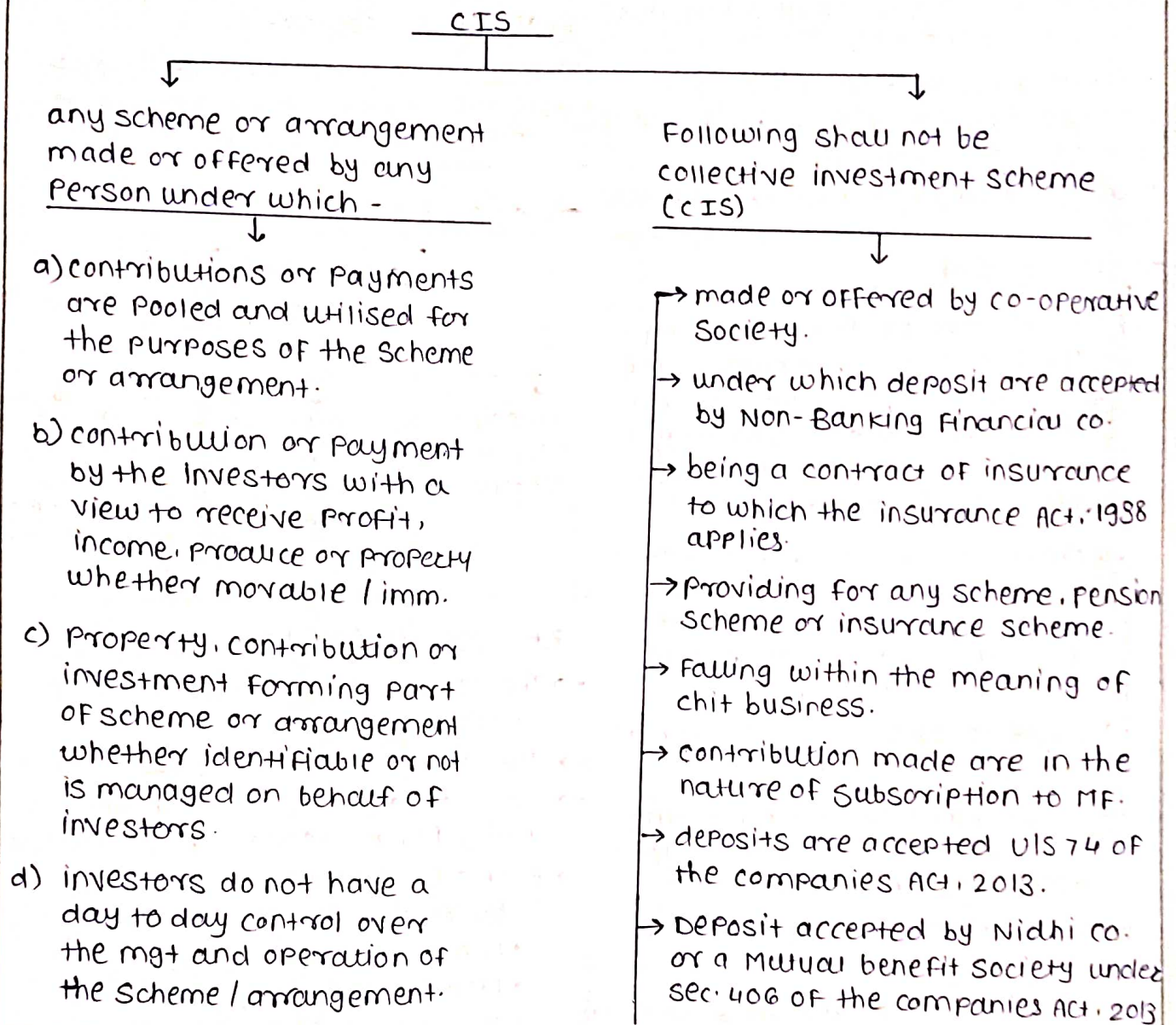
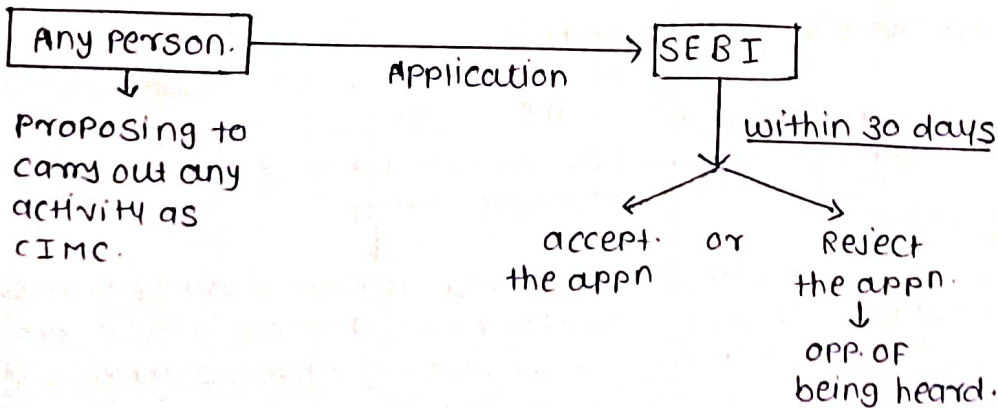


ch-18 Collective Investment Schemes.



⇒ Registration Provisions under SEBI Act, 1992



⇒ Restrictions on business activities

- The CIS should not -
 - undertake any activity other than managing the CIS.
 - act as a trustee of any CIS.
 - Launch any CIS for the purpose of investing in securities.
 - invest in any CIS floated by it.

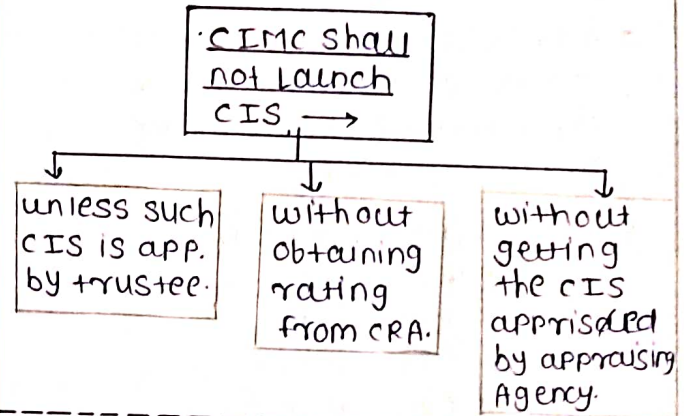
→ on application - Particulars of all its directors along with their int in the company → within 15 days of their appointment.

→ any other - info and documents to the SEBI and the trustee as may be required by them

⇒ Obligation of CIS :-

- Be responsible for managing the funds or properties of the CIS and exercise due diligence to ensure that CIS is managed in accordance with these reg. offer doc / trust deed.
- exercise due diligence and care in managing assets and funds of the CIS and also responsible for the act of commission and omission by the employee.
- liable to the unit holder - for its act of commⁿ or ommⁿ
- incompetent to enter into any transaction with or through its associates or their relative
- appoint registrar and STA and also abide by their code of conduct
- Give receipt of all monies received and report of the receipts and payment → SEBI → monthly basis
- Hold BM → at least twice in every 3 months
- obtain adequate insurance against the properties of the CIS

⇒ CIS of CIME :-



⇒ Procedure For Launching CIS :-

- The CIME shall launch only close ended CIS.
- Duration - less than 3 calendar yrs
- shall obtain adequate insurance Policy for protection of CIS. Property
- each CIS shall after closure of Subscription list comply foll. conditi.
 - Min sub. amt of 20 cr.
 - Min 20 investors.
 - No person shall hold more than 25% of assets under management of scheme.
- IF fails to comply with this → shall be liable to refund the appⁿ money to the investors.
- CIS shall not provide guarantee or assured return

⇒ Submission of info. and doc.

- Quarterly - Reports of its activities and the status of compliance of SEBI Reg → submit within 1 month → trustee
- Yearly - copy of B/S, P&L, copy of Summary of yearly appraisal report → within 2 months from the cl. of FY

indicative return may be indicated in offer doc. if same is assessed by appraising agency & expressed in monetary terms.

Disclosure in the offer doc.

- CIMC shall before launching any CIS file a copy of offer doc → SEBI
- O.D. contain true and fair view of CIS and adequate disclosure.
- SEBI may require the CIMC to carry out such modifications in the OD as it deems fit.
- In case of no modifications suggested by SEBI within 21 days from the date of filing, CIMC issue offer doc. → Public.

Misleading Statement.

→ where an offer doc. or advertisement includes any statement or opinion which are incorrect or false, every person

- who is the director of the CIMC at the time of issue of offer document.
- who has issued the offer doc. and shall be punishable under the act unless he proves either that the statement and or material opinion was immaterial or he had reasonable ground to believe at the time of the issue of the offer doc that the statement was true

⇒ offer period - No CIS shall be open for subscription for > 15 days. (+ 15 days - subject to issuance of public notice by the CIMC before expiry of initial 15 days.)

⇒ Allotment of Units and Refunds of moneys.

CIMC should specify in offer doc

Minimum and maximum subscription amount it seeks to raise under the CIS

and

In case of oversubscription the process of the amt oversubscribed

- CIMC - refund the appⁿ money if CIS fails to receive the min subscription amount.
- Refundable amt should be refunded within a period of 5 WD from cl. of subscripⁿ list
- in the event of failure to refund within specified period - int @ 15% p.a

- ⇒ The CIMC should issue to the applicant whose application has been accepted, the units only in demat. form → within a period of 5 WD
- ⇒ The unit certificate issued to the applicant under the CIS should be freely transferable

⇒ Investment and segregation of funds -

- Funds of CIS invest (X) → for the purposes other than the objectives of the scheme mentioned in offer doc.
- Not invest more than 25% of the amount raised by CIMC in projects owned directly or indirectly by CIMC
- segregate the assets of diff. CIS
- Not invest corpus of a CIS in other CIS.
- CIS sch. trf (X) → CIS 2 - inter Scheme trf may be permitted at the termination of CIS → with Prior approval of trustee & SEBI

units of every scheme shall be listed immediately after the date of auct. Not later than 6 weeks from CI of sch.

⇒ winding up of CIS.

- A scheme should be wound up on the expiry of duration or accomplishment of objective.
- CIS may be wound up -

- in the opinion of the trustee, requires the scheme to be wound up - priority appr. of SEBI
- if unit holder holding $\frac{3}{4}$ th of the nominal value of the unit pass a resolution for winding up of scheme - priority app of SEBI.
- if in the opinion of the SEBI continuance of the scheme is prejudicial to the int of the unit holders.
- if in the opinion of CIMC, purpose of CIS cannot be accomplished → approval of the trustee and unit holder ($\frac{3}{4}$ th of N.V.)

→ trustee shall give Notice disclosing circumstances leading the winding up of CIS → Daily N.P., RNP.

- Assets of the CIS → disposed of by the trustee and proceeds of sale realised should be
 - First utilised towards discharge of liabilities.
 - after making provision for meet expenses connected with winding up balance paid to unit holders.

→ After completion of the winding up trustee → SEBI & U.H.

- | | |
|---|---|
| <ul style="list-style-type: none"> - Report on step taken for Realisⁿ of asset - EXP of winding up - Net asset avail. | <ul style="list-style-type: none"> - certificate from auditor to the effect that all assets are realised and details of distribution Proceeds. |
|---|---|

→ unclaimed money kept separately in the bank A/c by the trustee - 3 yrs thereafter trf to Investor Protection Fund.

⇒ penalty -

- any sponsor / person carrying CIS without obtaining certif. of Reg - Min → 1L
max → ex to 1L/day - 1cr

- if any person fails to comply terms & condition of cert of Reg.

- Fails to make appⁿ for listing of its scheme
- Fails to dispatch unit certificate of any scheme
- Fails to refund the appⁿ money
- Fails to invest money collected by such CIS

→ Min - 1L
Max - ex to 1L/day up to 1cr.

⇒ Trustees and their obligation -

- means a person who holds the property of the CIS in trust for the benefit of the unit holders, in accordance with these Reg.
- The trust deed should contain such clauses as are specified and other clauses necessary for safeguarding the int of unit holders
- The persons registered with SEBI as debenture trustee under SEBI (Debenture trustee) Reg. 1993 are only eligible to appoint as a trustee
- No person is eligible to appoint as a trustee if he is directly or indirectly associated with the persons who have control over the CIMC.
- No person should be appointed as a trustee of CIMC, if he has been found guilty of an offence.
- The trustee and the CIMC should enter into an agreement for managing CIS' property.

⇒ Rights and obligation of Trustee.

- shall have a right to obtain info. from CIMC as is considered neces
- Inspect books of accounts and other records relating to CIS.
- Trustee should ensure that
 - Necessary ofc infrastructure.
 - appoint all key personnel including manager.
 - appoint auditor
 - appoint compliance officer.
 - appoint registrar to an issue and STA.
 - Prepared a compliance manual & designed internal control mechanism
 - taken adequate insurance for the asset.
- Trustee should be accountable for and act as a custodian of the funds and property of the respective CIS
- Trustee should be responsible for the calculation of any income due to be paid to CIS
- A meeting of the trustees should be held at least twice in every three month.
- The trustee should report to SEBI any breach of these regulation or is likely to have made materially adverse effect on the int. of unit holder
- The trustee should ensure that
 - fees and exp. of CIS are within the limits as specified.
 - accounts of CIS are drawn up in accordance with the a/cing norms
 - account of the CIS and the format of the b/s and P&L as specified under these Reg.

⇒ Termination of Trusteeship :- Trusteeship of trustee should come to an end

- IF trustee ceases to be trustee under SEBI (debenture trustee) Reg 1993.
- IF trustee is in the course of being wound up.
- IF unit holder (3/4th N.V) pass a resolⁿ for removing the trustee.
- IF in the int. of the unit holders, SEBI for reason to be recorded in writing remove the trustee.
- IF the trustee serves on the CIMC, notice of not less than 3m expressing intention of not to continue as trustee.

- on termination another trustee should be appointed within 3 months.
- IF unable to appoint trustee within 3 months, then SEBI can appoint any other person as a trustee
- The new & trustee appointed should stand substituted as trustee in all the documents to which the trustee was a party.
- The person appointed by SEBI should apply to the court for an order directing the CIMC to windup the CIS.
- A trust deed shall be executed by the CIMC in favour of the trustee so appointed.
- The trustee so removed shall remain liable for any action taken before such removal.

⇒ Termination of the agreement with CIMC :-

- agreement entered into by trustee with CIMC may be terminated -
 - IF CIMC is in the course of being wound up as per the provision of the companies Act, 2013.
 - IF a unit holder holding at least 3/4th of the nominal value of the unit cap. pass a resolⁿ for terminating the agreement.
 - IF in the int. of unit holders, SEBI or trustee after obtaining prior approval of SEBI and after giving 30BH, terminate the agreement.

- another CIMC registered with SEBI should be appointed within 3m from the date of termination.
- The CIMC so removed should continue to be liable for act of commission or omission, notwithstanding such termination.
- IF none of the CIMC registered under the Reg, consent to be appointed as CIMC within a further period of 3m then trustee may wind up CIS
- an agreement for managing CIS property should be executed in favour of new CIMC.