

**Office of the Commissioner and Inspector  
General, Registration and Stamps,  
Telangana, Hyderabad.**

**Memo.No.CF/7973/2017, dated:29.12.2017.**

Sub:- Chit Funds Act, 1982 - Security to be given by foreman under section 20 of the Act - Certain complaints on inflating the immovable properties given as security by foremen and accepted by the ACRs - Amendment to the Indian Trusts Act, 1882 - Certain instructions - Issued - Regarding.

Ref:- 1) The Times of India News Paper report dated:21.12.2017.  
2) The Indian Trusts (Amendment) Act, 2016 (No.34 of 2016) published in the Gazette No.41, dated: 27th July, 2016 of Government of India.  
3) Ministry of Finance (Department of Economic Affairs) Notification published in Government of India's Gazette No.1124, dated: 21.4.2017.

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Attention of the Assistant Registrars of Chits/SRs, Deputy Registrars of Chits/District Registrars and Deputy Inspectors General (R&S) in the State is invited to the references cited. In the reference 1st cited a news item was published alleging that certain chit fund companies are indulging in inflating the immovable properties offered as Security under Section 20 of the Chit Funds Act, 1982 and the same are accepted by the Assistant Registrars of Chits.

The issue raised is very **important in the context of subscribers' interest**. Issue relates to Section 20 of the Chit Funds Act, 1982. Therefore, Section 20 is extracted hereunder:

*"20.Security to be given by foreman.- (1) For the proper conduct of the chit, every foreman shall, before applying for a previous sanction under section 4,-  
(a) deposit in an approved bank an amount equal to the chit amount in the name of the Registrar; or*

*(b)transfer Government securities of the face value or market value (whichever is less) of not less than one and a half times the chit amount in favour of the Registrar; or*

*(c)transfer in favour of the Registrar such other securities, being securities in which a trustee may invest money under section 20 of the Indian Trusts Act, 1882 (2 of 1882)., of such value, as may be prescribed by the State Government from time to time.*

*Provided that the value of the securities referred to in clause (c) shall not, in any case, be less than one and a half time the value of the chit amount.*

*(2) Where a foreman conducts more than one chit, he shall furnish security in accordance with the provisions of sub-section (1) in respect of each chit.*

*(3) The Registrar may, at any time during the currency of the chit, permit the substitution of the security: Provided that the face value or market value (whichever is less) of the substituted security shall not be less than the value of the security given by the foreman under sub-section (1).*

*(4) The security given by the foreman under sub-section (1), or any security substituted under sub-section (3), shall not be liable to be attached in execution of a decree or otherwise until the chit is terminated and the claims of all the subscribers are fully satisfied.*

*(5) Where the chit is terminated and the Registrar has satisfied himself that the claims of all the subscribers have been fully satisfied, he shall order the release of the security furnished by the foreman under sub-section (1), or the security substituted under sub-section (3), as the case may be, and in doing so, he shall follow such procedure as may be prescribed.*

*(6) Notwithstanding anything to the contrary contained in any other law for the time being in force, the security furnished under this section shall not be dealt with by the foreman during the currency of the chit to which it relates and any dealing by the foreman with respect thereto by way of transfer or other encumbrances shall be null and void."*

As per Section 20 of the Chit Funds Act, before applying for previous sanction under Section 4, the foreman shall provide a security as mentioned in the Section. Predominant mode of security is depositing FDRs taken from any approved bank with the Chit Registrars equivalent to the chit value.

But, certain Companies/firms choose to mortgage the immovable property in favour of Chit Registrar. Mortgage of immovable property was falling under Section 20(2)(c), which talks about such other securities being securities in which a trustee may invest money under section 20 of the Indian Trusts Act, 1882. Prior to amendment made through the Indian Trusts (Amendment) Act, 2016 (No.34 of 2016), Section 20 (e) of the Indian Trusts Act, 1882 is as follows:

*"(e) on a first mortgage of immovable property situate in any part of the territories to which this Act extends:*

*Provided that the property is not a lease hold for a term of years, and that the value of the property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the mortgage-money;"*

Section 20(3) of the Chit Funds Act, 1982 read with Section 20(2)(c) of the Indian Trusts Act (prior to amendment of the Indian Trusts Act) makes it clear that the immovable property can be accepted as a security subject to the condition that such mortgage-property is not less than one and half times the value of the chit amount.

During the course of examination of the issue, it was found that the Indian Trusts Act, 1882 is amended by Parliament through the Indian Trusts (Amendment) Act, 2016 (No.34 of 2016) and notified in the official gazette on 27<sup>th</sup> July, 2016 (reference 2<sup>nd</sup> cited). The amendment is extracted hereunder:

*"20. Where the trust-property consists of money and cannot be applied immediately or at an early date to the purposes of the trust, the trustee shall, subject to any direction contained in the instrument of trust, invest the money in any of the securities or class of securities expressly authorised by the instrument of trust or as specified by the Central Government, by notification in the Official Gazette:*

*Provided that where there is a person competent to contract and entitled in possession to receive the income of the trust-property for his life, or for any greater estate, no investment in any of the securities or class of securities mentioned above shall be made without his consent in writing.*

*Explanation. – For the purposes of this section, the expression "securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.*

*3. In section 20A of the principal Act, in sub-section (1), the proviso shall be omitted"*

Therefore, as per amended provision of the Indian Trusts Act, the money can be invested in any of the securities or class of securities specified by the Central Government, by notification in the Official Gazette.

The Government of India in the Official Gazette No.1124, dated: 21.4.2017 has notified the securities in pursuance of section 20 of the Indian Trusts Act, 1882 (reference 3<sup>rd</sup> cited). As seen from the list of securities, the mortgage of immovable property is not finding a place.

Therefore, acceptance of mortgage of immovable property from the foreman is not acceptable as per Section 20 of Chit Funds Act read with Section 20 of the Indian Trusts Act with effect from 27<sup>th</sup> July, 2016.

As these changes are not in the know of the department, the same was not communicated or informed to the field so far.

The allegation in the news paper report is that certain chits are indulging in inflating the value of the immovable property which is given as security by way of mortgage and registering the chits with the Assistant Registrar of Chits under the Act. The duty of the ACR is to see whether the immovable property is valued more than one and half times of the chit amount. From 27<sup>th</sup> July, 2016, the ACR should not accept the mortgage of immovable property as security, but as mentioned above, it was not known to them.

Keeping in view the above, the following instructions are issued:

- i) The ARCs shall not accept mortgage of immovable property as Security to be given by foreman under Section 20 of the Act hereafter.**
- ii) The District Registrars/Deputy Registrars of Chits to verify each and every case of mortgage of immovable property offered as security by the foremen for obtaining the previous sanction under Section 20 of the Chit Funds Act, 1982 prior to amendment of Indian Trusts Act, 1882 ie., 26<sup>th</sup> July, 2016 and find out whether such properties offered as security satisfy the value as per the provision of law. The DR shall submit a specific report on each mortgage; and if required he shall conduct spot inspection of the property to arrive at the value. If the DR finds that the value of any mortgaged property was inflated and accepted by the ACR, then he shall immediately direct the Foreman concerned for the substitution of the security and the substitution shall be FDR equivalent to the chit value. The DR may also specifically mention whether the ACR acted recklessly in accepting such properties which are inflated in valuation intentionally by foremen. If so, he shall immediately initiate necessary disciplinary action against the erring ACRs/SRs besides initiating action deemed fit against the Chit Companies/Foremen for such act as per law.**

iii) The Assistant Registrars of Chits to give notices in writing to all the Chit Companies/Firms/Foremen asking them to avail the provision of substitution of security in lieu of the security offered by way of mortgage of immovable property from and after 26<sup>th</sup> July, 2016 by giving a clear 30 days notice. The substituted security should be Fixed Deposit Receipt taken from an approved bank as per Section 20 of the Act. They shall follow the procedure laid down under Section 20(3) and Rule 20 of the Chit Funds Act, 1982.

iv) The Assistant Registrars of Chits shall invariably verify the genuineness of the FDRs deposited by the Foremen.

As the matter involving the interest of lakhs of subscribers who saved money in the chit fund activity, these instructions shall be followed scrupulously and a first compliance report shall be submitted by Deputy Registrars of Chits within 15 days from now. And they shall submit further reports once every month till all the immovable properties are substituted and the issue is reached its logical conclusion as per law and instructions issued above.

Encl: Ref.1<sup>st</sup> to 3<sup>rd</sup> cited.

**Sd/- Ahmad Nadeem,**  
COMMISSIONER AND INSPECTOR GENERAL (R&S),  
TELANGANA, HYDERABAD.

To

All the ARCs, DRCs and DIGs in the State.

Copy to all the Officers and Superintendents in the C&IG's Office.