

**26**

**STANDING COMMITTEE  
ON FINANCE  
(2005-2006)**

**FOURTEENTH LOK SABHA**

**MINISTRY OF FINANCE  
(DEPARTMENT OF ECONOMIC AFFAIRS)**

**THE BANKING REGULATION  
(AMENDMENT) BILL, 2005**

**TWENTY SIXTH REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

*December, 2005 / Agrahayana, 1927 (Saka)*

TWENTY SIXTH REPORT  
STANDING COMMITTEE ON FINANCE  
(2005-2006)

(FOURTEENTH LOK SABHA)

MINISTRY OF FINANCE  
(DEPARTMENT OF ECONOMIC AFFAIRS)

THE BANKING REGULATION  
(AMENDMENT) BILL, 2005

*Presented to Lok Sabha on 13.12.2005*

*Laid in Rajya Sabha on 13.12.2005*



LOK SABHA SECRETARIAT  
NEW DELHI

*December, 2005/Agrahayana, 1927 (Saka)*

COF No. 26

*Price* : Rs. 32.00

© 2005 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Eleventh Edition) and Printed by Jainco Art India, New Delhi.

## CONTENTS

|   | PAGE  |
|---|-------|
| COMPOSITION OF THE COMMITTEE .....  | (iii) |
| INTRODUCTION .....  | (v)   |
| REPORT .....  | 1     |
| NOTES OF DISSENT .....  | 28    |
| Minutes of the Sittings of the Committee held on 14 July, 2005,<br>9 August, 2005, 10 August, 2005, 22 August, 2005, 30 September,<br>2005, 7 November, 2005 and 8 December, 2005 ..... | 30    |
| APPENDIX  |       |
| The Banking Regulation (Amendment) Bill, 2005 .....   | 46    |

COMPOSITION OF STANDING COMMITTEE ON  
FINANCE—2005-2006

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 Gupta
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

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

SECRETARIAT

- |                             |   |                             |
|-----------------------------|---|-----------------------------|
| 1. Shri John Joseph         | — | <i>Secretary</i>            |
| 2. Dr. (Smt.) P.K. Sandhu   | — | <i>Additional Secretary</i> |
| 3. Shri A.M. Mukhopadhyay   | — | <i>Joint Secretary</i>      |
| 4. Shri S.B. Arora          | — | <i>Deputy Secretary</i>     |
| 5. Shri T.G. Chandrashekhar | — | <i>Under Secretary</i>      |

## INTRODUCTION

1. Chairman of the Standing Committee on Finance having been authorised to submit the Report on their behalf present this Twenty Sixth Report on the Banking Regulation (Amendment) Bill, 2005.

2. The Banking Regulation (Amendment) Bill, 2005, introduced in Lok Sabha on 13th May, 2005, was referred to the Committee on 17th May, 2005 for examination and report thereon, by the Hon'ble Speaker, Lok Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained written information on various provisions contained in the aforesaid Bill from the Ministry of Finance (Department of Economic Affairs), who also briefed them at their sitting held on 14th July, 2005.

4. Written views/memoranda were received from Confederation of Indian Industry (CII), Punjab National Bank, Oriental Bank of Commerce, State Bank of India, HDFC Bank Ltd., ICICI Bank, Fixed Income Money Markets and Derivatives Association (FIMMDA), Indian Banks' Association, All India Bank Officers Confederation, National Confederation of Bank Employees, Bank Employees Federation of India, Corporation Bank Officers Organisation and State Bank of India Officers' Association (Patna Circle).

5. The Committee, at their sitting held on 9 August, 2005 heard the views of the representatives of ICICI Bank Ltd. and Oriental Bank of Commerce. At their sitting held on 10th August 2005, the Committee heard the views of representatives of Punjab National Bank, Indian Banks' Association, Fixed Income Money Markets and Derivatives Association and Confederation of Indian Industry.

6. On 22nd August, 2005 the Committee heard the views of the representative of State Bank of India, Bank of India and HDFC Bank Ltd.

7. The Committee took oral evidence of the Ministry of Finance (Department of Economic Affairs) on 30 September, 2005.

8. The Committee at their sitting held on 7 November, 2005 considered and approved the draft report except recommendation

No. 1 at Para Nos. 17 and 18 for want of some clarification from the Ministry of Finance.

9. The Committee, at their sitting held on 8 November 2005, approved recommendation No. 1 at Para Nos. 17 and 18 of report in the light of the clarifications received from the Ministry.

10. The Committee wish to express their thanks to the officers of the Ministry of Finance (Department of Economic Affairs), representatives of the Confederation of Indian Industry (CII), Punjab National Bank, Oriental Bank of Commerce, State Bank of India, HDFC Bank Ltd., ICICI Bank, Fixed Income Money Markets and Derivatives Association (FIMMDA), Indian Banks' Association, All India Bank Officers Confederation, National Confederation of Bank Employees, Bank Employees Federation of India, Corporation Bank Officers Organisation and State Bank of India Officers' Association (Patna Circle) for their co-operation in placing before them their considered views and perceptions on the provisions of the Bill and for furnishing written notes and information that the Committee had desired in connection with the examination of the Banking Regulation (Amendment) Bill, 2005.

11. For facility of reference, recommendations/observations of the Committee have been printed in thick type.

NEW DELHI;  
12 December, 2005  
21 Agra-hayana, 1927 (Saka)

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



## REPORT

### **Background**

Prior to the enactment of Banking Regulation Act, 1949 which aims to consolidate the law relating to banking and to provide for the nature of transactions which can be carried on by banks in India, the provisions of law relating to banking companies formed a subsidiary portion of the general law applicable to companies and were contained in Part XA of the Indian Companies Act, 1913. These provisions were first introduced in 1936, and underwent two subsequent modifications, which proved inadequate and difficult to administer. Moreover, while the primary objective of company law is to safeguard the interests of the stock-holder, that of banking legislation should be the protection of the interests of the depositor. It was therefore felt that a separate legislation was necessary for the regulation of banking in India. With this objective in view, a Bill to amend the law relating to Banking Companies was introduced in the Legislative Assembly in November, 1944 and was passed on 10th March, 1949 as the Banking Companies Act, 1949. By Section 11 of the Banking Laws (Application to Cooperative Societies) Act, 1965, the nomenclature was changed to the Banking Regulation Act, 1949.

2. The Banking Regulation (Amendment) Bill, 2005 was introduced in Lok Sabha on 13 May 2005 and was referred to the Standing Committee on Finance by the Hon'ble Speaker on 17th May 2005 for examination and report. Earlier a Bill to delete section 12(2) of the Banking Regulation Act, 1949. The Banking Regulation (Amendment) Bill, 2003 for removing the restrictions on voting rights was introduced in the Lok Sabha on 21.4.2003, which was referred to and reported upon by the Standing Committee on Finance. A more comprehensive Bill *viz.* the Banking Regulation (Amendment) and Miscellaneous Provisions Bill, 2003 to amend the Banking Regulation Act was introduced in the Lok Sabha on 5th August, 2003, which was also referred to the Standing Committee on Finance for examination and report. Both these Bills lapsed due to dissolution of the 13th Lok Sabha.

3. The statement of 'objects and reasons' of the Banking Regulation (Amendment) Bill, 2005 stipulate as under:

- (i) To ensure that the control of banks is in the hands of fit and proper persons, persons who propose to acquire 5% or

more of the share capital of a bank should be required to obtain prior approval from the Reserve Bank and the Reserve Bank should have the necessary power to impose such conditions as it deems necessary while granting such approval. It is, therefore, proposed to remove the restriction on voting rights concurrently with the stipulation of the statutory requirement of prior approval for acquisition of shares above the specified limit. The Reserve Bank should also be able to specify acquisition of a minimum percentage of shares in a banking company if it considers necessary.

- (ii) It is necessary to confer more operational flexibility on the Reserve Bank in the conduct of monetary policy. For this purpose, the Reserve Bank should have the power to specify Statutory Liquidity Ratio without any floor or ceiling as also to specify any security as approved security for this purpose.
- (iii) The present restrictions on lending to directors and the companies or firms in which the directors are interested is posing a difficulty to banks in appointing competent independent directors. It is, therefore, necessary to empower the Reserve Bank to grant exemption to banking companies in appropriate cases.
- (iv) Taking advantage of the liberalised environment, banks are engaging in multifarious activities through the medium of associate enterprises. The Reserve Bank as the regulator of banks should be aware of the financial impact of the business of such enterprises on the financial position of banking companies. The Reserve Bank should, therefore, be empowered to call for information and returns from the associate enterprises of banking companies also and inspect the same, if necessary.
- (v) The Reserve Bank has the power to remove any director or other officers of a bank but that power is not sufficient if the entire Board of directors of a bank is functioning in a manner detrimental to the interests of depositors or the bank itself. To deal with such a situation it is necessary that the Reserve Bank has the power to supersede the Board of directors of a bank and appoint an administrator to manage the bank till alternate arrangements are made.
- (vi) For a sound and healthy banking system, it is necessary to ensure that only the cooperative societies that have been

licensed by the Reserve Bank carry on the business of banking. To protect the interest of depositors, the primary co-operative societies should therefore be given a timeframe within which they have to either stop the business of banking or fulfil all the requirements specified by the Reserve Bank and obtain a licence to carry on the business of banking. The Reserve Bank should have the power to order a special audit of co-operative banks in public interest for a more effective supervision of co-operative banks. The proposed legislation aims to make the regulatory powers of the Reserve Bank more effective.

4. To meet these objectives, the Bill seeks to carry out the following amendments in the Banking Regulation Act, 1949:

- (i) Amendment of section 5(a) of the Act, which defines the expression “approved securities” as those securities, which are issued by the Central Government or any State Government or such other securities as may be specified by the RBI from time to time.
- (ii) Amendment of section 12 of the Act to enable banking companies to issue preference shares subject to regulatory guidelines by the RBI. The holders of preference shares issued by any banking company shall not be entitled to exercise voting right as specified in clause (b) of sub-section (2) of section 87 of the Companies Act, 1956.
- (iii) Amendment to remove the restrictions on voting rights under sub-section (2) of section 12 concurrently with the insertion of a new section 12B providing for RBI’s prior approval for acquisition of shares or voting rights above the specified limit.
- (iv) Addition of a new section 12B to provide prior approval of RBI for acquisition of 5% or more of shares or voting rights in a banking company by any person and empowering RBI to impose such conditions as it deems fit in this regard in order to satisfy itself that the acquisition of shares of a banking company is by a person considered fit and proper and that the applicant continues to be fit and proper to hold the shares or voting rights.
- (v) Incorporation of a new sub section (6) in section 20 to enable RBI to grant exemptions to any banking company from the

applicability of the provisions of section 20 with respect to the restriction on entering into any commitment for granting any loan or advance to any company of which any of the directors of the banking company is a director, managing agent, employee or guarantor or in which he holds substantial interest.

- (vi) Amendment of section 24 with a view to empower RBI to specify statutory liquidity ratio without any floor.
- (vii) Addition of a new section 29A may be added to empower RBI to collect information and inspect associate enterprises of banking company and appointment of administrator by RBI till alternate arrangements are made.
- (viii) Amendment of section 51 for extending the application of new section 29A to SBI, Subsidiary banks, nationalised banks and regional rural banks.
- (ix) Amendment of the provisions of Section 56 of the Act to provide for primary cooperative societies to carry on the business of banking only after obtaining a license from RBI.
- (x) To provide for special audit of cooperative banks at the instance of RBI by extending applicability of section 30 to them.

5. The Committee received written views/suggestions on the various provisions of the Bill from (i) Confederation of Indian Industry (CII), (ii) Fixed Income Money Market and Derivatives Association (FIMMDA), (iii) Indian Banks' Association (IBA), (iv) Punjab National Bank, (v) HDFC Bank Ltd., (vi) ICICI Bank, (vii) Oriental Bank of Commerce (OBC), (viii) Bank of India and (ix) State Bank of India. The Committee also had personal hearings of the views of the representatives of these organisations. The Committee also received written views/suggestions on the Bill from All India Bank Officers Confederation, National Confederation of Bank Employees, Bank Employees Federation of India, Corporation bank Officers Organisation and State Bank of India Officers' Association (Patna Circle).

6. The Committee took oral evidence of the representatives of the Ministry of Finance (Department of Economic Affairs) and the Reserve Bank of India to further enlighten themselves on various aspects of the proposed legislation.

7. Upon examining the various provisions of the Banking Regulation (Amendment) Bill, 2005, the Committee are generally in agreement with the broad objectives envisaged. Enactment of this legislation will bring forth far reaching changes in the functioning of the banking sector in the country and will also significantly impact the regulatory purview and role of the Reserve Bank.

8. In their deliberations with the representatives of various organisations and the Ministry of Finance, certain provisions of the Bill came to the notice of the Committee which they felt, could be recast to serve the intended objectives better. Such of the provisions and the recommendations and observations of the Committee thereon are dealt with in the subsequent paragraphs.

**Clause 3—Amendment of Section 12 (Regulation of Paid-up capital, subscribed capital and authorized capital and voting rights of Shareholders)**

9. Clause 3 reads as under:

In section 12 of the principal Act, in sub-section (1),—

(i) for clause (ii), the following clause shall be substituted, namely:—

“(ii) that notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), the capital of such banking company consists of—

(a) ordinary or equity shares, and

(b) preference shares issued in accordance with the guidelines framed by the Reserve Bank specifying the class of and the terms and conditions subject to which, the preference shares may be issued:

Provided that no holder of the preference share issued by the company shall be entitled to exercise the voting right specified in clause (b) of sub-section (2) of section 87 of the Companies Act, 1956 (1 of 1956).”;

(ii) the proviso shall be omitted;

(iii) sub-section (2) shall be omitted.

10. The amendments proposed in Section 12 of the Banking Regulation Act, *inter-alia* seek to (a) allow Banking Companies to raise capital by way of issuing preference shares; and (b) remove the restrictions presently applicable under sub-section (2) of Section 12 of Banking Regulation Act as per which, ‘no person holding shares in a banking company shall, in respect of any shares held by him, exercise

voting rights on poll in excess of ten percent of the total voting rights of all the shareholders of the banking company. These proposals have been generally welcome by the representatives of Scheduled Commercial Banks as well as the Indian Banks Association.

**(a) Preference Shares**

11. The meaning of the expression, 'Preference Share' as proposed to be included in section 12 of the Banking Regulation Act has been informed to be the same as assigned to the term in Section 85 of the Companies Act. However, as per the proposed amendment, voting rights would not be available to holders of preference shares of Banking Companies.

12. The representatives of the Ministry, in the course of a presentation made before the Committee informed that 'Preference Shares would remain as preference shares and would normally not be convertible unlike debentures'. It was also informed by the Ministry in a written note that 'it may be necessary to limit the amount of preference shares that can be treated as regulatory capital of a Banking Company, depending on the nature of such preference shares'.

13. As informed by the Ministry neither the Companies Act nor the Banking Regulation Act contain any specific provision for 'converting preference shares into equity shares as a matter of routine'. Questioned whether the instrument of preference shares, which is proposed to be added as a means for enabling Banks to raise capital would be convertible, the Ministry, in a written response stated that such conversion may be permitted under the following circumstances:

- “(a) Where the preference shareholders apply for such conversion and the banking company has passed necessary resolution for seeking the approval of RBI to allow such conversion.
- (b) RBI is satisfied that it is in the interest of the banking company and the depositors to allow such conversion.
- (c) If such conversion results in the acquisition of 5% or more of the equity share capital or the voting rights (including the equity share capital and the voting rights already held) the procedure contemplated under the proposed section 12B is complied with by the shareholders concern.

In case the original terms of issue themselves provide for automatic conversion of preference shares into equity shares after a certain period or on the happening of any event any person

seeking to acquire more than 5% of the share capital/voting rights including the shares/voting rights already held shall have to comply with the requirements of the proposed section 12B.”

14. Questioned specifically on whether it would be desirable to permit conversion of preference shares and if so, the extent to which a banking Company would be allowed to issue preference shares for Capital adequacy requirements, the Ministry, in a written reply, *inter alia* stated:

“Conversion will not be automatic, but will be subject to Reserve Bank’s approval. It is intended that this convertibility will be allowed in very exceptional situations. RBI guidelines framed in terms of these provisions, will be very specific to the extent to which the banking company may issue preference shares.”

15. As for the practice followed internationally and the terms & conditions on permitting issue of preference shares, the Ministry informed:

“Some countries have placed limits on banks issuing perpetual non-cumulative preference shares *viz.* a certain percentage of the Tier I capital. For example, 50% in UK and 25% in USA. Accordingly, appropriate limits may be stipulated by the Reserve Bank while laying down the terms and conditions for the issue of preference shares.”

16. The Ministry also *inter alia* informed as under in a post evidence reply:

“Preference shares would be permitted in both categories (a) perpetual or irredeemable, and (b) redeemable. The perpetual or irredeemable shares would be redeemable or convertible subject to RBI’s prior approval only.

It is not the intention to allow easy redemption or conversion of such shares into equity shares. The conversion will not be automatic and will be subject to Reserve Bank’s approval and will be allowed in very exceptional situations in the interest of the banking company and its depositors.

RBI guidelines to be framed in terms of the provisions of the proposed amendment to section 12(1)(ii)(b) will be very specific as regards the terms and conditions for issue of preference shares including the conditions for the redemption or conversion to equity of the perpetual preference shares and to the extent to which the banking company may issue preference shares.”



17. From the information and clarifications furnished by the Ministry, the Committee note that banks operating in the private sector are proposed to be allowed to issue preference shares, both of 'perpetual or irredeemable' and 'redeemable' categories. Conversion of preference shares into equity would be permissible only with the specific approval of the Reserve Bank in exceptional situations, keeping in view the interest of the Banking Company and of the depositors.

18. The proposals of clause 3 of the Bill provide that the terms and conditions subject to which a banking company may raise capital, by way of issue of preference shares would also be specified by the Reserve Bank. Further, the extent to which a banking company may raise capital by way of issue of preference shares would be specified by the Reserve Bank. The Committee while expressing the view that permitting issue of preference shares would be beneficial to the banks in raising the required capital to support the expected credit growth, feel that it would also be preferable to indicate in clear terms in the provisions, the fact that the extent or limit to which a banking company may raise capital by way of issue of preference shares—perpetual or irredeemable and redeemable—would be specified by the Reserve bank. The Committee feel that this would make the outlines of the policy measures relating to allowing banks to raise preference capital clearer and would not, in any way, hinder the flexibility required by the Reserve Bank in discharging its regulatory functions. The Committee therefore, desire that the Government may consider bringing in such changes in the proposed provisions to also clearly indicate the fact that the extent to which a banking company may issue preference shares of a particular description would be specified by the Reserve Bank.

**(b) Removal of restriction on voting rights**

19. It is proposed to omit sub-section (2) of Section 12 of the Principal Act which reads as under:

(2) No person holding shares in a banking company shall, in respect of any shares held by him, exercise voting rights (on poll) [in excess of (10 percent)] of the total voting rights of all the shareholders of the banking company.

20. The proposal to remove the ceiling of 10% on the voting rights of shareholders by way of omitting the relevant provision of the BR Act *viz.* sub-section 2 of Section 12 applies only to the private sector banks. The voting rights of share holders of public sectors banks are



governed by the relevant provisions of Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970, Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980, State Bank of India Act, 1955 and State Bank of India (Subsidiary Banks) Act, 1959.

21. Giving the rationale behind the proposal to remove the restrictions on voting rights, the Ministry, in a written note *inter alia* informed:

“The rationale for removing voting rights by deleting Section 12(2) is to give voting rights commensurate with the equity capital held by the shareholders. This is in consonance with the principles of Company Law. It is therefore, proposed to remove the restrictions on voting rights concurrently with the stipulation of statutory requirement of prior approval for acquisition of shares above the specified limit.”

“In terms of para 56 of the schedule-I to the Companies Act, 1956, it had been provided that subject to any class or classes of shares (a) on show of hands, every member present in person shall have one vote, and (b) on a poll, the voting rights of members shall be as laid down in Section 87 *i.e.* in proportion to his share of the paid-up equity capital of the company.”

22. Questioned on the reasons for placing a restriction of 10% on voting rights as presently applicable under the Act, the Ministry, in a written reply *inter alia* informed:

“The reasons for placing restrictions on voting rights arose primarily from the concern that permitting proportionate voting rights to the promoters may result in abuse by them such as problems of credit concentration and credit diversion that had beset the banking sector in the past, prior to nationalisation.”

23. On the factors that prompted the present move to do away with the restrictions on voting rights altogether, the Committee were informed:

“The present move for doing away with the restriction altogether has to be viewed in the context of the RBI regulations on ownership and governance issued on February 28, 2005 in consultation with the Government and the proposal for removal of the restrictions on voting rights being made simultaneously with the proposal for obtaining prior approval of RBI for any acquisition of shares in a bank of 5 per cent or more. Such approval as stated in the proposed

Section 12 B will only be given to fit and proper persons after undertaking a process of due diligence. This is with the view that the ownership is in the hands of fit and proper persons, who can be trusted to judiciously exercise their voting rights in respect of matters involving public funds, and elect fit and proper persons to manage the affairs of a bank.”

24. When asked to specify whether the regulatory and supervisory safeguards were sufficient to prevent misuse of the provisions relating to withdrawal of the ceiling on voting rights, the Ministry, in a written reply *inter alia* stated:

“Under the existing regulations issued by RBI on ownership and governance in private sector banks, with a view to ensure that no single entity or group of related entities has shareholding or control, directly for indirectly, in any bank in excess of 10 per cent of the paid up capital of the private sector bank, any higher level of acquisition will be with the prior approval of RBI and in accordance with the guidelines for grant of acknowledgement for acquisition of shares. Banks including foreign banks having branch presence in India/FIs should not acquire any fresh stake in a bank’s equity if by such acquisition, the investing banks/Financial institutions holding exceeds 5% of the investee bank’s equity capital. Currently, in terms of the guidelines issued by RBI, acknowledgement of RBI is required for acquisition or transfer of shares of 5 per cent and above of the paid up capital of the private sector bank to ensure the ‘fit and proper’ status of the significant shareholders.”

25. In addition to the safeguards mentioned above, the Ministry also invited reference to the provisions of the Banking Regulation Act which provide for checks and balances on the powers of the Board of Directors, which *inter alia* include Section 10 BB which enables the Reserve Bank to appoint the Chairman of the Board of Directors as a Managing Director on whole time basis and Section 36AA which provides Reserve Bank with the powers to remove from office any Chairman, Directors, CEO of a banking company if it is satisfied that the affairs of the banking company are being conducted in a manner detriment to the interest of the depositors.

26. The Committee had in their 47th Report on the ‘Banking Regulation (Amendment) Bill, 2003’, which lapsed observed that the proposal to remove sub-section (2) of Section 12 of the Banking Regulation Act, 1949 would *inter alia* enable ‘setting up of subsidiaries of foreign banks and also pave way for consolidation process in Indian private banks’.

27. The Committee note that placing a limitation on the exercise of voting rights of share holders of private sector banks, which stands at 10% at present, was necessitated owing to the likely problems of credit concentration and credit diversion that had beset the banking system prior to nationalization. The proposal of the present Bill to do away with the restrictions and permit proportionate voting rights to the promoters/shareholders is in consonance with the principles of Company Law. While addressing the issue of impact of the proposal to do away with the restrictions on voting rights as contained in the earlier Bill that lapsed viz., the Banking Regulation (Amendment) Bill, 2003, the Committee had, in the related report (Forty-Seventh Report; Thirteenth Lok Sabha) *inter-alia* observed that the move would pave way for a process of consolidation in Indian private banks and also lead to setting up of subsidiaries of foreign banks. The Committee reiterate the opinion expressed in the earlier report that allowing proportionate voting rights to shareholders would provide greater opportunities for investors. The Committee, however, note that the main concerns relating to the proposals to do away with the restrictions presently applicable on exercise of voting rights centered on the possibility of concentration of power or shareholding in the hands of a single entity or a conglomerate. The legal and regulatory measures available, or proposed, to address such concerns, as informed by the Ministry include, the move to incorporate Section 12B in the principal Act as per which acquisition of 5% or more of shareholding in a banking company would require the prior approval of Reserve Bank; the ceiling limits applicable on foreign holding in banks; and mandatory requirement of acknowledgement of the Reserve Bank for effecting any transfer of shareholding in excess of 5%. The Committee trust and hope that the Reserve Bank would ensure that the legal and regulatory mechanism is adequate and complied with strictly so that no scope is left for possible misuse of the provisions relating to permitting proportionate voting rights to shareholders.

**Clause 4—Insertion of new section 12B (Regulation of Acquisition of Shares of Voting rights)**

28. Clause 4 which is proposed to insert new Section 12B reads as under:

“After section 12A of the principal Act, the following section shall be inserted, namely:

‘12B. Regulation of acquisition of shares or voting rights.—(1) No person (hereinafter referred to as “the applicant”) shall, except with

the previous approval of the Reserve Bank, on an application being made, acquire or agree to acquire, directly or indirectly, by himself or acting in concert with any other person, shares of a banking company or voting rights therein, which acquisition taken together with shares and voting rights, if any, held by him or his relative or associate enterprise or person acting in concert with him, makes the applicant to hold five per cent or more of the paid-up share capital of such banking company or entitles him to exercise five per cent or more of the voting rights in such banking company.

Explanation.—For the purpose of this sub-section,—

(a) “relative” shall have the meaning as assigned to it in section 6 of the Companies Act, 1956 (1 of 1956);

(b) “associate enterprise” includes an enterprise which,—

(i) is a holding company or a subsidiary company or a joint venture of the applicant; or

(ii) controls the composition of the Board of directors or other body governing the applicant; or

(iii) exercises, in the opinion of the Reserve Bank, significant influence on the applicant in taking financial or policy decisions; or

(iv) is able to obtain economic benefits from the activities of the applicant.

(c) persons shall be deemed to be “acting in concert” who, for a common objective or purpose of acquisition of shares or voting rights in excess of the percentage mentioned in this sub-section, pursuant to an agreement or understanding (formal or informal), directly or indirectly co-operate by acquiring or agreeing to acquire shares or voting rights in the banking company.

(2) An approval under sub-section (1) may be granted by the Reserve Bank if it is satisfied that:

(a) in the public interest, or

(b) in the interest of banking policy; or

(c) to prevent the affairs of any banking company being conducted in a manner detrimental or prejudicial to the interests of the banking company; or

(d) in view of the emerging trends in banking and international best practices; or

(e) in the interest of the banking and financial system in India, the applicant is a fit and proper person to acquire shares or voting rights:

Provided that the Reserve Bank may call for such information from the applicant as it may deem necessary for considering the application referred to in sub-section (1):

Provided further that the Reserve Bank may specify different criteria for acquisition of shares or voting rights in different percentages.

(3) Where the acquisition is by way of transfer of shares of a banking company and the Reserve Bank is satisfied that such transfer should not be permitted, it may, by order, direct that no such share shall be transferred to the proposed transferee and may further direct the banking company not to give effect to the transfer of shares.

(4) The approval for acquisition of shares may be subject to such conditions as the Reserve Bank may deem fit to impose, including a condition that any further acquisition of shares shall require prior approval of the Reserve Bank and that the applicant continues to be a fit and proper person to hold the shares or voting rights.

(5) Before issuing or allotting any share to any person or registering the transfer of shares in the name of any person, the banking company shall ensure that the requirements of sub-section (1) are complied with by that person and where the acquisition is with the approval of the Reserve Bank, the banking company shall further ensure that the conditions imposed under sub-section (4), if any, of such approval are fulfilled.

(6) Every application made under sub-section (1) shall be deemed to have been granted, unless before the expiry of a period of ninety days from the date on which the application was received by the Reserve Bank, it communicates to the applicant that the approval applied for has not been granted:

Provided that in computing the period of ninety days, the period taken by the applicant for furnishing the information called for by the Reserve Bank shall be excluded.

(7) The Reserve Bank may specify the minimum percentage of shares to be acquired in a banking company if it considers that the purpose for which the shares are proposed to be acquired by the applicant warrants such minimum shareholding.”

29. The proposal to introduce Section 12(B) in the Banking Regulation Act—as per which it would be mandatory for an applicant seeking to acquire five percent or more of the paid up share capital of a banking company to obtain the prior approval of RBI—is a corollary to the move to ease the restriction of 10% currently applicable on voting rights of shareholders in a Banking Company as proposed under Clause 3 of the Bill.

30. Giving the rationale for incorporating Section 12(B) in the Principal Act, a representative of the Ministry stated as follows during evidence:

“The proposal is that the current restriction (of 10 percent on voting rights) may be removed but for approval of shares beyond 5 per cent, prior approval of the RBI would be required.”

31. On the reasons for seeking to vest the RBI with the power to specify the minimum percentage of shares to be acquired by an applicant in a Banking Company, if warranted, as proposed under section 12B (7), the Ministry, in written response, informed as under:

“In case of restructuring of weak banks, ensuring continued commitment from the investor for a specified period of time is considered necessary for achieving turn around and in the interest of depositors, RBI could consider specifying minimum shareholding to be acquired by the applicant in a banking company.”

32. When asked to specify the conditional ties subject to which RBI may grant approval for acquisition of shares and the criteria for determining ‘fit and proper’ person, who may, with the approval of RBI continue to hold the shares or voting rights in terms of the proposed provisions of Clause 12 (B) (4), the Ministry in a written reply, *inter alia* informed that the criteria for determining ‘fit and proper status’ have been prescribed in the RBI Circular dated February 3, 2004. As informed by the Ministry, in determining whether the applicant (including all entities connected with the applicant), is fit and proper to hold the position of shareholder, RBI may take into account all relevant factors, as appropriate, which include, but may not be limited to the following:

- The applicant’s integrity, reputation and track record in financial matters and compliance with tax laws.

- Whether the applicant has been the subject of any proceedings of a serious disciplinary or criminal nature, or has been notified of any such impending proceedings or of any investigation which may lead to such proceedings.
- Whether the applicant has a record or evidence of previous business conduct and activities where the applicant has been convicted for an offence under any legislation designed to protect members of the public from financial loss due to dishonesty, incompetence or malpractice.
- Whether the applicant has achieved a satisfactory outcome as a result of financial vetting. This will include any serious financial misconduct, bad loans or whether the applicant was judged to be bankrupt.
- The source of funds for the acquisition.
- Where the applicant is a body corporate, its track record of reputation for operating in a manner that is consistent with the standards of good corporate governance, financial strength and integrity in addition to the assessment of individuals and other entities associated with the body corporate as enumerated above.”

33. Elaborating the term ‘fit and proper’, further, a representative of the Ministry deposed before the Committee as under:—

“Sir, actually for ‘fit’ and ‘proper’ a circular was issued by the RBI on February 3, 2004. It basically lists the criteria for ‘fit’ and ‘proper’. It gives a long list about integrity, reputation, whether there is a criminal action or source of funds for the acquisition etc. It is very long list. So, these are the factors of ‘fit’ and ‘proper’ which will go into assessment of this. We are not separately including it because we want the RBI to have the flexibility. In case they want to add something to it later they can do so.”

34. As informed by the Ministry, in cases involving acquisition or investment where an applicants shareholding would be taken to a level of 10 percent up to 30 percent; and secondly, in excess of 30%, the RBI will also take into account other factors, which may *inter alia* include, source and stability of the funds for the acquisition and the ability to access financial markets as a source of continuing financial support for the bank; the business record and experience of the applicant including any experience of acquisition of companies; and whether the acquisition is in public interest etc.



35. In terms of the provisions of Clause 12 (B) (6) as proposed, an application for acquiring five percent or more of shareholding inclusive of voting rights is deemed to have been granted, unless the applicant receives a communication from the RBI informing him otherwise within a period of ninety days.

36. When pointed out that there would be deliberate delay on the part of RBI to communicate within 90 days, the representative of the Ministry stated during evidence:

“Now with computerisation and other information technology advances, it will not be possible for any such employee because it will be given on first-come-first serve basis. The moment the application is received, it will be entered somewhere and it will be possible to supervise or monitor as to when that application has been received so that nobody plays mischief by just keeping it for 90 days.”

37. The representative of the Ministry also stated:

“...RBI will put in place the necessary administrative machinery for ensuring that applications for permission to acquire more than 5 per cent of the share capital of banking are properly tracked and dealt with in time. So, there is a certain accountability.”

**38. The Committee note that the proposal to incorporate Section 12 B in the Banking Regulation Act, as per which, acquisition of 5% or more of shareholding in a banking company would require the mandatory approval of Reserve Bank is of vital importance mainly in view of the proposed move to remove the cap of 10% applicable on exercise of voting rights by shareholders. In terms of the provisions of Section 12 B, as proposed, acquisition of ‘5% or more of the paid up share capital of a banking company’ by an ‘applicant’ would be permissible only with the prior approval of the Reserve Bank. The Committee observe from the indicative list of criteria to be followed in considering applications for acquisition of shares under the proposed Section 12 B, that the Reserve Bank is *inter alia* to take into consideration the applicants integrity, source of funds etc. The Reserve Bank is also to follow additional criteria in considering applications seeking to acquire higher percentages of shares in a banking company.**

**39. The Committee underscore the importance of the proposed provisions for obtaining prior approval/clearance for acquisition of 5% or more of shares in a banking company which is proposed to be granted only to ‘fit and proper’ persons. The Committee desire**



that the eligibility criteria to be followed by the Reserve Bank for determining 'fit and proper' status of the persons is in line with global best practices.

40. The Committee are, however, not in agreement with the proposals of Section 12(B)(6), as per which approval for acquisition of 5% or more shares in a Banking Company is deemed to have been granted unless the applicant receives a communication from the Reserve Bank informing him to the contrary within a period of ninety days. On the viewpoint expressed by the Committee that the provisions should, instead, clearly specify that the onus of either accepting or rejecting an application within the stipulated period of 90 days and communicating the decision taken thereon should directly rest with the Reserve Bank and the Secretary, Department of Economic Affairs, expressed agreement. The Committee, accordingly, recommend that Clause 12 (B) (6) be amended suitably to specify in clear terms that the decision of either accepting or rejecting an application for acquisition of shares under sub-section (1) of Section 12 B will necessarily be taken and conveyed by the Reserve Bank within the stipulated period of 90 days.

**Clause 5—Amendment of Section 20 (Exemptions to lending to Directors)**

41. Clause 5 reads as under:

"In section 20 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) The Reserve Bank may, subject to such conditions as may be specified, grant to any banking company exemption from the provisions of this section in regard to any restriction on entering into any commitment for granting any loan or advance to any company referred to in sub-clause (iii) of clause (b) of sub-section (1)."

42. The provisions of Section 20 of the Banking Regulation Act relating to 'restriction on loans and advances' as at present, *inter alia* stipulate that no banking company shall:

(a) grant any loans or advances on the security of its own shares, or—

(b) enter into any commitment for granting any loan or advance to or on behalf of—

(i) any of its directors,

- (ii) any firm in which any of its directors is interested as partner, manager, employee or guarantor, or
- (iii) any company [not being a subsidiary of the banking company or 1956 a company registered under Section 25 of the Companies Act, 1956 (1 of 1956), or a Government company] of which (or the subsidiary or the holding company of which) any of the directors of the banking company is a director, managing agent, manager, employee or guarantor or in which he holds substantial interest, or
- (iv) any individual in respect of whom any of its directors is a partner or guarantor.

43. Giving the rationale for seeking to ease the restrictions currently applicable on extending loans and advances, the Secretary, Department of Economic Affairs informed as under during evidence:

“Currently, no company, no bank can lend to any of its directors. This has led to certain problems and that is why this proposal is there that RBI, if it considers fit, can give exemption to directors so that lending to the directors is not a disqualification.”

44. The justification extended for seeking to ease the restrictions presently applicable on extending loans and advances centered on the difficulties faced by Banking Companies in getting competent and independent directors on their Board. When this justification was questioned during evidence, the representative of the Ministry of Finance *inter alia* stated:

“It is a very valid observation which has been made. We will certainly examine it. A view point had come forward and this difficulty we certainly experience. But as has been observed, India is a large country and we have a large number of qualified persons who can certainly be considered to be Directors only if they are not borrowers from the bank in particular for which they have been concerned... all that was sought to be done was that the RBI could look into the track record of these persons and even if they are borrowers and they have a good credit rating and record with no defaults with the bank, they could be considered. That power we are just nearly seeking to have to the Reserve Bank. But we will be guided by the useful suggestions of this august Committee.”

45. On the background to the proposal to enable RBI to grant exemptions to the restrictions presently applicable under sub-clause (iii)

of Clause (b) of sub-section 2 of Section 20, on extending loans and advances to Companies in which Directors of Banking Company have interest, the Ministry in a written reply, *inter alia* stated:

“There is a trend towards increasing the number of independent directors to ensure corporate governance. It is in this background that the amendment was suggested and RBI will put in place, safeguards on lines of global best practices in this area.”

46. The Ministry also informed that the ‘current restrictions (on lending to Directors of Banking Companies) have not affected the Banks and their Boards’ in their functioning.

47. While the current proposal of Clause 5 seeks to amend Section 20 of the BR Act, to enable RBI to grant exemptions to Banks to lend to companies in which the Directors have an interest, the proposals made vide the earlier Bill *viz.*, Banking Regulation (Amendment) and Miscellaneous Provisions Bill, 2003, which lapsed was to strengthen the restrictions by extending such restrictions to ‘connected lending’ or lending to ‘related companies’ in which the Directors have an interest. This was proposed earlier because ‘several instances of large scale siphoning of funds of banks through the ‘connected lending’ had taken place on account of which the financial position of the banks had seriously deteriorated’. Questioned on the factors that led to the re-thinking to initiate the current proposal, the Ministry, in a written reply, submitted as under:

“Loans to directors, relatives and companies or firms in which directors are interested continue to be prohibited. The stand of Reserve Bank regarding the need for restriction on lending to the directors continues to be what it was earlier. The proposal is only to enable the Reserve Bank to grant exemption to banks to lend to companies when the independent director is common. It is necessary to have this power with RBI as the restriction is coming in the way of banks getting competent and professional independent directors, as also restricting their lending to companies for that reason.”

48. The Ministry further informed as under:

“Reserve Bank would not consider granting any such exemptions where such directors are managing agent, manager, employee or guarantor or in which he holds substantial interest in any company.”

49. In terms of Clause 20 (B) (iii) of the Principal Act, as applicable at present, a banking company is restricted from extending loans or advances to any company of which any of its Directors either holds the position of Director or is a 'managing agent, manager, employee or guarantor' or holds substantial interest with the proposed provisions under Clause 7 of the Bill, the Government seeks to vest the Reserve Bank with the power to grant exemptions from the restrictions applicable under Clause 20 (B) (iii) to allow lending to companies in which the Directors may have interest. The justification advanced for empowering the Reserve Bank to grant exemptions from the restrictions, which has mainly centered on the inability of 'banking companies from getting competent Directors on their Board' lacks in rationale and does not convince the Committee. Moreover, in terms of the proposals of the earlier Bill which lapsed *viz.* the Banking Regulation (Amendment) and Miscellaneous Provisions Bill, 2003, the restrictions applicable on extending loans and advances in terms of the provisions of Clause 20 were sought to be strengthened in view of 'instances of large scale siphoning of funds' which had adversely affected the financial position of banks. The Ministry have, upon considering the proposals of Clause 7 in the light of the observations made by the Committee in the course of evidence informed that the exemptions to be granted by the Reserve Bank would be confined to situations where the Director of the Banking Company was common to that of the Company seeking loans or advances.

50. The proposal made in the earlier Bill, which lapsed, was to strengthen the restrictions by extending them to 'connected lending' and lending to any relative of Directors. By seeking to ease the restrictions with the proposals of Clause 7, instead of strengthening them as proposed only two years ago, the Government's policy direction has taken a complete turn, which the Committee do not find to be tenable. Moreover, as admitted by the Ministry, the provisions relating to restrictions on extending loans and advances as presently applicable under the provisions of the Banking Regulation Act, have, in no way, affected the Banks and their Boards in their functioning. The Committee, therefore, strongly recommend that instead of pursuing the present proposal to ease the restrictions, the Government should reintroduce the proposals made in the earlier Bill of 2003, to specifically debar banks from granting any loan or advance to relatives of Directors on their Boards and prohibit "connected lending".

**Clause 6—Amendment of Section 24 (Statutory Liquidity Ratio)**

51. Clause 6 reads as under:—

In section 24 of the principal Act,—

(a) sub-sections (1) and (2) shall be omitted;

(b) for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) a scheduled bank, in addition to the average daily balance which it is, or may be, required to maintain under Section 42 of the Reserve Bank of India Act, 1934 (2 of 1934), and every other banking company, in addition to the cash reserve which it is required to maintain under section 18, shall maintain in India, assets, the value of which shall not be less than such percentage not exceeding forty per cent of the total of its demand and time liabilities in India as on the last Friday of the second proceeding fortnight as the Reserve Bank may, by notification in the Official Gazette, specify from time to time and such assets shall be maintained, in such form and manner, as may be specified in such notification.”

52. With a view to confer more operational flexibility on the Reserve Bank in conducting the monetary policy, the amendment proposes to enable the Bank to specify the SLR without any floor limit. The existing limits on floor and ceiling on SLR, which presently stand at 25% and 40% respectively are intended to act as a guidance to ‘RBI for exercising discretion in fixing the percentage.’

53. Though the amendment to Section 24(2A) of the Principal Act, as proposed under Clause 6 of the Bill stipulates that the upper ceiling of SLR would be retained at 40%, the Statement of Objects and Reasons of the Bill states that the Reserve Bank would have the power to ‘specify SLR without any floor or ceiling’. Questioned about the legislative intent, that is whether the upper ceiling of 40% was also sought to be done away with, the Ministry, in a written reply, informed as under:

“The original proposal was to do away with the upper ceiling also. The Bill was prepared accordingly. The Statement of Objects and Reasons reflects the original intention and the Bill as originally drafted. However, before the Bill was introduced in the Parliament, it was felt that there is no need to remove the upper ceiling. As

such, the upper ceiling stipulated as at present namely 40% is retained in the Bill. By oversight necessary changes have not been carried out in the Statement of Objects and Reasons.”

54. On the factors that prompted the move to completely do away with the upper ceiling of SLR as well and the subsequent rethinking to retain the ceiling limit at 40%, the Ministry, in a written reply, informed as follows:

“it was initially proposed to do away with the upper ceiling of SLR so as to give RBI full flexibility in prescribing such ratio from a prudential point of view. However, in order that the pre-emption of bank’s liabilities for investment in approved securities (mainly Government securities) is limited, it was felt that it would be desirable to have an upper bound—so that it will not be possible to pre-empt more than 40% of bank’s liabilities for investment in Government securities.”

55. The Committee note that the Government had initially sought to do away with the lower as well as upper ceiling of SLR with a view to confer ‘more operational flexibility on the Reserve Bank’ in conducting the monetary policy. However, following an after thought, it was decided to retain the upper bound of SLR, which stands at 40% to prevent ‘pre-emption of more than 40% of a bank’s liabilities for investment in Government securities’. The Committee observe that while the Statement of Objects and Reasons of the Bill conveys the original intention of the Government, that is, to do away with the lower as well as upper ceiling of SLR, the provisions of Clause 6 of the Bill stipulate that the upper ceiling of SLR would be retained at the level of 40%. As pointed out by the Ministry, by oversight, changes were not carried out in the Statement of Objects and Reasons to reflect the change in the Government’s policy proposals. This is indicative of carelessness on the part of the Government in formulating the provisions. The Committee desire the Government to carry out necessary changes in the Statement of Objects and Reasons of the Bill to clearly reflect the intention of the provisions, that is, doing away with the floor limit on SLR and retaining the upper bound of SLR at 40%.

#### **Clause 7—Insertion of New Section 29A (Power in respect of Associate Enterprises)**

56. Clause 7 reads as under:—

After Section 29 of the principal Act, the following section shall be inserted, namely:—

‘29A. Power in respect of associate enterprises.—(1) The Reserve Bank may at any time direct a banking company to disclose in its

financial statements or furnish to it separately, within such time and at such intervals as may be specified by the Reserve Bank, such statements and information relating to the business or affairs of any associate enterprise of the banking company as the Reserve Bank may consider necessary or expedient to obtain for the purpose of this Act.

(2) Notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), the Reserve Bank may, at any time, cause an inspection to be made of any associate enterprise of a banking company and its books and account by one or more of its officers or employees or other persons.

(3) The provisions of sub-sections (2) and (3) of section 35 shall apply *mutatis mutandis* to the inspection under this section.

Explanation.—“associate enterprise” in relation to a banking company includes an enterprise which—

- (i) is a holding company or a subsidiary company or a joint venture of the banking company; or
- (ii) controls the composition of the Board of directors or other body governing the banking company; or
- (iii) exercises, in the opinion of the Reserve Bank, significant influence on the banking company in taking financial or policy decisions; or
- (iv) is able to obtain economic benefits from the activities of the banking company.’

57. By way of seeking to insert the new section 29A, RBI is sought to be empowered to ‘call for information and returns from the associate enterprises of banking companies also and inspect the same, if necessary.

58. As per the Ministry of Finance, RBI is sought to be empowered in this regard because, ‘RBI as a regulator of Banks should be aware of the financial impact of the business of such enterprises on the financial position of banking companies.

59. In terms of the provisions of Section 29(a) (3) as proposed, as per which ‘the provisions of sub-sections (2) and (3) of Section 35 (of the Banking Regulation Act) shall apply *mutatis mutandis* to the inspection’ in respect of associate enterprises, the powers of ‘inspection’



exercisable by RBI in respect of Banking Companies, which include, (i) calling for and carrying out inspection of banks, accounts and other documents, and (ii) 'examining on oath' or 'administering an oath' are sought to be extended to the associate enterprises of Banks.

60. Questioned whether the definition of "associate enterprises" as shown in the provisions, according to which, an associate enterprise, *inter alia* includes an enterprise, which is a holding company or a subsidiary company or a joint venture of a banking Company; or controls the composition of the Board of Directors or other body governing the banking company; or exercises significant influence on the banking company in taking financial or policy decisions; or is able to obtain economic benefits from the activities of the banking company was not very wide and may cause a substantial increase in compliance cost for banking companies, the Ministry, in a written reply, *inter alia* stated as under:

"Even though, the definition is wide and leaves it to the subjective judgment, the said subjective judgment will have to stand the test of judicial scrutiny (in case of challenge), if it is used to give effect to the purposes of proposed Section 29A. Associate, for this purpose is more a matter of linkage of financial interest of the two concerns and hence the criteria have necessarily to be related to the bearing on the financial interest of one entity over the other. This will have to be determined on the facts of each case."

61. When pointed out that the proposed addition of the powers to call for information, returns etc., and cause inspections of associate enterprises of Banks could possibly lead to a jurisdictional overlap with other regulatory bodies such as IRDA, SEBI etc., under whose purview the associate enterprises may fall, the Ministry in a written response, *inter alia* stated:

"Where an entity is regulated by another regulator, normally the information required will be sought for from the regulator or from the concerned bank of which such entity is the associate. In case the associate enterprise does not fall under the jurisdiction of any other regulator, this provision will allow RBI to call for such information directly from such entity or cause an inspection of such entity."

**62. By way of incorporating the new Section 29 A to the Banking Regulation Act in terms of the provisions of Clause 7 the Reserve Bank is *inter alia* sought to be vested with the power to 'call for information and returns' from the associate enterprises of Banking**



Companies and also inspect the same, if necessary. By virtue of the provisions of Clause 29A(3), as proposed, the 'power of inspection' exercisable by the Reserve Bank in respect of Banking Companies, which include, calling for information and 'examining on oath' are sought to be extended to 'associate enterprises' of Banks. The Committee are of the view that conferring such powers on the Reserve Bank is a necessity mainly in view of the present day multifarious activities of commercial banks, which include outsourcing of office functions, data processing etc. The Committee, however, observe that in the case of associate enterprises such as insurance companies, housing banks, and mutual funds, which may fall under the regulatory purview of other statutory bodies such as IRDA, SEBI etc. in practicality, the Reserve Bank will have to work in consultation/co-ordination with such bodies in exercising the powers of inspection. This would be essential to prevent the possibility of jurisdictional overlap with other statutory bodies. The Committee expect the Government to ensure that appropriate guidelines/instructions are formulated for enabling the Reserve Bank in discharging the powers of inspection, without leaving any scope for jurisdictional overlap with other statutory regulatory bodies.

#### Clause 8—Supersession of Board of Directors in certain cases

63. Clause 8 read as under:

Insertion of new Part IIAB.—

After Part IIA of the principal Act, the following Part shall be inserted, namely:—

“Part IIAB

SUPERSESION OF BOARD OF DIRECTORS OF BANKING COMPANY

36ACA. Supersession of Board of directors in certain cases.—(1) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of any banking company being conducted in a manner detrimental to the interest of the depositors or any banking company or for securing the proper management of any banking company, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of directors of such banking company for a period not exceeding six months as may be specified in the order:

Provided that the period of supersession of the Board of directors may be extended from time to time, so, however, that total period shall not exceed twelve months.

(2) The Reserve Bank may, on supersession of the Board of directors of the banking company under sub-section (1), appoint an Administrator for such period as it may determine.

(3) 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.

(4) Upon making the order of supersession of the Board of directors of a banking company, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956),—

(a) the chairman, managing director and other directors 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 (1 of 1956) or this Act, or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of directors of such banking company, or by a resolution passed in general meeting of such banking company, shall, until the Board of directors of such banking company is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (2):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of such banking company.

(5) The Reserve Bank may constitute a committee of three or more persons who have experience in law, finance, banking, administration or accountancy to assist the Administrator in the discharge of his duties.

(6) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(7) The salary and allowances to the Administrator and the members of the committee constituted by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned banking company.

(8) On and before the expiration of two months before the expiry of the period of supersession of the Board of directions as specified in the order issued under subsection (1), the Administrator of the

banking company, shall call the general meeting of the company to elect new directors and reconstitute its Board of directors.

(9) Notwithstanding anything contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office.

(10) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of directors of such banking company has been reconstituted."

64. In response to the point made that it would be desirable to prescribe the qualification(s) of the Administrator, who may be appointed on the supersession of the Board of Directors of a Banking Company the Ministry, in a written reply stated that 'if may be provided that the person to be appointed as Administrator, shall have experience in law, finance, banking, administration or accountancy, as provided in sub-section (5) of proposed Section 36ACA for the members of the Committee'.

**65. The Committee note that Government have agreed to their suggestion on prescribing in the provisions of the Bill, the pre-qualifications of the Administrator, who is to be appointed for taking charge of the affairs of the Banking Company following the supersession of Board of Directors. Though the Ministry have informed that selection of Administrator would be from persons having experience in law, finance, banking, administration or accountancy, the Committee feel that the qualifications required to be met should be confined to experience in the fields of law, finance, banking and accountancy only and no bureaucrat should be chosen for the assignment. The Committee, accordingly, recommend that appropriate changes be made in the provisions to indicate the qualifications of the Administrator.**

NEW DELHI;  
12 December, 2005  
21 Agrahayana, 1927 (Saka)

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

## NOTE OF DISSENT

**Submitted by Shri Chittabrata Majumdar, MP**

In the Banking Regulation (Amendment) Bill, 2005 the Government propose to allow the private Banks to mobilise capital from the capital market and issue of preference share for such purpose is being considered.

In this regard I would like to mention that during the tenure of the previous Government, a Notification was issued dated March, 2004 by the Ministry of Finance stating that the Foreign Direct Investors could take over Private Banks and the limit was raised to 74 per cent. There has been hue and cry that this was another way of permitting entry of Foreign Direct Investors in India in the Banking Sector. Such ruthless and unwarranted entry of the Foreign Direct Investors with very high levels of equity (74%) in the name of take over of control and revival of sick Private Banks will be in effect disastrous.

There is good reason to cancel the said earlier Notification dated March, 2004 appropriately and if at all the private sector weak banks are to be provided support and help through better management and making available required capital, the Indian companies who are interested in such take over and revival should be allowed to do that and in no circumstances the Foreign Direct Investors can be allowed to control our financial sector through such entry with unacceptable level of equity and control.

This Note of Dissent may be incorporated in the Report as this Banking Regulation (Amendment) Bill, 2005 has direct bearing in the existing Notification of March, 2004 of the Finance Ministry, which need to be annulled at the earliest.

Sd/-  
(Shri Chittabrata Majumdar, MP)

NOTE OF DISSENT

**Submitted Separately by S/Shri Rupchand Pal,  
Laxman Seth, MPs**

In the Banking Regulation (Amendment) Bill, 2005 the Government propose to allow the private Banks to mobilise capital from the capital market and issue preference share for such purposes is being considered.

In this regard I would like to mention that during the tenure of the previous Government, a Notification was issued on March, 2004 by the Ministry of Finance, stating that the Foreign Direct Investors could take over private Banks and the limit was raised to 74 per cent. There has been hue and cry that this was another way of permitting entry of Foreign Direct Investors in India in the banking sector. Such ruthless and unwarranted entry of the Foreign Direct Investors with very high levels of equity (74%) in the name of take over of ownership and revival of sick private Banks will be in effect disastrous.

There is good reason to cancel the said Notification appropriately and if at all the private sector weak Banks are to be provided support and help through better management and making available required capital, the Indian companies who are interested in such take over and revival should be allowed to do so. And in no circumstances the Foreign Direct Investors can be allowed to control our financial sector through such entry with unacceptable level of equity and control as mentioned in the above Notification.

This Banking Regulation (Amendment) Bill, 2005 has direct bearing in the existing Notification of March, 2004 of the Finance Ministry, which need to be annulled at the earliest.

Sd/-  
(Shri Rupchand Pal, MP)

Sd/-  
(Shri Laxman Seth, MP)

MINUTES OF THE THIRTY-EIGHTH SITTING OF STANDING  
COMMITTEE ON FINANCE

The Committee sat on Thursday, 14th July, 2005 from 1030 to  
1200 hours and 1215 to 1320 hours.

PRESENT

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

MEMBERS

*Lok Sabha*

2. Shri Bhartruhari Mahtab
3. Shri Shyama Charan Gupta
4. Dr. Rajesh Kumar Mishra
5. Shri Madhusudan Mistry
6. Shri K.S. Rao
7. Shri Lakshman Seth
8. Shri G.M. Siddeshwara
9. Shri M.S. Reddy

*Rajya Sabha*

10. Shri Yashwant Sinha
11. Shri Chittabrata Majumdar
12. Shri C. Ramachandraiah
13. Shri Mangani Lal Mandal

SECRETARIAT

1. Shri R.K. Jain — *Deputy Secretary*
2. Shri T.G. Chandrasekhar — *Under Secretary*

WITNESSES

**Ministry of Finance (Department of Economic Affairs—  
Banking Division)**

1. Shri A.K. Jha, Secretary
2. Shri Vinod Rai, Additional Secretary (FS)
3. Shri Amitabh Verma, Joint Secretary (BOA)
4. Shri U.K. Sinha, Joint Secretary (CM)

2. At the outset, the Chairman welcomed the witnesses from the Ministry of Finance (Department of Economic Affairs—Banking Division) to the sitting of the Committee and invited their attention to the provisions contained in the Direction 55 of the Directions by the Speaker.

3. Then the representatives of the Ministry of Finance (Department of Economic Affairs—Banking Division) briefed the Committee on the various provisions contained in the Banking Regulation (Amendment) Bill, 2005 and the Reserve Bank of India (Amendment) Bill, 2005. The Members asked clarificatory questions which were replied to by the representatives. The Chairman, then, directed the representatives of the Ministry that the information with regard to queries of the Members which were not readily available with them might be furnished to the Committee later on.

4. The evidence was concluded.

5. A verbatim record of proceedings has been kept.

*The witnesses then withdrew.*

#### **Part-II**

(1215 to 1320 hours)

|    |    |    |    |    |    |
|----|----|----|----|----|----|
| 2. | ** | ** | ** | ** | ** |
| 3. | ** | ** | ** | ** | ** |

*The Committee then adjourned.*

MINUTES OF THE FIRST SITTING OF STANDING  
COMMITTEE ON FINANCE

The Committee sat on Tuesday, 9th August, 2005 from 1500 to  
1620 hrs.

PRESENT

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

MEMBERS

*Lok Sabha*

2. Shri Shyama Charan Gupta
3. Shri A. Krishnaswamy
4. Shri Bir Singh Mahato
5. Shri Rupchand Pal
6. Shri Danve Raosaheb Patil
7. Shri K.S. Rao
8. Shri Lakshman Seth
9. Shri G.M. Siddeshwara
10. Shri M.A. Kharabela Swain
11. Shri Magunta Sreenivasulu Reddy

*Rajya Sabha*

12. Shri Yashwant Sinha
13. Shri Chittabrata Majumdar
14. Shri C. Ramachandraiah

SECRETARIAT

1. Dr. (Smt.) P.K. Sandhu — *Additional Secretary*
2. Shri R.K. Jain — *Deputy Secretary*
3. Shri T.G. Chandrasekhar — *Under Secretary*

WITNESSES

**ICICI Bank Ltd.**

1. Shri K.V. Kamath, Managing Director & CEO
2. Smt. Kalpana Morparia, Deputy Managing Director



## **Oriental Bank of Commerce**

1. Shri K.N. Prithviraj, Chairman & Managing Director
2. Shri M.D. Mallya, Executive Director

2. At the outset, the Chairman welcomed the Members to the First sitting of the newly constituted Committee. The Chairman informed the Members that a separate sitting will be convened for selection of subjects for examination during the year.

3. Thereafter, the Chairman welcomed the representatives of ICICI Bank Ltd. and Oriental Bank of Commerce to the sitting of the Committee and invited their attention to the provisions contained in the Direction 55 of the Directions by the Speaker.

4. The Committee then took oral evidence of the representatives of ICICI Bank Ltd. and Oriental Bank of Commerce on the provisions of the Banking Regulation (Amendment) Bill, 2005 and the Reserve Bank of India (Amendment) Bill, 2005. The Members asked clarificatory questions which were replied to by the representatives. The Chairman, then, directed the representatives of ICICI Bank Ltd. and Oriental Bank of Commerce that the information with regard to queries of the Members which was not readily available with them might be furnished to the Committee later on.

5. The evidence was concluded.

6. A verbatim record or proceedings has been kept.

*The witnesses then withdrew.*

*The Committee then adjourned.*

MINUTES OF THE SECOND SITTING OF STANDING  
COMMITTEE ON FINANCE

The Committee sat on Wednesday, 10th August, 2005 from 1500 to  
1620 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 Rupchand Pal
7. Shri Shrinivas D. Patil
8. Shri K.S. Rao
9. Shri Jyotiraditya Madhavrao Scindia
10. Shri M.A. Kharabela Swain

*Rajya Sabha*

11. Shri C. Ramachandraiah

SECRETARIAT

1. Shri R.K. Jain — *Deputy Secretary*
2. Shri T.G. Chandrasekhar — *Under Secretary*

WITNESSES

**Punjab National Bank**

Shri S.C. Gupta, Chairman & Managing Director

**Indian Banks' Association (IBA)**

Shri M.R. Umarjee, Consultant

**Fixed Income Money Markets and Derivatives Association (FIMMDA)**

1. Shri Sudhir Joshi, Chairman
2. Shri C.E.S. Azariah, CEO

**Confederation of Indian Industry (CII)**

1. Shri Jayant Bhuyan, Dy. Director General
2. Shri Rana Kapoor, Chairman, CII—Banking Committee
3. Shri Vikram Badshah, Sr. Consultant

2. At the outset, the Chairman welcomed the representatives of Punjab National Bank, Indian Banks' Association (IBA), Fixed Income Money Markets and Derivatives Association (FIMMDA) and Confederation of Indian Industry (CII) and invited their attention to the provisions contained in the Direction 55 of the Directions by the Speaker.

3. The Committee then took oral evidence of the representatives of Punjab National Bank, Indian Banks' Association (IBA), Fixed Income Money Markets and Derivatives Association (FIMMDA) and Confederation of Indian Industry (CII) on the provisions of the Banking Regulation (Amendment) Bill, 2005 and the Reserve Bank of India (Amendment) Bill, 2005. The Members asked clarificatory questions which were replied to by the representatives. The Chairman, then, directed the representatives that the information with regard to queries of the Members which was not readily available with them might be furnished to the Committee later on.

4. The evidence was concluded.
5. A verbatim record of proceedings has been kept.

*The witnesses then withdrew.*

*The Committee then adjourned.*

MINUTES OF THE THIRD SITTING OF STANDING  
COMMITTEE ON FINANCE

The Committee sat on Monday, 22nd August, 2005 from 1500 to  
1630 hrs.

PRESENT

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

MEMBERS

*Lok Sabha*

2. Shri Gurudas Dasgupta
3. Shri A. Krishnaswamy
4. Shri Rupchand Pal
5. Shri Shriniwas D. Patil
6. Shri K.S. Rao
7. Shri Lakshman Seth
8. Shri G.M. Siddeshwara
9. Shri Magunta Sreenivasulu Reddy

*Rajya Sabha*

10. Shri Chittabrata Majumdar
11. Shri C. Ramachandraiah

SECRETARIAT

1. Dr. (Smt.) P.K. Sandhu — *Additional Secretary*
2. Shri R.K. Jain — *Deputy Secretary*

WITNESSES

**State Bank of India**

Shri A.K. Purwar, Chairman

**Bank of India**

Shri M. Balachandran, Chairman & Managing Director

**HDFC Bank Ltd.**

1. Shri Aditya Puri, Managing Director
2. Shri Rajender Sehgal, Senior Vice President

2. At the outset, the Chairman welcomed the representatives of State Bank of India, Bank of India and HDFC Bank Ltd. to the sitting of the Committee and invited their attention to the provisions contained in Direction 55 of the Directions by the Speaker.

3. The Committee then took oral evidence of the representatives of State Bank of India, Bank of India and HDFC Bank Ltd. on the provisions of the Banking Regulation (Amendment) Bill, 2005 and the Reserve Bank of India (Amendment) Bill, 2005. The Members asked clarificatory questions which were replied to by the representatives. The Chairman, then, directed the representatives that the information with regard to queries of the Members which was not readily available with them might be furnished to the Committee later on.

4. The evidence was concluded.

5. A verbatim record of proceedings has been kept.

*The witnesses then withdrew.*

6. \*\*                      \*\*                      \*\*                      \*\*                      \*\*
7. \*\*                      \*\*                      \*\*                      \*\*                      \*\*

*The Committee then adjourned.*



**Part II**  
**(at 1530 hrs.)**

WITNESSES

**Ministry of Finance**

- (i) Shri Ashok Jha, Secretary (DEA)
- (ii) Shri Vinod Rai, Additional Secretary (FS)
- (iii) Shri Amitabh Verma, Joint Secretary (BOA)
- (iv) Shri U.K. Sinha, Joint Secretary (CM)

**Reserve Bank of India**

- (i) Shri H. Bhattacharya, CGM
- (ii) Shri Anand Sinha, CGM
- (iii) Shri G.S. Hedge, Joint Legal Advisor

2. At the outset, the Chairman welcomed the representatives of the Ministry of Finance and Reserve Bank of India to the sitting of the Committee and invited their attention to the provisions contained in Direction 55 of the Directions by the Speaker.

3.   \*\*                               \*\*                               \*\*                               \*\*                               \*\*

4. The Committee then took oral evidence of the representatives of the Ministry on the provisions of the (i) Banking Regulation (Amendment) Bill, 2005, and (ii) Reserve Bank of India (Amendment) Bill, 2005. The Members asked clarificatory questions which were replied to by the representatives of the Ministry. The Chairman, then, directed the representatives that the information with regard to queries of the Members which was not readily available with them might be furnished to the Committee later on.

5. The evidence was concluded.

6. A verbatim record of proceedings has been kept.

*The witnesses then withdrew.*

*The Committee then adjourned.*

MINUTES OF THE SEVENTH SITTING OF STANDING  
COMMITTEE ON FINANCE

The Committee sat on Monday, 7 November, 2005 from 1030 to  
1145 hrs. and thereafter from 1145 to 1330 hrs.

PRESENT

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

MEMBERS

*Lok Sabha*

2. Shri Jaswant Singh Bishnoi
3. Shri Gurudas Dasgupta
4. Shri A. Krishnaswamy
5. Shri Bir Singh Mahato
6. Shri Madhusudan Mistry
7. Shri Rupchand Pal
8. Shri Shriniwas D. Patil
9. Shri K.S. Rao
10. Shri Jyotiraditya Madhavrao Scindia
11. Shri G.M. Siddeshwara
12. Shri Ajit Singh
13. Shri M.A. Kharabela Swain
14. Shri Vijoy Krishna
15. Shri Magunta Sreenivasulu Reddy

*Rajya Sabha*

16. Shri R.P. Goenka
17. Shri Jairam Ramesh
18. Shri M. Venkaiah Naidu
19. Shri Yashwant Sinha
20. Shri Amar Singh



SECRETARIAT

1. Dr. (Smt.) P.K. Sandhu — *Additional Secretary*
2. Shri S.B. Arora — *Deputy Secretary*
3. Shri T.G. Chandrasekhar — *Under Secretary*

**Part I**

**(1030 to 1145 hrs.)**

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:

- (i) The Banking Regulation (Amendment) bill, 2005 and
- (ii) The Reserve Bank of India (Amendment) Bill, 2005.

4. While deliberating on the draft report on the Banking Regulation (Amendment) Bill, 2005, the Committee felt that additional clarification was required to be obtained from the Ministry of Finance on the proposal under Clause 3 as to whether the proposal applies only to private sector banks, or both private and public sector banks, before finalizing the recommendation/observation at para nos. 17 and 18. The Committee, thereafter, approved the draft report (except observation/recommendation at para nos. 17 and 18) with the modifications/amendments as shown in Annexure.

5. The Committee also decided to seek clarifications on other issues *viz.* floating of Non-Banking Financial Companies (NBFCs) and Capital adequacy Norms etc., raised during the sitting.

6. \*\* \*\* \*\* \*\*

**Part-II**

**(1145 to 1330 hrs.)**

2. \*\* \*\* \*\*

3. \*\* \*\* \*\*

4. \*\* \*\* \*\*

5. \*\* \*\* \*\*

*The witnesses then withdrew.*

*The Committee then adjourned.*

ANNEXURE

[MODIFICATIONS/AMENDMENTS MADE BY STANDING  
COMMITTEE ON FINANCE IN THEIR DRAFT REPORT  
ON THE BANKING REGULATION (AMENDMENT) BILL,  
2005 AT THEIR SITTING HELD ON 7 NOVEMBER, 2005]

Page 4,

Add sub para to  
Para No. 5

The Committee also received written views/  
suggestions on the Bill from All India Bank  
Officers Confederation, National Confederation  
of Bank Employees, Bank Employees Federation  
of India, Corporation Bank Officers  
Organisation and State Bank of India Officers'  
Association (Patna Circle)

Page 18,  
Para No. 39

For

"The Committee hope that the eligibility criteria  
for determining 'fit and proper' status of the  
persons would be applied judiciously."

Substitute

"The Committee desire that the eligibility  
criteria to be followed by the Reserve Bank for  
determining 'fit and proper' status of the  
persons is in line with global best practices."

Page 25,  
Para No. 55,  
Line 4 from  
below

After

"... to reflect the change in the Government's  
policy proposals.

Insert

"This is indicative of carelessness on the part  
of the Government in formulating the  
provisions."

MINUTES OF THE NINTH SITTING OF STANDING  
COMMITTEE ON FINANCE

The Committee sat on Thursday, 8th December, 2005 from 1500 to 1600 hours.

PRESENT

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

MEMBERS

*Lok Sabha*

2. Shri Bhartruhari Mahtab
3. Shri Shyama Charan Gupta
4. Shri Bir Singh Mahato
5. Shri Rupchand Pal
6. Shri Shriniwas D. Patil
7. Shri Lakshman Seth
8. Shri M.A. Kharabela Swain
9. Shri Vijoy Krishna

*Rajya Sabha*

10. Shri Chittabrata Majumdar
11. Shri C. Ramachandraiah
12. Shri Mangani Lal Mandal

SECRETARIAT

1. Shri S.B. Arora — *Deputy Secretary*
2. Shri T.G. Chandrasekhar — *Under Secretary*

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

3. The Committee then approved the draft recommendation at Sl. No. 1 (para nos. 17 & 18) of the draft report on the Banking Regulation (Amendment) Bill, 2005 with modifications as shown in the Annexure-I.

4. \*\* \*\* \*\* \*\* \*\* \*\* \*\*

5. Some Members desired to submit notes of dissent on certain policy measures for inclusion in the report on Banking Regulation (Amendment) Bill, 2005. The Chairman informed them that they could send the notes by 9 December, 2005.

6. The Committee, thereafter authorised the Chairman to finalise the Reports in the light of the amendments suggested as also to make verbal and other consequential changes and present the same to both the Houses of Parliament.

*The Committee then adjourned.*

ANNEXURE I

[MODIFICATIONS/AMENDMENTS MADE BY STANDING  
COMMITTEE ON FINANCE IN THEIR DRAFT REPORT  
ON THE BANKING REGULATION (AMENDMENT) BILL,  
2005 AT THEIR SITTING HELD ON 8 DECEMBER, 2005]

**Page No. 8, Para No. 18**

Line 7,

For ...that permitting issue of preference shares would be  
beneficial to the banks in raising cheap capital

Substitute ... that permitting issue of preference shares would be  
beneficial to the banks in raising the required capital...

Line 11

For ... would be stipulated by the Reserve Bank.

Substitute ... would be specified by the Reserve Bank.

Line 8 from below

For This, the Committee feel, would make ...

Substitute The Committee feel that this would make .....

As Introduced in Lok Sabha

**Bill No. 72 of 2005**

THE BANKING REGULATION (AMENDMENT) BILL, 2005

A

BILL

*further to amend the Banking Regulation Act, 1949 and to make consequential amendments in certain other enactments.*

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:

Short title and commencement.

1. (1) This Act may be called the Banking Regulation (Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and 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.

Amendment of section 5.

2. In section 5 of the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act), for clause (a), the following clause shall be substituted, namely:—

‘(a) “approved securities” means the securities issued by the Central Government or any State Government or such other securities as may be specified by the Reserve Bank from time to time.’

Amendment of section 12.

3. In section 12 of the principal Act, in subsection (1),—

(i) for clause (ii), the following clause shall be substituted, namely:—

1 of 1956. “(ii) that notwithstanding anything contained in the Companies Act, 1956, the capital of such banking company consists of—

(a) ordinary or equity shares, and

(b) preference shares issued in accordance with the guidelines framed by the Reserve Bank specifying the class of, and the terms and conditions subject to which the preference shares may be issued:

1 of 1956. Provided that no holder of the preference share issued by the company shall be entitled to exercise the voting right specified in clause (b) of sub-section (2) of section 87 of the Companies Act, 1956.”;

(ii) the proviso shall be omitted;

(iii) sub-section (2) shall be omitted.

4. After section 12A of the principal Act, the following section shall be inserted, namely:

Insertion of new section 12B.

‘12B. (1) No person (hereinafter referred to as “the applicant”) shall, except with the previous approval of the Reserve Bank, on an application being made, acquire or agree to acquire, directly or indirectly, by himself or acting in concert with any other person, shares of a banking company or voting rights therein, which acquisition taken together with shares and voting rights, if any, held by him or his relative or associate enterprise or person acting in concert with him, makes the applicant to hold five per cent. or more of the paid-up share capital of such banking company or entitles him to exercise five per cent or more of the voting rights in such banking company.

Regulation of acquisition of shares of voting rights.

*Explanation.*—For the purposes of this sub-section,—

1 of 1956. (a) “relative” shall have the meaning as assigned to it in section 6 of the Companies Act, 1956;

(b) “associate enterprise” includes an enterprise which,—

(i) is a holding company or a subsidiary company or a joint venture of the applicant; or

(ii) controls the composition of the Board of directors or other body governing the applicant; or

(iii) exercises, in the opinion of the Reserve Bank, significant influence on the applicant in taking financial or policy decisions; or

(iv) is able to obtain economic benefits from the activities of the applicant.

(c) persons shall be deemed to be “acting in concert” who, for a common objective or purpose of acquisition of shares or voting rights in excess of the percentage mentioned in this sub-section, pursuant to an agreement or understanding (formal or informal), directly or indirectly co-operate by acquiring or agreeing to acquire shares or voting rights in the banking company.

(2) An approval under sub-section (i) may be granted by the Reserve Bank if it is satisfied that—

(a) in the public interest; or

(b) in the interest of banking policy; or

(c) to prevent the affairs of any banking company being conducted in a manner detrimental or prejudicial to the interests of the banking company; or

(d) in view of the emerging trends in banking and international best practices; or

(e) in the interest of the banking and financial system in India,

the applicant is a fit and proper person to acquire shares or voting rights:



Provided that the Reserve Bank may call for such information from the applicant as it may deem necessary for considering the application referred to in sub-section (1):

Provided further that the Reserve Bank may specify different criteria for acquisition of shares or voting rights in different percentages.

(3) Where the acquisition is by way of transfer of shares of a banking company and the Reserve Bank is satisfied that such transfer should not be permitted, it may, by order, direct that no such share shall be transferred to the proposed transferee and may further direct the banking company not to give effect to the transfer of shares.

(4) The approval for acquisition of shares may be subject to such conditions as the Reserve Bank may deem fit to impose, including a condition that any further acquisition of shares shall require prior approval of the Reserve Bank and that the applicant continues to be a fit and proper person to hold the shares or voting rights.

(5) Before issuing or allotting any share to any person or registering the transfer of shares in the name of any person, the banking company shall ensure that the requirements of sub-section (1) are complied with by that person and where the acquisition is with the approval of the Reserve Bank, the banking company shall further ensure that the conditions imposed under sub-section (4), if any, of such approval are fulfilled.

(6) Every application made under sub-section (1) shall be deemed to have been granted, unless before the expiry of a period of ninety days from the date on which the application was received by the Reserve Bank, it communicates to the applicant that the approval applied for has not been granted:

Provided that in computing the period of ninety days, the period taken by the applicant for furnishing the information called for by the Reserve Bank shall be excluded.

(7) The Reserve Bank may specify the minimum percentage of shares to be acquired in a banking company if it considers that the purpose for which the shares are proposed to be acquired by the applicant warrants such minimum shareholding.'

Amendment  
of section 20

5. In section 20 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) The Reserve Bank may, subject to such conditions as may be specified, grant to any banking company exemption from the provisions of this section in regard to any restriction on entering into any commitment for granting any loan or advance to any company referred to in sub-clause (iii) of clause (b) of sub-section (1).”

Amendment  
of section 24

6. In section 24 of the principal Act,—

(a) sub-sections (1) and (2) shall be omitted;

(b) for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) A scheduled bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934, and every other banking company, in addition to the cash reserve which it is required to maintain under section 18, shall maintain in India, assets, the value of which shall not be less than such percentage not exceeding forty per cent. of the total of its demand and time liabilities in India as on the last Friday of the second preceding fortnight as the Reserve Bank may, by notification in the Official Gazette, specify

from time to time and such assets shall be maintained, in such form and manner, as may be specified in such notification.”;

(c) sub-section (2B) shall be omitted.

7. After section 29 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 29A.

‘29A. (1) The Reserve Bank may at any time direct a banking company to disclose in its financial statements or furnish to it separately, within such time and at such intervals as may be specified by the Reserve Bank, such statements and information relating to the business or affairs of any associate enterprise of the banking company as the Reserve Bank may consider necessary or expedient to obtain for the purpose of this Act.

Power in respect of associate enterprises.

(2) Notwithstanding anything to the contrary contained in the Companies Act, 1956, the Reserve Bank may, at any time, cause an inspection to be made of any associate enterprise of a banking company and its books and account by one or more of its officers or employees or other persons.

(3) The provisions of sub-sections (2) and (3) of section 35 shall apply *mutatis mutandis* to the inspection under this section.

*Explanation.*—“associate enterprise” in relation to a banking company includes an enterprise which—

(i) is a holding company or a subsidiary company or a joint venture of the banking company; or

(ii) controls the composition of the Board of directors or other body governing the banking company; or

(iii) exercises, in the opinion of the Reserve Bank, significant influence on the banking company in taking financial or policy decisions; or

(iv) is able to obtain economic benefits from the activities of the banking company’.

Insertion of new Part IIAB.

8. After Part IIA of the principal Act, the following Part shall be inserted, namely:—

“PART IIAB

SUPERSESION OF BOARD OF DIRECTORS OF BANKING COMPANY

Supersession of Board of directors in certain cases.

36ACA. (1) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of any banking company being conducted in a manner detrimental to the interest of the depositors or any banking company or for securing the proper management of any banking company, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of directors of such banking company for a period not exceeding six months as may be specified in the order:

Provided that the period of supersession of the Board of directors may be extended from time to time, so, however, that total period shall not exceed twelve months.

(2) The Reserve Bank may, on supersession of the Board of directors of the banking company under sub-section (1), appoint an Administrator for such period as it may determine.

(3) 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.

(4) Upon making the order of supersession of the Board of directors of a banking company, notwithstanding anything contained in the Companies Act, 1956,—

1 of 1956.

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

1 of 1956.

(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 and discharged by or on behalf of the Board of directors of such banking company, or by a resolution passed in general meeting of such banking company, shall, until the Board of directors of such banking company is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (2):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of such banking company.

(5) The Reserve Bank may constitute a committee of three or more persons who have experience in law, finance, banking, administration or accountancy to assist the Administrator in the discharge of his duties.

(6) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(7) The salary and allowances to the Administrator and the members of the committee constituted by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned banking company.

(8) On and before the expiration of two months before the expiry of the period of supersession of the Board of directors as specified in the order issued under sub-section (1), the Administrator of the banking company, shall call the general meeting of the company to elect new directors and reconstitute its Board of directors.

(9) Notwithstanding anything contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office.

(10) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of directors of such banking company has been reconstituted.”.

Amendment  
of section 51

9. In section 51 of the principal Act, in sub-section (1), before the words, brackets, figures and letters “sub-sections (1B), (1C) and (2) of section 30”, the figures and letter “29A”, shall be inserted.

Amendment  
of section 56

10. (1) In section 56 of the principal Act,—

(A) in clause (o) relating to the modification of section 22,—

(a) in sub-section (1),—

(i) clause (a) shall be omitted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that nothing in this sub-section shall apply to a primary credit society carrying on banking business at the commencement of the Banking Regulation (Amendment) Act, 2005, for a period of one year or for such further period not exceeding three years as the Reserve Bank may, after recording the reasons in writing for so doing, extend.”;

(b) in sub-section (2),—

(i) for the words, “every primary credit society which becomes a primary co-operative bank after such commencement shall before the expiry of three months from the date on which it so becomes a

primary co-operative bank” the words, “every primary credit society which had become a primary co-operative bank at the commencement of the Banking Regulation (Amendment) Act, 2005, shall before the expiry of three months from the date on which it had become a primary co-operative bank” shall be substituted;

(ii) the words, “other than a primary credit society” shall be omitted;

(iii) in the proviso,—

(a) in clause (ii), for the words “thereafter, or” the word “thereafter,” shall be substituted;

(b) clause (iii) shall be omitted;

(B) in clause (s) relating to the modification of sections 29 and 30, for the words and figures, “sections 29 and 30” the word and figure, “section 29” shall be substituted;

(C) after clause (s), the following clause shall be inserted, namely:—

“(sa) for section 30, the following section shall be substituted, namely:—

“30. (1) Without prejudice to anything <sup>Audit.</sup> contained in any other law for the time being in force, where the Reserve Bank is satisfied that it is necessary in the public interest or in the interest of the co-operative bank or its depositors so to do, it may at any time by order direct that a special audit of the co-operative bank accounts, for any such transactions or class of transactions or for such period or periods as may be specified in the order, shall be conducted and may by the same or a different order appoint a person duly qualified under any law for the time being in force to be an

auditor of companies 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 co-operative bank.

(2) The expenses of, or incidental to, the special audit specified in the order made by the Reserve Bank shall be borne by the co-operative bank.

(3) The auditor referred to in sub-section (1) shall have such powers, exercise such functions vested in and discharge the duties and be subject to the liabilities and penalties imposed on auditors, if any, appointed by the law establishing, constituting or forming the co-operative bank.

(4) In addition to the matters referred to in the order under sub-section (1) the auditor shall state in his report.

(a) whether or not the information and explanation required by him have been found to be satisfactory;

(b) whether or not the transactions of the co-operative bank which came to his notice have been within the powers of the co-operative bank;

(c) whether or not the returns received from branch offices of the co-operative bank have been found adequate for the purpose of his audit;

(d) whether the profit and loss accounts, shows a true balance or profit or loss for the period covered by such account;

(e) any other matter which he considers should be brought to the notice of the Reserve Bank and the shareholders of the cooperative bank." .



11. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the third column thereof. Amendment of certain enactments.

## THE SCHEDULE

(See section 11)

| Sl.No. | Short title  | Amendment   |
|--------|--|---|
| 1.     | The State Financial Corporation Act, 1951 (63 of 1951).  | In section 7, sub-section (3), the words and figures "and the Banking Regulation Act, 1949" shall be omitted. <span style="float: right;">10 of 1949</span>   |
| 2.     | The State Bank of India Act, 1955 (23 of 1955)   | In section 12, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. <span style="float: right;">10 of 1949</span>   |
| 3.     | The State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959)                              | In section 20, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. <span style="float: right;">10 of 1949</span>   |
| 4.     | The Warehousing Corporations Act, 1962 (58 of 1962)  | In section 5, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. <span style="float: right;">10 of 1949</span>  |
| 5.     | The Regional Rural Banks Act, 1976 (21 of 1976)  | In section 7, the words and figures "and shall also be deemed to be approved securities for the purposes of the Banking Regulation Act, 1949" shall be omitted. <span style="float: right;">10 of 1949</span> |
| 6.     | The Industrial Finance Corporation (Transfer of Undertaking and Repeal) Act, 1993 (23 of 1993) | In section 10, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. <span style="float: right;">10 of 1949</span>   |
| 7.     | The Industrial Reconstruction Bank (Transfer of Undertakings and Repeal) Act, 1997 (7 of 1997) | In section 11, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. <span style="float: right;">10 of 1949</span>   |
| 8.     | The Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002)            | In section 17, the words and figures "and the Banking Regulation Act, 1949" shall be omitted. <span style="float: right;">10 of 1949</span>   |

## STATEMENT OF OBJECTS AND REASONS

The Banking Regulation Act, 1949 has been in force for more than five decades. It empowers the Reserve Bank of India (hereinafter referred to as the Reserve Bank) to regulate and supervise the banking sector. The banks are now operating in a liberalised environment. In this scenario, it has become necessary that the banks in India are able to raise capital in accordance with international best practices. To ensure that the control of banks is in the hands of fit and proper persons, persons who propose to acquire 5% or more of the share capital of a bank should be required to obtain prior approval from the Reserve Bank and the Reserve Bank should have the necessary power to impose such conditions as it deems necessary while granting such approval. It is, therefore, proposed to remove the restriction on voting rights concurrently with the stipulation of the statutory requirement of prior approval for acquisition of shares above the specified limit. The Reserve Bank should also be able to specify acquisition of a minimum percentage of shares in a banking company if it considers necessary.

2. It is necessary to confer more operational flexibility on the Reserve Bank in the conduct of monetary policy. For this purpose, the Reserve Bank should have the power to specify Statutory Liquidity Ratio without any floor or ceiling as also to specify any security as approved security for this purpose.

3. The present restrictions on lending to directors and the companies or firms in which the directors are interested is posing a difficulty to banks in appointing competent independent directors. It is, therefore, necessary to empower the Reserve Bank to grant exemption to banking companies in appropriate cases.

4. Taking advantage of the liberalised environment, banks are engaging in multifarious activities through the medium of associate enterprises. The Reserve Bank as the regulator of banks should be aware of the financial impact of the business of such enterprises on the financial position of banking companies. The Reserve Bank should, therefore, be empowered to call for information and returns from the associate enterprises of banking companies also and inspect the same, if necessary.

5. The Reserve Bank has the power to remove any director or other officers of a bank but that power is not sufficient if the entire

Board of Directors of a bank is functioning in a manner detrimental to the interests of depositors or the bank itself. To deal with such a situation it is necessary that the Reserve Bank has the power to supersede the Board of Directors of a bank and appoint an administrator to manage the bank till alternate arrangements are made.

6. For a sound and healthy banking system, it is necessary to ensure that only the cooperative societies that have been licensed by the Reserve Bank carry on the business of banking. To protect the interest of depositors, the primary co-operative societies should therefore be given a timeframe within which they have to either stop the business of banking or fulfil all the requirements specified by the Reserve Bank and obtain a licence to carry on the business of banking. The Reserve Bank should have the power to order a special audit of co-operative banks in public interest for a more effective supervision of co-operative banks. The proposed legislation aims to make the regulatory powers of the Reserve Bank more effective.

7. The Bill seeks to achieve the above objects.

New Delhi;  
The 6th May, 2005.

P. CHIDAMBARAM

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill proposes to confer power upon the Reserve Bank of India to specify approved securities.

2. Clause 3 of the Bill proposes to empower the Reserve Bank to issue guidelines to specify the class of, and the terms and conditions subject to which, the preference shares may be issued.

3. Clause 4 of the Bill confers power upon the Reserve Bank to specify different criteria for acquisition of shares or voting rights in different percentages. This clause further empowers the Reserve Bank to specify the minimum percentage of shares to be acquired in a banking company by an applicant.

4. Clause 6 of the Bill empowers the Reserve Bank to specify such percentage of value of assets, which shall be maintained in India by every banking company.

5. The matters in respect of which notification or guidelines issued or specified are all matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, of a normal character.

ANNEXURE

EXTRACTS FROM THE BANKING REGULATION ACT, 1949

(10 OF 1949)

\* \* \* \* \*

5. In this Act, unless there is anything Interpretation  
repugnant in the subject or context.

(a) "approved securities" means—

2 of 1882 (i) securities in which a trustee may  
invest money under clause (a), clause (b),  
clause (bb), clause (c) or clause (d) of  
section 20 of the Indian Trusts Act, 1882;

2 of 1882 (ii) such of the securities authorised by  
the Central Government under clause (f)  
of section 20 of the Indian Trusts Act, 1882,  
as may be prescribed;

\* \* \* \* \*

12. (1) No banking company shall carry on  
business in India, unless it satisfies the  
following conditions, namely:— Regulation  
of paid-up  
capital,  
subscribed  
capital and  
authorised  
capital and  
voting  
rights of  
shareholders

\* \* \* \* \* (ii) that the capital of the company consists  
of ordinary shares only or of ordinary shares  
or equity shares and such preferential shares  
as may have been issued prior to the 1st day  
of July, 1944:

Provided that nothing contained in this sub-  
section shall apply to any banking company  
incorporated before the 15th day of January,  
1937.

(2) No person holding shares in a banking  
company shall, in respect of any shares held  
by him, exercise voting rights on poll in excess  
of ten per cent of the total voting rights of all  
the shareholders of the banking company.

\* \* \* \* \*

Maintenance  
of a  
percentage  
of assets.

24. (1) After the expiry of two years from the commencement of this Act, every banking company shall maintain in India in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than 20 per cent. of the total of its demand and time liabilities in India.

*Explanation*—For the purpose of this section, “unencumbered approved securities” of a banking company shall include its approved securities lodged with another institution for an advance or any other credit arrangement to the extent to which such securities have not been drawn against or availed of.

(2) In computing the amount for the purposes of sub-section (1), the deposit required under sub-section (2) of section 11 to be made with the Reserve Bank by a banking company incorporated outside India and any balances maintained in India by a banking company in current account with the Reserve Bank or the State Bank of India or with any other bank which may be notified in this behalf by the Central Government, including in the case of a scheduled bank the balance required under section 42 of the Reserve Bank of India Act, 1934, to be so maintained, shall be deemed to be cash maintained in India. 2 of 1934

(2A) (a) Notwithstanding anything contained in sub-section (1) or in sub-section (2), after the expiry of two years from the commencement of the Banking Companies (Amendment) Act, 1962,— 36 of 1962

(i) a scheduled bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934, and 2 of 1934

(ii) every other banking company, in addition to the cash reserve which it is required to maintain under section 18, shall maintain in India,—

(A) in cash, or

(B) in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost price, market price, book value or face value, as may be specified by the Reserve Bank from time to time.

an amount which shall not, at the close of business on any day, be less than twenty-five per cent, or such other percentage not exceeding forty per cent as the Reserve Bank may from time to time, by notification in the Official Gazette; specify, of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight.

(b) in computing the amount for the purpose of clause (a),—

(i) the deposit required under subsection (2) of section 11 to be made with the Reserve Bank by a banking company incorporated outside India;

(ii) any cash or balances maintained in India by a banking company other than a scheduled bank with itself or with the Reserve Bank or by way of net balance in current account in excess of the aggregate of the cash or balance or net balance required to be maintained under section 18;

(iii) any balances maintained by a scheduled bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934; 2 of 1934

(iv) the net balance in current accounts maintained in India by a scheduled bank;

(v) any balances maintained by a Regional Rural Bank in call or fixed deposit with its Sponsor Bank,

shall be deemed to be cash maintained in India.

*Explanation.*—For the purpose of clause (a) of this sub-section, the market price of an approved security shall be the price as on the date of the issue of the notification or as on any earlier or later date as may be notified from time to time by the Reserve Bank in respect of any class or classes of securities.

(2B) The Reserve Bank may, by notification in the Official Gazette, vary the percentage referred to in sub-section (2A) in respect of a Regional Rural Bank.

\* \* \* \* \*

Application on of certain provisions to the State Bank of India and other notified banks.

51. (1) Without prejudice to the provisions of the State Bank of India Act, 1955, or any other enactment, the provisions of sections 10, 13 to 15, 17, 19 to 21A, 23 to 28, 29 [excluding sub-section (3)], sub-sections (1B), (1C) and (2) of sections 30, 31, 34, 35, 35A, 36 [excluding clause (d) of sub-section (1)], 45Y to 45ZF, 46 to 48, 50, 52 and 53 shall also apply, so far as may be, to and in relation to the State Bank of India or any corresponding new bank or a Regional Rural Bank or any subsidiary bank as they apply to and in relation to banking companies: 23 of 1955.



Provided that—

(a) nothing contained in clause (c) of sub-section (1) of section 10 shall apply to the Chairman of the State Bank of India or to a managing director of any subsidiary bank in so far as the said clause precludes him from being a director of, or holding an office in, any institution approved by the Reserve Bank;

(b) nothing contained in sub-clause (iii) of clause (b) of sub-section (1) of section 20 shall apply to any bank referred to in sub-section (1), insofar as the said sub-clause (iii) of clause (b) precludes that bank from entering into any commitment for granting any loan or advance to or on behalf of a company (not being a Government company) in which not less than forty per cent of the paid-up capital is held (whether singly or taken together) by the Central Government or the Reserve Bank or a corporation owned by that bank; and

(c) nothing contained in Section 46 or in Section 47A shall apply to,

(i) an officer of the Central Government or the Reserve Bank, nominated or appointed as director of the State Bank of India or any corresponding new bank or a Regional Rural Bank or any subsidiary bank or a banking company; or

(ii) an officer of the State Bank of India or a corresponding new bank or a Regional Rural Bank or a subsidiary bank nominated or appointed as director of any of the said banks (not being the bank of which he is an officer) or of a banking company.”

\* \* \* \* \*

PART V

APPLICATION OF THE ACT TO CO-OPERATIVE BANKS

Act to  
apply to  
co-operative  
societies  
subject to  
modifications.

56. The provisions of this Act, as in force for the time being, shall apply to, or in relation to, co-operative societies as they apply to or in relation to, banking companies subject to the following modifications, namely:—

\* \* \* \* \*

(o) in section 22,—

(i) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Save as hereinafter provided, no co-operative society shall carry on banking business in India unless—

(a) it is a primary credit society, or

(b) it is a co-operative bank and holds a licence issued in that behalf by the Reserve Bank, subject to such conditions, if any, as the Reserve Bank may deem fit to impose:

Provided that nothing in this sub-section shall apply to a cooperative society, not being a primary credit society or a co-operative bank carrying on banking business at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, for a period of one year from such commencement. 23 of 1965

(2) Every co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, shall before the expiry of three months from such commencement, every co-operative bank which comes into existence as a result of the division of any other co-operative society 23 of 1965

carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business shall, before the expiry of three months from its so coming into existence, every primary credit society which becomes a primary co-operative bank after such commencement shall before the expiry of three months from the date on which it so becomes a primary co-operative bank and every co-operative society other than a primary credit society shall before commencing banking business in India, apply in writing to the Reserve Bank for a licence under this section:

Provided that nothing in clause (b) of subsection (1) shall be deemed to prohibit:

23 of 1965 (i) a co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965; or

23 of 1965 (ii) a co-operative bank which has come into existence as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965 or at any time thereafter; or

(iii) a primary credit society which becomes a primary co-operative bank after such commencement,

from carrying on banking business until it is granted a licence in pursuance of this section or is by a notice in writing, notified by the Reserve Bank that the licence cannot be granted to it.

\* \* \* \* \*

EXTRACT FROM THE STATE FINANCIAL  
CORPORATION ACT, 1951

(63 OF 1951)

Additional  
capital of  
the financial  
corporation  
and its  
borrowing  
powers.

7. (1) \* \* \* \* \*

(3) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the State Government consultation with the Development Bank and the Reserve bank on such terms and conditions as may be agreed upon.

\* \* \* \* \*

---

EXTRACT FROM THE STATE BANK OF  
INDIA ACT, 1955

(23 OF 1955)

Shares to  
be  
Approved  
securities.

12. Notwithstanding anything contained in the Acts hereinafter mentioned in this Section, the shares of the State Bank shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, 2 of 1882 and also to be approved securities for the purposes of the Insurance Act, 1938, and the Banking Regulation Act, 1949. 4 of 1938 10 of 1948

\* \* \* \* \*

---

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

(38 OF 1959)

Shares to  
be  
Approved  
securities.

20. Notwithstanding anything contained in the Acts hereinafter mentioned in this Section, the shares of a subsidiary bank shall be deemed to be included among the securities enumerated

2 of 1882  
4 of 1938  
10 of 1949

in section 20 of the Indian Trusts Act, 1882,  
and also to be approved securities for the  
purposes of the Insurance Act, 1938, and the  
Banking Regulation Act, 1949.

\* \* \* \* \*

---

EXTRACT FROM THE WAREHOUSING CORPORATION  
ACT, 1962  
(58 OF 1962)

\* \* \* \* \*

5. (1) The shares of the Central Warehousing Corporation shall be guaranteed by the Central Government as to the repayment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the Central Government, by notification published in the Official Gazette, at the time of the issue of the shares.

Shares to be guaranteed by Central Government and to be trusted or approved securities.

2 of 1882  
4 of 1938  
10 of 1949

(2) Notwithstanding anything contained in the Acts mentioned in this sub-section, the shares of the Central Warehousing Corporation shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, and also to be approved securities for the purpose of the Insurance Act, 1938 and the Banking Companies Act, 1949.

\* \* \* \* \*

EXTRACT FROM THE REGIONAL RURAL BANKS ACT,  
1976  
(21 OF 1976)

7. Notwithstanding anything contained in the Acts hereinafter mentioned in this Section, the shares of a Regional Rural Bank shall be deemed to be included among the securities

Shares to be Approved securities.

enumerated in section 20 of the Indian Trusts Act, 1882, and shall also be deemed to be approved securities for the purposes of the Banking Regulation Act, 1949.

2 of 1882

10 of 1949

\* \* \* \* \*

---

EXTRACT FROM THE INDUSTRIAL FINANCE CORPORATION  
(TRANSFER OF UNDERTAKING AND REPEAL)  
ACT, 1993

(23 OF 1993)

Shares,  
bonds and  
debentures  
to be  
deemed to  
be  
approved  
securities

10. Notwithstanding anything contained in any other law for the time being in force, the shares, bonds and debentures of the Company shall be deemed to approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949.

2 of 1882

2 of 1938

10 of 1949

\* \* \* \* \*

---

EXTRACT FROM THE INDUSTRIAL RECONSTRUCTION BANK  
(TRANSFER OF UNDERTAKINGS AND REPEAL)  
ACT, 1997

(7 OF 1997)

Sahres,  
bonds and  
debentures  
to be  
deemed to  
be  
approved  
securities

11. Notwithstanding anything contained in any other law for the time being in force, the shares, bonds and debentures of the Company shall be deemed to be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949.

2 of 1882

4 of 1938

10 of 1949

\* \* \* \* \*

EXTRACT FROM THE UNIT TRUST OF INDIA  
(TRANSFER OF UNDERTAKING AND REPEAL)  
ACT, 2002

(58 of 2002)

17. Notwithstanding anything contained in any other law for the time being in force, the shares, bonds, debentures and units of the specified undertaking shall be deemed to be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949.

Shares,  
bonds;  
debentures  
and unit to  
be deemed  
to be  
approved  
securities.

2 of 1882  
4 of 1938  
10 of 1949

\* \* \* \* \*

LOK SABHA

---

A

BILL

further to amend the Banking Regulation Act, 1949 and to make consequential amendments in certain other enactments.

---

*(Shri P. Chidambaram, Minister of Finance)*