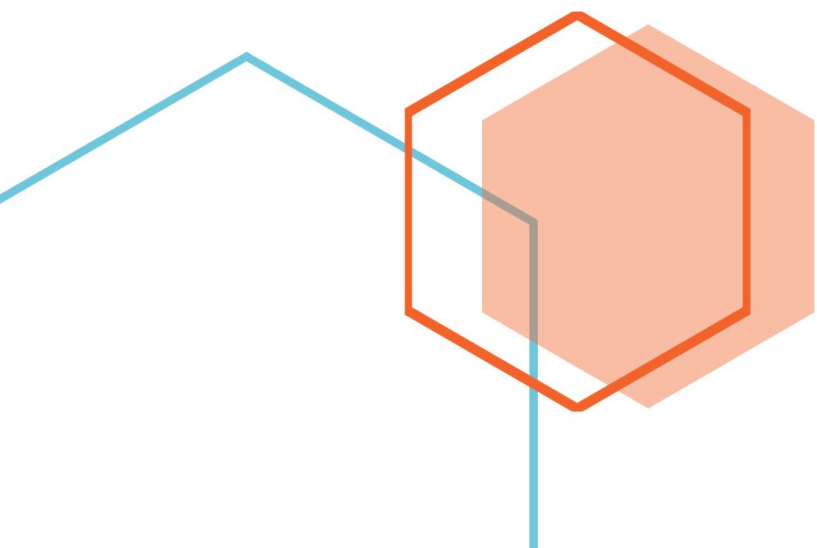




Pyramid Scheme Identification Guideline, 2021

Office of Consumer Protection
Ministry of Economic Affairs





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RATIONALE

This guideline is developed with the objective to understand the intricacies and identify a pyramid scheme and enable the relevant officials to investigate and identify such a scheme unambiguously and effectively. As per Section 38 (xiii) of Consumer Protection Rules and Regulations (CPRR), 2015, business entities are refrained from establishing, operating or promoting a pyramid promotional scheme where a consumer receives compensation that is derived primarily from the introduction of other consumers into the scheme rather than from the sale or consumption of products.

Literature suggests that pyramid scheme business is pervasive in nature, whereby members are tempted to be a part of such schemes due to the misguided notion of making easy money. Such a scheme exploits personal relationships for sales and further recruitment of members and usually targets easily impressionable group such as youth, housewives, villagers and those who have not received school education.

In most instances, pyramid schemes are cloaked to appear like multi-level marketing or direct selling - which are legal businesses – making it challenging for regulators to differentiate between them, in the absence of a proper identification protocol.

Thus, a guideline to understand and identify the operation of the pyramid scheme is imperative. By the powers conferred under Section 120 of CPA 2012, the Consumer Board (aka Consumer Board and Competition Council) hereby adopts this Guideline, as follows:

CHAPTER 1

PRELIMINARY

Title

1. The Guidelines shall:

- a) Be called as Pyramid Scheme Identification Guideline, 2021

Commencement

2. This Guideline comes into force on the 16th Day of the 10th Month of the Female Iron Ox Year of the Bhutanese calendar corresponding to the 20th Day of the 11th Month, 2021.

CHAPTER 2

MEANING AND CHARACTERISTICS OF A PYRAMID SCHEME

Meaning

3. A scheme is considered a pyramid promotional scheme if:

- a) Any individual or group of individuals or the business entities establishing, operating or promoting a scheme, where consumers receive compensation, directly or indirectly, that is derived primarily from recruitment or the introduction of other consumers into the scheme rather than from the sale or consumption of product(s).



- b) The compensation to the consumer is entirely or substantially induced by the prospect held out to new consumers that they will be entitled, in relation to the introduction to the scheme of further new consumers, to be provided with compensation.

Characteristics

4. A pyramid scheme may feature any or more or all of the following prominent characteristics:

- a) The scheme emphasizes on getting others to join rather than selling a product or service. The emphasis is on getting individuals to join the scheme for a membership fee. Each of the newly recruited downline members must further introduce other members by promising profits based primarily on recruiting other members to join the scheme, not based on profits from any genuine sale or consumption of products by consumers.
- b) There is payment of registration fee, paid directly or indirectly and is renewed periodically. Generally, the registration and membership fee are collected by the principal company on the pretext of product sale.
- c) Promises high returns in short periods of time which is based on the introduction of members rather than the volume of sales. The members are lured by ranks and promising higher financial returns within a short span of time.
- d) The compensation modalities are complex and beyond the comprehension of general consumers.

5. A pyramid scheme may have the following additional features:

- a) There is no actual sale and promotion of any products or services but emphasis is on the introduction and recruitment of members. Some schemes may purport to sell a product but they often simply use the product to hide their pyramid structure or disguise the scheme. Generally, a product sale is between the members or to the new recruits and there is little or no transfer of products in the markets. The incentive program of schemes compels recruits to continuously recruit additional downline members and buy or sell products often at inflated prices;
- b) There is very little or no revenue generated from the retail sales of the products and services that are associated with the scheme. The recruit's income is dependent on payments by new members they enlist rather than from the sale of products or services.
- c) There is a strict or unreasonable structural requirements of the scheme for the eligibility of participants to receive bonus or other benefits;
- d) In order to be an active member and earn bonuses, members are obliged to purchase certain value of products over a given time frame;
- e) Advertisement, marketing and promotion campaign target impressionable groups such as unemployed youth, senior citizens, house wives, people with little or no school education, among others;
- f) Members are made to believe that business operation is legitimate, with endorsement and certification from the competent authorities;
- g) Members at the top of the structure receive substantial compensations and profits based on the recruitments and payments by the downline members.
- h) Members are made to purchase products of the company periodically for a certain price. There is no product buy-back policy or other safeguards, if the members are unable to sell the goods.
- i) Members are often made to join the scheme without providing adequate time and information to understand the prospectus of the business.



CHAPTER 3

PROCEDURE FOR INVESTIGATION

Phase 1 (Planning)

6. The Planning Phase shall consist of the following:

- a) The investigator(s) shall receive and review the suspected schemes /issues brought to the attention of the OCP and register the case if it pertains to general trade practice violation or matters related to consumer affairs.
- b) The investigator(s) shall develop an investigation plan which shall seek to establish the relevant facts, gather the necessary evidence, and ensure that the investigation is conducted thoroughly, efficiently and expeditiously. The plan shall be reviewed and authorized by the head of the department/ division.
- c) The investigator(s) shall seek assistance from relevant agencies of the government or Local Government officials to carry out the investigation, if necessary.

Phase 2: (Inquisition)

7. The Inquisition Phase shall consist of the following:

- a) The investigator(s) shall conduct interviews, ask for the statement, or summon the promoter/ affiliate members to make a presentation about the business modality of the schemes. While doing so, the investigator(s) shall use the checklist (*Annexure I*) to evaluate the scheme.
- b) The investigator(s) shall enter into any business premises of a licensed entity at business hours and make such enquiry or investigation as deemed appropriate.
- c) In the course of an enquiry or investigation, where necessary, the investigator(s) shall direct any person to submit information related to the scheme and keep such records for its investigation.
- d) The investigator(s) shall demand evidence such as money receipts, member registration forms, operation plan of the scheme, list of members recruited, compensation plan of the principal company, photos, money transaction documents, graphics, or any other types stipulated under the Evidence Act of Bhutan, 2015.
- e) The investigator(s) shall record all new information within the case file and shall secure and store all the evidence gathered.
- f) Any record or data received or gathered during an investigation shall be referenced within the case file.

Phase 3 (Report Preparation)

8. After completion of the investigation, the Report Preparation Phase shall consist of the following:

- a) The investigator(s) shall prepare an investigation report based on the facts examined and fully supported by available evidence. The write-up shall be prepared as per the structure of investigation reports (*Annexure II*).
- b) On completion of an investigation, the investigator(s) shall submit a report of such investigations to the Office of Consumer Protection for appropriate administrative decision.



CHAPTER 4

MISCELLANEOUS

Amendment

9. The Consumer Board and Competition Council may amend this Guideline from time to time as deemed necessary.

Definition

10. For the purpose of this guideline, unless the context otherwise requires:

- a) **“Promote”**, in relation to pyramid scheme, means:
 - i. to establish, plan, advertise, operate or conduct by using any medium/platform, including electronic transaction; or
 - ii. to induce or attempt to induce other persons to be a participant in such scheme by using any medium, including electronic;
- b) **“Member”** means a person who registers, participates and/or receives compensation from a pyramid scheme;
- c) **“Compensation”** shall mean returns, bonuses, benefits, rewards, incentives or profits from a pyramid scheme;
- d) **Multi-level marketing (“MLM”) or network marketing** is a marketing strategy to sell goods and services through Internet advertising, company websites, social media, presentations, group meetings, conference calls, and brochures. In an MLM, the incentives that you get paid are from the sale of goods or services that you and the distributors in your “downline” (*i.e.*, participants you recruit and their recruits) sell to others and not based on the recruitment of downline members.
- e) **“Direct selling”** is a blanket term that encompasses a variety of business forms premised on person to person selling in locations other than a retail establishment, such as social media platforms or the home of the salesperson or prospective customer.
- f) **“Principal company”** is the founding business entity from which a particular pyramid scheme originated.



Annexure I: Checklist to evaluate if a scheme is a Pyramid Scheme or not

	Descriptors	Yes (√)	No (X)
1	Is there a requirement in the scheme for the introduction and recruitment of members?		
2	Are the members required to deposit fees to register as a member?		
3	Are the members required to renew membership periodically?		
4	Does the scheme promise high returns in a short period of time?		
5	Does the scheme emphasize on getting other members to join?		
6	Is the income generated solely through recruitment of new members?		
7	Are members obliged to purchase a certain value of products to earn bonuses over a given time frame?		
8	Are the newly recruited downline members required to further introduce other members?		
9	Does the compensation plan of the scheme reward the recruitment of a downline?		
10	Are the commissions (payouts) being paid out of deposit from new recruits rather than revenue generated by product sales?		
11	Is the compensation plan of the scheme complex and beyond the comprehension of general consumers?		
12	Does the principal company derive revenue primarily from recruitment of the downline member?		

(Note: The checklist shall be used as a guide to establish if the business is a pyramid scheme and is not exhaustive in nature)

Name and Signature of Investigator:

Date:



Annexure II: Structure of Investigation Report

- I. **Executive Summary:** A concise summary of the allegations/issue, the investigation details, findings and conclusion.
- II. **Methodology:** A summary of what methods were taken to recover evidence and testimony of affiliate members or promoters.
- III. **Mode of Business Operation:** A summary of company profile, business modality, compensation plan, Mode of Operation in Bhutan, etc.
- IV. **Investigation Findings/ Observation:** A summary of what the investigation established.
- V. **Applicable Norms:** A list of the relevant Rules, Regulations & Provision of Acts violated/ breached.
- VI. **Recommendation:** It may also include recommendations for penalties and corrective/ punitive action derived from investigation findings, including improving existing systems, policies, and procedures, strengthening internal controls, remedies to aggrieved consumers or otherwise preventing similar incidents from recurring.
- VII. **References:** List all the materials referred during investigation in APA format.
- VIII. **Annex A** - List of exhibits
- IX. **Annex B** - List of witnesses