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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
HOME DEPARTMENT
INTERNAL SECURITY BRANCH
NABANNA, HOWRAH

NOTIFICATION

No. 912-1.S.S.

Dated, Kolkata, the 25th July, 2016.

In exercise of the power conferred by sub-section (1) of section 24 of the West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2013 (West Ben. Act XXIX of 2013), the Governor is pleased hereby to make the following rules, namely:—

Rules

1. Short title and commencement. - 1) these rules may be called the West Bengal Protection of Interest of Depositors in Financial Establishments Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.- (1) In these rules, unless the context otherwise requires,—

- (a) "Act" means the West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2013 (West Ben. Act XXIX of 2013), as subsequently amended;
- (b) "Form" means a form prescribed by these rules:
- “(ba) “intangible property” means any other property not mentioned in Sub-Section (1) of section 7 and includes the records or property which are not practicable to seixe under sub-section (1) thereof”**
- (c) "property" means movable and immovable property of such person, shares, other securities and money deposited in the bank or due from any other person; [omit sub rule (C):]
- (d) "section" means a section of the Act;
- (e) "State Government" means the Cowl-tit-writ of West Bengal in the Finance Department.

(2) Words and expressions used and not defined in these rules but defined in the Act, shall have the same meanings as respectively assigned to them in the Act.

3. Intimation of business to Competent Authority.— (1) Every financial establishment shall, intimate about its business, file all periodical statements, to the Competent Authority in accordance with the provisions mentioned in sub-section (1) and sub-section (2) of section 4.

(2) Every Financial Establishment shall submit a Report in Form-I containing such particulars as required therein to the Competent Authority in whose jurisdiction the Financial Establishment commenced or carried its business.

(3) It shall be the duty of every Financial Establishment to report to the Competent Authority, in case of any change in respect of any particulars furnished in Form-I, within seven days after the change has taken place.

(4) Every Financial Establishment shall file, within one month of the expiry of each quarter of a financial year, all periodical statements in Form-II showing particulars in respect of its business including its financial position, the area of its investments and the location of investments of moneys made by it within and outside the State, on each quarter of the financial year, if any, to the Competent Authority within whose jurisdiction his place of business is located, and if he has more than one place of business located in the State, to the Collector and Superintendent of Police under whose jurisdiction the main branch office, as declared by him, is located.

4. Competent Authority's right to require information.— (1) The Competent Authority may, by a general or special order, direct any financial establishment in its jurisdiction to furnish such statements, information or particulars relating to or connected with the deposits received by such establishment in accordance with sub-section (3) of section 4.

(2) The Competent Authority shall have power to call for or require information as mentioned in sub-rule (1) on the activity of the defaulting financial establishment or its office bearer including promoter, partner, director, manager, member, employee or any other person responsible for the management, or for conducting the business or affairs of that financial establishment.

(3) An officer in charge of the police station or any Revenue Officer having the lawful jurisdiction, when required by the Competent Authority, shall take steps, including inquiry, investigation or survey in respect of any person, place, property, documents, books of account, etc., of the financial establishment or promoter, partner, director, manager, member, employee or any other person of such financial establishment[**omit the word “investigation”**].

5. Notice to secured creditors and depositors under sub-section (2) of section 10.— (1) The Competent Authority shall, for the purpose of assessing the total amount of deposits to be returned to the depositors, issue a notice to the secured creditors, if any, and to the depositors of the financial establishment in accordance to sub-section (2) of section 10.

(2) The Competent Authority shall, for the purpose of assessing the total amount of deposits to be returned to the depositors, issue a notice to the secured creditors or the depositors in Form III, directing them to submit a statement appended with the such Form.

6. Issue of ad-interim order of attachment.— (1) The Government, after passing ad-interim order of attachment by the Designated Court under sub-section (4) of section 5, shall immediately forward the said order to the Competent Authority along with copies of all relevant papers and records relating to such ad-interim attachment and all money and properties, so attached. [**“(1) The State Government shall, after issue of the order under Sub-section (1) of section 5 and on publication of the same in Official Gazette , immediately forward the said order to the Competent Authority along with copies of all relevant papers relating to such order of attachment together with particulars of all money and properties, if so attached.”**]

(2) The Competent Authority shall, immediately on receipt of the order under sub-rule (1), prepare and maintain a register giving details of accounts or descriptions of all the money and properties so attached under the Act.

(3) The Competent Authority may, on receipt of the order under sub-rule (1), seek necessary assistance of Police Officer or any officer of the Government for the purpose of taking possession of the property in respect of which the attachment order has been made and on issue of requisition, it shall be the duty of such officer to render necessary assistance to the Competent Authority.

7. Procedure for attachment of property of defaulting financial establishment.— (1) For the purpose of attachment of money or other property acquired either in the name of such financial establishment or in the name of any other person on behalf such financial establishment under section 5, the State Government shall, after recording reasons thereof, pass an order in the *Official Gazette* of such attachment.

(2) Upon receipt of the order of the State Government under sub-rule (1), the Competent Authority shall initiate proceedings for attachment of the property as per the procedure prescribed herein below and such attachment may be carried out in respect of the properties of the financial establishment or promoter, partner, director, manager, member, employee or any other person of such financial establishment.

(3) Consequent upon issue of attachment order in respect of any immovable property, the Competent Authority shall promptly issue notice in writing to the concerned Block Land and Land Reforms Officer or any other officers authorized in this behalf and such concerned Block Land and Land Reforms Officer or any other officers shall be duty-bound to register the rights and juristic acts connected with such immovable property and to make entry of said attachment in their record.

(4) Prior to the attachment of property, the Competent Authority shall present the assignment documents, the identity card and the order relating to attachment of property to the owner or the persons entitled to the property. If such person is not found, the presentation shall be made to the possessor or family member of the possessor. The attachment may be executed/ undertaken with the assistance of the police officials or administration officials in such locality.

(5) The Competent Authority shall post the attachment notification at the location of such immovable property. If such person could not be found, the attachment notification shall be posted at the office of the concerned Block Land and Land Reforms Officer or any other officers authorized in this behalf or at a conspicuous place in the vicinity where such attached property is situated.

If the Competent Authority is able to obtain the documents of title of the immovable property, such documents shall be kept in custody of the Competent Authority.

(6) Upon the property being already attached/ seized, the competent authority shall arrange for the owner or the person entitled to such property or the possessor or family member of the possessor of such property to affix signature certifying the list of seized property. If such person refuses to affix signature or in case such person is not available, the list of seized property shall be recorded and the police official or administration official of such locality shall affix signature of certification instead.

(7) Attachment shall remain operative till the outcome of final verdict of the Designated Court.

(8) All money or movable property, attached by the Government and vested in the Competent Authority under section 5 or section 7, shall be sealed by the Competent Authority and shall be in custody or possession of the Competent Authority.

(9) The Competent Authority shall maintain the record of all the income received, the expenditure incurred, the property received, managed and disposed etc. and furnish the same to the Designated Court, from time to time by way of an affidavit as mentioned in rule 11.

8. Procedure to freeze property.— (1) The Competent Authority may authorize any officer by notification to freeze intangible property under sub-section (2) of section 7 [**(1) The Competent Authority may, authorize any officer of the Directorate of Economic Offences, West Bengal, by notification, to freeze the intangible property under sub-section (2) section 7**].

(2) For freezing the intangible property under sub-rule (1), the Competent Authority shall initiate proceedings for freezing of the intangible property as per the procedure prescribed herein below and such freezing may be carried out in respect of the properties of the financial establishment or promoter, partner, director, manager, member, employee or any other person of such financial establishment.

(3) Consequent upon issue of freezing order in respect of any intangible property, the Competent Authority shall promptly issue notice in writing to the concerned bank and such concerned bank shall be duty-bound to freeze such intangible property and to make entry of said freezing of account in their record.

9. Procedure for the custody of property attached under section 5 and confiscated under section 7.—(1) Where the property to be attached is movable property, other than agricultural produce in the possession of the debtor, the attachment shall be made by actual seizure and the attaching officer shall keep the property in the custody of Administrator appointed under sub-section (5) of section 7 and he shall be responsible for the due custody thereof: Provided that when the property seized is subject to speedy and natural decay or when the expenses of keeping it in custody are likely to exceed its value, the attaching officer may, with prior permission of the Administrator, sell it at once by way of auction or such other mode as fit and proper for securing maximum value of such property.

(2) (a) Where the property to be attached is immovable, the attachment shall be made by an order prohibiting the debtor from transferring or charging the property in any way, and any such person from taking any benefit from such transfer or charge.

(b) The order shall be proclaimed at some place on, or adjacent to such property by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and also upon a conspicuous part of the village/block and where the property on land is situated, it may also be affixed in the office of the Block Development Officer within whose jurisdiction the property is situated.

10. Procedures for assessment of assets and deposits and liabilities.—(1) The Competent Authority shall appoint a registered Valuer for assessment of the assets, deposits and liabilities of the defaulting financial establishment under sub-section (1) of section 10.

(2) The registered Valuer so appointed under sub-rule (1), shall be on the panel of atleast one Department of the Central Government or the State Government.

(3) Upon the seizure or attachment or freeze of any asset, the Competent Authority shall promptly undertake the assessment of the said assets, deposits and liabilities.

(4) For the assessment of assets of any category, the opinion of experts or knowledgeable skilled persons may be sought after proper inspection of such property.

(5) In the matter of assessment of land, the principle of comparison with the market price or the price of closest to the market price rate shall be used but it shall not be lower than the rate determined by the State Government for registration purpose from time to time.

11. Procedure for reporting to the Designated Court.—For reporting the matter to the Designated Court, the Competent Authority shall, after assessing the net assets and liabilities of the financial establishment, submit a statement in the form of an affidavit containing details including name of the financial establishment, Name and address of Registering Authority, Registration /Incorporation Number with date, State in detail about the authority to carry on such business, Name, address (present & permanent) and PAN number of every Person responsible for management of affairs of the Financial Establishment, name of the secured creditors and name of the depositors year-wise *in seriatim* with total amount received by such financial establishment or deposited to such financial establishment, amount paid by such financial establishment to secured creditors or depositors, if any, details of immovable and movable property attached by the Competent Authority, present value of such movable or immovable property as assessed under rule 10, value of property managed and disposed of by the Administrator, total liability of such financial establishment on that date and a proposal for making payment to the depositors from out of the property realised or to be realised to protect the interest of the depositors.

FORM-I

[See sub-rule (2) of rule 3]

Report of Financial Establishment on commencing its Business in the State of West Bengal.

To
The Director,
Competent Authority.

1. Name of the Financial Establishment :
2. Name and address of Registering Authority :
3. Registration /Incorporation Number with date:
4. State in detail about the authority to carry on such business:
5. Name of the State in which the Financial Establishment is registered:
6. Full address:
 - (i) Registered Office, PIN No., Phone No.
 - (ii) Main Branch Office (if any):
7. Name, address (present & permanent) and PAN number of every Person * responsible for management of affairs of the Financial Establishment:
 - (1) Sri.....
 - (2) Sri.....
8. ** Number of Branches/Offices:
9. Name(s) of the Financial Establishment's Auditor and address:
10. Name(s) of the Financial Establishment's Banker(s) Name and addresses:
11. Name, address (present & permanent) and designation of the person looking after financial matters of the Financial Establishment:

Certified that the particulars/ information furnished in the report have been verified and found to be correct and complete in all respects.

Date:

Place:

Signature of Manager/Managing

Director/authorised official

Name:

Designation:

*If more than two persons are responsible for the management affairs of the Financial Establishment they may give a list showing name and address appending to this Form.

** A list showing the names and address of the place(s) where the Branch Office(s) of the Financial Establishment is/are situated should be enclosed.

FORM-II
QUARTERLY RETURN

[See sub-rule (4) of rule 3]

Financial Year

Quarter Ending

1. Name of the Financial Establishment :

2. Name and Address of Registering Authority:

3. Registration/ Incorporation number with date:

4. PAN numbers of the Financial Establishment and MD / President / Managing Partner/CEO/ Proprietor:

5. Names and addresses of Directors/ Partners/ Proprietor:

6. Names and addresses (present & permanent) of MD / President / Managing Partner/CEO/ Proprietor:

7. Nature of business:

8. Details of Bank Names, account numbers and addresses of the Banker(s):

9. Bank-wise and Account-wise Balance as on the end of the quarter :

10. Details of movable / immovable assets of the Financial Establishment as on the end of the quarter :

11. Copies of latest Audited Balance Sheet

12. Amount received during the quarter from the Investors / Depositors:

13. Names and addresses of investors from whom the amount was collected / received:

14. Amount received from other sources including loans during the quarter

mount utilized / invested & spent during the quarter:

16. Details of such utilization / investment / spent :
17. Area and location of such investment within and outside State:
18. Details of assets created / acquired during the quarter:
19. Details of payments towards return on deposited amount such as interest, dividend or any other services:
20. Details of amount refunded including maturity amount to the investors/depositors during the quarter:
21. Amount payable to the depositors at end of the quarter:
22. Details of properties such as land/ plots or flats handed over or other services rendered to the investors/ depositors during the quarter :
23. Details of movable / immovable assets including bank balances of Directors / Managing Directors / CEO / Partner / Proprietor as on the end of the quarter :

Note: If required additional sheets may be enclosed as *Annexure*.

Date:

Place:

Signature of Manager/Managing Director/authorised official

Name:

Designation:

FORM-III

[See rule 5(2)]

NOTICE

[under section 10(2)]

WHEREAS it has been made to appear to the Competent Authority that different Companies linked to the.....with its registered offices and corporate offices located in the State of West Bengal (hereinafter referred to as the said Company/ Group of Companies), have reportedly mobilised funds from the common people of the State in various forms including deposits, debentures etc. and set up different business ventures for the past several years;

AND WHEREAS a large number of people have been denied return of their deposits or returns promised by the said Company/ Group of Companies;

AND WHEREAS a number of complaints have been received from the employees of the said Company/ Group of Companies, agents and depositors from all across the State of West Bengal of the failure of the said Company/ Group of Companies to repay the deposits etc. made by the depositors and agents etc;

Now, THEREFORE, it is hereby directed to depositors, secured creditors or other affected person(s) who have deposited money to such Company/ Group of Companies and secured creditors (if any), to furnish a statement in the proforma as annexed herewith:—

Proforma of Statement

(To be filled up by the depositors/ secured creditors/ other affected persons)

1.	Name of the depositor/ secured creditor/ other affected person (in BLOCK letters):	
2.	Complete postal address of the depositor/ secured creditor/ other affected person with PIN code (in BLOCK letters):	
3.	(1) (a) certificate No./ depositors ID No./ any other documents with name of the agent (if any) and amount deposited: (b) certificate No./ depositors ID No./ any other documents with name of the agent (if any) and amount deposited: (if required, additional sheet may be attached) (attested copy of such certificate etc./ other relevant documents in support of such claim shall be attached)	
	(2) Total amount deposited in such Company/ Group of Companies:	

Date:

Place:

Signature in full of the depositors/
secured creditors/ other affected persons.

Enclosure(s)/ supportive document(s) attached:

- 1.
- 2.
- 3.

By the order of the Governor,

Malay Kumar De
Additional Chief Secretary (Home) & Home
Secretary to the Government of West Bengal