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**STANDING COMMITTEE
ON FINANCE
(2004-2005)**

FOURTEENTH LOK SABHA

**MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS—
BANKING DIVISION)**

**THE CREDIT INFORMATION COMPANIES
(REGULATION) BILL, 2004**

FIFTEENTH REPORT



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

February, 2005 / Magha, 1926 (Saka)

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(REGULATION) BILL, 2004

Presented to Lok Sabha on 25.2.2005

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LOK SABHA SECRETARIAT
NEW DELHI

February, 2005/Magha, 1926 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON
FINANCE—2004-2005

Maj. Gen. (Retd.) B.C. Khanduri — *Chairman*

MEMBERS

Lok Sabha

2. Shri Jaswant Singh Bishnoi
3. Shri Gurudas Dasgupta
4. Shri Bhartruhari Mahtab
5. Shri Shyama Charan Gupt
6. Shri Gurudas Kamat
7. Shri A. Krishnaswamy
8. Shri Bir Singh Mahato
9. Dr. Rajesh Kumar Mishra
10. Shri Madhusudan Mistry
11. Shri Rupchand Pal
12. Shri Danve Raosaheb Patil
13. Shri Shrinivas D. Patil
14. Shri K.S. Rao
15. Shri Jyotiraditya Madhavrao Scindia
16. Shri Lakshman Seth
17. Shri G.M. Siddeshwara
18. Shri Ajit Singh
19. Shri M.A. Kharabela Swain
20. Shri Vijoy Krishna
21. Shri Magunta Sreenivasulu Reddy

Rajya Sabha

22. Shri Murli Deora
23. Shri R.P. Goenka
24. Shri Jairam Ramesh
25. Shri M. Venkaiah Naidu
26. Shri Yashwant Sinha

(iv)

27. Shri Chittabrata Mazumdar
28. Shri S.P.M. Syed Khan
29. Shri Amar Singh
30. Shri C. Ramachandraiah
31. Shri Mangani Lal Mandal

SECRETARIAT

- | | | |
|---------------------------|---|-------------------------|
| 1. Shri P.D.T. Achary | — | <i>Secretary</i> |
| 2. Dr. (Smt.) P.K. Sandhu | — | <i>Joint Secretary</i> |
| 3. Shri R.K. Jain | — | <i>Deputy Secretary</i> |
| 4. Shri R.C. Kakkar | — | <i>Under Secretary</i> |

INTRODUCTION

I, Chairman of the Standing Committee on Finance having been authorised by the Committee to submit the Report on their behalf, present this Fifteenth Report on the Credit Information Companies (Regulation) Bill, 2004.

2. The Credit Information Companies (Regulation) Bill, 2004 was introduced in Rajya Sabha on 6th December, 2004 and was referred to the Committee on 13th December, 2004 by the Hon'ble Speaker of Lok Sabha for examination and report thereon.

3. The Committee sought memoranda from the (i) Credit Information Bureau (India) Limited, (ii) Dun & Bradstreet Information Services (India) Pvt. Ltd., (iii) Indian Banks' Association, and (iv) Punjab National Bank on the Bill. They also heard the views of the representatives of (i) Credit Information Bureau (India) Limited., (ii) Dun & Bradstreet Information Services (India) Pvt. Ltd. (iii) Indian Banks' Association, and (iv) Punjab National Bank on 4th January, 2005. The Committee at their sitting held on 18th January, 2005 took oral evidence of the representatives of Ministry of Finance (Department of Economic Affairs—Banking Division) on the provisions contained in the Credit Information Companies (Regulation) Bill, 2004.

4. The Committee considered and adopted the draft report at their sitting held on 14 February, 2005.

5. The Committee wish to express their thanks to the representatives of (i) Credit Information Bureau (India) Limited, (ii) Dun & Bradstreet Information Services (India) Pvt. Ltd. (iii) Indian Banks' Association, (iv) Punjab National Bank, and (v) the Ministry of Finance (Department of Economic Affairs—Banking Division) for co-operation extended in placing before them their considered views and perceptions on the subject and for furnishing written notes and information that the Committee had desired in connection with the examination of the Bill.

6. For facility of reference and convenience, the observations/ recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI;
23 February, 2005
4 Phalgun, 1926 (Saka)

MAJ. GEN. (RETD.) B.C. KHANDURI,
Chairman,
Standing Committee on Finance.

REPORT

Background

The Introduction of financial sector reforms in 1993 had revealed the extent of non-performing assets in the Banking system. The tackling of NPAs through various measures had been attempted since then. It has also become imperative to arrest accretion of fresh NPAs in the banking sector through an efficient system of credit information on borrowers as a first step in credit risk management. In this context the requirement of an adequate, comprehensive and reliable information system on the borrowers through an efficient database system has been keenly felt by Reserve Bank of India (RBI), Government, as well as credit institutions.

2. A Working Group, constituted by the Reserve Bank of India to explore the possibility of setting up a Credit Information Bureau (CIB) submitted its report in October 1999. It had recommended *inter alia* that (a) a CIB be set up under the Companies Act, 1956 with equity participation from commercial banks, financial institutions and Non-Banking Financial Companies registered with RBI; (b) a foreign technology partner be included as collaborator in setting up of a Company; (c) and appropriate legal framework be put in place to provide adequate protection to the Company as also the credit institutions sharing information with the Company; (d) pending enactment of a master legislation or legal amendments, a beginning could be made by setting up a Company which can operate initially by pooling information on suit-filed accounts as also transactions on which the borrower has given consent, for sharing amongst the user group. The Working Group in its recommendations had observed that it would not be possible to set up a world class credit information bureau within the existing legal framework. The legal prohibition on disclosure of information enshrined in various Banking Acts would not permit banks and financial institutions to share credit information with the Bureau. The power vested with the RBI under section 45C, Chapter-III A of the Reserve Bank of India Act, 1934, to collect and furnish credit information from banks or financial institutions cannot be delegated by it to another institution. Therefore, amendments would be required in various enactments.

3. In countries like U.S.A., UK., Australia and New Zealand, there are specific legislations relating to data protection or privacy laws and such legislations to reinforce, guide and place a few restrictions, expedient and necessary for collection and sharing of credit information by a Credit Information Company. In Sri Lanka, the setting up of Credit Information Company is governed by an Act of Parliament.

4. Credit Information Bureau (India) Ltd. (CIBIL) was set up by the State Bank of India in association with Housing Development Financial Corporation in January 2001, with an authorized capital of Rs. 50 crore and a paid up capital of Rs. 25 crore, with equity participation of 40 per cent each and two foreign technology partners viz., M/s Dun & Bardstreet Information Services (India) Pvt. Ltd., and Trans Union International Inc., USA sharing the remaining 20 per cent equity stake. The CIBIL was to be technology-driven to ensure speedy processing, periodic updating and availability of error-free data at all times in the system. CIBIL has launched its consumer bureau operations on 5th April, 2004. Currently, 108 credit grantors have accepted membership to CIBIL. These include 68 banks accounting for over 90% of the total credit outstanding amongst the commercial banks, 11 HFCs, accounting for over 70% of the total credit outstanding amongst the HFCs, 10 FIs accounting for over 90% of the total credit outstanding amongst the FIs and 12 major NBFCs representing a substantial portion of the credit outstanding of that sector. All credit grantors (CG), who are members of CIBIL, and have contributed data are eligible to draw reports.

5. With a view to provide the necessary legislative support to this Bureau and to ensure a credit market that functions efficiently, the Credit Information Companies (Regulation) Bill, 2004 was introduced in Rajya Sabha on 6th December, 2004. This Act would provide for regulation of credit information companies and to facilitate efficient distribution of credit and for matters connected therewith or incidental thereto. This is expected to significantly improve the quality of credit appraisal and decisions. the Bill, *inter-alia*, contains provisions for the following:

- (1) Prohibition to commence or carry on business of credit information without obtaining a certificate of registration from the Reserve Bank of India;
- (2) Procedure for making application for grant of certificate of registration, cancellation of certificate of registration and appeal against order of rejection of an application for grant of certificate of registration and cancellation of certificate of registration;

- (3) Requirement of minimum capital;
- (4) Management of credit information companies;
- (5) Conferring power upon the Reserve Bank of India to determine policy in relation to functioning of credit information companies and also giving directions to credit information companies and other players in the business of credit information;
- (6) Functions of credit information by credit information companies;
- (7) Collection and furnishing of credit information by the credit companies;
- (8) Powers and duties of auditors;
- (9) Obtaining of membership by credit institutions of credit information companies;
- (10) Resolution of disputes between credit institutions and credit information companies or between credit institution and their borrowers;
- (11) Accuracy and security of credit information and privacy principles;
- (12) Alterations of credit information files and credit reports;
- (13) Regulation of unauthorised access to credit information;
- (14) Offences and penalties;
- (15) Cognizance of offences;
- (16) Obligations as to fidelity and secrecy;
- (17) Exemption from any or all the provisions of the proposed legislation in any credit information company or credit institution;
- (18) Amending certain enactments specified in the Schedule to the Bill so as to permit disclosure of credit information under the proposed legislation;
- (19) Power of Central Government to make rules to carry out the provisions of the Act;
- (20) Power of RBI to make regulations.

6. With a view to have an expert opinion on various provisions of the Bill, the Committee invited suggestions/views/memoranda from experts, Punjab National Bank and Credit Information Bureau (India) Limited (CIBIL) etc. In response to that written views/memoranda were received from various quarters for example (i) Indian Banks' Association; (ii) Dun & Bradstreet Information Services (India) Pvt. Ltd.; (iii) Credit Information Bureau (India) Ltd. (CIBIL); and (iv) Punjab National Bank.

7. The Committee also took oral evidence of the representatives of (a) Indian Banks' Association; (b) Dun & Bradstreet Information Services (India) Pvt. Ltd.; (c) Credit Information Bureau (India) Ltd. (CIBIL); (d) Punjab National Bank and Ministry of Finance (Department of Economic Affairs—Banking Division) to further enlighten them on various aspects of the proposed legislation.

8. After having examined the various provisions of the Bill clause by clause, the Committee are generally in agreement with the broader objectives of the Bill. However, after hearing the views of all these organizations/Experts and the Government, the Committee have come to the conclusion that some provisions/clauses of the Bill need modification to make it more effective instrument in ensuring efficient distribution of credit in the economy and proper regulation of credit information companies as envisaged in the Bill. The Committee therefore approve the Bill for enactment by Parliament subject to modifications/recommendations as detailed in the succeeding paragraphs.

Clause 4 (1) & (2): Application for registration

9. Sub-clauses (1) and (2) of clause 4 state as under:

“Every company which intends to commence the business of credit information shall make an application for registration to the Reserve Bank in such form and manner as may be specified by regulations.

Every credit information company, in existence on the commencement of this Act, before the expiry of six months from such commencement, shall apply in writing to the Reserve Bank for obtaining a certificate of registration under this Act:

Provided that in the case of a credit information company in existence on the commencement of this Act, nothing in Section 3 shall be deemed to prohibit such credit information company from carrying on the business of a credit information company, until it is granted a certificate of registration or is by notice in writing informed by the Reserve Bank that a certificate of registration cannot be granted to it.”

10. By virtue of this Clause any company can commence the business of credit information by applying for registration to the Reserve Bank in such form and manner as may be specified by regulations. Hence, there is no restriction on the number of companies which could enter into the business of providing credit information.

11. As regards the number of credit information companies the Working Group had expressed their views as follows:

“The Group is of the view that the legislation enacted for the purpose could provide for establishing Bureaus to cater to the needs of different market segments and the large geographical area of the country.”

12. The Punjab National Bank, in a note furnished to the Committee suggested following:

“The propose Act permits multiplicity of credit information companies in the market. This provision shall result into a situation, where a credit grantor seeking exposure in a fresh account, small borrower in particular, shall have to go to all the credit information companies available in the market so as to ensure that it gets credit information on the said borrower pertaining to all the banks with whom the said party is dealing.

The above situation may be time consuming besides it's not being cost effective. In the above backdrop the regulator should have the power to restrict the number of players in the market if deemed necessary at any point of time. Further the regulator may also consider constitution of only two such companies in the market for dealing with commercial and consumer data separately."

13. In their post evidence reply the Punjab National Bank stated:

"The Act should empower RBI to restrict the number of Credit Information Companies, preferably upto two/three to avoid problems due to multiplicity of agencies."

14. When the Ministry were asked about restricting the number of credit information companies by the regulator and whether such companies should have specific jurisdiction over different market segments and also the geographical areas, as suggested by the Working Group, the Ministry in a note stated as follows:

"The companies which satisfy the criteria laid down under the provisions of Chapter II of the Bill with respect to minimum paid-up capital and other conditions would be eligible for grant of certificate of registration for functioning as credit information companies. The Reserve Bank may reject the application for grant of certificate of registration of such applicant companies who fail to satisfy the Reserve Bank in terms of the provisions of Sub-clauses (b) & (c) of sub-clause (1) of clause 5 of the Bill. Except such rejection, the Reserve Bank as a regulator would not be in a position to restrict the number of credit information companies. It is desirable that more number of Credit Information Bureaus (CIBs) should be formed so as to leave little or no gap in collection of credit information from the vast geographical area and different sectors.

As regards the second aspect of this question *i.e.* whether these companies should have specific jurisdiction over different market segments of the country, it may be pointed out that the reference to different market segments and the large coverage of the geographical area of the country by credit information companies made by the group was with a view to emphasizing the desirability and expediency of establishing more than one credit information company. Accordingly, the provisions in this behalf have been included in the Bill and the Bill provides scope for any company to undertake the business and function of a credit information

company subject to compliance of the criterion as laid down under Chapter II of the Bill, with respect to registration of credit information companies.

Therefore, in our opinion, credit information company should be left with their own option to decide the coverage of geographical area and market segments by themselves depending upon their own infrastructure and ability to function effectively in accordance with the Bill."

15. In this regard the representative of the Indian Banks' Association stated as below during the course of oral evidence:

"It cannot be a very large number. It has to be three to four companies because with the computer technology, which will be used by these companies, there would not be really any scope for work for many companies. It would have to be restricted to five to six companies, at the maximum. And, they could be area-wise, and they should be class of borrowers-wise. It could be consumers, it could be small-scale industry and like that. Once they are covered, the number can be restricted to a few, definitely less than 10 numbers."

16. When the attention of the Government was drawn to the problems that may crop up with the existence of multiple credit information companies, the Ministry in their written submission replied as under:

"So long the credit information companies (CICs) function in accordance with the proposed Bill, their number as such may not cause any problem to credit grantors. In fact, Siddiqui Committee while recommending that the legislation enacted for the purpose could provide for establishing more than one CIC had taken into account that by doing so needs of different market segments would be fulfilled and it would also enable the large coverage of geographical area of the country. The Bill also provides scope and option for one CIC to become member of another CIC as well as one credit institution to become member of more than one CIC."

17. The Committee note that under the existing provisions, any company can apply for undertaking the business of providing credit information. On the other hand Indian Banks' Association, is of the opinion that in the era of computers, there would not be any need

for numerous companies providing credit information. The Committee are of the view that whereas too many Credit Information Companies may not be desirable, yet in a big country like ours it is necessary that all regions of Country must be covered. Hence, the Credit Information Companies should be formed on regional basis and specialise in different market segments to avoid concentration of companies in one particular area/region/State or too many companies catering to the needs of a particular market segment. Therefore, in view of the Committee RBI should have discretion to decide, keeping the above in view, on the number of credit information companies as well as their areas of work so that Credit Information Companies have wide representation and can provide information on any type of credit.

Clause 7 (1): Appeal against order of Reserve Bank

18. Clause 7 (1) reads as follows:

“A credit information company aggrieved by the order of rejection of an application for grant of certificate of registration under Section 5 or cancellation of certificate of registration under Section 6, may prefer an appeal to the Central Government, within a period of thirty days from the date on which such order of rejection or cancellation, as the case may be, is communicated to the credit information company.”

19. The representative from the Ministry of Law and Justice, Legislative Department, in this regard submitted following during the course of oral evidence:

“Under various provisions when an appeal lies to the Central Government, there are allocation of business rules under which the concerned Ministry or Department of the Central Government hears and disposes of the appeal. Under the Securities Exchange Board of India Act, 1992, when the appeal was being filed before the constitution of the Securities Appellate Tribunal (SAT), the appeal was being filed to the Central Government. So, under the allocation of business rules, it was the Finance Ministry. Whenever in law ‘Central Government’ is mentioned for filing appeal it is the concerned Ministry or Department. If it is in the context of petroleum, under the allocation of rules, the matter relating to them would be dealt by them. Since it is relating to the Ministry of Finance, therefore the Central Government would be the Ministry of Finance.

Sir, to reply to your question as ‘who’ in the Central Government, I would say that an officer of the rank of Special Secretary or an Additional Secretary in the Ministry of Finance as he was hearing and disposing of appeal before SAT was set up.

Secondly, this provision is broadly on the lines of Section 45-IA of the Reserve Bank of India Act, 1934. This is regarding the NBFC. The Ministry being the controlling authorities of the banks and financial institutions, this model was adopted that the appeal will lie to the Central Government because it is only from cancellation of registration of certificate.”

20. Clarifying this point, the Ministry in their post evidence reply stated as under:

“Provisions of Clause 7 of the Bill are on the lines of provisions of sub-section (7) of Section 45 IA of the RBI Act relating to order of rejection of application for registration or cancellation of “certificate of registration” of a company & sub-section (5) of Section 22 of the B.R. Act. In said provisions also though the Central Government is an appellate authority, the specific authority would be notified on a later date. The provisions of said clause 7 of the Bill are based on the precedence of aforesaid provisions of the RBI Act/B.R. Act. Other Appellate Authorities are specific to certain sectors. Since appeals against RBI’s order will pertain to credit information companies which will be closely linked to financial intermediaries largely banks, it is appropriate that power to review/appeals should be with Ministry of Finance.”

21. In response to a query that whether the Central Government would examine the possibility of assigning this function to one of the existing appellate tribunals, the Secretary, Financial Sector during evidence before the Committee stated:

“As you have correctly mentioned, we have had this experience of hearing appeals on SEBI’s orders. The Minister has the authority to constitute an Appellate Board and earlier two Secretaries, or one Secretary and one Additional Secretary constituted this authority. Even today we are hearing some residuary matters because SAT, once it got constituted started hearing fresh appeals. Some of the earlier appeals are still continuing. They have just been disposed of after hearing. So, some powers still subsisted. But the point of significance is that as a policy, regulator should not be subject to any orders or judgements of the Government. In this case, firstly, we checked with the RBI. In this particular case, they seemed quite comfortable because they thought it was really an appeal against registration of a company, cancellation or grant of registration and not in regard to other matters. The total number of companies that we expect would be only a few. We would be very surprised if there would be more than six to seven companies. Applicants may be eight, nine or ten. Therefore, having an independent authority, given the nature of the task involved where we are not really making a comment by way of any judgement on

RBI's functioning as such but just treating the larger public policy issue or whether a company may be allowed to operate in the market or not and the limited number of cases which are expected to come.

We thought that it might be expedient to leave it to the Central Government. But we did not think that any major issues of policy may be involved in the nature of work. Actually, experience is different. If we get something like 30 to 40 appeals, then perhaps you correctly suggested that we can have an alternative authority not creating a fresh authority and leave this power to SAT or something like that. But at the present moment, the Central Government might be more familiar with the area of work because SAT is really dealing with security issues. If you desire, we would take a fresh look at it or the Committee may make a recommendation in this regard."

22. The Committee take note that clause 7(1) enables a credit information company to prefer an appeal to the Central Government, in case it is aggrieved by the order of rejection of application for grant of certificate of registration or cancellation of certificate of registration. The existing provisions do not clearly specify authority in Central Government to whom such appeal shall be made. They do not agree with the observation of the Secretary, Financial Sector, that since only a few credit information companies are expected to come up, therefore, appeal against registration may lie before the Central Government and there would be no need to constitute a separate appellate tribunal specially for this purpose. Taking note of the fact that there is uncertainty about the number of appeals which may come up, they are of the view that the proposed Act should specifically indicate the authority to which appeal would lie. Initially the Securities Appellate Tribunal (SAT) should function as the appellate authority which can have expert(s), if required. If the workload so dictates, the Government may consider constituting a separate appellate authority in due course.

Clause 14 (1) (c): Functions of a Credit Information Company

23. Sub-clause (1) (c) of Clause 14 dealing with functions of credit information companies states as mentioned below:

“To provide credit scoring to its specified users or specified users of any other credit information company or to other credit information companies being its members.”

24. In their suggestions the Punjab National Bank submitted following view:

“The Bill prescribes that each credit information company shall allocate a score to each borrower.

If such is the case then one borrower may be given different scores by different companies. We are of the view that the methodology of providing scores by different companies to their borrowers should be common and prescribed by the regulator so that the two rating of the same borrower allocated by different companies can be mapped by the user.”

25. In response to this the Ministry in their written submission replied as under:

“Having regard to provisions of clause 10, clause 11 (which relate to power of the Reserve Bank to give directions to credit information company) and sub-clauses (1) & (3) of clause 17 (which relate to collection and furnishing of credit information), it is open to the Reserve Bank to stipulate guidelines (to be followed by credit information companies) with a view to ensure that the methodology of providing credit score by credit information companies to their specified users (with respect to the credit worthiness and capacity of the borrower to repay his loan and advances and discharge his other obligations in respect of credit facilities availed or to be availed by him) are uniform. It may be pointed out that in the questionnaire the reference has been made with respect to providing of credit score by different companies to their borrowers which is not the subject matter of the Bill. Accordingly, while replying this question we have proceeded on the basis as if said reference relate to providing of credit scoring by credit information companies to their specified users.”

26. Further the Ministry furnished following written clarification on this point:

“Clause 11 is an enabling provision for RBI to issue directions for uniform and consistent applicability of criteria for collecting,

collating and disseminating credit information and assigning credit scores. However, the object is not to ensure that uniform scores are given by different CICs to the same borrower (in the case of credit rating agencies too, each agency follows its own classification and ratings given by two agencies in respect of the same borrower may be different. CIBIL has also been requested to furnish a reply in this regard directly to the Government)."

27. During his oral evidence, the Secretary, Financial Sector, stated as below on the issue of credit scoring by individual credit information companies:

"There will be independent assessments. But, there will be general guidelines of the Reserve Bank of India under which they will be permitted to do so."

28. When the Committee asked the representative of Indian Banks' Association to express their view in this regard he stated following during the course of oral evidence:

"No. As far as the rating of the borrowers is concerned, there are different companies which will be operating in this area. Each company may have its own rating, norms and models. The type of rating which is given, may also change from company to company. Therefore, there is a need to ensure that there is a uniform norm prescribed for that rating. Also, nomenclature given to that rating should be uniform so that everybody knows what that person is, and he does not have to compare that. One says, "AAA" means 'very good', and 'AA' means 'good'. Like that, it should not happen.

Therefore, the suggestion is good that the Reserve Bank of India should say that these are the norms for the purpose of credit scoring, which is contemplated under the Act, and it is to be uniform."

29. The Committee note that clauses 10, 11 and sub-clauses (1) and (3) of clause 13 enable Reserve Bank to determine policy and issue directions and thereby maintain vigil on credit information companies regarding their functions. They concur with the suggestion of Punjab National Bank that methodology of providing score to borrowers by different credit information companies should be uniform. They find that Indian Banks' Association also favour this view point.

30. In this regard, they are not ready to accept the contention of the Government that the object is not to ensure that uniform scores are given by different credit information companies to the same borrower. In their view, if different scores are assigned to the same borrower by different credit information companies, it would lead to spate of problems for both borrowers and credit grantors. While the borrowers would find it difficult to get credit, the credit grantors would have problem in taking decisions about 'credit worthiness' of a borrower. They, therefore, desire that the norms for the purpose of credit scoring should be laid down in the Act itself.

Clause 16: Failure to become member of a credit information company

31. Clause 16 provides:

(1) “where a Credit Institution:—

- (a) abstains from becoming a member of at least one credit information company; or
- (b) at any time is not a member of any credit information company, the Reserve Bank *suo moto* or on a complaint from a credit information company may, direct such credit institution to take necessary steps within such time, as it may specify to become a member of a credit information company.

(2) In case a credit institution fails to comply with the directions of the Reserve Bank under sub-section (1), to become member of at least one credit information company, the Reserve Bank may, without prejudice to the provisions of this Act, intimate such failure to any other authority for taking such action as it may deem fit.”

32. On this clause, following suggestion was made by Punjab National Bank:

“As per Section 15 of the proposed Act every credit institution shall become a member of at least one credit information company. If a credit institution does not become member of at least one credit information company, as per Sec. 16 of the proposed Act, RBI shall take up with the respective authority so that such authority shall take actions as it may deem fit.

Though the Act as such does not provide for any specific provision for penalty for not becoming a member, in our view, on the basis of the reference made by RBI, the concerned authority shall ensure that the needful is not done. Keeping in view the above no further provision is required in the Act. As such, there is no need for any further specific provision in the proposed Act in this regard. The concerned regulator of the credit institution will ensure that requirement of Section 15 are complied with.”

33. In this regard the Ministry in their written reply stated as below:

“As the definition of the term “credit institution” as provided under sub-clause (f) of clause 2 of the Bill is wider and covers such institutions which are included within the purview of the said

definition of credit institution and are not regulated or supervised by the Reserve Bank, said definition also includes an enabling provision as per sub-clause (vii) of said sub-clause (f) in terms whereof Reserve Bank may specify any other institution as credit institution. Keeping in view such aspect, the term "any other authority" has been included in sub-clause (2) of clause 16 of the Bill and we presume that the same is to be construed with reference to the authority in relation to such institutions."

34. When asked to indicate the action RBI would initiate in this case and the authority to which RBI would report, the representative of Indian Banks' Association, submitted following before the Committee:

"Provisions of this law are proposed to be made applicable to banks, financial institutions, non-banking finance companies, housing finance companies, credit card companies and various other entities engaged in lending. Supposing it is a housing finance company which is committing a violation....

Supposing, a housing finance company is not complying with the direction, RBI has no regulatory control over housing finance company. It is the National Housing Bank, which is controlling the housing finance companies. So, RBI will inform the NHB that this particular housing finance company is not complying and they will take regulatory action against them. That is the purpose of this provision....

The witness added:

there is a prosecution and punishment for violating the provisions of the Act. The other safeguards are provided by virtue of the working of that credit information company itself where unless it is necessary for a particular person to know the information, the information will not be accessible to him in the company at all."

35. The Committee note that the Reserve Bank may report failure of credit institution to become member of at least one Credit Information Company, to any other authority for taking such action as it may deem fit. They are in agreement with the Government view that the term 'other authority' for the purposes of this Clause need not be defined as it would be construed to refer to the authority that deals with particular types of institutions. However, they find that this provision does not speak of any action to be taken by such authority. There may be occasions when the authority on being informed does not take any action or keep it pending for an indefinite period. They, therefore, recommend that the action to be taken by the authority and time limit within which it must take action should be provided in the Act itself.

Clause 18 (1): Settlement of dispute

36. Clause 18 (1) of the Bill states as below:

“Notwithstanding anything contained in any law for the time being in force, if any dispute arises amongst, credit information companies, credit institutions, borrowers and clients on matters relating to business of credit information and for which no remedy has been provided under this Act, such disputes shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996, as if the parties to the dispute have consented in writing for determination of such dispute by conciliation or arbitration and provisions of that Act shall apply accordingly.”

37. In this regard Punjab National Bank suggested following:

“Section 21 of the proposed Act enables the borrower to approach the Credit Information Company or the Credit Institution for getting the information about him, updated. Further the Act also provides for resolution of disputes, if any on this account, through arbitration. In terms of Sec. 18 of the proposed Act the disputes shall be settled by the arbitrator to be appointed by Reserve Bank. In this regard, we are of the view that there should be a time restriction within which the whole arbitration proceedings should be over. For this we suggest 6 months as the maximum time limit.”

38. As regards the dispute resolution mechanism the representative of the Indian Banks’ Association stated following during his oral evidence:

“As regards redressal of grievance and disputes resolution mechanism, the provision made under the Act is about arbitration and conciliation proceedings. Although there is no specific provision, my understanding is that such type of disputes which are between the bank and the customers of the banks or credit information companies will really be for financial services which are given by such banks and companies which will be within the purview of the Consumer Protection Act and the consumer fora redressal grievance mechanism would be available to a person who suffers in the process. It would also be possible for RBI to get the jurisdiction of Ombudsman for redressal of grievances in regard to customers of the bank who are suffering as a result of this.”

39. While replying to a query that whether the dispute resolution mechanism as provided in Clause 18 by arbitration is adequate to help amicable and speedy settlement of disputes, the Ministry in their written reply stated as under:

“Yes. The dispute resolution mechanism as provided in Clause 18 of the Bill allows speedier and cheaper mode of settlement of disputes. Arbitration as on alternate dispute resolution mechanism is now well recognised to be efficient & faster mode for settlement of disputes than other forums. As per the general experience, other modes/recourses for adjudication of disputes by courts, tribunals have been found to be time consuming and in some cases also involving higher costs.”

40. On being asked about fixation of a time period for arbitration of disputes, the Ministry furnished following reply in their written submission:

“In our opinion providing fixed time period may not serve any special purpose as in case of genuine and satisfactory reasons (submitted before the arbitrator by the parties) it would be expedient in the interest of justice to grant time to the respective party and the arbitrator may be required to grant time in such event. Similarly, the inability of an arbitrator to conduct the proceeding on a given day on account of any genuine and satisfactory reason, could also be a cause for further delay in completion of the proceeding within the pre-prescribed time limit. Moreover, the arbitration proceeding (as provided and contemplated under the Bill as per provisions of clause 18 thereof) refers to the provisions of Arbitration and Conciliation Act, 1996 (which is a legislation brought into force after due consideration thereof).”

41. The Committee note that dispute resolution mechanism as provided in clause 18 of the Bill, is through conciliation and arbitration as provided in the Arbitration and Conciliation Act, 1996. Further, this mode has been preferred to other modes/recourses for adjudication of disputes such as courts and tribunals, because it is supposed to be faster and cheaper mechanism for settlement of disputes. The Committee take note of the fact that there is no specific time frame within which the disputes are to be settled by the arbitrator. The Committee opine that it would be better to specify the time frame within which all disputes are to be resolved. The Act could provide flexibility in this regard, by providing for extension of time limit in exceptional cases where situation demands so. This

way, faster settlement of disputes can be ensured and there will not be any backlog of cases which may prove costly to all the parties involved.

42. They find that IBA while deposing before the Committee have suggested for setting up of an institution of ombudsman for this purpose. They are of the view that ombudsmen are giving satisfactory services to the people in various areas. Hence, the Committee recommend to the government to set up an institution of ombudsman so as to ensure effective and speedier mechanism for resolution of disputes.

NEW DELHI;
23 February, 2005
4 Phalgun, 1926 (Saka)

MAJ. GEN. (RETD.) B.C. KHANDURI,
Chairman,
Standing Committee on Finance.

MINUTES OF THE ELEVENTH SITTING OF STANDING
COMMITTEE ON FINANCE

The Committee sat on Tuesday, 4th January, 2005 from 1200 to
1315 hrs. and again from 1500 to 1630 hrs.

PRESENT

Maj. Gen. (Retd.) B.C. Khanduri—*Chairman*

MEMBERS

Lok Sabha

2. Shri Bhartruhari Mahtab
3. Shri Shyama Charan Gupt
4. Shri A. Krishnaswamy
5. Shri Rajesh Kumar Mishra
6. Shri Madhusudan Mistry
7. Shri Rupchand Pal
8. Shri Shriniwas D. Patil
9. Shri Jyotiraditya Madhavrao Scindia
10. Shri M.A. Kharabela Swain
11. Shri Vijoy Krishna

Rajya Sabha

12. Shri Murli Deora
13. Shri R.P. Goenka
14. Shri Jairam Ramesh
15. Shri M. Venkaiah Naidu
16. Shri Chittabrata Mazumdar
17. Shri Amar Singh
18. Shri C. Ramachandraiah
19. Shri Mangani Lal Mandal

SECRETARIAT

1. Shri P.D.T. Achary — *Secretary*
2. Dr. (Smt.) P.K. Sandhu — *Joint Secretary*
3. Shri R.K. Jain — *Deputy Secretary*
4. Shri R.C. Kakkar — *Under Secretary*

Part I

WITNESSES

1. Shri Satish Mehta, MD, Credit Information Bureau (India) Ltd.
2. Shri Rajesh Mirchandani, Director, Dun & Bradstreet Information Services (India) Pvt. Ltd.

2. At the outset, the Chairman welcomed the representatives of Credit Information Bureau (India) Ltd. (CIBIL) and Dun & Bradstreet Information Services (India) Pvt. Ltd. to the sitting of the Committee and invited their attention to the provisions contained in Direction 55 of Directions by the Speaker.

3. Then the Committee heard their views on various provisions of the Credit Information Companies (Regulation) Bill, 2004. The Chairman then asked them to furnish information on certain issues on which clarifications were sought by the Members.

4. The evidence was concluded.

6. A verbatim record of proceedings has been kept.

The witnesses then withdrew.

Part-II

WITNESSES

1. Shri M.R. Umerji, Consultant, Indian Banks Association
2. Shri S.S. Kohli, CMD, Punjab National Bank

2. At the outset, the Chairman welcomed the representatives of Indian Banks' Association and Punjab National Bank to the sitting of the Committee and invited their attention to the provisions contained in Direction 55 of Directions by the Speaker.

3. Then the Committee heard their views on various provisions of the Credit Information Companies (Regulation) Bill, 2004. The Chairman then asked them to furnish information on certain issues on which clarifications were sought by the Members.

4. The evidence was concluded.

5. A verbatim record of proceedings has been kept.

The witnesses then withdrew

*(The Committee then adjourned to meet again on
5th January, 2005 at 1100 hours.)*

MINUTES OF THE FOURTEENTH SITTING OF STANDING
COMMITTEE ON FINANCE

The Committee sat on Tuesday, 18 January, 2005 from 1500 to
1630 hrs.

PRESENT

Maj. Gen. (Retd.) B.C. Khanduri—*Chairman*

MEMBERS

Lok Sabha

2. Shri Gurudas Dasgupta
3. Shri Bhartruhari Mahtab
4. Shri A. Krishnaswamy
5. Shri Bir Singh Mahato
6. Shri Madhusudan Mistry
7. Shri Rupchand Pal
8. Shri Shrinivas D. Patil
9. Shri K.S. Rao
10. Shri Jyotiraditya Madhavrao Scindia
11. Shri M.A. Kharabela Swain
12. Shri Vijoy Krishna
13. Shri Magunta Sreenivasulu Reddy

Rajya Sabha

14. Shri Jairam Ramesh
15. Shri Yashwant Sinha
16. Shri Chittabrata Majumdar
17. Shri C. Ramachandraiah
18. Shri Mangani Lal Mandal

SECRETARIAT

1. Shri P.D.T. Achary — *Secretary*
2. Dr. (Smt.) P.K. Sandhu — *Joint Secretary*
3. Shri R.K. Jain — *Deputy Secretary*
4. Shri R.C. Kakkar — *Under Secretary*

WITNESSES

Ministry of Finance, Banking Division

1. Shri N.S. Sisodia, Secretary (FS)
2. Shri Vinod Rai, Additional Secretary (FS)
3. Shri Amitabh Verma, Joint Secretary (BO)
4. Shri Ram Muivah, Director (BOA)
5. Shri D.P. Bhardwaj, Under Secretary (BOA)

Ministry of Law & Justice—Legislative Department

Shri V.K. Bhasin, Joint Secretary

Indian Banks Association

Shri M.R. Umarji, Legal Advisor

Reserve Bank of India

3. Shri Prashant Saran, CGM
4. Shri B.B. Tiwari, Additional Legal Advisor

2. At the outset, the Chairman welcomed the representatives of the Ministry of Finance (Department of Economic Affairs—Banking Division), Ministry of Law & Justice—Legislative Department, Indian Banks Association and Reserve Bank of India to the sitting of the Committee and invited their attention to the Direction 55 of the Directions by the Speaker, Lok Sabha.

3. The Committee then took oral evidence of the representatives in connection with the examination of the Credit Information Companies (Regulation) Bill, 2004. The Chairman then asked them to furnish information on certain issues on which clarifications were sought by the Members. Thereafter, the Chairman directed the representatives of the Ministry to furnish replies to the points raised by Members which were not readily available with them.

4. The evidence was concluded.

5. A verbatim record of the proceedings has been kept

The witnesses then withdrew.

MINUTES OF THE SEVENTEENTH SITTING OF
STANDING COMMITTEE ON FINANCE

The Committee sat on Monday, 14th February, 2005 from 1500 to 1600 hrs.

PRESENT

Maj. Gen. (Retd.) B.C. Khanduri—*Chairman*

MEMBERS

Lok Sabha

2. Shri Jaswant Singh Bishnoi
3. Shri Bhartruhari Mahtab
4. Shri Gurudas Kamat
5. Shri A. Krishnaswamy
6. Shri Madhusudan Mistry
7. Shri Rupchand Pal
8. Shri M.A. Kharabela Swain

Rajya Sabha

9. Shri R.P. Goenka
10. Shri Yashwant Sinha
11. Shri S.P.M. Syed Khan
12. Shri C. Ramachandraiah

SECRETARIAT

1. Shri P.D.T. Achary — *Secretary*
2. Dr. (Smt.) P.K. Sandhu — *Joint Secretary*
3. Shri R.K. Jain — *Deputy Secretary*
4. Shri R.C. Kakkar — *Under Secretary*

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee.

3. The Committee then took up for consideration the draft reports on "Credit Information Companies (Regulation) Bill, 2004". The Committee after deliberation adopted the draft Report with modifications/amendments as shown in the Annexure.

4. The Committee, thereafter authorized the Chairman to finalise the Report in the light of suggestions received from the Members and also make consequential verbal changes and present the same to the Hon'ble Speaker/both Houses of Parliament.

The Committee then adjourned.

ANNEXURE

(MODIFICATIONS/AMENDMENTS MADE BY STANDING COMMITTEE ON FINANCE IN THEIR DRAFT REPORT ON THE CREDIT INFORMATION COMPANIES (REGULATION) BILL, 2004 OF THE MINISTRY OF FINANCE (DEPARTMENT OF ECONOMIC AFFAIRS—BANKING DIVISION) AT THEIR SITTING HELD ON 14 FEBRUARY, 2005

| Page No. | Para No. | Line No. | Modification |
|----------|----------|----------|---|
| 1 | 2 | 3 | 4 |
| 8 | 17 | 3 to 6 | <p><i>Delete:</i></p> <p>“The Committee do not agree with the contention of the Government that more number of credit information companies should be formed so as to leave little or no gap in collection of credit information from the vast geographical area and different sectors of the economy.”</p> |
| | | 7 & 8 | <p><i>For:</i></p> <p>“They agree with the views expressed by the representative of Indian Banks’ Association and are”</p> <p><i>Substitute:</i></p> <p>“On the other hand Indian Banks’ Association is”</p> |
| | | 10 | <p><i>For:</i></p> <p>“They are of the view that”</p> <p><i>Substitute:</i></p> <p>“The Committee are of the view that whereas too many Credit Information Companies may not be desirable, yet in a big country like ours it is necessary that all regions of Country must be covered. Hence,”</p> |

| | | | |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
|---|---|---|---|

| | | | |
|----|----|----------|---|
| | | 15 | <p><i>For:</i></p> <p>“should have judicial discretion to decide on the number of credit”</p> <p><i>Substitute:</i></p> <p>“should have discretion to decide, keeping the above in view, on the number of credit”</p> |
| 11 | 22 | 13 to 19 | <p><i>For:</i></p> <p>“The Committee recommend that the Government should also examine the desirability of setting up a financial services appellate authority which may not only hear appeals which lie to Securities Appellate Tribunal but also look into issues involving the entire gamut of financial services including credit information so that it could lead to integration in financial services both in regulation and the appellate side.”</p> <p><i>Substitute:</i></p> <p>“Initially the Securities Appellate Tribunal (SAT) should function as the appellate authority which can have expert(s), if required. If the workload so dictates, the Government may consider constituting a separate appellate authority in due course.”</p> |

AS INTRODUCED IN THE RAJYA SABHA

Bill No. XXXII of 2004

THE CREDIT INFORMATION COMPANIES
(REGULATION) BILL, 2004

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

REGISTRATION OF CREDIT INFORMATION COMPANIES

3. Prohibition to commence or carry on business of credit information.
4. Application for registration.
5. Grant of certificate of registration.
6. Power of Reserve Bank to cancel certificate of registration.
7. Appeal against order of Reserve Bank.
8. Requirement as to minimum capital.

CHAPTER III

MANAGEMENT OF CREDIT INFORMATION COMPANIES

9. Management of credit information company.
10. Power of Reserve Bank to determine policy.
11. Power of Reserve Bank to give directions.
12. Inspection of credit information company, credit institution and specified user.

CHAPTER IV

AUDITORS

13. Powers and duties of auditors.

CHAPTER V

FUNCTIONS OF CREDIT INFORMATION COMPANIES

14. Functions of a credit information company.
15. Credit Institution to be member of a credit information company.
16. Failure to become a member of a credit information company.
17. Collection and furnishing of credit information.
18. Settlement of dispute.

CHAPTER VI

INFORMATION PRIVACY PRINCIPLES AND FURNISHING OF
CREDIT INFORMATION

19. Accuracy and security of credit information.
20. Privacy principles.
21. Alteration of credit information files and credit reports.
22. Unauthorised access to credit information.

CHAPTER VII

OFFENCES AND PENALTIES

23. Offences and penalties.
24. Cognizance of offences.
25. Power of Reserve Bank to impose penalty.
26. Application of fines.

CHAPTER VIII

MISCELLANEOUS

27. Power of Reserve Bank to specify maximum amount of fees.
28. Disclosure of information before any court or tribunal or authority.
29. Obligations as to fidelity and secrecy.

30. Protection of action taken in good faith.
31. Bar of jurisdiction.
32. Power of Reserve Bank to exempt in certain cases.
33. Application of other laws not barred.
34. Amendment of certain enactments.
35. Removal of difficulties.
36. Power to make rules.
37. Power of Reserve Bank to make regulations.

THE SCHEDULE

AS INTRODUCED IN THE RAJYA SABHA

Bill No. XXXII of 2004

THE CREDIT INFORMATION COMPANIES
(REGULATION) BILL, 2004

A

BILL

to provide for regulation of credit information companies and to facilitate efficient distribution of credit and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Credit Information Companies (Regulation) Act, 2004. Short title, extent and commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) “board” means the Board of directors of a credit information company;

(b) “borrower” means any person who has been granted loan on any other credit facility by a credit institution and includes a client of a credit institution;

(c) "client" includes—

(i) a guarantor or a person who proposes to give guarantee or security for a borrower of a credit institution; or

(ii) a person—

(A) who has obtained or seeks to obtain financial assistance from a credit institution, by way of loans, advances, hire purchase, leasing facility, letter of credit, guarantee facility, venture capital assistance or by way of credit cards or in any other form or manner;

(B) who has raised or seeks to raise money by issue of security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956, or by issue of commercial paper, depository receipt or any other instrument; 2 of 1956

(C) whose financial standing has been assessed or is proposed to be assessed by a credit institution or any other person or institution as may, by notification, be directed by the Reserve Bank;

(d) "credit information" means any information relating to—

(i) the amounts and the nature of loans or advances, amounts outstanding under credit cards and other credit facilities granted or to be granted, by a credit institution to any borrower;

(ii) the nature of security taken or proposed to be taken by a credit institution from any borrower for credit facilities granted or proposed to be granted to him;

(iii) the guarantee furnished or any other non-fund based facility granted or proposed to be granted by a credit institution for any of its borrowers;

(iv) the credit worthiness of any borrower of a credit institution;

(v) any other matter which the Reserve bank may, consider necessary for inclusion in the credit information to be collected and maintained by credit information companies, and specify, by notification, in this behalf;

1 of 1956 (e) "credit information company" means a company formed and registered under the companies Act, 1956 and which has been granted a certificate of registration under sub-section (2) of section 5;

(f) "credit institution" means a banking company and includes—

(i) a corresponding new bank, the State Bank of India, a subsidiary bank, a co-operative bank, the National Bank and regional rural bank;

2 of 1934 (ii) a non-banking financial company as defined under clause (f) of section 45-I of the Reserve Bank of India Act, 1934;

2 of 1956 (iii) a public financial institution referred to in section 4A of the Companies Act, 1956;

63 of 1951 (iv) the financial corporation established by a State under section 3 of the State Financial Corporation Act, 1951;

53 of 1987 (v) the housing finance institution referred to in clause (d) of section 2 of the National Housing Bank Act, 1987;

(vi) the companies, engaged in the business of credit cards and other similar cards and companies dealing with distribution of credit in any other manner;

(vii) any other institution which the Reserve Bank may specify, from time to time, for the purposes of this clause;

(g) "credit scoring" means a system which enables a credit institution to assess the credit worthiness and capacity of a borrower to repay his loan and advances and discharge his other obligations in respect of credit facility availed or to be availed by him;

(h) "notification" means a notification published in the Official Gazette of India;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "regulations" means regulations made by the Reserve Bank under this Act;

(k) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934; 2 of 1934

(l) "specified user" means any credit institution, credit information company being a member under sub-section (3) of section 15, and includes such other person or institution as may be specified by regulations made, from time to time, by the Reserve Bank for the purpose of obtaining credit information from a credit information company;

(m) words and expressions used herein and not defined in this Act but defined in the Reserve Bank of India Act, 1934 the Banking Regulation Act, 1949 or the Companies Act, 1956 shall have the meanings respectively assigned to them in those Acts. 1 of 1934
1 of 1949
1 of 1956

CHAPTER II

REGISTRATION OF CREDIT INFORMATION COMPANIES

Prohibition to commence or carry on business of credit information.

3. Save as otherwise provided in this Act, no company shall commence or carry on the business of credit information without obtaining a certificate of registration from the Reserve Bank under this Act.

4. (1) Every company which intends to commence the business of credit information shall make an application for registration to the Reserve Bank in such form and manner as may be specified by regulations.,

Application
for
registration.

(2) Every credit information company, in existence on the commencement of this Act, before the expiry of six months from such commencement, shall apply in writing to the Reserve Bank for obtaining a certificate of registration under this Act:

Provided that in the case of a credit information company in existence on the commencement of this Act, nothing in section 3 shall be deemed to prohibit such credit information company from carrying on the business of a credit information company, until it is granted a certificate of registration or is by notice in writing informed by the Reserve Bank that a certificate of registration cannot be granted to it.

5. (1) The Reserve Bank may, for the purpose of considering the application of a company for grant of a certificate of registration to commence or carry on the business of credit information, require to be satisfied, by an inspection of records or books of such company or otherwise that the following conditions are fulfilled, namely:—

Grant of
certificate of
registration.

(a) that the applicant company has minimum capital structure referred to in section 8;

(b) that the general character of the management or the proposed management of the applicant company shall not be prejudicial to the interest of its specified users, clients or borrowers or other credit information companies;

(c) that any other condition, the fulfilment of which in the opinion of the Reserve Bank, shall be necessary to ensure that the commencement or carrying on of the business of credit information by the applicant company shall not be detrimental or prejudicial to the public interest or banking policy or credit system or its specified users or clients or borrowers or other credit information companies or others who would provide credit information to the credit information companies.

(2) The Reserve Bank may, after being satisfied that the conditions as referred to in sub-section (1) are fulfilled, grant a certificate of registration to the applicant company to commence or carry on the business of credit information, subject to such conditions which it may consider fit to impose and if the company fails to fulfil any of such conditions or any of the provisions of this Act, the application of the company shall be rejected:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

Power of Reserve Bank to cancel certificate of registration.

6. (1) The Reserve Bank may cancel a certificate of registration granted to a credit information company under sub-section (2) of section 5 if such company,—

(i) ceases to carry on the business of credit information; or

(ii) has failed to comply with any of the conditions subject to which the certificate of registration has been granted to it; or

(iii) at any time fails to fulfil any of the conditions referred to in sub-clauses (a) to (c) of sub-section (1) or sub-section (2) of section 5; or

(iv) fails—

(a) to comply with provisions of any law for the time being in force or any direction issued by the Reserve Bank under the provisions of this Act; or

(b) to submit or offer for inspection its books of account and other relevant documents when so demanded by the officers, persons or agency referred to in sub-section (1) of section 12.

(2) Before cancelling the certificate of registration granted to a credit information company under this section on the ground that the company has failed to comply with the conditions specified in clauses (a) to (c) of sub-section (1) or sub-section (2) of section 5 or the provisions of any other law for the time being in force or directions issued under this Act, the Reserve Bank, shall grant time to such company on such terms as the Reserve Bank may deem appropriate for taking necessary steps to comply with such directions or provisions or fulfilment of such conditions, within such time;

Provided that if the Reserve Bank is of the opinion that the delay in cancelling the certificate of registration of such company shall be prejudicial or detrimental to the public interest or banking policy or credit system or borrowers or other credit information companies, the Reserve Bank may cancel the certificate of registration without granting time as provided in sub-section (2).

(3) No order of cancellation of certificate of registration granted to a credit information company shall be made by the Reserve Bank unless such company has been given a reasonable opportunity of being heard.

Appeal
against
order of
Reserve
Bank.

7. (1) A credit information company aggrieved by the order of rejection of an application for grant of certificate of registration under section 5 or cancellation of certificate of registration under section 6, may prefer an appeal to the Central Government, within a period of thirty days from the date on which such order of rejection or cancellation, as the case may be, is communicated to the credit information company.

(2) The decision of the Central Government, where an appeal has been preferred to it under sub-section (1), or of the Reserve Bank where no such appeal has been preferred shall be final:

Provided that before making any order of rejection of an appeal, the applicant company or the credit information company, as the case may be, shall be given a reasonable opportunity of being heard.

Requirement
as to
minimum
capital.

8. (1) The authorised capital of every credit information company shall be a minimum of thirty crores:

Provided that the Reserve Bank may, by notification, increase the minimum amount of authorised capital to any amount not exceeding fifty crores.

(2) The issued capital of every credit information company shall not be less than twenty crores:

Provided that the Reserve Bank may, by notification, increase the issued capital to any amount not exceeding the minimum amount of authorised capital as referred to in sub-section (1).

(3) The minimum paid up capital of every credit information company at any time shall not be less than seventy five per cent. of the issued capital.

CHAPTER III

MANAGEMENT OF CREDIT INFORMATION COMPANIES

9. (1) Notwithstanding anything contained in any law for the time being in force, or in any contract to the contrary, every credit information company in existence on the commencement of this Act, or which comes into existence thereafter, shall have one of its directors, who may be appointed on whole time or on a part time basis as chairperson of its board, and where he is appointed on whole time basis as chairperson of its board, he shall be entrusted with the management of the whole of the affairs of the credit information company:

Management
of credit
information
company.

Provided that the chairperson of the board of the credit information company shall exercise his powers subject to the superintendence, control and directions of the board.

(2) Where a chairperson is appointed on a part time basis, the management of whole of the affairs of the credit information company shall be entrusted to a managing director or, a whole time director by whatever name called, who shall exercise his powers subject to the superintendence, control and directions of the board.

(3) In addition to the chairperson or managing director or whole-time director, by whatever name called, the board of directors shall consist of not less than fifty per cent. directors who shall be persons having special knowledge in, or practical experience of, the matters relating to public administration, law, banking, finance, accountancy, management and information technology.

(4) In discharging its functions, the board shall act on business principles and shall have due regard to the interest of its specified users, credit institutions or the clients or borrowers of credit institutions.

(5) Where the Reserve Bank is satisfied that it is in the public interest or in the interest of banking policy or credit system of the country, or for preventing the affairs of any credit information company being managed in a manner detrimental to the interest of banking policy or credit institutions or borrowers or clients or for securing the proper management of any credit information company, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order published in the Official Gazette, supersede the board of such company, for such period not exceeding six months, as may be specified, in the order and which may be extended from time to time, so, however, that the total period shall not exceed twelve months:

Provided that before making any such order, the Reserve Bank shall give a reasonable opportunity to the board of such credit information company to make representation against the proposed supersession and shall consider the representation, if any, of the board.

(6) The Reserve Bank may, on supersession of the board of a credit information company under sub-section (5), appoint an Administrator for such period and on such salary and other terms and conditions as it may determine.

(7) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(8) Upon making of the order under sub-section (5), superseding the board of a credit information company—

(a) the chairperson, managing director and other directors of such credit information company shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of the Companies Act, 1956 or this Act or any other law for the time being in force, be exercised or

discharged, by or on behalf of the board of such credit information company, or by a resolution passed in general meeting of that company, shall, until the reconstitution of its board under sub-section (10), be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (6):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such powers are exercisable by a resolution passed in the general meeting of such credit information company.

(9) The salary and allowances payable to the Administrator and staff assisting the Administrator shall be borne by the credit information company.

(10) On and before the expiration of two months before expiry of the period of supersession mentioned in the order of the Reserve Bank issued under sub-section (5), the Administrator of the credit information company, shall call a general meeting of the credit information company to elect new directors and reconstitute its board and any person who had vacated his office under clause (a) of sub-section (8), shall not be deemed to be disqualified for re-appointment.

(11) Notwithstanding anything contained in any law for the time being in force or in any contract or the memorandum or articles of association, of the credit information company, on the removal of a person from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.

10. Where the Reserve Bank is satisfied that it is necessary or expedient in the public interest or in the interest of specified users or in the interest of credit information companies or credit institutions or clients or borrowers so

Power of Reserve Bank to determine policy.

to do, it may determine the policy in relation to functioning of credit information companies or credit institutions or specified users generally or in particular and when the policy has been so determined all credit information companies, credit institutions and specified users, as the case may be, shall be bound to follow the policy as so determined.

Power of Reserve Bank to give directions.

11. (1) Where the Reserve Bank is satisfied that,—

(a) in the public interest; or

(b) in the interest of credit institutions;

or

(c) in the interest of specified users; or

(d) in the interest of banking policy; or

(e) to prevent the affairs of any credit information company being conducted in a manner detrimental to the interests of its specified users or in a manner prejudicial to the interests of credit institutions or borrowers or clients; or

(f) to secure the proper management of credit information companies generally, it is necessary to issue directions to credit information companies or credit institutions or specified users generally or to any credit information company or credit institution or specified user in particular, it may, from time to time, issue such directions as it deems fit, and such credit information companies, credit institutions and specified users or credit information company, credit institution, and specified user, as the case may be, shall be bound to comply with such directions.

(2) The Reserve Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under

sub-section (1), and the Reserve Bank, in so modifying or cancelling any direction, may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.

(3) The Reserve Bank may, at any time, if it is satisfied that in the public interest or in the interest of a credit information company or its members, it is necessary so to do, by order in writing and on such terms and conditions as may be specified therein,—

(a) require such credit information company to call a meeting of its directors for the purpose of considering any matter relating to or arising out of the affairs of the credit information company;

(b) depute one or more of its officers to watch the proceedings at any meeting of the board of the credit information company or of any committee or of any other body constituted by it and require the credit information company to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the Reserve Bank;

(c) require that board of the credit information company or of any committee or any other body constituted by it to give in writing to any officer deputed by the Reserve Bank in this behalf at his usual address all notices of, and other communications relating to, any meeting of the board, committee or other body constituted by it;

(d) appoint one or more of its officers to observe the manner in which the affairs of the credit information company or of its officers or branches are being conducted and make a report thereon;

(e) require the credit information company to make, within such time as may be specified in the order, such changes in the management as the Reserve Bank may consider necessary.

(4) The Reserve Bank may, at any time, direct any credit information company to furnish it within such time as may be specified by the Reserve Bank, such statements and information relating to the business or affairs of the credit information company as the Reserve Bank may consider necessary or expedient to obtain for the purpose of this Act.

Inspection
of credit
information
company,
credit
institution
and
specified
user.

12. (1) Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956, the Reserve Bank, at any time, may and on being directed so to do by the Central Government shall, cause an inspection to be made by one or more of its officers or through such other persons or agency as the Reserve Bank may determine, of any credit information company or credit institution or specified user and their books and account; and the Reserve Bank shall supply to the credit information company or credit institution or specified user, as the case may be, a copy of its report on such inspection.

(2) It shall be the duty of every director or other officer or employee of the credit information company, credit institution and specified user to produce to any officer or person or agency, as the case may be, making an inspection under sub-section (1) all such books, accounts and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of such credit information company, credit institution and specified user, as the said officer or person or agency may require of him within such time as the said officer or person or agency may specify.

(3) Any officer of the Reserve Bank or person or an agency making an inspection under sub-section (1) may examine on oath any director or other officer or employee of the credit information company, credit institution and specified user, in relation to their business, and may administer an oath accordingly.

(4) The expenses of, or incidental to, the inspection under sub-section (1) by any person or an agency referred to in sub-section (1) shall be borne by the concerned credit information company or credit institution or specified user, as the case may be.

CHAPTER IV

AUDITORS

13. (1) It shall be the duty of an auditor of a credit information company to inquire whether or not the credit information company has furnished to the Reserve Bank such statements, information or particulars relating to its business as are required to be furnished under this Act and the auditor shall, except where he is satisfied on such inquiry that the credit information company has furnished such a statement, information or particulars, make a report to the Reserve Bank in this regard.

Powers and duties of auditors.

(2) The Reserve Bank may, on being satisfied that it is necessary so to do, in the public interest or in the interest of credit system, issue directions in particular or in general with respect to audit of the credit information company and submission of the report to the Reserve Bank.

(3) Where the Reserve Bank is of the opinion that it is necessary so to do in the public interest or in the interest of the credit information company or its members, or in the interest of credit system or credit institution or its borrower or client so to do, it may, at any time, by an order, direct that a special audit of

the accounts of the credit information company in relation to any such transaction or class of transactions or for such period or periods, as may be mentioned in the order, shall be conducted and the Reserve Bank may by such order or by a separate order either appoint an auditor or auditors or direct the auditor of the credit information company himself to conduct such special audit and the auditor shall comply with such directions and make a report of such audit to the Reserve Bank and forward a copy thereof to the credit information company.

(4) The remuneration of the auditors as may be fixed by the Reserve Bank, having regard to the nature and volume of work involved in the audit and the expenses of, or incidental to, the audit, shall be borne by the credit information company so audited.

CHAPTER V

FUNCTIONS OF CREDIT INFORMATION COMPANIES

Functions
of a credit
information
company.

14. (1) A credit information company may engage in any one or more of the following forms of business, namely:—

(a) to collect, process and collate information on trade, credit and financial standing of the borrowers of the credit institution which is a member of the credit information company;

(b) to provide credit information to its specified users or to the specified users of any other credit information company or to any other credit information company being its member;

(c) to provide credit scoring to its specified users or specified users of any other credit information company or to other credit information companies being its member;

(d) to undertake research project;

(e) to undertake any other form of business which the Reserve Bank may, specify by regulations as a form of business in which it is lawful for a credit information company to engage.

(2) No credit information company for the purposes of shall engage in any form of business other than those referred to in subsection (1).

(3) Any credit information company carrying on the business of credit information may—

(a) register credit institutions and other credit information companies, at their option as its member, subject to such terms and conditions as may be pre-determined and disclosed by such credit information company;

(b) charge such reasonable amount of fees, as it may deem appropriate not exceeding the maximum fee, as may be specified under section 27, for furnishing credit information to a specified user;

(c) generally to do all such other acts and perform such other functions as are necessary to facilitate proper conduct of its affairs, business and functions in accordance with the provisions of this Act.

15. (1) Every credit institution in existence on the commencement of this Act, before the expiry of three months from such commencement or within such extended period, as the Reserve Bank may allow on its application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

Credit Institution to be member of a credit information company.

(2) Every credit institution which comes into existence after the commencement of this Act, before the expiry of three months from its

coming into existence, or within such extended period, as the Reserve Bank may allow on its application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

(3) A credit information company may, at its option, become member of another credit information company.

(4) No credit information company shall refuse to register a credit institution or another credit information company as its member without providing reasonable opportunity of being heard to such credit institution or credit information company, whose application it proposes to reject and recording reasons for such rejection and a copy of such order of rejection shall be forwarded to the Reserve Bank.

(5) A credit institution or credit information company aggrieved by the order of rejection of its application for its registration as a member of a credit information company under subsection (4) may prefer an appeal to the Reserve Bank, within a period of thirty days from the date on which such order of rejection was communicated to it:

Provided that the Reserve Bank may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding thirty days.

(6) On receipt of an appeal under subsection (5), the Reserve Bank, after giving the appellant and other concerned parties, an opportunity of being heard, pass such order as it deems fit.

(7) The decision of the Reserve Bank where an appeal has been preferred to it under subsection (5) shall be final and the order of the

credit information company under sub-section (4) shall be final after the expiry of the said period of thirty days where no appeal has been preferred under that sub-section to the Reserve Bank.

(8) Every specified user shall be entitled to obtain credit information for its use from the credit information company of which such specified user is a member.

16. (1) Where a credit institution—

(a) abstains from becoming a member of at least one credit information company; or

(b) at any time is not a member of any credit information company, the Reserve Bank *suo moto* or on a complaint from a credit information company may, direct such credit institution to take necessary steps within such time, as it may specify to become a member of a credit information company.

(2) In case a credit institution fails to comply with the directions of the Reserve Bank under sub-section (1), to become member of at least one credit information company, the Reserve bank may, without prejudice to the provisions of this Act, intimate such failure to any other authority for taking such action as it may deem fit.

17. (1) A credit information company or any person authorised in that behalf by the company may, by notice in writing, in such form, as may be specified by regulations made by the Reserve Bank or as near thereto, require its members being credit institution or credit information company, to furnish such credit information as it may deem necessary in accordance with this Act.

(2) Every credit institution which is member of the credit information company and every

Failure to become a member of a credit information company.

Collection and furnishing of credit information.

credit information company which is a member of other credit information company shall, on receipt of notice under sub-section (1), provide credit information to the credit information company of which it is a member, within such period as may be specified in the notice.

(3) Every credit information company shall provide for such purpose, as may be specified by regulations, the credit information received under sub-section (2), to its specified user on receipt of request from him in accordance with the provisions of this Act and directions issued thereunder by the Reserve Bank from time to time in this behalf.

(4) No credit information received under this Act,—

(a) by the credit information company shall be disclosed to any person other than its specified user; or

(b) by the specified user shall be disclosed to any other person;

(c) by the credit information company or specified user; shall be disclosed for any other purpose than as permitted or required by any other law for the time being in force.

Settlement
of dispute.

18. (1) Notwithstanding anything contained in any law for the time being in force, if any dispute arises amongst, credit information companies, credit institutions, borrowers and clients on matters relating to business of credit information and for which no remedy has been provided under this Act, such disputes shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996, as if the parties to the dispute have consented in writing for determination of such dispute by conciliation or arbitration and provisions of that Act shall apply accordingly.

(2) Where a dispute has been referred to arbitration under sub-section (1), the same shall be settled or decided by the arbitrator to be appointed by the Reserve Bank.

(3) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to all arbitration under this Act as if the proceedings for arbitration were referred for settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996.

CHAPTER VI

INFORMATION PRIVACY PRINCIPLES AND FURNISHING OF CREDIT INFORMATION

19. A credit information company or credit institution or specified user, as the case may be, in possession or control of credit information, shall take such steps (including security safeguard) as may be prescribed, to ensure that the data relating to the credit information maintained by them is accurate, complete, duly protected against any loss or unauthorised access or use or unauthorised disclosure thereof.

Accuracy
and
security of
credit
information.

20. Every credit information company, credit institution and specified user, shall adopt the following privacy principles in relation to collection, processing, collating, recording, preservation, secrecy, sharing and usage of credit information, namely:—

Privacy
principles.

(a) the principles—

(i) which may be followed by every credit institution for collection of information from its borrowers and clients and by every credit information company, for collection of information from its member credit institutions or credit information companies, for processing, recording, protecting the data relating to

credit information furnished by, or obtained from, these member credit institutions or credit information companies, as the case may be, and sharing of such data with specified users;

(ii) which may be adopted by every specified user for processing, recording, preserving and protecting the data relating to credit information furnished, or received, as the case may be, by it;

(iii) which may be adopted by every credit information company for allowing access to records containing credit information of borrowers and clients and alteration of such records in case of need to do so;

(b) the purposes for which the credit information may be used, restriction on such use and disclosure thereof;

(c) the extent of obligation to check accuracy of credit information before furnishing of such information to credit information companies or credit institutions or specified users, as the case may be;

(d) preservation of credit information maintained by every credit information company, credit institution, and specified user as the case may be (including the period for which such information may be maintained, manner of deletion of such information and maintenance of records of credit information);

(e) networking of credit information companies, credit institutions and specified users through electronic mode;

(f) any other principles and procedures relating to credit information which the Reserve Bank may consider necessary and appropriate and may be specified by regulations.

21. (1) Any person, who applies for grant or sanction of credit facility, from any credit institution may request to such institution to furnish him a copy of the credit information obtained by such institution from the credit information company.

Alteration of credit information files and credit reports.

(2) Every credit institution shall, on receipt of request under sub-section (1), furnish to the person referred to in that sub-section a copy of the credit information subject to payment of such charges, as may be specified by regulations, by the Reserve Bank in this regard.

(3) If a credit information company or specified user or credit institution in possession or control of the credit information, has not updated the information maintained by it, a borrower or client may request all or any of them to update the information; whether by making an appropriate correction, or addition or otherwise, and on such request the credit information company or the specified user or the credit institution, as the case may be, shall take appropriate steps to update the credit information within thirty days after being requested to do so:

Provided that the credit information company and the specified user shall make the correction, deletion or addition in the credit information only after such correction, deletion or addition has been certified as correct by the concerned credit institution:

Provided further that no such correction, deletion or addition shall be made in the credit information if any dispute relating to such correction, deletion or addition is pending before any arbitrator or tribunal or court and in cases where such dispute is pending, the entries in the books of the concerned credit institution shall be taken into account for the purpose of credit information.

Unauthorised
access to
credit
information.

22. (1) No person shall have access to credit information in the possession or control of a credit information company or a credit institution or a specified user unless the access is authorised by this Act or any other law for the time being in force or directed to do so by any court or tribunal and any such access to credit information without such authorisation or direction shall be considered as an unauthorised access to credit information.

(2) Any person who obtains unauthorised access to credit information as referred to in sub-section (1) shall be punishable with fine which may extend to one lakh rupees in respect of each offence and if he continues to have such unauthorised access, with further fine which may extend to ten thousand rupees for every day on which the default continues and such unauthorised credit information shall not be taken into account for any purpose.

CHAPTER VII

OFFENCES AND PENALTIES

Offences
and
penalties.

23. (1) Whoever, in any return or other document or in any information required or furnished by, or under, or for, the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

(2) Every credit information company or a credit institution or any specified user wilfully performing any act or engaging in any practice, in breach of any of the Principles referred to in Section 20, shall be punishable with fine not exceeding one crore.

(3) Any credit information company or credit institution or specified user wilfully providing to any other credit information company or credit institution or specified user or borrower or client, as the case may be, credit

information which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable, with fine which may extend to one crore.

(4) Any person who contravenes any provision of this Act or of any rule or order made thereunder, or obstructs the lawful exercise of any power conferred by or under this Act, or makes default in complying with any requirement of this Act or of any rule or order made or direction issued thereunder, shall, if no specific provision is made under this Act for punishment of such contravention, obstruction or default, be punishable with fine which may extend to one lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to five thousand rupees for every day during which the contravention or default continues.

(5) Where a contravention or default has been committed by a credit information company or credit institution or specified user, as the case may be, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to the credit information company or credit institution or specified user for the conduct of its business, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the contravention or default was committed without his knowledge or that he exercised all due diligence to prevent the contravention or default.

(6) Notwithstanding anything contained in sub-section (5), where a contravention or default has been committed by a credit information company or credit institution or specified user,

as the case may be, and it is proved that the same was committed with the consent or connivance of, or is attributable to any gross negligence on the part of its chairperson, managing director, any other director, manager, secretary or other officer of the credit information company or the credit institution, such chairperson, managing director, any other director, manager, secretary or other officer shall also be deemed to be guilty of that contravention or default and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

(b) “director”, in relation to a firm, means a partner in the firm.

Cognizance
of offences.

24. (1) No court shall take cognizance of any offence committed by a member of a credit information company and punishable under section 23 except upon complaint in writing made by an officer of the credit information company generally or specially authorised in writing in this behalf by the credit information company or if so directed by the Reserve Bank so to do and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto shall try any such offence.

Explanation.—For the purposes of this subsection, “member of a credit information company” shall mean a member referred to in section 15.

(2) No court shall take cognizance of any offence committed by a credit information company punishable under section 23 except upon complaint in writing made by an officer of the Reserve Bank generally or specially

authorised in writing in this behalf by the Reserve Bank and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto shall try any such offence.

25. (1) Notwithstanding anything contained in section 23, if a contravention or default of the nature referred to in sub-section (2) of section 22 or sub-section (2) or sub-section (3) or sub-section (4) of section 23, as the case may be, is made by a credit information company or a credit institution then, the Reserve Bank may impose on such credit information company or credit institution—

Power of Reserve Bank to impose penalty.

(i) where the contravention is of the nature referred to in sub-section (2) of section 22, a penalty not exceeding one lakh rupees;

(ii) where the contravention is of the nature referred to in sub-section (2) or sub-section (3) of section 23, a penalty not exceeding one crore;

(iii) where the contravention is of the nature referred to in sub-section (4) of section 23, a penalty not exceeding one lakh rupees and where such contravention or default is continuing one, a further penalty which may extend to five thousand rupees for every day, after the first, during which the contravention or default continues.

(2) For the purpose of adjudging the penalty under sub-section (1), the Reserve Bank shall serve notice on credit information company or credit institution or specified user, as the case may be, requiring it to show cause as to why the amount mentioned in the notice should not be imposed as penalty and a reasonable opportunity of being heard shall also be given to such credit information company or credit institution or specified user as the case may be.

(3) No complaint shall be filed against credit information company or credit institution or specified user, as the case may be, in any court of law in respect of any contravention or default in respect of which any penalty has been imposed by the Reserve Bank under this section.

(4) Any penalty imposed by the Reserve Bank under this Act shall be payable within a period of fourteen days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the credit information company or credit institution or specified user, as the case may be, and in the event of failure of such credit information company or credit institution or specified user to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office of credit information company or credit institution or specified user, being a company, is situated and in case of credit institution incorporated outside India where its principal place of business in India is situated:

Provided that such direction under this sub-section shall be made only upon an application made in this behalf to the court by the Reserve Bank.

(5) The court which makes a direction under sub-section (4) shall issue a certificate mentioning therein the sum payable by a credit information company or credit institution or specified user as the case may be, and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.

(6) Where any complaint has been filed against credit information company or credit institution or specified user as the case may be, in any court in respect of the contravention

or default of the nature referred to in sub-section (2) of section 22 and sub-section (2) or sub-section (3) or sub-section (4) of section 23, then, no proceedings for the imposition of any penalty on the credit information company or credit institution or specified user shall be taken under this section.

26. A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or for such purposes as may be directed by the court.

Application of fines.

CHAPTER VIII

MISCELLANEOUS

27. The Reserve Bank may specify by regulations the maximum amount of fees leviable under sub-section (3) of section 14 for providing information to the specified users and for admissions of credit institutions or credit information companies as a member of a credit information company.

Power of Reserve Bank to specify maximum amount of fees.

28. No chairperson, director, member, auditor, adviser, officer or other employee or agent employed in the business of a credit information company or in the business of a specified user shall, except for the purposes of this Act or when required to do so by any other law in force or court or tribunal or authority, disclose any information to any person.

Disclosure of information before any court or tribunal or authority.

29. (1) Every credit information company shall observe, except as otherwise required by law, the practices and usages customary among credit information companies and it shall not divulge any information relating to, or to the affairs of its members or specified users.

Obligation as to fidelity and secrecy.

(2) Every chairperson, director, member, auditor, adviser, officer or other employee of a credit information company shall, before

entering upon his duties, make a declaration of fidelity and secrecy in the form, as may be prescribed in this regard.

Explanation.—For the purposes of this section and section 30 the terms “practices and usages customary” means such practices and usages which are generally followed by credit information companies or may develop in due course in relation to their functions, in pursuance of the provisions of this Act, rules and regulations made and directions issued thereunder from time to time in pursuance thereof.

Protection of action taken in good faith.

30. (1) No suit or other legal proceedings or prosecution shall lie against the Reserve Bank or the Central Government or credit information company or credit institution, or their chairperson, director, member, auditor, adviser, officer or other employee or agent or any person authorised by the Reserve Bank or the Central Government or credit information company or credit institution to discharge any function under this Act, for any loss or damage caused or as is likely to be caused by anything which is in good faith done or intended to be done, in pursuance of this Act; or any other law for the time being in force.

(2) Nothing contained in sub-section (1) shall affect the right of any person to claim damages against a credit information company, a credit institution or their chairperson, director, member, auditor, adviser, officer or other employee or agents, as the case may be, in respect of loss caused to him on account of any such disclosure made by anyone of them and which is unauthorised or fraudulent or contrary to provisions of this Act, or practices or usages customary among them.

Bar of jurisdiction.

31. No court or authority shall have, or be entitled to exercise, any jurisdiction, powers or authority, except the Supreme Court and a

High Court exercising jurisdiction under articles 32, 226 and 227 of the Constitution, in relation to the matters referred to in sections 4, 5, 6, 7 and 18.

32. (1) The Central Government may, on the recommendation of the Reserve Bank, by notification in the Official Gazette direct that any or all of the provisions of this Act shall not apply to any credit information company or a credit institution, as the case may be, either generally or for such period and subject to such exceptions or modifications, as may be mentioned in that notification.

Power of Reserve Bank to exempt in certain cases.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses;

33. The provisions of this Act shall be in addition to, and not, save as provided under this Act, in derogation of, the provisions of the Companies Act, 1956 or any other law for the time being in force.

Application of other laws not barred.

1 of 1956.

34. The enactments mentioned in the Schedule to this Act shall be amended in the manner specified therein.

Amendment of certain enactments.

35. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not

Removal of difficulties.

inconsistent with the provisions of the Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power to
make rules.

36. (1) The Central Government may, after consultation with the Reserve Bank, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the steps to be taken by every credit information company or credit institution and specified user for ensuring accuracy, completeness of data and protection of data from any loss or unauthorised access or use of disclosure under section 19;

(b) the form in which a declaration of fidelity and secrecy shall be made under sub-section (2) of section 29;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the

regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

37. (1) The Reserve Bank may make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of the Act.

Power of Reserve Bank to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:—

(a) the persons or institutions which may be specified as specified users under clause (l) of section 2;

(b) the form in which application may be made under sub-section (1) of section 4 and the manner of filing such application under that sub-section;

(c) any other form of business in which a credit information company may engage under clause (e) of sub-section (1) of section 14;

(d) the form of notice for collection and furnishing of information procedure relating thereto and purposes for which credit information may be provided under sub-sections (1) and (2) of section 17;

(e) the principles and procedures relating to credit information which may be specified under clause (f) of section 20;

(f) the amount which may be required to be paid for obtaining copy of credit information under sub-section (2) of section 21;

(g) the maximum amount of charges payable under section 27.

(3) Every regulation, as soon as may be after it is made by the Reserve Bank, shall be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

THE SCHEDULE

(See section 34)

AMENDMENTS TO CERTAIN ENACTMENTS

PART I

THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

Section 45E, sub-section (2), after clause (c) insert—

“(d) the disclosures of any credit information under the Credit Information Companies (Regulation) Act, 2004.”

PART II

THE BANKING REGULATION ACT, 1949

(10 OF 1949)

1. Section 19, after sub-section (3), insert—

“(4) Save as provided in clause (c) of sub-section (1), a banking company may form a subsidiary company to carry on the business of credit information in accordance with the Credit Information Companies (Regulation) Act, 2004.

2. Section 28, for “publish any information obtained by them under this Act in such consolidated form as they think fit”, substitute—

“publish—

(a) any information obtained by them under this Act in such consolidated form as they think fit;

(b) in such manner as they may consider proper, any credit information disclosed under the Credit Information Companies (Regulation) Act, 2004.”

PART III

THE STATE FINANCIAL CORPORATION ACT, 1951

(63 OF 1951)

Section 40, after sub-section (3), insert—

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART IV

THE STATE BANK OF INDIA ACT, 1955

(23 OF 1955)

Section 44, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART V

THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

(38 OF 1959)

Section 52, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART VI

THE DEPOSIT INSURANCE AND CREDIT GUARANTEE
CORPORATION ACT, 1961

(47 OF 1961)

Section 39, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART VII

THE STATE AGRICULTURAL CREDIT CORPORATIONS ACT, 1968

(60 OF 1968)

Section 40, insert—

“Provided that nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART VIII

THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS)
ACT, 1970
(5 OF 1970)

Section 13, after sub-section (3) insert—

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART IX

THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS)
ACT, 1980
(40 OF 1980)

Section 13, after sub-section (3) insert—

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART X

THE EXPORT-IMPORT BANK OF INDIA ACT, 1981
(28 OF 1981)

Section 30, after sub-section (3) insert—

“(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART XI

THE NATIONAL BANK FOR AGRICULTURE AND RURAL DEVELOPMENT ACT,
1981
(61 OF 1981)

Section 51, after sub-section (2) insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART XII

THE PUBLIC FINANCIAL INSTITUTIONS (OBLIGATION AS TO
FIDELITY AND SECRECY) ACT, 1983

(48 OF 1983)

Section 3, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART XIII

THE NATIONAL HOUSING BANK ACT, 1987

(53 OF 1987)

Section 44, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

PART XIV

THE REGIONAL RURAL BANKS ACT, 1976

(21 OF 1976)

Section 25, after sub-section (2), insert—

“(3) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2004”.

STATEMENT OF OBJECTS AND REASONS

The introduction of financial sector reforms has brought to fore the extent of non-performing assets (NPAs) and the management of NPAs in the banking system. It has become imperative to arrest accretion of fresh NPAs in the banking sector through an efficient system of credit information on borrowers as a first step in credit risk management. In this context the requirement of an adequate, comprehensive and reliable information system on the borrowers through an efficient database has been felt by the Reserve Bank of India (RBI), the Central Government, credit institutions and other players in the banking and financial sector.

2. The Reserve Bank of India had constituted a Working Group to explore the possibility of setting up a Credit Information Bureau (CIB). The working Group observed that it would not be possible to set up a world class credit information company within the existing legal framework. The legal prohibition on disclosure of information contained in various laws relating to banking do not permit banks and financial institutions to share credit information with the credit information company. Besides, the power vested with the Reserve Bank of India under and Chapter IIIA of the Reserve Bank of India Act, 1934, to collect and furnish credit information from banks or financial institutions cannot be delegated by it to another institution. Therefore, amendments would be required in various enactments. The Working Group submitted its report in October, 1999 and recommended amongst other things (a) enactment of a legislation for facilitating collection and sharing of information by the proposed bureau and (b) to amend certain Acts relating to banking to permit sharing of information with the said bureau.

3. A Credit Information Bureaus (India) Ltd., being a company formed and registered under the Companies Act, 1956, has already been set up in January, 2001. With a view to provide necessary legislative support to the business of credit information, it is proposed to enact a legislation, namely, the Credit Information Companies (Regulations) Bill, 2004 for regulation of credit information companies and to facilitate efficient distribution of credit. The Bill, *inter alia*, contains provisions for—

(a) prohibition to commence or carry on business of credit information without obtaining a certificate of registration from the Reserve Bank of India;

(b) procedure for making application for grant of certificate of registration, grant of certificate of registration, cancellation of certificate of registration and appeal against order of rejection of an application for grant of certificate of registration and cancellation of certificate of registration;

(c) requirement of minimum capital;

(d) management of credit information companies;

(e) conferring power upon the Reserve Bank of India to determine policy in relation to functioning of credit information companies and also giving directions to credit information companies and other players in the business of credit information;

(f) functions of credit information by credit information companies;

(g) collection and furnishing of credit information companies;

(h) powers and duties of auditors;

(i) obtaining of membership by credit institutions of credit information companies;

(j) information privacy principles;

(k) alterations of credit information files and credit reports;

(l) regulation of unauthorised access to credit information;

(m) offences and penalties;

(n) obligations as to fidelity and secrecy;

(o) resolution of disputes between credit institutions and credit information companies of between credit institutions and their borrowers;

(p) exemption from any or all the provisions of the proposed legislation to any credit information company or credit institution; and

(q) amending certain enactments specified in the Schedule to the Bill so as to permit disclosure of credit information under the proposed legislation.

4. The existing legislations in force do not address these aspects of credit information companies and their functioning.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 25th August, 2004.

P. CHIDAMBARAM

Notes on clauses

Clause 2.—This clause defines certain expressions used in the Bill.

Clause 3.—This clause relates to prohibition to commence or carry on business of credit information company. It provides that no company shall expect as otherwise provided in this proposed legislation commence or carry on the business of credit information without obtaining a certificate of registration from the Reserve Bank under this proposed legislation.

Clause 4.—This clause contains provisions for making application by a company for registration.

Sub-clause (1) requires every company which intends to commence the business of credit information to make an application for certificate of registration to the Reserve Bank of India in such form, and manner as may be specified by regulations made by the Reserve Bank of India.

Sub-clause (2) provides that every credit information company, which is in existence on the commencement of this proposed legislation, shall apply, before the expiry of six months from such commencement, in writing to the Reserve Bank for obtaining a certificate of registration under this proposed legislation. However such credit information company may continue to carry on the business of credit information, until it is granted a certificate of registration or is by notice in writing informed by the Reserve Bank that a certificate of registration cannot be granted to it.

Clause 5.—This clause contains provisions for grant of certificate of registration to commence or carry on the business of credit information.

Sub-clause (1) requires the Reserve Bank for the purpose of considering the application of a company to be satisfied by an inspection of records or books of such company or otherwise, (a) that the applicant company has minimum capital structure referred to in clause 8; (b) that the management or the proposed management of the applicant company shall not be prejudicial to the interest of its specified users, clients or borrowers, or other credit information companies; (c) that any other condition, the fulfillment of which in the opinion of the Reserve Bank, shall be necessary to ensure that the commencement

or carrying on of the business of credit information by the applicant company shall not be detrimental or prejudicial to the public interest or banking policy or credit system or its specified users or clients or borrowers or other credit information companies or others who would provide credit information to the credit information companies.

Sub-clause (2) confers power upon the Reserve Bank to grant a certificate of registration to the applicant company to commence or carry on the business of credit information, subject to such conditions which it may consider fit to impose and if the company fails to fulfil any of such conditions or any of the provisions of this proposed legislation, the application of the company shall be rejected after the applicant has been given an opportunity of being heard.

Clause 6.—This clause relates to the power of Reserve Bank to cancel certificate of registration. It confers power upon the Reserve Bank to cancel certificate of registration granted to a credit information company under sub-clause (2) of clause 5 if such company (i) ceases to carry on the business of credit information; or (ii) has failed to comply with any of the conditions subject to which the certificate of registration has been granted to it; or (iii) at any time fails to fulfil any of the conditions referred to in sub-clauses (a) to (c) of sub-clause (1) or sub-clause (2) of clause 5; or (iv) fails to comply with provisions of any law for the time being in force or any direction issued by the Reserve Bank under the provisions of this proposed legislation; or fails to submit or offer for inspection its books of account and other relevant documents when so demanded by the officers, persons or agency referred to in sub-clause (1) of clause 12.

If further provides that before cancelling the certificate of registration granted to a credit information company under this clause on the ground that the company has failed to comply with the conditions specified in clauses (a) to (c) of sub-clause (1) or sub-clause (2) of clause 5 or the provisions of any other law for the time being in force or directions issued under this proposed legislation, the Reserve Bank, shall grant time to such company on such terms as the Reserve Bank may deem appropriate for taking necessary steps to comply with such directions or provisions or fulfillment of such conditions, within such time. However if the Reserve Bank is of the opinion that the delay in cancelling the certificate of registration of such company shall be prejudicial or detrimental to the public interest or banking policy or credit system or borrowers or other credit information companies, the Reserve Bank may cancel the certificate of registration without granting time as provided in sub-section (2).

It is also proposed to provide that no order of cancellation of certificate of registration granted to a credit information company shall be made by the Reserve Bank unless such company has been given a reasonable opportunity of being heard.

Clause 7.—This clause provides for making an appeal against the order of Reserve Bank. A credit information company aggrieved by the order of rejection of an application for grant of certificate of registration under clause 5 or cancellation of certificate of registration under clause 6, may prefer an appeal to the Central Government, within a period of thirty days from the date on which such order of rejection or cancellation is communicated to the credit information company. The decision of the Central Government, where an appeal has been preferred to it under sub-clause (1), or of the Reserve Bank where no such appeal has been preferred, shall be final. However before making any order of rejection of an appeal, the applicant company or the credit information company, as the case may be, shall be given a reasonable opportunity of being heard.

Clause 8.—This clause specifies minimum capital requirement for every credit information company. It provides that the authorised capital of every credit information company shall be a minimum of thirty crores. This clause confers power upon the Reserve Bank to increase, by notification, the minimum amount of authorised capital to any amount not exceeding fifty crores.

It further specifies that the issued capital of every credit information company shall not be less than twenty crores. However, the Reserve Bank can, by notification, increase the issued capital to any amount not exceeding the minimum amount of authorised capital as referred to in this clause. This clause also provides that the minimum paid up capital of every credit information company at any time shall not be less than seventy five per cent. of the issued capital.

Clause 9.—This clause contains provisions for management of a credit information company.

Sub-clause (1) provides that, every credit information company in existence on the commencement of this proposed legislation, or which comes into existence thereafter shall, notwithstanding anything contained in any law for the time being in force, or in any contract

to the contrary, have one of its directors, who may be appointed on whole time or on a part time basis as chairperson of its board of directors, and where he is appointed on whole time basis as chairperson of its board, he shall be entrusted with the management of the whole of the affairs of the credit information company. However, the chairperson of the board of the credit information company shall exercise his powers subject to the superintendence, control and directions of the board.

Sub-clause (2) requires, in case a chairperson of the credit information company is appointed on a part time basis, the management of whole of the affairs of the credit information company shall be entrusted to a managing director or, a whole time director by whatever name called, who shall exercise his powers subject to the superintendence, control and directions of the board.

Sub-clause (3) requires that the board of directors shall (in addition to the chairperson or managing director or whole-time director) consist of not less than fifty per cent. directors having special knowledge in, or experience of, the matters relating to public administration, law, banking, finance, accountancy, management and information technology.

Sub-clause (4) requires the board of every credit information company, while discharging its functions, to act on business principles and have due regard to the interest of its specified users, credit institutions or the clients or borrowers of credit institutions.

Sub-clause (5) provides that the Reserve Bank of India (if it is satisfied that it is in the public interest or in the interest of banking policy or credit system of the country, or for preventing the affairs of any credit information company being managed in a manner detrimental to the interest of banking policy or credit institutions or its borrowers or clients or for securing the proper management of any credit information company, it is necessary so to do), may, for reasons to be recorded in writing, by order published in the Official Gazette, supersede the board of such company. Such supersession shall be for a period not exceeding six months as may be specified in the Order, and such period may be extended from time to time, but that the total period in no case shall not exceed twelve months. However before making any such order, the Reserve Bank shall give a reasonable opportunity to the board of such credit information company to make representation against the proposed supersession and shall consider the representation, if any, of the board.

Sub-clause (6) confers power upon the Reserve Bank to appoint, on supersession of the board of a credit information company under sub-clause (5), an Administrator for such period and on such salary and other terms and conditions as it may determine.

Sub-clause (7) confers power upon the Reserve Bank to issue such directions to the Administrator appointed under clause (5) as it may deem appropriate and the Administrator shall be bound to follow such directions.

Sub-clause (8) provides for matters consequent upon supersession of the board of a credit information company under sub-clause (5). It provides that on such supersession (a) the chairperson, managing director and other directors of such credit information company shall, as from the date of supersession, vacate their offices as such (b) all the powers, functions and duties which may, by or under the provisions of the Companies Act, 1956 or this proposed legislation or any other law for the time being in force, be exercised or discharged, by or on behalf of the board of such credit information company, or by a resolution passed in general meeting of that company, shall, until the reconstitution of its board under sub-clause (10), be exercised and discharged by the Administrator appointed by the Reserve Bank under sub clause (6). However the power exercised by the Administrator shall be valid notwithstanding that such powers are exercisable by a resolution passed in the general meeting of such credit information company.

Sub-clause (9) provides that the salary and allowances payable to the Administrator and staff assisting the Administrator shall be borne by the credit information company.

Sub-clause (10) imposes an obligation upon the Administrator of the credit information company, to call, on and before the expiration of two months before expiry of the period of supersession mentioned in the order of the Reserve Bank issued under sub-clause (5), a general meeting of the credit information company to elect new directors and reconstitute its board and any person who had vacated his office under clause (a) of sub-clause (8), shall not be deemed to be disqualified for re-appointment.

Sub-clause (11) provides that, on the removal of a person from office under this clause, such person shall not, notwithstanding anything contained in any law for the time being in force or in any contract or the memorandum or articles of association of the credit information

company, be entitled to claim any compensation for the loss or termination of office.

Clause 10.—This clause confers power upon the Reserve Bank to determine policy. It provides that in case the Reserve Bank, if it is satisfied that it is necessary or expedient in the public interest or in the interest of specified users or in the interest of credit information companies or credit institutions or clients or borrowers so to do, may determine the policy in relation to functioning of credit information companies or credit institutions or specified users generally or in particular. All credit information companies, credit institutions and specified users shall be bound to follow the policy as so determined.

Clause 11.—This clause confers power upon the Reserve Bank to give directions.

Sub-clause (1) provides that the Reserve Bank may, from time to time, issue directions to credit information companies or credit institutions or specified users generally or to any credit information company or credit institution or specified user in particular, and such credit information companies, credit institutions or specified users or credit information company or credit institution and specified user, shall be bound to comply with such directions. The directions shall be issued by the Reserve Bank if it is satisfied that such directions are necessary (i) in the public interest; or (ii) in the interest of credit institutions; or (iii) in the interest of specified users; or (iv) in the interest of banking policy; or (v) to prevent the affairs of any credit information company being conducted in a manner detrimental to the interests of specified users or in a manner prejudicial to the interests of credit institutions or borrowers or clients; or (vi) to secure the proper management of credit information companies generally.

Sub-clause (2) confers power upon the Reserve Bank to modify or cancel, either on representation made to it or on its own motion, any direction issued under sub-clause (1). The Reserve Bank, may, in so modifying or cancelling such direction, impose such conditions as it thinks fit, subject to which such modification or cancellation shall have effect.

Sub-clause (3) provides that the Reserve Bank may, at any time, if it is satisfied that in the public interest or in the interest of a credit information company or its members, it is necessary so to do, by order in writing and on such terms and conditions as may be specified therein (i) require any credit information company to call a meeting of

its directors for the purpose of considering any matter relating to or arising out of the affairs of the credit information company; (ii) depute one or more of its officers to watch the proceedings at any meeting of the board of the credit information company or of any committee or of any other body constituted by it and require the credit information company to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the Reserve Bank; (iii) require the board of the credit information company or of any committee or any other body constituted by it to give in writing to any officer deputed by the Reserve Bank in this behalf at his usual address all notices of, and other communications relating to, any meeting of the board, committee or other body constituted by it; (iv) appoint one or more of its officers to observe the manner in which the affairs of the credit information company or of its offices or branches are being conducted and make a report thereon; (v) require the credit information company to make, within such time as may be specified in the order, such changes in the management as the Reserve Bank may consider necessary.

Sub-clause (4), inter alia, confers power upon the Reserve Bank to direct any credit information company to furnish it within such time as may be specified by the Reserve Bank, such statements and information relating to the business or affairs of the credit information company as it may consider necessary or expedient to obtain for the purpose of this proposed legislation.

Clause 12.—This clause contains provisions relating to inspection of credit information company, credit institution and specified user.

Sub-clause (1) provides that the Reserve Bank may, at any time, notwithstanding anything to the contrary contained in clause 235 of the Companies Act, 1956, and on being directed so to do by the Central Government shall, cause an inspection of any credit information company or credit institution or specified users and their books and accounts of any credit information company or credit institution or specified users and their books and accounts. Such inspection may be made by one or more of officers of the Reserve Bank or through such other persons or agency as it may determine. It further provides that the Reserve Bank shall supply to the credit information company or credit institution or specified users, as the case may be, a copy of its report on such inspection.

Sub-clause (2) imposes a duty upon every director or other officer or employee of the credit information company, credit institution and

specified user to produce to any officer or person or agency, as the case may be, making an inspection under sub-clause (1) all such books, accounts and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of such credit information company, credit institution and specified user as the said officer or person or agency may require of him within such time as the said officer or person or agency may specify.

Sub-clause (3) provides that any officer of the Reserve Bank or person or an agency making an inspection under sub-clause (1) may examine on oath any director or other officer or employee of the credit information company or credit institution or specified user in relation to their business, and may administer an oath accordingly.

Sub-clause (4) provides that the expenses of, or incidental to, the inspection under sub-clause (1) by any officer or person or an agency referred to in sub-clause (1) shall be borne by the credit information company or credit institution or specified user, as the case may be.

Clause 13.—This clause contains provisions relating to powers and duties of auditors.

Sub-clause (1) imposes a duty upon every auditor of a credit information company to inquire whether or not the credit information company has furnished to the Reserve Bank such statements, information or particulars relating to its business as are required to be furnished under this proposed legislation. The auditor is required to make a report to the Reserve Bank in this regard except in cases where he is satisfied on such inquiry that the credit information company has furnished such a statement, information or particulars.

Sub-clause (2) provides that the Reserve Bank may, on being satisfied that it is necessary so to do, in the public interest or in the interest of credit system, issue directions in particular or in general with respect to audit of the credit information company and submission of report to the Reserve Bank.

Sub-clause (3), inter alia, confers power upon the Reserve Bank to direct, by order, that a special audit shall be conducted of the accounts of the credit information company in relation to any such transaction or class of transaction or for such period or periods, as may be mentioned in the order. The Reserve Bank may, by such order or by a separate order, either appoint an auditor or auditors or direct the auditor of the credit information company himself to conduct such

special audit and the auditor shall comply with such directions and make a report of such audit to the Reserve Bank and forward a copy thereof to the credit information company.

Sub-clause (4) confers power upon the Reserve Bank to fix, having regard to the nature and volume of work involved in the audit, remuneration of the auditors and the expenses of, or incidental to, the audit, shall be borne by the credit information company so audited.

Clause 14.—This clause specifies the functions of a credit information company.

Sub-clause (1) provides that the credit information company may engage in any forms of business, namely, (a) to collect, process and collate information on trade, credit and financial standing of the borrowers of the credit institution which is a member of the credit information company; (b) to provide credit information to its specified users or to the specified users of any other credit information company or to any other credit information company being its member; (c) to provide credit scoring to its specified users or specified users of any other credit information company or to other credit information companies being its members; (d) to undertake research project; and (e) to undertake any other form of business which the Reserve Bank may, specify, by regulations, as a form of business in which it is lawful for a credit information company to engage.

Sub-clause (2) prohibit the credit information company to engage in any form of business other than those referred to in sub-clause (1).

Sub-clause (3) provides that any credit information company for the purposes of carrying on the business of credit information may (a) register credit institutions and other credit information companies, at their option as its member, subject to such terms and conditions as may be pre-determined and disclosed by such credit information company; (b) charge such reasonable amount of fees, as it may deem appropriate not exceeding the maximum fee, as may be specified under clause 27, for furnishing credit information to a specified user; and (c) generally to do all such other acts and perform such other functions as are necessary to facilitate proper conduct of its affairs, business and functions, in accordance with the provisions of this proposed legislation.

Clause 15.—This clause requires every credit institution to be member of at least one credit information company.

Sub-clause (1) provides that every credit institution, in existence on the commencement of this proposed legislation before the expiry of three months from such commencement or within such extended period, as the Reserve Bank may allow, on its application and subject to being satisfied for extension, shall become member of at least one credit information company.

Sub-clause (2) provides that every credit institution which comes into existence after the commencement of this proposed legislation, before the expiry of three months from its coming into existence, or within such extended period, as the Reserve Bank may allow on application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

Sub-clause (3) provides that a credit information company may, at its option, become member of another credit information company.

Sub-clause (4) provides that no credit information company shall refuse to register a credit institution or another credit information company as its member without providing reasonable opportunity of being heard to such credit institution or credit information company, whose application it proposes to reject and recording reasons for such rejection and a copy of such order of rejection shall be forwarded to the Reserve Bank.

Sub-clause (5) allows a credit institution or credit information company aggrieved by the order of rejection of its application for its registration as a member of a credit information company under sub-clause (4) to prefer an appeal to the Reserve Bank, within a period of thirty days from the date on which such order of rejection was communicated to it. However, the Reserve Bank may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding thirty days.

Sub-clause (6) provides that on receipt of an appeal under sub-clause (5), the Reserve Bank, after giving the appellant and other concerned parties, an opportunity of being heard, pass such order as it deems fit in this regard.

Sub-clause (7) provides that the decision of the Reserve Bank where an appeal has been preferred to it under sub-clause (5) shall be final and the order of the credit information company under sub-clause (4) shall be final after the expiry of said period of thirty days where no appeal has been preferred under that sub-clause to the Reserve Bank.

Sub-clause (8) gives a right to every specified user to obtain credit information for its use from the credit information company of which such specified user is a member.

Clause 16.—This clause contains provisions in respect of failure to become a member of a credit information company. In case a credit institution abstains from becoming a member of at least one credit information company or at any time is not a member of any credit information company, the Reserve Bank *suo moto* or on a complaint from a credit information company may, direct such credit institution to take necessary steps within such time, as it may specify to become a member of a credit information company. If a credit institution fails to comply with the directions of the Reserve Bank to become member of at least one credit information company, the Reserve Bank may, without prejudice to the provisions of this proposed legislation, intimate such failure to any other authority for taking such action as it may deem fit.

Clause 17.—This clause relates to collection and furnishing of credit information.

Sub-clause (1) provides that a credit information company or any person authorised in that behalf by the company may, by notice in writing, in such form, as may be specified by regulations made by the Reserve Bank or as near thereto, require its members being credit institution or credit information company, to furnish such credit information as it may deem necessary in accordance with this proposed legislation.

Sub-clause (2) provides that every credit institution which is member of the credit information company and every credit information company which is a member of other credit information company, shall, on receipt of notice under sub-clause (1), provide credit information to the credit information company of which it is a member within such period as may be specified in the notice.

Sub-clause (3) provides that every credit information company shall provide for such purpose, as may be specified by regulations, the credit information received under sub-clause (2), to its specified user on receipt of request from him in accordance with the provisions of this proposed legislation and directions, issued thereunder by the Reserve Bank from time to time in this behalf.

Sub-clause (4) provides that no credit information received, by the credit information company shall be disclosed to any person other than its specified user, or, by the specified user shall be disclosed to any other person; or received, by the credit information company or specified user shall be disclosed for any other purpose than as permitted or required by any other law for the time being in force.

Clause 18.—This clause relates to settlement of dispute amongst credit information companies, credit institutions its borrowers and clients.

This clause provides that if any dispute arises amongst, credit information companies, credit institutions, its borrowers and clients on matters relating to business of credit information and for which no remedy has been provided under this proposed legislation, such dispute shall be settled by conciliation or arbitration as provided in the Arbitration and Conciliation Act, 1996, as if the parties to the dispute have consented in writing for determination of such dispute by conciliation or arbitration and provision of that Act shall apply accordingly.

Where a dispute has been referred to arbitration, the same shall be settled or decided by the arbitrator to be appointed by the Reserve Bank. It further provides that the provisions of the Arbitration and Conciliation Act, 1996 (except as otherwise provided under this proposed legislation), shall apply to all arbitration proceeding under this proposed legislation as if the proceedings for arbitration were referred for settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996.

Clause 19.—This clause imposes an obligation on a credit information company or credit institution or specified user, (which is in possession or control of credit information) to take requisite steps (including security safeguards), as may be prescribed, so as to ensure that the data relating to the credit information maintained by them is accurate, complete, duly protected against any loss or unauthorised access or use or unauthorised disclosure thereof.

Clause 20.—This clause relates to privacy principles to be adopted and followed by every credit information company, credit institution and specified user in relation to credit information.

Sub-clause (1) provides that every credit information company, credit institution and specified user shall adopt the privacy principles in relation to collection, processing, collating, recording, preservation, secrecy, sharing and usage of credit information. The privacy principles

to be followed are mentioned in sub-clause (1), namely, (i) which may be followed by every credit institution for collection of information from its borrowers and clients; and by every credit information company, for collection of information from its member credit institutions or credit information companies, for processing, recording, protecting the data relating to credit information furnished by, or obtained from, their member credit institutions or credit information companies, as the case may be, and sharing of such data with specified users; (ii) which may be adopted by every specified user for processing, recording, protecting the data relating to credit information furnished, or received, as the case may be, by it; (iii) which may be adopted by every credit information company for allowing access to records containing credit information of borrowers and clients and alternation of such records in case of need to do so; (b) the purposes for which the credit information may be used, restriction on such use and disclosure thereof; (c) the extent of obligation to check accuracy of credit information before furnishing of such information to credit information companies of credit institutions or specified users, as the case may be; (d) preservation of credit information maintained by every credit information company, credit institution and specified user, as the case may be, (including the period for which such information may be maintained, manner of deletion of such information and maintenance of records of credit information); (e) networking of credit information companies, credit institutions and specified users through electronic mode; and (f) any other principles and procedures relating to credit information which the Reserve Bank may consider necessary and appropriate and may specify by regulations.

Clause 21.—This clause contains provisions relating to alteration of credit information files and credit reports.

It provides that any person, who applies for grant or sanction of credit facility, from any credit institution may request such institution to furnish him a copy of the credit information obtained by such institution from the credit information company. Every such credit institution or institution or specified user, shall on receipt of the request furnish the copy of such credit information subject to payment of such charges, as may be specified by regulations, by the Reserve Bank in this regard. If a credit information company or specified user or credit institution in possession or control of the credit information, has not updated the information maintained by it, a borrower or client may request all or any of them to update the information; whether by making an appropriate correction, or addition or otherwise; and on

such request the credit information company or the specified user or the credit institution, as the case may be, shall take appropriate steps to update the credit information within thirty days after being requested to do so. However the credit information company and the specified user shall make the correction, deletion or addition in the credit information only after such correction, deletion or addition has been certified as correct by concerned credit institution and no such correction, deletion or addition shall be made in any credit information if any dispute relating to such correction, deletion or addition in cases where such dispute is pending, is pending before any arbitrator or tribunal or court and the entries in the books of the concerned credit institution shall be taken into account for the purposes of credit information.

Clause 22.—This clause contains provisions relating to unauthorised access to credit information.

Sub-clause (1) provides that no person shall have access to credit information in the possession or control of a credit information company or a credit institution or a specified user unless the access is authorised by this proposed legislation or any other law for the time being in force or directed to do so by any court or tribunal and any such access to credit information without such authorisation or direction shall be considered as an unauthorised access to credit information.

Sub-clause (2) provides for punishment for unauthorised access to credit information. It provides that any person who obtains unauthorised access to credit information as referred to in sub-clause (1) shall be punishable with fine which may extend to one lakh rupees in respect of each offence and if he continues to have such unauthorised access, with a further fine which may extend to ten thousand rupees for every day on which the default continues and such unauthorised credit information shall not be taken into account for any purpose.

Clause 23.—This clause contains provisions relating to offences and penalties.

Sub-clause (1) provides that whoever, in any return or other document or in any information required or furnished by or under or for the purposes of any provision of this proposed legislation, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for term which may extend to one year and shall also be liable to fine.

Sub-clause (2) provides that every credit information company or a credit institution or any specified user, wilfully, performing any act or engaging in any practice, in breach of any of the principles referred to in clause 20, shall be punishable with fine not exceeding one crore.

Sub-clause (3) provides that any credit information company or credit institution or specified user, wilfully providing to any other credit information company or credit institution or specified user, or borrower or client, as the case may be, the credit information, which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable, with fine which may extend to one crore.

Sub-clause (4) provides that any person who contravenes any provision of this proposed legislation or of any rule or order made thereunder, or obstructs the lawful exercise of any power conferred by or under this proposed legislation, or makes default in complying with any requirement of this proposed legislation or of any rule or order made or direction issued thereunder, shall, if no specific provision is made under this proposed legislation for punishment of such contravention, obstruction or default, be punishable with fine which may extend to one lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to five thousand rupees for every day during which the contravention or default continues.

Sub-clause (5) provides that in case a contravention or default has been committed by a credit information company or credit institution or specified user, as the case may be, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to the credit information company or credit institution or specified user for the conduct of its business, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

However such person shall not be liable to any punishment provided in this proposed legislation if he proves that the contravention or default was committed without his knowledge or that he exercised all due diligence to prevent the contravention or default.

Sub-clause (6) provides that where a contravention or default has been committed by a credit information company or credit institution or specified user, as the case may be, and it is proved that the same was committed with the consent or connivance of, or is attributable to any gross negligence on the part of its chairperson, managing director, any other director, manager, secretary or other officer of the credit information company or the credit institution, such chairperson, managing director, any other director, manager, secretary or other officer shall also be deemed to be guilty of that contravention or default and shall be liable to be proceeded against and punished accordingly.

It is also proposed to define expressions “company” and “director” used in this clause.

Clause 24.—This clause contains provisions relating to cognizance of offences.

It provides that no court shall take cognizance of any offence except upon complaint in writing made by an officer of the credit information company generally or specially authorised in writing in this behalf by the credit information company or if so directed by the Reserve Bank, so to do, in case offence is committed by a member of a credit information company and punishable under sub-clause (4) of clause 23.

It further provides that where an offence is committed by a credit information company punishable under clause 23, no court shall take cognizance of any offence except upon complaint in writing made by an officer of the Reserve Bank generally or specially authorised in writing in this behalf by the Reserve Bank.

It also provided that no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto shall try any such offence.

Clause 25.—This clause confers power upon the Reserve Bank of India to impose penalty.

Sub-clause (1) provides for levy of penalty by the Reserve Bank. It specifies that a levy of penalty (a) not exceeding one lakh rupees, where the contravention is of the nature referred to in sub-clause (2) of clauses 22, (b) a penalty not exceeding one crore, where the contravention is of the nature referred to in sub-clause (2) or sub-clause (3) of clause 23, and (c) where the contravention is of the nature referred to in sub-clause (4) of clause 23, penalty not exceeding one lakh rupees and where such contravention or default is continuing one, a further penalty which may extend to five thousand rupees for every day, after the first, during which the contravention or default continues.

Sub-clause (2) requires the Reserve Bank, for the purpose of adjudging the penalty under sub-clause (1), to serve notice on credit information company or credit institution or specified user, as the case may be, requiring it to show cause as to why the amount mentioned in the notice should not be imposed as penalty and also to give a

reasonable opportunity of being heard to such credit information company or credit institution or specified user, as the case may be.

Sub-clause (3) prohibits filing of a complaint against credit information company or credit institution or specified user, as the case may be, in any court of law in respect of any contravention or default in respect whereof any penalty has been imposed by the Reserve Bank under this clause.

Sub-clause (4) requires that any penalty imposed by the Reserve Bank under this proposed legislation shall be payable within a period of fourteen days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the credit information company or credit institution or specified user, as the case may be. In the event of failure of such credit information company or credit institution or specified user to pay the sum within such period, as may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office of credit information company or credit institution or specified user, being a company, is situated and in case of credit institution incorporated outside India where its principal place of business in India is situated. Such direction under this sub-clause shall be made only upon an application made in this behalf to the court by the Reserve Bank.

Sub-clause (5) provides that the court which makes a direction under sub-clause (4) shall issue a certificate mentioning therein the sum payable by a credit information company or credit institution or specified user as the case may be, and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.

Sub-clause (6) provides that in case any complaint has been filed against credit information company or credit institution or specified user as the case may be, in any court in respect of the contravention or default of the nature referred to in sub-clause (2) of clause 22 and sub-clause (2) or sub-clause (3) or sub-clause (4) of clause 23, then, no proceedings for the imposition of any penalty on the credit information company or credit institution or specified user shall be taken under this clause.

Clause 26.—This clause relates to application of fines. It provides that a court imposing any fine under the proposed legislation may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or for such purposes as may be directed by the court.

Clause 27.—This clause relates to power of the Reserve Bank to specify maximum amount of fees.

It confers power upon the Reserve Bank to specify, by regulations, maximum amount of a fees leviable under sub-clause (3) of clause 14 for providing information to the specified users and for admissions of credit institutions or credit information companies as a member of a credit information company.

Clause 28.—This clause relates to disclosure of information before any court or tribunal or authority institution.

It provides that no chairperson, director, member, auditor, adviser, officer or other employee or agent employed in the business of credit information company or in the business of a specified user shall, except for the purposes of the proposed legislation or when required to do so, by any other law in force or court or tribunal or authority, disclose any information to any person.

Clause 29.—This clause relates to the obligations as to fidelity and secrecy.

Sub-clause (1) provides that every credit information company shall observe, except as otherwise required by law, the practices and usages customary among credit information companies and it shall not divulge any information relating to, or to the affairs of its members or specified users.

Sub-clause (2) requires every chairperson, director, member, auditor, adviser, officer or other employee of a credit information company before entering upon his duties, to make a declaration of fidelity and secrecy in the form as may be prescribed in this regard. The terms “practices and usages customary” would mean such practices and usages which are generally followed by credit information companies or may develop in due course in relation to their functions, in pursuance of the proposed legislation and rules and regulations made and directions issued thereunder from time to time in pursuance thereof.

Clause 30.—This clause contains provisions for protection of action taken in good faith under the proposed legislation.

Sub-clause (1) provides that no suit or other legal proceedings or prosecution shall lie against the Reserve Bank or the Central

Government or credit information company or credit institution, or their chairperson, director, member, auditor, adviser, officer or other employee or agent or any person authorised by the Reserve Bank or the Central Government or credit information company or credit institution to discharge any function under the proposed legislation, for any loss or damage caused or as is likely to be caused by anything which is in good faith done or intended to be done, in pursuance of proposed legislation or any other law for the time being in force.

Sub-clause (2) provides that provisions contained in sub-clause (1) shall not affect the right of any person to claim damages against a credit information company, a credit institution or their chairperson, director, member, auditor, adviser, officer or other employee or agents, as the case may be, in respect of loss caused to him on account of any such disclosure made by anyone of them and which is unauthorised or fraudulent or contrary to provisions of the proposed legislation or practices or usages customary among them.

Clause 31.—This clause relates to bar of jurisdiction of other court or authority.

It provides that no court or authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 32, 226 and 227 of the Constitution) in relation to the matters referred to in clauses 4, 5, 6, 7 and 18.

Clause 32.—This clause relates to power of Reserve Bank to exempt in certain cases.

It confers power upon the Reserve Bank to exempt the credit information company or credit institution in certain cases. It provides that the Central Government may, on the recommendation of the Reserve Bank, by notification in the Official Gazette direct that any or all of the provisions of proposed legislation shall not apply to any credit information company or a credit institution, as the case may be either generally or for such period and subject to such exceptions or modification as may be mentioned in that notification. It also provides that a copy of every such notification proposed to be issued shall be laid in draft before each House of Parliament.

Clause 33.—This clause provides that the provisions of the proposed legislation shall be in addition to, and not, (except as provided under the proposed legislation), in derogation of, the provisions of the Companies Act, 1956 or any other law for the time being in force.

Clause 34.—This clause relates to amendment of certain enactments.

It proposes to amend the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the State Financial Corporation Act, 1951, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the State Agricultural Credit Corporations Act, 1968, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, the Export Import Bank of India Act, 1981, the National Bank for Agriculture and Rural Development Act, 1981, the Public Financial Institutions (Obligation as to Fidelity and Secrecy) Act, 1983, the National Housing Bank Act, 1987, and the Regional Rural Banks Act, 1976, *inter alia*, to provide that the provisions contained in the said Acts shall not apply to the information disclosed under the proposed legislation.

Clause 35.—This clause relates to removal of difficulties. It confers powers upon the Central Government which may, if any difficulty arises in giving effect to the provisions of this proposed legislation, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of the proposed legislation as appear to it to be necessary or expedient for removing the difficulty. However, no such order shall be made under this clause after the expiry of a period of two years from the commencement of the proposed legislation and every order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 36.—This clause relates to power to make rules.

It confers power upon the Central Government to make rules in respect of matters specified in the said clause. The rules made by the Central Government shall be published in the Official Gazette and be laid before each House of Parliament.

Clause 37.—This clause relates to power of Reserve Bank to make regulations.

It confers power upon the Reserve Bank of India to make regulations in respect of matters specified in the said clause. The regulations made by the Reserve Bank of India shall be published in the Official Gazette and be laid before each House of Parliament.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 32 confers power upon the Reserve Bank of India to exempt the credit information company or a credit institutions in certain cases. It provides that the Central Government may, by notification, specify, on the recommendation of the Reserve Bank of India, that any or all of the provisions of proposed legislation shall not apply to any credit information company or a credit institutions, as the case may be, either generally or for such period and subject to such exceptions or modification as may be mentioned in the notification. A copy of every notification proposed to be issued shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions. If, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Clause 36 of the Bill empowers the Central Government to make rules by notification to carry out the provisions of the Act. The matters in respect of which such rules may be made are specified therein. These matters relate, *inter alia*, to provide for the steps to be taken by every credit information company and specified user for ensuring accuracy, completeness of data and protection of data from any loss of unauthorised access or use or disclosure under section 19; the form in which a declaration of fidelity and secrecy shall be made under sub-section (2) of section 29 and any other matter which is required to be, or may be, prescribed.

2. Clause 37 of the Bill empowers the Reserve Bank to make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of the Act. The matters in respect of which such regulations may be made are specified therein. These matters relate, to *inter alia*, the persons or institutions which may be specified as specified users under clause (1) of section 2 provide for the form in which application may be made under sub-section (1) of section 4 and the manner of filing such application under that sub-section; any other form of business in which a credit information company may engage under clause (e) of sub-section (1) of section 14;

the form of notice for collecting and furnishing of information under sub-sections (1) and (3); the principles and procedures relating to credit information which may be specified under clause (f) of section 20; procedure relating thereto and purposes for which credit information may be provided; the amount which could be required to be paid for obtaining copy of credit information under sub-section (2) of section 21 and the maximum amount of charges payable under section 27.

3. The rules made by the Central Government and regulations made by the Reserve Bank of India shall be laid, as soon as may be after they are made, before each House of Parliament.

4. The matter in respect of which rules and regulations may be made are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power involved is of a normal character.

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to provide for regulation of credit information companies and to facilitate efficient distribution of credit and for matters connected therewith or incidental thereto.

(Shri P. Chidambaram, Finance Minister)