GOVERNMENT OF INDIA
CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
LOK SABHA

UNSTARRED QUESTION NO:1185
ANSWERED ON:13.08.2013
FORWARD MARKETS COMMISSION
Kateel Shri Nalin Kumar

Will the Minister of CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION be pleased to state:

(a) whether the Government proposes to upgrade the Forward Markets Commission into an independent regulator;

(b) if so, the details thereof; and

(c) the benefits likely to accrue therefrom?

Answer

THE MINISTER OF STATE (INDEPENDENT CHARGE) FOR CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION (PROF. K. V. THOMAS)

(a)to(c): Yes, Madam. The Government has introduced the Forward Contracts (Regulation) Amendment BUI, 2010 in Lok Sabha on 6th December. 2010. The Bill inter-alia, provides for strengthening of the regulatory powers of the Forward Markets Commission. The main objectives, salient features and benefits likely to accrue from the said Bill are as under:

1. Objectives of the Forward Contracts Amendment Bill 2010:

(i) strengthening of the regulatory framework including enforcement and penal provisions for the commodity derivatives markets,

(ii) Functional and Financial Autonomy for the market regulator - the Forward Markets Commission (FMC) to better regulate the commodity derivatives market, and,

(iii) Permitting new products, viz., options in the commodity derivative market which are more suitable for participants like farmers to cover their price-risks.

2. Salient features of the Forward Contracts Amendment Bill, 2010:

(i) to redefine the expression `forward contract` so as to include therein `commodity derivative` and also to define new expressions such as `commodity derivative`, `corporatisation`, `demutualisation` and `intermediary` which have been used in the Bill.

(ii) to increase the maximum number of members of the Forward Markets Commission from four, as at present, to nine out of which at least three would be whole-time members besides the Chairman.

(iii) to confer power upon the Commission to levy fees.

(iv) to provide for constitution of a fund called the `Forward Markets Commission General Fund` to which all grants, fees and all sums received by the Commission except penalty shall be credited, and apply the funds for meeting its expenses.

(v) to confer power upon the Central Government to issue directions to the Commission on matters of policy and to supersede it in certain extreme circumstances;

(vi) to make provisions for corporatisation and demutualisation of recognised associations in accordance with the scheme to be approved by the Commission.

(vii) to make provisions for registration of members and intermediaries.

(viii) to allow trading in options in goods and commodity derivatives.

(ix) to make provision for investigation, enforcement and penalty in case of contravention of the provisions of the Act.

(x) to make provision for transfer of the duties and functions of a clearing house of an exchange to a clearing corporation.

(xi) to make provisions for exemption from payment of tax on wealth, income and profits or gains of the Commission.

(xii) to make provision for appeals from the orders of the Forward Markets Commission and Adjudicating Officer to the Securities Appellate Tribunal for the purposes of the Act and from the order of the Securities Appellate Tribunal under the Forward Contracts (Regulation) Act, 1952 to the Supreme Court; and

(xiii) to make consequential changes in the Securities and Exchange Board of India Act, 1992.

3. benefits likely to accrue from the proposed amendments to the Forward Contracts (Regulation) Act, 1952 are as under:

The autonomy will strengthen FMC and its capacity to effectively regulate the markets, as the commission will be empowered:

1) To recruit and upgrade its manpower to meet the growing challenges of the commodity market.

2) Have the capacity and flexibility to deploy its financial resources to suit the requirement for regulation and creating awareness amongst various sections of society including farmers.

3) Provide for registration of members and other intermediaries essential to ensure their effective monitoring by the FMC.

4) Introduce options in goods which will provide farmers with a better risk management tool.

5) Powers to impose penalties for various contraventions such as failure to furnish information, return, etc; failure by any person to enter into agreement with clients, failure to redress clients grievances, insider trading, adoption of fraudulent and unfair trade practices, default in case of intermediary and failure to comply with the directives of FMC etc. which will enable effective regulation of the markets.

6) Provision for corporatization and demutualization of the Commodity Exchanges which will bring about greater transparency and governance at the exchanges.

7) The present Act does not provide for an Appellate Authority. The proposed amendments seek to designate Securities Appellate Tribunal (SAT) as the Appellate Tribunal for the purposes of F.C(R) Act. The Amendment Bill provides for an appeal against the order of FMC and Adjudicating Officer before SAT and against the order of SAT before the Supreme Court. This will facilitate redressal of investor grievances and speedier disposal of disputes relating to the interpretation of the Act and the rules.