mr Mani : Is it safe to keep my money different companies in different instruments? There are so many different regulators.

Mr Pandian : See Mr Mani, the different regulators have been assigned different roles by law. Generally efforts are made to educate the public. You should also try to never put all your eggs in one basket.

Mr Mani : I Understand what you are saying. I should have been careful. I will now go and first of all a complaint with the police. Thanks.

2 months later.....

Mr Pandian : Mr Pandian, I have come to give you good news. As you had suggested I have lodged a complaint with the police and also the Consumer Protection Forum. The culprit was nabbed by the police and a court case has been filed against them. All the depositors, you see I was not the only gullible on attracted to their false promises, pressed the case and the police has now attached the property of the proprietors of the firm so that we can get our money back.

Mr Pandian : I wish you best. I hope you are now careful about your money.

Mr Mani : Yes! Yes! Not just that I am also trying that I am also trying to educate other people in my neighborhood about the subject.

Disclaimer : All the people and events are fictitious and any resemblance to a person or event would be purely coincidental.
