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BEYOND THE CORPORATE NET: ARE LLPS BECOMING THE NEW FRONTS FOR UNREGULATED DEPOSITS

ABSTRACT:

The Limited Liability Partnership (“LLP”) is a separate legal entity which is similar to the concept of “Company”. The LLPs in India is governed by the legislation known as the The Limited Liability Partnership Act, 2008. But unlike regular a company, these llp’s standout and offer unique features by combining and providing the aspects of both partnership and company. However, there are visible flaws and grey area within the LLP act which lead to accepting of unregulated deposits and various financial misconducts and transaction between the related parties and how the legislation and governing bodies such as Reserve Bank of India (“RBI”) and Ministry of corporate affairs deals specifically Registrar of Companies (“ROC”) with such issues and how the Banning of Unregulated Deposit Schemes Act, 2019 (“BUDS”) aims to impose an effective ban on unregulated deposit schemes and protect the interests of depositors in India.

This paper also aims to provide suggestions and improvements to improve the standards and fix the flaws in the LLP while keeping the key objective of it. The LLP has still been chosen by a niche of professional because of its limited liability feature and its fewer formalities and easier to manage compliance modes, which has been abused by certain individuals who could trigger compliance red flags under the Companies Act. This issue becomes more serious when LLPs are used in largescale financial operations that could possibly mimic company like business models but evade equivalent scrutiny due to lack proper provision regarding compliances in the LLP act. This study recommends policy and structural reforms that ensure transparency and financial accountability in LLPs without compromising their flexibility,

thereby preserving their intended purpose as prescribed while minimizing the risk of abuse caused by the exploitation of the provisions of the act.

Key words: “Deposits”, “Compliance”, “Flaws”, “LLP”, “Companies Act”.

INTRODUCTION: -

The legal framework being applied in India provides various forms of business entities to suit the diverse needs of entrepreneurs and enterprises as their aim, goal and end objective. Among these, the Limited Liability Partnership (“LLP”) has gained traction as a preferred structure due to its hybrid nature, combining the benefits of a partnership with the advantages of limited liability and moreover has an entity similar to that of a company.

[The Limited Liability Partnership Act, 2008](#)¹ governs the formation and regulation of LLPs in India and was introduced with the objective of promoting a flexible, simple, and low compliance business environment, especially for professionals and small enterprises, who couldn't handle the complex compliance mechanism specified in the companies , as prescribed in the [Companies Act, 2013](#)².

Over the past few years, there has been a rise in the use of LLPs as instruments for routing funds, raising capital from informal sources, or masking financial irregularities, often under the radar of regulators. The absence of robust filing requirements or restrictions on capital contributions and advances from third parties has made LLPs vulnerable to being used as conduits for activities that would otherwise trigger compliance red flags under the Companies Act. This issue could become more serious when LLPs are used in large-scale financial operations that mimic company-like business models but evade equivalent scrutiny.

This paper mainly discusses how the legislation and governing bodies such as the Reserve Bank of India (“RBI”) and the Ministry of Corporate Affairs specifically the Registrar of Companies (“RoC”) deal with such issues. It examines how the *Banning of Unregulated*

¹ **The Limited Liability Partnership Act, No. 6 of 2009, Acts of Parliament, 2009 (India),**
https://www.mca.gov.in/content/dam/mca/pdf/LLP_Act_2008_15jan2009.pdf.

² **The Companies Act, No. 18 of 2013, Acts of Parliament, 2013 (India),**
<https://www.mca.gov.in/content/dam/mca/pdf/CompaniesAct2013.pdf>.

Deposit Schemes Act, 2019 (“BUDS”) aims to impose an effective ban on unregulated deposit schemes and protect the interests of depositors in India. It also addresses the ambiguity in defining deposits in the context of LLP, and the challenges faced by regulators in monitoring such entities due to lack of centralized disclosure mechanisms.

In the upcoming section we’ll uncover how such issues can be addressed efficiently while keeping the objectives of this act intact and discuss about the flaws which persists a serious threat in the corporate sector.

RESEARCH METHODOLOGY:

The Researcher has adopted a doctrinal method therefore collected data from Books, Journals, Articles and Newspapers.

OBJECTIVES OF THE STUDY:

1. Identify and provide suitable solution to the problems created by unauthorized deposits with subject to LLPs.
2. To Expose the potential risk of misuse of LLPs for unregulated financial operations.
3. To uncover the consequences of statutory silence and regulatory framework.
4. Explore the role of the BUDS Act, 2019 with respect to LLPs

LEGISLATIVE STAND PERTAINING TO ACCEPTANCE OF DEPOSITS:

To understand this concept, we’ll go through how the term “Deposits” have been portrayed by the statutory authorities and governmental bodies.

Under the Companies Act,2013 the terms deposit is defined under **Section 2(31)** which defines ““deposit” as any receipt of money by way of deposit or loan or in any other form by a company, but excludes certain categories as prescribed in the Companies (Acceptance of Deposits) Rules, 2014.”

The Companies Act, 2013, have a strict rule relating to acceptance of deposit. Sections 73 and 76 lay down the substantive and procedural requirements for companies regarding deposit acceptance, including eligibility, limits, tenure, interest, and mandatory filings.

Wherein the LLP Act, 2008, in contrast, is silent on the issue of deposits. It has neither defined “deposit” nor prescribes any regulatory framework for the acceptance of deposits by LLPs. This legislative lacuna has allowed LLPs to accept loans or advances for business purposes, provided such activities do not contravene other prevailing laws. However, the absence of explicit provisions regarding the deposits has also created opportunities for regulatory non-compliance and potential misuse of the LLP act.

The Ministry of Corporate Affairs has indirectly clarified that while the Companies Act deposit rules do not apply to LLPs, LLPs are not permitted to undertake deposit taking activities akin to NBFCs or Nidhi companies. Any such activity attracts action under the [Banning of Unregulated Deposit Schemes Act, 2019 \(BUDS Act\)](#)³.

The BUDS Act was enacted to address the proliferation of unregulated deposit schemes, which were often operated by entities including LLPs are not covered by sector-specific regulations. The Act adopts a broader and inclusive definition of “deposit” (Section 2(4)), encompassing that any amount of money received by way of an advance, loan, or in any other form, with several exclusions similar to those provisions prescribed under the Companies Act, 2013.

Overall, the acceptance of deposits by the LLP’s is still under grey area but whereas the BUDS act plays an eminent role in safeguarding investor funds and general public against such unregulated deposits.

The critical application of the Banning of Unregulated Deposit Schemes Act, 2019 (BUDS Act) to entities such as Limited Liability Partnerships (LLPs) involved in the unregulated deposit acceptance has been highlighted in this specific case of [P. Raveendran Pilla v. State of Kerala \(Kerala High Court, 2020\)](#)⁴. This case, involving the widespread unregulated deposit scheme operated by the Popular Group of Companies, including through their LLPs, this case also established that the BUDS Act possesses an overriding effect over the state laws further empowering its role. The Kerala high court mandated the investigation be transferred to the Central Bureau of Investigation (CBI) due to the extensive nature of the financial misconduct

³ **The Banning of Unregulated Deposit Schemes Act, No. 21 of 2019, Acts of Parliament, 2019 (India)**, <https://www.indiacode.nic.in/bitstream/123456789/11641/1/A2019-21.pdf>.

⁴ *P. Raveendran Pilla v. State of Kerala*, W.P.(C) Nos. 18199 et al. (Ker. H.C. Nov. 23, 2020), available at https://indiankanoon.org/doc/106816047/?utm_source=raveen2k3.

and clarified that the Act's provisions apply even to deposit schemes that commenced before but continued after February 21, 2019, the effective date of the Act. This judgment serves as a precedent, reinforcing the strict enforcement of the BUDS Act and its role in safeguarding depositor's interests against unregulated financial schemes by individuals exploiting the grey areas of the LLP Act.

LOOPHOLES IN LLP REGULATION AND STATUTORY SILENCE:

1. Lack of Comprehensive Disclosure/Reporting Requirements:

Unlike the companies which are governed by the Companies Act, 2013, the LLPs are not mandated to provide detailed disclosure or reporting requirements regarding deposits or borrowings. While [LLPs must file annual statements](#)⁵ of accounts and returns with the MCA, these filings do not require specific disclosure of deposits, loans, or the nature of funds received and there's specific threshold which has been specified in the Rule 24 of the LLP Rules, 2009 (financial statements must be audited only if the annual turnover exceeds ₹40 lakh or the total capital contribution exceeds ₹25 lakh.), nor do they mandate reporting akin to the DPT-3 form required of companies. This regulatory gap and lacuna in the statutory provisions, which makes it difficult for authorities and stakeholders to monitor the financial inflows and outflows of LLPs, increasing the risk of misuse.

2. No Mandatory Deposit Register, Audit of Deposits, or DPT-3 Equivalent

Companies must maintain a deposit register, undergo audits of deposits, and file DPT-3 returns with the Registrar of Companies, detailing all outstanding receipts classified as deposits or not. In contrast, LLPs doesn't need to comply all such statutory obligations which clearly creates a grey area. There is no requirement for a separate register of deposits, nor is there a mandate for the audit of such deposits or specific forms to be filed regarding the acceptance or status of deposits. This absence of oversight creates opportunities for financial opacity and misconducts due to lacuna of the act.

LLPs often receive funds under the guise of partner's capital contributions, unsecured loans, or advances for goods/services which are either being used or provided, which in turn can be used to as camouflage and confuse what are effectively public deposits. Since there is no

⁵ ClearTax, **Annual Filings for Limited Liability Partnerships (LLP)**, *ClearTax* (last visited July 12, 2025), <https://cleartax.in/s/llp-annual-filings>

explicit definition or regulations for the deposits under the LLP Act, these entries can be perfectly structured to avoid regulatory scrutiny by any statutory authorities⁶. This loophole could further be exploited by reclassifying deposits as business advances or loans from related parties (no provisions in LLP regarding RPT too), making it challenging to distinguish between the legitimate business funding apart from the disguised deposit taking.

3. Comparison with NBFC Regulations (and How LLPs Escape Similar Regulatory Licensing):

Non-Banking Financial Companies (NBFCs) are tightly regulated by the RBI and Nidhi Companies are governed by the Companies Act, 2013 and the Nidhi Rules, 2014. (“While they are a type of NBFC (Non-Banking Financial Company), they are specifically regulated by the MCA, not the Reserve Bank of India (RBI)”), requiring registration, minimum capital, and strict compliance with prudential norms to accept public deposits. LLPs, however, are not subject to NBFC licensing or RBI oversight unless they explicitly engage in financial business as their principal and primary activity. This allows LLPs to operate outside the regulatory perimeter that binds NBFCs, even when their activities closely resemble deposit-taking or lending.

4. Case Laws on Whether LLPs Can Accept Deposits:

While in earlier part, there has been a case that has been discussed [P. Raveendran Pilla v. State of Kerala \(Kerala High Court, 2020\)](#), However the scope is still evolving in this specific aspect there are only limited interpretations and rules relating to it.

The Supreme Court in the case of [Security Exchange Board of India \(“SEBI”\) v. Gaurav Varshney & Anr. \(2016\)](#)⁷ held that entities cannot exploit the absence of detailed regulations to run unregistered collective investment schemes, and that regulatory bars are effective from the date of statutory amendment, not merely from the date of subordinate regulation.

⁶ Corpbiz, *All About the Borrowing Clause in an LLP Agreement*, Corpbiz (May 19, 2023), <https://corpbiz.io/learning/all-about-the-borrowing-clause-in-an-llp-agreement/>

⁷ *Securities and Exchange Board of India v. Gaurav Varshney & Anr.*, Criminal Appeal Nos. 833–836 of 2012 (SC), judgment delivered Sept. 25, 2013, available at <https://indiankanoon.org/doc/38106745/>.

This principle is instructive for interpreting the regulatory gaps in the LLP framework, suggesting that LLPs engaging in deposit like activities may be subject to analogous regulatory scrutiny by the governing statutory authority, even in the absence of explicit statutory provisions. In the case of LLP, either the Registrar of Companies or Reserve Bank of India if deemed to could take necessary action if required or either action under the BUDS act could be used amicably to deal with such matters.

There is a lack of direct judicial precedent which clearly prohibits or permits the LLPs from accepting deposits. The Banning of Unregulated Deposit Schemes Act, 2019 (BUDS Act) applies to all entities, including LLPs, and prohibits the acceptance of deposits under unregulated schemes.

However, the Act and judicial interpretations remain silent and unappealing regarding what constitutes a regulated deposit scheme for LLPs (unlike MCA provided Nidhi's which is governed by the Nidhi rules,2014 and the companies act,2013), as the First Schedule of the BUDS Act does not list any regulator or regulated deposit scheme specifically for LLPs.

Courts have not yet provided definitive ruling which would act as effective precedent on the status of deposits accepted by LLPs, leaving the area open to interpretation to individuals and future generation to unveil or the statutory authorities to unfold themselves and provide a suitable solution regarding the matters relating to deposits with regard to the LLPs.

5. Grey Areas Due to Lack of Judicial Clarity

The statutory silence in the LLP Act, the absence of explicit regulatory or reporting requirements regarding the deposit taking mechanism, and the lack of authoritative case law have created significant grey areas in the regulation of deposits by LLPs. This ambiguity allows for regulatory arbitrage and financial misconducts if not fixed in time, where LLPs may structure transactions to avoid classification as deposit-taking, thus escaping the compliance burden faced by companies and NBFCs.

The BUDS Act attempts to fill this gap, but its application to LLPs remains uncertain, especially since no regulator or regulated deposit scheme is specified for LLPs in the Act's

schedule. As a result, enforcement agencies and courts must rely on broad aspects and details, often leading to inconsistent outcomes.

Since the act has no detailed resource relating to it, the court in such cases may take larger delays getting delayed justice and affecting the depositors because of lacuna in the LLP act.

In short, the LLPs might get benefit from regulatory loopholes due to statutory silence, lack of disclosure mandates, and the absence of judicial clarity, enabling them to operate in ways that would not be permissible for companies or NBFCs.

This underscores the urgent need for legislative and regulatory reforms to ensure transparency and protect the interests of depositors and the financial system at large.

POLICY AND REFORM SUGGESTIONS FOR REGULATING DEPOSITS IN LLPS:

1. Amendment to the LLP Act to Align with Companies Act Deposit Rules:

The LLP Act, 2008 currently lacks specific provisions regulating the acceptance of deposits, unlike the Companies Act, 2013, which has a comprehensive framework (Sections 73, 76 and Deposit Rules). Amending the LLP Act to introduce similar controls as par companies and its rules such as eligibility criteria, limits, tenure, and mandatory disclosures for deposits would close regulatory gaps and enhance investor protection. [Recent reform discussions](#)⁸ have already considered aligning certain LLP practices with company law, such as the introduction of accounting standards and enhanced compliance for “small LLPs”

2. Definition for “Deposits” in the context of LLPs:

A clear statutory definition of “deposit” tailored for LLPs is essential. This definition should be detailed and must be consisting the traits and characteristics as mentioned below:

⁸ Vinod Kothari, Proposed Changes Under the LLP Act Are Much More Than Decriminalisation, *Vinod Kothari Consultants* (Jan. 2021), <https://vinodkothari.com/2021/01/proposed-changes-under-the-llp-act-are-much-more-than-decriminalisation/>.

- ◆ Mirror the Companies Act's approach in covering any receipt of money by way of loan, deposit, or in any form, with specific exclusions (e.g., partner contributions, regulated borrowings) in order keep the principle of the act intact.
- ◆ Explicitly prohibit LLPs from accepting public deposits unless regulated by any statutory authority such as MCA or RBI, while allowing genuine business loans and advances in the ordinary course of business.
- ◆ Reference to the BUDS Act, 2019, to ensure consistency and prevent regulatory arbitrage, Inclusion to the RBI in case if the nature of business carried out by the LLP requires to.

3. Equivalent form on par with DPT-3 for LLPs and Audit related framework:

Every Companies which accepts deposits are required to file Form DPT-3 annually, disclosing all outstanding receipts classified as deposits or not. **A similar annual disclosure requirement should be introduced for LLPs:**

- Mandate an "LLP-DPT" form to be filed with the Registrar/MCA, detailing all loans, advances, and deposits received during the year.
- Require maintenance of a deposit register and subject such records to audit, especially for LLPs above specified thresholds as per the LLP rules.

It is to be ensured that public access to such filings for transparency in nature to avoid misconducts by any form.

Currently, LLPs must undergo audit only if their turnover exceeds ₹40 lakh or capital contribution exceeds ₹25 lakh, to improve this oversight:

- Lower the audit threshold for LLPs accepting significant external funds, or introduce additional reporting standards for those crossing certain deposit or borrowing limits, and specify the limits explicitly either in act or in the rules vide notifications.

- Require specific audit and disclosure of deposit-related transactions for LLPs with high turnover or external funding, similar to company audit standards.

Such acts could provide a better infrastructure and make the laws stricter by closing the loop holes and make it effective in nature.

4. Coordination with RBI/SEBI to Flag Suspicious Financial Activity:

Given the risk of LLPs being used for unregulated deposit schemes or financial misconduct:

- Establish formal coordination mechanisms between the Ministry of Corporate Affairs (MCA), RBI, and SEBI to share information and flag suspicious transactions by LLPs based on their activities which are suspicious and nature and log unusual moves and nature.
- Require reporting of large or unusual transactions to the Financial Intelligence Unit (FIU) and empower regulators to investigate and act against LLPs mimicking NBFC or collective investment activities without registration, which needs to introduce newer rules and amendments to existing laws since it could require additional departments in various sectors to maintain the flow.
- Leverage technology for real-time monitoring and cross-verification of filings across regulatory databases in order to cross verify the statements submitted to various authorities being complied by various regulations.

Enhanced compliance and coordination between statutory agencies would strike down financial misconduct and align the regulatory treatment of LLPs with that of companies and NBFCs, protecting both investors and the integrity of the financial system.

CONCLUSION:

The evolution of the Limited Liability Partnership (LLP) as a preferred business format in India has brought both opportunities and regulatory challenges. While the LLP Act, 2008 was crafted to provide flexibility and ease of operation for professionals and small businesses, its statutory silence on critical issues in particular in the matters of acceptance of deposits has created significant loopholes. These gaps have enabled some LLPs to engage in financial practices that would otherwise trigger strict compliance and scrutiny under the Companies Act, 2013 or the regulatory regime for Non-Banking Financial Companies (NBFCs).

The need for reform is urgent and clear. Aligning the LLP Act with the deposit rules on par with that of the Companies Act and also introducing a statutory definition of deposits for LLPs, mandating disclosure and reporting requirements (such as a DPT-3 equivalent), and enhancing audit thresholds based on turnover or external contributions are critical steps. Moreover, establishing robust coordination between the Ministry of Corporate Affairs, RBI, and SEBI to monitor and flag suspicious financial activity will further deter misuse.

Judicial and regulatory responses, as reflected in landmark cases like *P. Raveendran Pilla v. State of Kerala* and *SEBI v. Gaurav Varshney*, highlight the judiciary's willingness to pierce the corporate veil and prioritize substance over form, but also underscore the persistent ambiguity due to the lack of explicit statutory provisions for LLPs.

Ultimately, the important goal is to strike a balance by preserving the flexibility and simplicity that make LLPs attractive while instituting safeguards that ensure transparency, accountability, and the protection of public interest and upholding the safety of depositors.