

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ
ಅಧಿಸೂಚನೆ
(ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ ದಿನಾಂಕ ಆಗಸ್ಟ್ 21, 2008 ಭಾಗ-4 ಪುಟಸಂಖ್ಯೆ: 489-511)

ಸಂಖ್ಯೆ: ಸಂವ್ಯಾಜ್ಞೆ 12 ಕೇಶಾಪ 2008, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 23ನೇ ಫೆಬ್ರವರಿ 2008

2008ನೇ ಸಾಲಿನ ಜನವರಿ 31ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Forward Contracts Regulation (Amendment) Ordinance, 2008 (Ordinance No. 3 of 2008) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, 31st January, 2008 / Magha 11, 1929 (Saka)

THE FORWARD CONTRACTS (REGULATION) AMENDMENT ORDINANCE, 2008

NO. 3 OF 2008

Promulgated by the President in the Fifty-ninth Year of the Republic of India.

An Ordinance further to amend the Forward Contracts (Regulation) Act, 1952 and the Securities and Exchange Board of India Act, 1992.

WHEREAS a Bill further to amend the Forward Contracts (Regulation) Act, 1952 and the Securities and Exchange Board of India Act, 1992 has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for her to take immediate action to give effect to the provisions of the Bill;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

CHAPTER 1

PRELIMINARY

1. Short title and commencement : (1) This Ordinance may be called the Forward Contracts (Regulation) Amendment Ordinance, 2008

(2) It shall come into force at once.

CHAPTER II

AMENDMENTS TO THE FORWARD CONTRACTS (REGULATION) ACT, 1952

2. Amendment of long title : In the Forward Contracts (Regulation) Act, 1952 (74 of 1952) (hereafter in this Chapter referred to as the principal Act), in the long title, for the words "the prohibition of options in goods", the words "and to promote the development of, and to regulate, the commodity derivatives market" shall be substituted.

3. Amendment of section 2 : In section 2 of the principal Act,—

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

'(a) "Appellate Tribunal" means the Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992; (15 of 1992)

(aa) "association" means any body of individuals, whether incorporated or not, constituted for the purposes of regulating and controlling the business of the sale or purchase of any goods and commodity derivative;

(ab) "Chairman" means the Chairman of the Commission referred to in clause (a) of sub-section (1) of section 3A;'

(ii) after clause (b), the following clauses shall be inserted, namely:—

‘(ba) “commodity derivative” means—

(i) a contract for delivery of goods, which is not a ready delivery contract; or

(ii) a contract for differences which derives its value from prices or indices of prices of such underlying goods or activities, services, rights, interests and events, as may be notified in consultation with the Commission by the Central Government, but does not include securities;

(bb) “corporatisation” means the succession of a recognised association, being a body of individuals or a society registered under the Societies Registration Act, 1860, (21 of 1860) by another association, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in goods or commodity derivatives carried on by such individuals or society;

(bc) “demutualization” means the segregation of ownership and management from the trading rights of the members of a recognised association in accordance with a scheme approved by the Commission;’;

(iii) in clause (c), after the words “delivery contract”, the words “and includes contract for commodity derivative” shall be inserted;

(iv) after clause (c), the following clause shall be inserted, namely:—

‘(ca) “Fund” means the Forward Markets Commission General Fund constituted under sub-section (1) of section 4E;’;

(v) after clause (e), the following clauses shall be inserted, namely:— ‘(ea) “intermediary” means a member of the association, and includes a collateral manager, a clearing house, or such other person who is associated with the commodity derivatives market and is specified as such by the Central Government for the purposes of this Act;

(eb) “member” means a whole-time or part-time member of the Commission and includes the Chairman;’;

(vi) after clause (f), the following clauses shall be inserted, namely:— ‘(fa) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(fb) “option in commodity derivative” means an agreement, by whatever name called, for trading in a commodity derivative and includes a teji, a mandi, a teji-mandi, a gali, a put, a call or a put and call in commodity derivative;’;

(vii) in clause (i),

(A) for the words “eleven days”, the words “thirty days” shall be substituted;

(B) in the Explanation, in clause (i), after the word and figures “Act, 1970” the words, figures and brackets “or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980” (40 of 1980) shall be inserted;

(viii) in clause (j), for the words and figure “the central Government under section 6 in respect of goods or classes of goods”, the words and figure “the Commission under section 6 in respect of forward contract or classes of forward contracts” shall be substituted;

(ix) for clause (jj), the following clause shall be substituted, namely:— ‘

(jj) “regulations” means the regulations made by the Commission under this Act;’;

(x) after clause (k), the following clause shall be inserted, namely:— ‘(ka) “scheme” means a scheme for corporatisation or demutualization of a recognised association which may provide for

(A) the issue of shares for a lawful consideration and provision for trading rights in lieu of membership cards of members of a recognized association;

(B) the restrictions on voting rights;

(C) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised association, legal proceedings by, or against, the recognised association, whether in the name

of the recognised association or any trustee or otherwise and any permission given to, or by, the recognised association;

(D) the transfer of employees of a recognised association to another recognised association;

(E) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised association;’;

(xi) in clause (m), for the words “forward contract which provides for”, the words “forward contract which provides for, and is performed by,” shall be substituted.

4. amendment of Section 3 : In Section 3 of the principal Act, for sub-sections (2), (3), (4) and (5), the following sub-section shall be substituted, namely:—

“(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.”.

5. Insertion of new sections 3A, 3B, 3C, 3E, 3F, 3G and 3H : After section 3 of the principal Act, the following sections shall be inserted, namely:—

“3A. Management of Commission : (1) The Commission shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the Ministries or Departments of the Central Government dealing with Consumer Affairs, Commodity Derivatives, Food and Public Distribution, Agriculture or Finance;

(c) one member from amongst the officials of the Reserve Bank;

(d) five other members of whom at least three shall be the whole-time members.

(2) The general superintendence, direction and management of the affairs of the Commission shall vest in a board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Commission.

(3) Save as otherwise determined, by regulations, the Chairman shall have powers of general superintendence and direction of the affairs of the Commission and may also exercise all powers and do all acts and things which may be exercised or done by the Commission.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the Reserve Bank, respectively.

(5) The Chairman and other members referred to in clauses (a) and (d) of subsection (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to commodity markets or who have special knowledge or experience of commerce or economics or law or finance or in administration or have practical experience in any matter which renders them suitable for appointment on the Commission:

Provided that every person appointed as Chairman and every other person appointed as member of the Commission and holding office as such immediately before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall, notwithstanding any order for their appointment made under sub-section (2) of section 3 as it stood before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall hold office till the Chairman or other member has been appointed in accordance with this section after such commencement and no person shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

3B. Term of office and conditions of service of Chairman and members of Commission : (1) The term of office and other conditions of service of the Chairman and the members referred to in clause

(d) of sub-section (1) of section 3A shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of sub-section (1) of section 3A, at any time before the expiry of the period prescribed under sub-section (1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

3C. Removal of member from office : The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

3D. Meetings of Commission : (1) The Commission shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings including quorum at such meetings as may be provided by regulations.

(2) The Chairman or, if for any reason he is unable to attend the meeting of the Commission, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Commission shall be decided by a majority of votes of the members of the Commission present and voting, and in the event of an equality of votes, the Chairman or in his absence the member presiding, shall have a second or casting vote.

3E. Vacancies etc not to invalidate proceedings of Commissions : No act or proceeding of the Commission shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as a member of the Commission; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

3F. Member not to participate in meetings in certain cases : Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Commission, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Commission, and the member shall not take any part in any deliberation or decision of the Commission with respect to that matter.

3G. Bar on future employment of members : The Chairman and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept any employment with any person dealing with the commodities derivatives or with any intermediary.

3H. Officers and employees of Commission : (1) The Commission may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of the officers and employees of the Commission appointed under sub-section (1) shall be such as may be determined by regulations:

Provided that every officer and other employee holding any office under the Commission, before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall continue to

hold his office as such after such commencement for the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the said Ordinance had not come into force and shall continue to do so as an officer or other employee of the Commission until the regulations are made under this sub-section or the expiry of one year from the date of such commencement or till the date on which such officer or other employee opts not to be the officer or other employee of the Commission, whichever is earlier.”.

6. Amendment of section 4 : In section 4 of the principal Act,—

(a) for clause (a), the following clauses shall be substituted, namely:—

“(a) to advise the Central Government in respect of matters arising out of the administration of this Act;

(aa) to grant or withdraw recognition of any association;”;

(b) in clause (e), for the words “registered association or any member of such association”, the words “any member of such association or any intermediary” shall be substituted;

(c) for clause (f) the following clauses shall be substituted, namely:—

“(f) to regulate the business of the associations;

(g) to regulate the functioning of members of the associations, clearing houses, warehouses and intermediaries;

(h) to levy fees for carrying out the purposes of this Act;

(i) to conduct research for the purpose of development and regulation of commodity derivatives market;

(j) to call from or furnishing to any such agencies, as may be specified by the Commission, such information as may be considered necessary by it for the efficient discharge of its functions;

(k) to protect the interests of the market participants in commodity derivatives markets;

(l) to promote and regulate self-regulatory organisations;

(m) to prohibit fraudulent and unfair trade practices relating to commodity derivatives markets;

(n) to promote investors’ education and training of intermediaries;

(o) to prohibit insider trading in commodity derivative;

(p) to advise the Central Government as to the goods in respect of which forward contract or option in goods or option in commodity derivative may be notified;

(q) to perform such other duties and exercise such other powers as may be assigned to the Commission by or under this Act, or as may be prescribed.”.

7. Amendment of section 4A : In section 4A of the principal Act, in sub-section (3), —

(a) for the words and figures “the Code of Criminal Procedure, 1898” (5 of 1898), the words and figures “the Code of Criminal Procedure, 1973” (2 of 1974) shall be substituted;

(b) for the word and figures “section 482”, the word and figures “section 346” shall be substituted.

8. Insertion of new sections 4B and 4C. : After section 4A of the principal Act, the following sections shall be inserted, namely:—

“4B. Power to issue directions by Commission : Save as otherwise provided in section 4, if after making or causing to be made an inquiry, the Commission is satisfied that it is necessary, in the interest of trade and orderly development of commodity derivatives market, it may issue directions to any intermediary or association.

4C. Cease and desist proceedings : If the Commission finds, after causing an inquiry to be made, that any person has violated, or is likely to violate any provisions of this Act or any rules or regulations made there under, the Commission may pass an order requiring such person to cease and desist from

committing or causing such violations.”.

9. Insertion of new Chapter IIA : After Chapter II of the principal Act, the following Chapter shall be inserted, namely:—

**CHAPTER II A
FINANCE, ACCOUNTS AND AUDIT**

4D. Grants by Central Government : The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act.

4E. Fund : (1) There shall be constituted a -Fund to be called the Forward Markets Commission General Fund and there shall be credited thereto—

(i) all grants and fees received by the Commission under this Act;
(ii) all sums received by the Commission from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(i) the salaries, allowances and other remuneration of the members, officers and other employees of the Commission;

(ii) the expenses of the Commission in the discharge of its functions under section 4;

(iii) the expenses on objects and for purposes authorised by this Act:

Provided that the sums authorised to be paid and applied from and out of the Consolidated Fund of India and appropriated by law made by Parliament for the services and purposes of the Commission shall continue to be paid and applied for such services and purposes of the Commission till the Fund is constituted under this section.

4F. Accounts and audit : (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Commission shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts, and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.”.

10. Amendment of Section 5 : In section 5 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “forward contracts”, the words “forward contracts or option in goods or option in commodity derivative” shall be substituted;

(ii) for the words “Central Government”, the word “Commission” shall be substituted;

(b) in sub-section (2), for the words “forward contracts”, the words “forward contracts or option in goods or option in commodity derivative” shall be substituted;

(c) the following proviso shall be inserted at the end, namely:—

“Provided that the applications made to the Central Government, on or before the commencement of

the Forward Contracts (Regulation) Amendment Ordinance, 2008 and pending with the Central Government on such date, shall be transferred to the Commission and thereafter the Commission shall dispose of such applications in accordance with the provisions of this Act.”.

11. Amendment of section 6 : In section 6 of the principal Act,—

(a) in sub-section (1),

(i) for the words “Central Government”, the word “Commission” shall be substituted;

(ii) for the words “the goods or classes of goods with respect to which forward contracts may be entered”, the words “the goods or classes of goods or commodity derivative or classes of commodity derivatives with respect to which forward contracts or options may be entered” shall be substituted;

(b) in sub-section (2),— -

(i) for the words “Central Government”, at both the places where they occur, the word “Commission” shall be substituted;

(ii) in clause (b), for the words “of not more than three persons”, the words “such number of persons as the Commission may, having regard to the interest of trade in commodities and commodities derivatives, specify,” shall be substituted;

(c) in sub-section (3), for the words “Central Government”, the word “Commission” shall be substituted;

(d) after sub-section (4), the following proviso shall be inserted, namely:—

“Provided that the recognition granted by the Central Government, before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall be deemed to have been granted by the Commission in accordance with the provisions of this Act.”.

12. Substitution of new section for section 7 : For section 7 of the principal Act, the following sections shall be substituted, namely:—

7. Withdrawal of recognition : (1) If the Commission is of opinion that any recognition granted to an association under the provisions of this Act should, in interest of the trade or in the public interest, be withdrawn, the Commission may, after giving a reasonable opportunity to the association to be heard in the matter, withdraw, by notification, the recognition granted to the said association:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Commission may make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contract outstanding on that date.

(2) Where the recognised association has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 7B within the specified time therefor or the scheme has been rejected by the Commission under sub-section (5) of section 7B, the recognition granted to such association under section 6, shall, notwithstanding anything contained contrary to any other provision of this Act, stand withdrawn and the Commission shall publish, by notification, such withdrawal of recognition:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Commission may, after consultation with the association, make such provisions as it deems fit, in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 7B.

7A. Corporation and demutualisation of associations : On and from the appointed date, all recognized associations (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 7B:

Provided that different appointed dates may be appointed for different recognized associations:

Provided further that the Commission may, if it is satisfied that any recognized association was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date,

extend the appointed date specified in respect of that recognized association and such recognized association may continue as such before such appointed date.

Explanation.- For the purposes of this section, "appointed date" means the date which the Commission may, by notification, appoint.

7B. Procedure for corporation and demutualisation : (1) All recognized associations referred to in section 7A shall, within such time as may be specified by the Commission, submit a scheme for corporatisation and demutualisation for its approval:

Provided that the Commission may, by notification, specify name of the recognised association, which had already been-corporatised and demutualised, and such association shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Commission may, after making such inquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade in goods or commodity derivatives and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Commission if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised association or payment-of dividends to members have been proposed out of any reserves or assets of that association.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Commission in the Official Gazette;

(b) the recognised association in such two daily newspapers circulating in India, as may be specified by the Commission, and upon such publication, notwithstanding anything contained contrary to any other provision of this Act or in any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members, creditors, depositors and employees of the recognised association and on all persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised association or its members.

(5) Where the Commission is satisfied that it would not be in the interest of the trade in goods or commodity derivatives and also in the public interest to approve the scheme- under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette:

Provided that the Commission shall give a reasonable opportunity of being heard to all the persons concerned and the recognised association concerned before passing an order rejecting the scheme.

(6) The Commission may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also members of the recognised association;

(b) the right of shareholders or a member of the recognised association to appoint the representatives on the governing board of the association;

(c) the maximum number of representatives of the members of the recognized association to be appointed on the governing board of the association, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956, (1 of 1956) or in any other law for the time being in force, have full effect.

(8) Every recognised association, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2) shall, either by fresh issue of equity shares to

the public or in any other manner as may be specified by the regulations made by the Commission, ensure that at least fifty-one per cent. of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights:

Provided that the Commission may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.'

13. Amendment of section 8 : In section 8 of the principal Act,—

(a) in sub-sections (1) and (2) for the words "Central Government" wherever they occur, the words "Central Government or Commission" shall respectively be substituted;

(b) in sub-section (2), in clause (c), for the words "direct the Commission", the words "direct any agency or any of its officers" shall be substituted;

(c) in sub-section (3) for the word "inquiry" wherever it occurs, the words "inquiry or inspection" shall be substituted.

14. Amendment of section 9A : In section 9A of the principal Act, in sub-section (2),—

(a) for the words "Central Government" wherever they occur, the words "Central Government or Commission" shall be substituted;

(b) for the words "that Government", the words "that Government or Commission" shall be substituted.

15. Substitution of new sections for section 10 : For section 10 of the principal Act, the following sections shall be substituted, namely:—

"10. Power of Commission to direct rules to be made or to make rules : (1) When ever the Commission considers it expedient so to do, it may, by order in writing, direct any recognised association to make any rules or to amend any rules made by the recognised association within such period, as it may specify in this behalf.

(2) If any recognized association, against whom an order is issued by the Commission under sub-section (1) fails or neglects to comply with such order within the specified period, the Commission may make the rules or amend the rules made by the recognized association, as the case may be, either in the form specified in the order or with such modification thereof as the Commission may think fit.

(3) Where, in pursuance of sub-section (2), any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India, and shall, thereupon, have effect notwithstanding anything to the contrary contained in the Companies Act, 1956 or any other law for the time being in force, as if they had been made or amended by the recognized association concerned.

10A. Clearing corporation : (1) A recognized association may, with the prior approval of the Commission, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956, (1 of 1956) for the purposes of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, goods;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1), make bye-laws and submit the same to the Commission for its approval.

(3) The Commission may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the bye-laws submitted to it under sub-section (2) and approve transfer of the duties and functions, of clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 12A, 12B and 13 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised

association.”.

16. Amendment of section 11 : In section 11 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “Central Government”, the word “Commission” shall be substituted;

(ii) for the words “forward contracts”, the words “forward contracts or option in goods or option in commodity derivative” shall be substituted;

(b) in sub-section (2), after the word “goods” wherever it occurs, the words “or forward contracts or option in goods or option in commodity derivative” shall be inserted;

(c) in sub-section (3), in clause (aa), for the brackets, figure and letter “(3A)”, the brackets and figure “(4)” shall be substituted;

(d) in sub-section (4) and the proviso, for the words “Central Government” at both the places where they occur, the word “Commission” shall be substituted.

17. Substitution of new sections for sections 12 and 12 A : For sections 12 and 12A of the principal Act, the following sections shall be substituted, namely:—

“12. Power of Commission to make or amend bye-laws of recognized association : (1)

The-Commission may, either on a request in writing received by it in this behalf from the governing body of a recognised association, or if in its opinion it is expedient so to do, make bye-laws for all or any of the matters specified in section 11 or amend any bye-laws made by such association under that section.

(2) Where, in pursuance of this section, any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Gazette of India and shall thereupon have effect as if they had been made or amended by the recognised association.

(3) Notwithstanding anything contained in this section, where the governing body of a recognized association objects to any bye-laws made or amended under this section by the Commission on its own motion, it may, within six months of the publication thereof under sub-section (2), apply to the Commission for a revision thereof, and the Commission may, after giving a reasonable opportunity to the governing body of the association to be-heard in the matter, revise the bye-laws so made or amended, and where any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the bye-laws so revised shall be published and shall become effective as provided in sub-section (2).

(4) The making or amendment or revision of any bye-laws under this section shall in all cases be subject to such conditions in regard to the previous publications as may be prescribed:

Provided that the Commission may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication.

12A. Application of amendment of bye-laws to existing forward contracts or option in goods or option in commodity derivative : Any amendment of a bye-law made under section 11 other than an amendment made in pursuance of clause (a) or clause(aa) of sub-section (3) of that section or under section 12 shall also apply to all forward contracts or option in goods or option in commodity derivative entered into before the date of its approval by the Commission or before the date of its publication in the Gazette of India, as the case may be, and remaining to be performed on or after the said date.”.

18. Amendment of section 12 B : In section 12B of the principal Act,—

(a) in sub-section (1),—

(i) for the words “forward contract”, the words “forward contract or option in goods or option in commodity derivative” shall be substituted;

(ii) the words “of any goods or class of goods” shall be omitted;

(iii) after the words “any such contract”, the words “or option in goods or option in commodity derivatives” shall be inserted;

(b) in sub-section (3), for the words “forward contract” at both the places where they occur, the

words "forward contract or option in goods or option in commodity derivative" shall be substituted.

19. Substitution of new section for section 133 : For section 13 of the principal Act, the following section shall be substituted, namely:—

"13. Power of commission to supersede governing body of recognized association : (1)

Without prejudice to any other powers vested in the Commission under this Act, where the Commission is of the opinion that the governing body of any recognised association should be superseded, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the Commission may, after giving a reasonable opportunity to the governing body of the recognized association concerned to show cause why it should not be superseded, by notification, declare the governing body of such association to -be superseded for such period not exceeding six months as may be specified in -the notification, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and where more persons than one are appointed, may appoint one of such persons to be the chairman and another of such person to be the vice-chairman.

(2) On the publication of a notification under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised association as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry out the purposes of this Act, shall vest in such person-or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the association whose governing body is superseded under sub-section (1), the person or persons appointed under that sub-section shall hold office for such period as may be specified in the notification published under that sub-section, and the Commission may, from time to time, by like notification, vary such period.

(4) On the determination of the period of office of any person or persons appointed under this section, the recognised association shall forthwith reconstitute a governing body in accordance with its rules:

Provided that until a governing body is so reconstituted, the person or persons appointed under sub-section (1), shall, notwithstanding anything contained in sub-section (1), continue to exercise and perform their powers and duties.

(5) On the reconstitution of a governing body under sub-section (4), all the property of the recognised association which had vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall vest or re-vest, as the case may be, in the governing body so reconstituted."

20. Amendment of section 14 : In section 14 of the principal Act, for the words "Central Government" at both the places where they occur, the word "Commission" shall be substituted.

21. Substitution of new Chapter for Chapter III A : For Chapter IIIA of the principal Act, the following Chapter shall be substituted, namely:—

"CHAPTER III A

REGISTRATION OF MEMBERS AND INTERMEDIARIES

14A. Registration of members and intermediaries : (1) On and from the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, no person intending to act as a member or intermediary shall deal in forward contract or option in goods or option in commodity derivative except under and in accordance with the conditions of a certificate of registration granted by the Commission in accordance with the regulations made under this Ordinance.

(2) A person, who in his capacity as a member or intermediary intends to deal in forward contract or

option in goods or option in commodity derivative shall make an application for a certificate of registration to the Commission in such form along with such fee and containing such particulars as may be provided by regulations:

Provided that a person who was acting as a member or intermediary, before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, may continue to do so for a period of six months from the date of such commencement if he has made an application for registration within the said period of six months, till the disposal of such application, whichever is later:

Provided further that the Commission may, by regulations, specify different fees for a class or classes of members or intermediaries on the basis of turnover of the business of such members or intermediaries.

(3) No foreign participant or foreign intermediary associated with the commodity derivatives market, as the Commission may, by notification in this behalf, specify, shall deal in forward contract or option in goods or option in commodity derivative except under and in accordance with the conditions of a certificate of registration obtained from the Commission in accordance with the regulations made under this Ordinance:

Provided that a foreign participant or foreign intermediary dealing in forward contract or option in goods or option in commodity derivative immediately before the commencement of this Ordinance, for which no certificate of registration was required prior to such commencement, may continue to deal in forward contract or option in goods until such time as rules may be made by the Central Government for such dealings or in case no such rules have been made until permitted as such by the Commission by notification.

(4) On receipt of an application under sub-section (2), the Commission may, after making such inquiry as it considers necessary in this behalf, by order in writing, grant a certificate of registration on such terms and conditions as may be specified by regulations or refuse to grant such certificate:

Provided that, before refusing to grant such certificate, the person making the application shall be given an opportunity of being heard in the matter.

14B. Suspension or cancellation of certificate of registration : The Commission may, by order, suspend or cancel the certificate of registration in such manner as may be provided by regulations:

Provided that no order under this section shall be made unless the person concerned has been given an opportunity of being heard in the matter.”.

22. Substitution of new sections for sections 15, 16 and 17 : For sections 15, 16 and 17 of the principal Act, the following sections shall be substituted, namely:—

"15 Forward contracts illegal or void in certain circumstances : (1) Subject to the provisions contained in sections 17 and 18, every forward contract, entered into otherwise than between members of a recognized association or through or with any such member, shall be illegal.

(2) Any forward contract entered into in pursuance of sub-section (1) which is in contravention of any of the bye-laws specified in this behalf under clause (a) of sub-section (3) of section 11 shall be void—

(a) as respects the rights of any member of the recognised association who has entered into contract in contravention of any such bye-law and also,

(b) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(3) Nothing in sub-section (2) shall affect the right of any person other than a member of the recognised association to enforce any such contract or to recover any sum under or in respect of such contract:

Provided- that such person had no knowledge that such transaction was in contravention of any of the bye-laws specified under clause (a) of sub-section (3) of section 11.

(4) Any forward contract entered into in pursuance of sub-section (1) which at the date of the contract is in contravention of any of the bye-laws specified in this behalf under clause (aa) of sub-section (3) of section 11 shall be illegal.

(5) No member of a recognised association shall enter into any contract, on his own account with any person other than a member of the recognised association, unless he has secured the consent or authority of such person and discloses in the note, memorandum or agreement of sale or purchase that he has bought or sold the forward contract, as the case may be, on his own account:

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure a written confirmation by such person of such consent or authority within three days from the date of such contract:

Provided further that in respect of any outstanding contract entered into by a member with a person other than a member of the recognised association, no consent or authority of such person shall be necessary for closing Out in accordance with the bye-laws, the outstanding contract, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he has bought or sold the goods, forward contract or option in goods. or option in commodity derivative, as the case may be, on his own account.

16. Consequences of contravention of section 15 : Notwithstanding anything contained in any other law for the time being in force or in any custom, usage or practice of the trade or the terms of any contract or the bye-laws of any association concerned relating to any contract,—

(a) every forward contract entered into on or before the date of commencement magement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, and remaining to be performed after the said date and which is not in conformity with the provisions of section 15, shall be deemed to be closed out at such rate as the Commission may fix in this behalf and different rates may be fixed for different classes of such contracts;

(b) all differences arising out of any contract (b) so deemed to be closed out shall be payable on the basis of the rate fixed under clause (a) and the seller shall not be bound to give and the buyer shall not be bound to take delivery of the goods.

17. Power to prohibit forward contract or options in goods or option in commodity derivative : (1) The Central Government may, by notification, declare that no person shall, save with the permission of the Central Government, deal in any forward contract -or option in goods or option in commodity derivative specified in the notification, except to the extent and in the manner, if any, as may be specified in the notification.

(2) All forward contracts or options in goods or options in commodity derivative in contravention of the provisions of sub-section (1) entered into after the date of publication of the notification thereunder shall be illegal.

(3) Where a notification has been issued under sub-section (1), the provisions of section 16 shall, in the absence of anything to the contrary in the notification, apply to all forward contracts and options in goods for the sale or purchase of any goods specified in the notification (entered into on or before the date of the notification) and remaining to be performed after the said date.”. –

23. Amendment of section 18 : In section 18 of the principal Act,—

(a) in sub-section (1),

(i) ‘for the words “non-transferable specific delivery contracts”, the words and brackets “specific delivery contracts (both transferable and non-transferable)” shall be substituted;

(ii) in the proviso, for the words “non-transferable specific delivery contract”, - the words and brackets “specific delivery contracts (both transferable and non-transferable)” shall be substituted;

(b) sub-section (2) shall be omitted;

(c) in sub-section (3), for the words “non-transferable specific delivery contracts” at both the

places where they occur, the words and brackets “specific delivery contracts (both transferable and non-transferable)” shall be substituted.

24. Substitution of new section for section 19 : For section 19 of the principal Act, the following section shall be substituted, namely:—

“19. Option in goods or option in commodity derivative illegal in certain circumstances : (1) Any option in goods or option in commodity derivative which has been entered into on or after the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, otherwise than between members of a recognised association or through or with any such member shall be illegal.

(2) The provisions of sub-sections (2), (3), (4) and (5) of section 15 shall apply to options in goods or option in commodity derivative as they apply in relation to a forward contract.”.

25. Amendment of section 20 : In section 20 of the principal Act,—

(i) in clause (a), in sub-clause (iii), for the words “forward contract”, the words “forward contract or option in goods or option in commodity derivative” shall be substituted;

(ii) clause (b) shall be omitted;

(iii) in clause (c), for the words “forward contract”, the words “forward contract or option in goods or option in commodity derivative” shall be substituted;

(iv) after clause (d), the following clause shall be inserted, namely:—

“(da) fails to make or accept delivery of goods covered by non-transferable specific delivery contracts or by transferable specific contracts where rights and obligations have not been transferred, as the case may be; or”;

(v) for clause (e), the following clause shall be substituted, namely:—

“(e) enters into any forward contract or option in goods or option in commodity derivative in contravention of any of the provisions contained in sub-section (1) or sub-section (4) or sub-section (5) of section 15 or section 17 or section 19,”;

(vi) after the words “shall, on conviction, be punishable—” occurring below clause (e),—

(A) in clause (i), for the words “one thousand rupees”, the words “twenty-five thousand rupees but which may extend to twenty-five lakh rupees” shall be substituted;

(B) in clause (ii),

(i) for the words, brackets and letter “under clause (d)”, the words, brackets and letters “under clause (d) or under clause (da)” shall be substituted;

(ii) for the words “one thousand rupees”, the words “twenty-five thousand rupees” shall be substituted.

26. Amendment of section 21 : In section 21 of the principal Act,—

(i) in clauses (a) to (J) for the words “forward contracts” wherever they occur, the words “forward contract or option in goods or option in commodity derivative” shall be substituted;

(ii) in clause (g), for the words and figures “in respect of goods to which the provisions of section 15 have been made applicable”, the words “in respect of goods or option in goods or option in commodity derivative” shall be substituted; -

(iii) for clause (h), the following clause shall be substituted, namely:— “(h) manipulates or attempts to manipulate prices in respect of forward contracts or option in goods or option in commodity derivative;”;

(iv) after the words “shall, on conviction, be punishable—” occurring below clause (h), in clauses (i) and (ii), for the words “one thousand rupees”, the words “twenty-five thousand rupees but which may extend to twenty-five lakh rupees” shall be substituted. -

27. Substitution of new sections for section 21A: For section 21A of the principal Act, the following sections shall be substituted, namely:—

“21A. Penalty for failure to furnish information, return, etc: If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Commission, fails to furnish the same, he shall be liable to a penalty of twenty thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less; -

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file or furnish the same within the time specified therefor in the regulations, he shall be liable to pay a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of ten thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less;

(d) or who was in charge of, and was responsible to, an association for the conduct of the business of the association, obstructs any officer of the Commission or any other person authorised by it to conduct inspection or to discharge any other function assigned by the Commission, such person as well as the association shall be liable to pay a fine of rupees One lakh for every occasion of such obstruction.

21B. Penalty for failure by any person to enter into an agreement with clients : If any person, who is registered as a member or an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to a penalty of twenty thousand rupees for each such failure during which such failure continues or five lakh rupees, whichever is less.

21C. Penalty for failure to redress clients grievances : If any person, who is registered as a member or an intermediary, after having been called upon by the Commission in writing to redress the grievances of clients, fails to redress such grievances within the time specified by the Commission, he shall be liable to a penalty not exceeding two thousand rupees for each day during which such failure continues of five lakh rupees, whichever is less.

21 D. Penalty for insider trading : If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in forward contract or option in goods or option-in commodity derivative on any association on the basis of any unpublished price sensitive information; or

(ii) communicates any unpublished price sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any forward contract or option in goods or option in commodity derivative on the basis of unpublished price sensitive information,

shall be liable to a penalty of twenty-five lakh rupees or three times, the amount of profits made out of insider trading, whichever is higher.

21E. Penalty for fraudulent and unfair trade practices : If any person indulges in fraudulent and unfair trade practices relating to forward contract or option in goods or -option in commodity derivative, he shall be liable to a penalty of twenty-five lakh rupees or three times the amount of profits made out of such practices, whichever is higher.

21F. Penalty for default in case of an Intermediary : If any person, who is registered as an intermediary under this Act or any regulations made thereunder,

(a) fails to issue contract notes in the form and manner specified by the association of which such intermediary is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that intermediary;

(b) fails to deliver any goods or fails to make payment of the amount due to the client or in the manner or within the period specified in the regulations, he shall be liable to a penalty not exceeding five - thousand rupees - for each day during which such failure continues;

(c) charges an amount of brokerage which is in excess of the brokerage specified by the

association, he shall be liable to a penalty of five thousand rupees or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

21G. Penalty for failure to comply with directions of commission : Any person, who fails to comply with the directions issued by the Commission under section 4B, shall be liable to pay a penalty not exceeding two lakh rupees for each day during which such failure continues which may extend to five lakh rupees.

21 H. Consequences of failure to pay penalty : (1) Without prejudice to any -award of penalty by the adjudicating officer under this Act, if any person -contravenes or attempts to contravene or abets the contravention any of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years or with fine or with both.

21-I. Power to adjudicate :(1) For the purposes of adjudging under sections 21 A to 21 G, the Commission shall appoint any of its officers not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit-in accordance with the provisions of any of those sections. –

21J. Factors to be taken into account by adjudicating officer : While adjudging the quantum of penalty under section 21-I, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to a client or group of clients as a result of the default;
- (c) the repetitive nature of the default.

21K. Crediting sums realized by way of penalties to Consolidated Fund of India : All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India. –

21L. Power of court to order forfeiture of property : Any court trying an offence punishable under this Act, may, if it thinks fit and in addition to any sentence which it may impose for such offence, direct that any money, goods or other property in respect of which the offence has been committed, shall be forfeited to the Central Government.

Explanation- For the purposes of this section, property in respect of which an offence has been committed, shall include deposits in a bank where the said property is converted into such deposits.”

28. Amendment of section 22A. : In section 22A of the principal Act,—

- (a) in sub-section (1),—
 - (i) after the words “forward contracts or options in goods”, the words “or option in commodity derivative” shall be inserted;
 - (ii) after the words “forward contract or option in goods”, the words “or option in commodity derivative” shall be inserted;
- (b) for sub-section (2), the following sub-sections shall be substituted, namely:—
 - “(2) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to search or seizure made under sub-section (1) as they apply to any search or seizure made under

the authority of a warrant issued under section 94 of the said Code.

(3) The Commission may, notwithstanding anything contained in this Act, file cases in respect of offences committed under this Act, directly to the courts having jurisdiction in respect of such offences.”

29. Amendment of section 22B : In section 22B of the principal Act, in sub-section (1), after the words “or option in goods”, the words “or option in commodity derivative” shall be inserted.

30. Insertion of new section 22C : After section 22B of the principal Act, the following section shall be inserted, -namely:—

“22C. Investigation : (1) Where the Commission has reasonable grounds to believe that

(a) the transactions in forward contracts or option in goods or option in commodity derivative are being dealt with in a manner detrimental to the commodity market or person associated with the commodity market; or –

(b) any intermediary or any person associated with the commodities market has violated any of the provisions of this Act or the rules or regulations made or directions issued by the Commission thereunder, it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or person associated with the commodities market and to report thereon to the Commission.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956. it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 14A, every person associated with the commodities market to preserve and to produce to the Investigating Authority or any person authorised by him in this behalf, all the books, registers, other documents and record of, or relating to,- the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with commodities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by him in this behalf as he may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter shall return the same to any intermediary or any person associated with commodities market by whom or on whose behalf the books, registers, other documents and record are produced:

Provided that the Investigating Authority may call for any books, registers, other documents and record if they are needed again:

Provided further that if the person on whose behalf the, books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with commodities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes. of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to one lakh rupees, or with both, and also with a further fine which may extend to twenty thousand rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him. –

(8) Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with commodities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record.

(9) After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, as it considers necessary for the purposes of the investigation.

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the -conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized and inform the Magistrate of such returns

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, (74 of 1952) relating to searches or seizures made under that Code.”.

31. Amendment of section 23 : In section 23 of the principal Act, after clause (d), the following clause shall be inserted, namely:—

“(e) an offence falling under section 21 H.”.

32. Insertion of new section 24 A : In Chapter V of the principal Act, after section 24, the following section shall be inserted, namely:—

“24A. Civil court not to have jurisdiction : No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.”.

33. Insertion of new Chapter VA : After Chapter V of the principal Act, the following Chapter shall be inserted, namely:—

‘CHAPTER VA

JURISDICTION AND AUTHORITY OF APPELLATE TRIBUNAL

24B. Appeal to Appellate Tribunal : (1) Save as provided in sub-section (2), any person aggrieved on or after the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, or by an order of the Commission made, or the rules or regulations made thereunder or by an order made by an adjudicating officer under this Act may prefer an appeal to the Appellate Tribunal having jurisdiction in the matter.

(2) The Central Government shall specify, by notification, the matters and places in relation to which the Appellate Tribunal may exercise jurisdiction.

(3) No appeal shall lie to the Appellate Tribunal from an order made by the Commission or an adjudicating officer with the consent of the parties.

(4) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Chairman of the Commission is received by the aggrieved person and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within that period. - -

(5) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(6) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned authority whose order has been appealed against.

(7) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

24C. Right to legal representation : The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

Explanation.- For the purposes of this section,

(a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

24D. Limitation : The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to the Appellate Tribunal.

24E. Appeal to Supreme Court : Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."

34. Insertion of new sections 26A, 26B, 26C, 26D, 26E and 26F : After section 26 of the principal

Act, the following sections shall be inserted, namely:—

“26A. Power of Central Government to issue directions : (I) Without prejudice to the foregoing provisions of this Act, the Commission shall, in exercise of its powers or performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Commission shall, as far as practicable, be given an opportunity to express its views before any direction is given under this subsection.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

26B. Power of Central Government to supersede Commission : (1) If at any time the Central Government is of the opinion—

(a) that on account of grave emergency, the Commission is unable to discharge the functions and perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Commission has persistently made wilful default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and perform the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Commission or the administration of the Commission has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the commission for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Commission,—

(a) all the members 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 this Act, be exercised or discharged by or on behalf of the Commission shall, until the Commission is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Commission shall, until the Commission is reconstituted, vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Commission by fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for such appointment:

Provided that the Central Government may at any time before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

26C. Returns and reports :(1) The Commission shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the commodities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Commission shall, within ninety days, after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the, previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

26D. Delegation : The Commission may, by general or special order in writing, delegate to any member or officer of the Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 28) as it may deem necessary.

26E. Bar of Jurisdiction : No order passed by the Commission or the adjudicating officer under this Act shall be appealable except as provided in section 24B and no civil court shall have jurisdiction in respect of any matter which the Commission or the adjudicating officer is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Commission or the adjudicating officer by, or under, this Act.

26F. Members, officers and employees of commission to be public servants : All members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.". (45 of 1860)

35. Insertion of new section 27B : After section 27A of the principal Act, the following section shall be inserted, namely:—

"27B. Exemption from tax on wealth and income : Notwithstanding anything contained in the Wealth-tax Act, 1957, (27 of 1957) the Income-tax Act, 1961, (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Commission shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived."

36. Amendment of section 28 : In section 28 of the principal Act, in sub-section (2),—

(i) clause (cc) shall be omitted;

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

"(g) the duties and powers which maybe performed.or exercised by the Commission under clause (q) of section 4;

(h) the form and manner in which the annual statement of accounts shall be maintained under sub-section (1) of section 4F;

(i) the rules for dealing by foreign participant or foreign intermediary under the proviso to sub-section (3) of section 14A;

(j) the manner in which an inquiry shall be held under sub-section (1) of section 21-I;

(k) the form in which an appeal may be filed before the Appellate Tribunal under sub-section (4) of section 24B and the fees payable in respect of such appeal;

(l) the form and the manner in which returns and report to be made to the Central Government under section 26C;

(m) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules."

37. Insertion of new sections 28 A and 28 B : After section 28 of the principal Act, the following sections shall be inserted, namely:—

"28A. Power to make regulations :(1) The Commission may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

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

(a) the time and. places of meetings of the Commission and the procedure to be followed at such meetings under section 3D including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Commission under

sub-section (2) of section 3H;

(c) the manner in which the fresh issue of equity shares shall be made to the public under sub-section (8) of section 7B;

(d) the conditions of certificate of registration to act as a member or intermediary to deal with forward contract or option in goods or option in commodity derivative under sub-section (1) of section 14A;

(e) the fee for a class or classes of member or intermediary under the second proviso to sub-section (2) of section 14A;

(f) the terms and conditions subject to which registration may be granted under sub-section (4) of section 14A;

(g) the manner in which the certificate of registration may be suspended or cancelled under section 14B;

(h) any other matter relating to trading, clearing, settlement, and delivery of goods, forward contract, option in goods or option in commodity derivative.

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

28B. Application of other laws not barred : The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.”.

CHAPTER III

AMENDMENT TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

38. Amendment of section 15U of Act 15 of 1992 : In section 15U of the Securities and Exchange Board of India Act, 1992, in sub-section (2), for the ‘words “under this Act”, the words “under this Act or any other law for the time being in force” shall be substituted.

ಭಾರತದ ರಾಷ್ಟ್ರಪತಿಯವರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ

ಪಿ.ಆರ್. 19

ಸಹಾಯಕ ಪ್ರಾರೋಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ
ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಾಜಿ 13 ಕೇಶಾಪ 2008, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 10ನೇ ಮಾರ್ಚ್ 2008

2007ನೇ ಸಾಲಿನ ಡಿಸೆಂಬರ್ 20ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Payment and Settlement Systems Act, 2007 (Act No. 51 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007

AN

ACT

to provide for the regulation and supervision of payment systems in India and to designate the Reserve Bank of India as the authority for that purpose and for matters connected therewith or incidental thereto.

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

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement : (1) This Act may be called the Payment and Settlement Systems Act, 2007

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act, and any reference to the commencement in any such provision of this Act shall be construed as a reference to the commencement of that provision.

2. Definitions : (1) In this Act, unless the context otherwise requires,—

(a) “bank” means,—

(i) a bank included in the Second Schedule to the Reserve Bank of India Act, 1934; (2 of 1934)

(ii) a post office savings bank;

(iii) a banking company as defined in clause (c) of section 5, of the Banking Regulation Act, 1949; (10 of 1949)

(iv) a co-operative bank as defined in clause (cci) of section 5, as inserted by section 56, of the Banking Regulation Act, 1949; (10 of 1949) and

(v) such other bank as the Reserve Bank may, be notification, specify for the purposes of this Act;

(b) “derivative” means an instrument, to be settled at a future date, whose value is derived from change in interest rate, foreign exchange rate, credit rating or credit index, price of securities (also called “underlying”), or any other underlying or a combination of more than one of them and includes interest rate swaps, forward rate agreements, foreign currency swaps, foreign currency rupee swaps, foreign currency options, foreign currency rupee options or any other instrument, as may be specified by the Reserve Bank from time to time;

(c) “electronic funds transfer” means any transfer of funds which is initiated by a person by way of instruction, authorisation or order to a bank to debit or credit an account maintained with that bank through electronic means and includes point of sale transfers; automated teller machine transactions, direct deposits or withdrawal of funds, transfers initiated by telephone, internet and, card payment;

(d) “gross” settlement system means a payment system in which each settlement of funds or securities occurs on the basis of separate or individual instructions;

(e) “netting” means the determination by the system provider of the amount of money or securities, due or payable or deliverable, as a result of setting off or adjusting, the payment obligations or delivery obligations among the system participants, including the claims and obligations arising out of the termination by the system provider, on the insolvency or dissolution or winding up of any system participant or such other circumstances as the system provider may specify in its rules or regulations or bye-laws (by whatever name called), of the transactions admitted for settlement at a future date so that only a net claim be demanded or a net obligation be owned;

(f) “notification” means a notification published in the Official Gazette;

(g) “payment instruction” means any instrument, authorisation or order in any form, including electronic means, to effect a payment,

(i) by a person to a system participant; or

(ii) by a system participant to another system participant;

(h) “payment obligation” means an indebtedness that is owned by one system participant to another system participant as a result of clearing or settlement of one or more payment instructions relating to funds, securities or foreign exchange or derivatives or other transactions;

(i) “payment system” means a system that enables payment to be effected between a payer and a

beneficiary, involving clearing, payment or settlement service or all of them, but does not include a stock exchange;

Explanation.- For the purposes of this clause, "payment system" includes the systems enabling credit card operations, debit card operations, smart card operations, money transfer operations or similar operations;

(j) "prescribed" means prescribed by regulations made under this Act;

(k) "regulation" means a regulation made under this Act;

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

(m) "securities" means the Government securities as defined in the Public Debt Act, 1944 (18 of 1944) or such, other securities as may be notified by the Central Government from time to time under that Act;

(n) "settlement" means settlement of payment instructions and includes the settlement of securities, foreign exchange or derivatives or other transactions which involve payment obligations;

(o) "systemic risk" means the risk arising from—

(i) the inability of a system participant to meet his payment obligations under the payment system as and when they become due; or

(ii) any disruption in the system,

which may cause other participants to fail to meet their obligations when due and is likely to have an impact on the stability of the system:

Provided that if any doubt or difference arises as to whether a particular risk is likely to have an impact on the stability of the system, the decision of the Reserve Bank shall be final;

(p) "system participant" means a bank or any other person participating in a payment system and includes the system provider;

(q) "system provider" means a person who operates an authorised payment system.

(2) Words and expressions used, but not defined in this Act and defined in the Reserve Bank of India Act, 1934 (2 of 1934) or the Banking Regulation Act, 1949, (10 of 1949) shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

DESIGNATED AUTHORITY AND ITS COMMITTEE

3. Designated authority and its Committee : (1) The Reserve Bank shall be the designated authority for the regulation and supervision of payment systems under this Act.

(2) The Reserve Bank may, for the purposes of exercising the powers and performing the functions and discharging the duties conferred on it by or under this Act, by regulation, constitute a committee of its Central Board to be known as the Board for Regulation 'and Supervision of Payment and Settlement Systems.

(3) The Board constituted under sub-section (2) shall consist of the following members, namely:—

(a) Governor, Reserve Bank, who shall be the Chairperson of the Board;

(b) Deputy Governors, Reserve Bank, out of whom the Deputy Governor who is in-charge of the Payment and Settlement Systems, shall be the Vice-Chairperson of the Board;

(c) Not exceeding three Directors from the Central Board of the Reserve Bank of India to be nominated by the Governor, Reserve Bank.

(4) The powers and functions of the Board constituted under sub-section (2), the time and venue of its meetings, the procedure to be followed in such meetings, (including the quorum at such meetings) and other matters incidental thereto shall be such as may be prescribed.

(5) The Board for Regulation and Supervision of Payment and Settlement Systems constituted under clause (i) of sub-section (2) of section 58 of the Reserve Bank of India Act, 1934 (2 of 1934) shall

be deemed to be the Board constituted under this section and continue accordingly until the Board is reconstituted in accordance with the provisions of this Act and shall be governed by the rules and regulations made under the Reserve Bank of India Act, 1934 in so far as they are not inconsistent with the provisions of this Act.

CHAPTER III

AUTHORISATION OF PAYMENT SYSTEMS

4. Payment system not to operate without authorisation : (1) No person, other than the Reserve Bank, shall commence or operate a payment system except under and in accordance with an authorisation issued by the Reserve Bank under the provisions of this Act:

Provided that nothing contained in this section shall apply to—

(a) the continued operation of an existing payment system on commencement of this Act for a period not exceeding six months from such commencement, unless within such period, the operator of such payment system obtains an authorisation under this Act or the application for authorisation made under section 7 of this Act is refused by the Reserve Bank;

(b) any person acting as the duly appointed agent of another person to whom the payment is due;

(c) a company accepting payments either from its holding company or any of its subsidiary companies or from any other company which is also a subsidiary of the same holding company;

(d) any other person whom the Reserve Bank may, after considering the interests of monetary policy or efficient operation of payment systems, the size of any payment system or for any other reason, by notification, exempt from the provisions of this section.

(2) The Reserve Bank may, under sub-section (1) of this section, authorise a company or corporation to operate or regulate the existing clearing houses or new clearing houses of banks in order to have a common retail clearing house system for the banks throughout the country:

Provided, however, that not less than fifty-one per cent. of the equity of such company or corporation shall be held by public sector banks.

Explanation.- For the purposes of this clause, "public sector banks" shall include a "corresponding new bank", "State Bank of India" and "subsidiary bank" as defined in section 5 of the Banking Regulation Act, 1949. (10 of 1949)

5. Application for authorisation : (1) Any person desirous of commencing or carrying on a payment system may apply to the Reserve Bank for an authorisation under this Act.

(2) An application under sub-section (1) shall be made in such form and in such manner and shall be accompanied by such fees as may be prescribed.

6. Inquiry by the Reserve Bank : After the receipt of an application under section 5, and before an authorisation is issued under this Act, the Reserve Bank may make such inquiries as it may consider necessary for the purpose of satisfying itself about the genuineness of the particulars furnished by the applicant, his capacity to operate the payment system, the credentials of the participants or for any other reason and when such an inquiry is conducted by any person authorised by it in this behalf, it may require a report from such person in respect of the inquiry.

7. Issue or refusal of authorisation : (1) The Reserve Bank may, if satisfied, after any inquiry under section 6 or otherwise, that the application is complete in all respects and that it conforms to the provisions of this Act and the regulations issue an authorisation for operating the payment system under this Act having regard to the following considerations, namely:—

- (i) the need for the proposed payment system or the services proposed to be undertaken by it;
- (ii) the technical standards or the design of the proposed payment system;
- (iii) the terms and conditions of operation of the proposed payment system including any security

procedure;

- (iv) the manner in which transfer of funds may be effected within the payment system;
- (v) the procedure for netting of payment instructions effecting the payment obligations under the payment system;
- (vi) the financial status, experience of management and integrity if the applicant;
- (vii) interests of consumers, including the terms and conditions governing their relationship with payment system providers;
- (viii) monetary and credit policies; and
- (ix) such other factors as may be considered relevant by the Reserve Bank.

(2) An authorisation issued under sub-section (1) shall be in such form as may be prescribed and shall—

- (a) state the date on which it takes effect;
- (b) state the conditions subject to which the authorisation shall be in force;
- (c) indicate the payment of fees, if any, to be paid for the authorisation to be in force;
- (d) if it considers necessary, require the applicant to furnish such security for the proper conduct of the payment system under the provisions of this Act;
- (e) continue to be in force till the authorisation is revoked.

(3) Where the Reserve Bank considers that the application for authorisation should be refused, it shall give the applicant a written notice to that effect stating the reasons for the refusal:

Provided that no such application shall be refused unless the applicant is given a reasonable opportunity of being heard.

(4) Every application for authorisation shall be processed by the Reserve Bank as soon as possible and an endeavour shall be made to dispose of such application within six months from the date of filing of such application.

8. Revocation of authorisation : (1) If a system provider,—

- (i) contravenes any provisions of this Act, or
- (ii) does not comply with the regulations, or
- (iii) fails to comply with the orders or directions issued by the designated authority, or
- (iv) operates the payment system contrary to the conditions subject to which the authorisation was issued,

the Reserve Bank may, by order, revoke the authorisation given to such system provider under this Act:

Provided that no order of revocation under sub-section (1) shall be made

- (i) except after giving the system provider a reasonable opportunity of being heard; and
- (ii) without prejudice to the direction of the Reserve Bank to the system provider that the operation of the payment system shall not be carried out till the order of revocation is issued.

(2) Nothing contained in sub-section (1) shall apply to a case where the Reserve Bank considers it necessary to revoke the authorisation given to a payment system in the interest of the monetary policy of the country or for any other reasons to be specified by it in the order.

(3) The order of revocation issued under sub-section (1) shall include necessary provisions to protect and safeguard the interests of persons affected by such order of revocation.

(4) Where a system provider becomes insolvent or dissolved or wound up, such system provider shall inform, that fact to the Reserve Bank and thereupon the Reserve Bank shall take such steps as deemed necessary to revoke the authorisation issued to such system provider to operate the payment

system.

9. Appeal to the Central Government : (1) Any applicant for an authorisation whose application for the operation of the payment system is refused under sub-section (3) of section 7 or a system provider who is aggrieved by an order of revocation under section 8 may, within thirty days from the date on which the order is communicated to him, appeal to the Central Government.

(2) The Central Government shall endeavour to dispose of an appeal under sub-section (1) within a period of three months.

(3) The decision of the Central Government on the appeal under sub-section (1) shall be final.

CHAPTER IV

REGULATION AND SUPERVISION BY THE RESERVE BANK

10. Power to determine standards : (1) The Reserve Bank may, from time to time, prescribe—

- (a) the format of payment instructions and the size and shape of such instructions;
- (b) the timings to be maintained by payment systems;
- (c) the manner of transfer of funds within the payment system, either through paper, electronic means or in any other manner, between banks or between banks and other system participants;
- (d) such other standards to be complied with the payment systems generally;
- (e) the criteria for membership of payment systems including continuation, termination and rejection of membership;
- (f) the conditions subject to which the system participants shall participate in such fund transfers and the rights and obligations of the system participants in such funds.

(2) Without prejudice to the provisions of sub-section (1), the Reserve Bank may, from time to time, issue such guidelines, as it may consider necessary for the proper and efficient management of the payment systems generally or with reference to any particular payment system.

11. Notice of change in the payment system : (1) No system provider shall cause any change in the system which would affect the structure or the operation of the payment system without—

- (a) the prior approval of the Reserve Bank; and
- (b) giving notice of not less than thirty days to the system participants after the approval of the Reserve Bank:

Provided that in the interest of monetary policy of the country or in public interest, the Reserve Bank may permit the system provider to make any changes in a payment system without giving notice to the system participants under clause (b) or requiring the system provider to give notice for a period longer than thirty days.

(2) Where the Reserve Bank has any objection, to the proposed change for any reason, it shall communicate such objection to the systems provider within two weeks of receipt of the intimation of the proposed changes from the system provider.

(3) The system provider shall, within a period of two weeks of the receipt of the objections from the Reserve Bank forward his comments to the Reserve Bank and the proposed changes may be effected only after the receipt of approval from the Reserve Bank.

12. Power to call for returns, documents or other information : The Reserve Bank may call for from any system provider such returns or documents as it may require or other information in regard to the operation of his payment system at such intervals, in such form and in such manner, as the Reserve Bank may require from time to time or as may be prescribed and such order shall be complied with.

13. Access to information : The Reserve Bank shall have right to access any information relating to the operation of any payment system and system provider and all the system participants shall provide access to such information to the Reserve Bank.

14. Power to enter and inspect : Any officer of the Reserve Bank duly authorised by it in writing in

this behalf, may for ensuing compliance with the provisions of this Act or any regulations, enter any premises where a payment system is being operated and may inspect any equipment, including any computer system or other documents situated at such premises and call upon any employee of such system provider or participant thereof or any other person working in such premises to furnish such information or documents as may be required by such officer.

15. Information, etc., to be confidential : (1) Subject to the provisions of sub-section (2), any document or information obtained by the Reserve Bank under sections 12 to 14 (both inclusive) shall be kept confidential.

(2) Notwithstanding anything contained in sub-section (1), the Reserve Bank may disclose any document or information obtained by it under sections 12 to 14 (both inclusive) to any person to whom the disclosure of such document or information is considered necessary for protecting the integrity, effectiveness or security of the payment system, or in the interest of banking or monetary policy or the operation of the payment systems generally or in the public interest.

16. Power to carry out audit and inspection : The Reserve Bank may, for the purpose of carrying out its functions under this Act, conduct or get conducted audits and inspections of a payment system or participants thereof and it shall be the duty of the system provider and the system participants to assist the Reserve Bank to carry out such audit or inspection, as the case may be.

17. Power to issue directions : Where the Reserve Bank is of the opinion that,—

(a) a payment system or a system participant is engaging in, or is about to engage in, any act, omission or course of conduct that results, or is likely to result, in systemic risk being inadequately controlled or

(b) any action under clause (a) is likely to affect the payment system, the monetary policy or the credit policy of the country,

the Reserve Bank may issue directions in writing to such payment system or system participant requiring it, within such time as the Reserve Bank may specify –

(i) to cease and desist from engaging in the act, omission or course of conduct or to ensure the system participants to cease and desist from the act, omission or course of conduct; or

(ii) to perform such acts as may be necessary, in the opinion of the Reserve Bank, to remedy the situation.

18. Power of Reserve Bank to give directions generally : Without prejudice to the provisions of the foregoing, the Reserve Bank may, if it is satisfied that for the purpose of enabling it to regulate the payment systems or in the interest of management or operation of any of the payment systems or in public interest, it is necessary so to do, lay down policies relating to the regulation of payment systems including electronic, non-electronic, domestic and international payment systems affecting domestic transactions and give such directions in writing as it may consider necessary to system providers or the system participants or any other person either generally or to any such agency and in particular, pertaining to the conduct of business relating to payment systems.

19. Directions of Reserve Bank to be complied with : Every person to whom a direction has been issued by the Reserve Bank under this Act shall comply with such direction without any delay and a report of compliance shall be furnished to the Reserve Bank within the time allowed by it.

CHAPTER V

RIGHTS AND DUTIES OF A SYSTEM PROVIDER

20. System provider to act in accordance with the Act, regulations, etc : Every system provider shall operate the payment system in accordance with the provisions of this Act, the regulations, the contract governing the relationship among the system participants, the rules and regulations which deal with the operation of the payment system and the conditions subject to which the authorisation is issued, and the directions given by the Reserve Bank from time to time.

21. Duties of a system provider : (1) Every system provider shall disclose to the existing or

potential system participants, the terms and conditions including the charges and the limitations of liability under the payment system, supply them with copies of the rules and regulations governing the operation of the payment system, netting arrangements and other relevant documents.

(2) It shall be the duty of every system provider to maintain the standards determined under this Act

22. Duty to keep documents in the payment system confidential : (1) A system provider shall not disclose to any other person the existence or contents of any document or part thereof or other information given to him by a system participant, except where such disclosure is required under the provisions of this Act or the disclosure is made with the express or implied consent of the system participant concerned or where such disclosure is in obedience to the orders passed by a court of competent jurisdiction or a statutory authority in exercise of the powers conferred by a statute.

(2) The provisions of the Bankers' Book Evidence Act, 1891 (18 of 1991) shall apply in relation to the information or documents, or other books in whatever form maintained by the system provider.

23. Settlement and netting : (1) The payment obligations and settlement instructions among the system participants shall be determined in accordance with the gross or netting procedure, as the case may be, approved by the Reserve Bank while issuing authorisation to a payment system.

(2) Where the rules providing for the operation of a payment system indicates a procedure for the distribution of losses between the system participants and the payment system, such procedure shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(3) A settlement effected under such procedure shall be final and irrevocable.

(4) Where a system participant is declared by a court of competent jurisdiction as insolvent or is dissolved or wound up, then notwithstanding anything contained in the Companies Act, 1956 (1 of 1956) or the Banking Regulation Act, 1949 (10 of 1949) or any other law for the time being in force, the order of adjudication or dissolution or winding up, as the case may be, shall not affect any settlement that has become final and irrevocable and the right of the system provider to appropriate any collaterals contributed by the system participant towards its settlement or other obligations in accordance with the rules, regulations or bye-laws of such system provider.

Explanation.- For the removal of doubts, it is hereby declared that the settlement, whether gross or net, referred to in this section is final and irrevocable as soon as the money, securities, foreign exchange or derivatives or other transactions payable as a result of such settlement is determined, whether or not such money, securities or foreign exchange or derivatives or other transactions is actually paid.

CHAPTER VI

SETTLEMENT OF DISPUTES

24. Settlement of disputes : (1) The system provider shall make provision in its rules or regulations for creation of panel consisting of not less than three system participants other than the system participants who are parties to the dispute to decide the disputes between system participants in respect of any matter connected with the operation of the payment system.

(2) Where any dispute in respect of any matter connected with the operation of the payment system arises between two- or more system participants, the system provider shall refer the dispute to the panel referred to in sub-section (1).

(3) Where any dispute arises between any system participant and the system provider or between system providers or where any of the system participants is not satisfied with the decision of the panel referred to in sub-section (1), the dispute shall be referred to the Reserve Bank.

(4) The dispute referred to the Reserve Bank for adjudication under sub-section (3) shall be disposed of by an officer of the Reserve Bank generally or specially authorised in this behalf and the decision of the Reserve Bank shall be final and binding.

(5) Where a dispute arises between the Reserve Bank, while acting in its capacity as system provider or as system participant, and another system provider or system participant, the matter shall be referred to the Central Government which may authorise an officer not below the rank of Joint Secretary

for settlement of the dispute and the decision of such officer shall be final.

25. Dishonour of electronic funds transfer for insufficiency, etc., of funds in the account : (1)

Where an electronic funds transfer initiated by a person from an account maintained by him cannot be executed on the ground that the amount of money standing to the credit of that account is insufficient to honour the transfer instruction or that it exceeds the amount arranged to be paid from that account by an agreement made with a bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of the electronic funds transfer, or with both:

Provided that nothing contained in this section shall apply unless—

(a) the electronic funds transfer was initiated for payment of any amount of money to another person for the discharge, in whole or in part, of any debt or other liability;

(b) the electronic funds transfer was initiated in accordance with the relevant procedural guidelines issued by the system provider;

(c) the beneficiary makes a demand for the payment of the said amount of money by giving a notice in writing to the person initiating the electronic funds transfer within thirty days of the receipt of information by him from the bank concerned regarding the dishonour of the electronic funds transfer; and

(d) the person initiating the electronic funds transfer fails to make the payment of the said money to the beneficiary within fifteen days of the receipt of the said notice.

(2) It shall be presumed, unless the contrary is proved, that the electronic funds transfer was initiated for the discharge, in whole or in part, of any debt or other liability.

(3) It shall not be a defence in a prosecution for an offence under sub-section (1) that the person, who initiated the electronic funds transfer through an instruction, authorisation, order or agreement, did not have reason to believe at the time of such instruction, authorisation, order or agreement that the credit of his account is insufficient to effect the electronic funds transfer.

(4) The Court shall, in respect of every proceeding under this section, on production of a communication from the bank denoting the dishonour of electronic funds transfer, presume the fact of dishonour of such electronic funds transfer, unless and until such fact is disproved.

(5) The provisions of Chapter XVII of the Negotiable Instruments Act, 1881 (26 of 1881) shall apply to the dishonour of electronic funds transfer to the extent the circumstances admit.

Explanation.— For the purposes of this section, “debt or other liability” means a legally enforceable debt or other liability, as the case may be.

CHAPTER VII

OFFENCES AND PENALTIES

26. Penalties : (1) Where a person contravenes the provisions of section 4 or fails to comply with the terms and conditions subject to which the authorisation has been issued under section 7, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years or with fine which may extend to one crore rupees or with both and with a further fine which may extend to one lakh rupees for every day, after the first during which the contravention or failure to comply continues.

(2) Whoever in any application for authorisation or in any return or other document or on any information required to be furnished by or under, or for the purpose of, any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which shall not be less than ten lakh rupees and which may extend to fifty lakh rupees.

(3) If any person fails to produce any statement, information, returns or other documents, or to

furnish any statement, information, returns or other documents, which under section 12 or under section 13, it is his duty to furnish or to answer any question relating to the operation of a payment system which is required by an officer making inspection under section 14, he shall be punishable with fine which may extend to ten lakh rupees in respect of each offence and if he persists in such refusal, to a further fine which may extend to twenty-five thousand rupees for every day for which the offence continues.

(4) If any person discloses any information, the disclosure of which is prohibited under section 22, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five lakh rupees or an amount equal to twice the amount of the damages incurred by the act of such disclosure, whichever is higher or with both.

(5) Where a direction issued under this Act is not complied with within the period stipulated by the Reserve Bank or where no such period is stipulated, within a reasonable time or where the penalty imposed by the Reserve Bank under section 30 is not paid within a period of thirty days from the date of the order, the system provider or the system participant which has failed to comply with the direction or to pay the penalty shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine which may extend to one crore rupees or with both and where the failure to comply with the direction continues, with further fine which may extend to one lakh rupees for every day, after the first during which the contravention continues.

(6) If any provision of this Act is contravened, or if any default is made in complying with any other requirement of this Act, or of any regulation, order or direction made or given or condition imposed thereunder and in respect of which no penalty has been specified, then, the person guilty of such contravention or default, as the case may be, shall be punishable with fine which may extend to ten lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to twenty-five thousand rupees for every day, after the first during which the contravention or default continues.

27. Offences by companies : (1) Where a person committing a contravention of any of the provisions of this Act or any regulation, direction or order made there under is a company, every person who, at the time of the contravention, was in-charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly

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

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any regulation, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

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

28. Cognizance of offences : (1) No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by an officer of the Reserve Bank generally or specially authorised by it in writing in this behalf, and no court, lower than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any such offence:

Provided that the Court may take cognizance of an offence punishable under section 25 upon a

complaint in writing made by the person aggrieved by the dishonour of the electronic funds transfer.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) a Magistrate may dispense with the personal attendance of the officer of the Reserve Bank filing the complaint, but the Magistrate may, in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

29. Application of fine : A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the costs of the proceedings.

30. Power of Reserve Bank to impose fines : (1) Notwithstanding anything contained in section 26, if a contravention or default of the nature referred to in sub-section (2) or sub-section (6) of section 26, as the case may be, the Reserve Bank may impose on the person contravening or committing default a penalty not exceeding five lakh rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where such contravention or default is a continuing one, a further penalty which may extend to twenty-five thousand rupees for every day after the first during which the contravention or default continues.

(2) For the purpose of imposing penalty under sub-section (1), the Reserve Bank shall serve a notice on the defaulter requiring him to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such defaulter.

(3) Any penalty imposed by the Reserve Bank under this section shall be payable within a period of thirty days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the defaulter and, in the event of failure of the person to pay the sum within such period, may be recovered on a direction made by the principal civil court having jurisdiction in the area where the registered office of the defaulter company or the official business of the person is situated:

Provided that no such direction shall be made except on an application made by an officer of the Reserve Bank authorised by it in this behalf.

(4) The Reserve Bank may recover the amount of penalty by debiting the current account, if any, of the defaulter or by liquidating the securities held to the credit of the defaulter or in accordance with the provisions of this Act.

(5) The court which makes a direction under sub-section (3) shall issue a certificate specifying the sum payable by the defaulter and every such certificate shall be enforceable in the same manner as it were a decree made by the court in a civil suit.

(6) Where any complaint has been filed against any person in any court in respect of the contravention or default of the nature referred to in sub-section (2), or, as the case may be, sub-section (4) of section 26, then, no proceeding for the imposition of any penalty on the person shall be taken under this section.

31. Power to compound offences : (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) any offence punishable under this Act for any contravention, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on receipt of an application from the person committing such contravention either before or after the institution of any proceeding, be compounded by an officer of the Reserve Bank duly authorised by it in this behalf.

(2) Where a contravention has been compounded under sub-section (1) no proceeding or further proceeding, as the case may be, shall be initiated or continued, as the case may be, against the person committing such contravention under that section, in respect of the contravention so compounded.

CHAPTER VIII MISCELLANEOUS

32. Act to have overriding effect : The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

33. Mode of recovery of penalty : (1) The penalty imposed on the defaulter by the Reserve Bank under section 30 may be recovered by issuing a notice to any person from whom any amount is due to the defaulter, by requiring such person to deduct from the amount payable by him to the defaulter, the amount payable to the Reserve Bank by way of penalty and pay to the Reserve Bank.

(2) Save as otherwise provided in this section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where such notice is issued to a post office, bank or an insurer, it shall not be necessary for any passbook, 'deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding that any rule, practice or requirement to the contrary.

(3) Any claim respecting any property in relation to which a notice under this subsection has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(4) Where a person to whom the notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the defaulter or that he does not hold any money for or on account of the defaulter, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Reserve Bank to the extent of his own liability to the defaulter on the date of the notice, or to the extent of the penalty imposed on the defaulter by the Reserve Bank, whichever is less.

(5) The Reserve Bank may at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making the payment in pursuance of such notice;

(6) The Reserve Bank shall grant a receipt for any amount paid to it in compliance with a notice, issued under this section and the person so paying shall be fully discharged from his liability to the defaulter to the extent of the amount so paid.

(7) Any person discharging any liability to the defaulter after the receipt of a notice under this section shall be personally liable to the Reserve Bank to the extent of his own liability to the defaulter so discharged or to the extent of the penalty imposed on the defaulter by the Reserve Bank, whichever is less.

(8) If the person to whom the notice under this section is sent fails to make payment in pursuance thereof to the Reserve Bank, he shall be deemed to be the defaulter in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him in the manner provided in this section.

Explanation.- For the purposes of this section, "defaulter" means any person or system provider or system participant on whom the Reserve Bank has imposed a penalty under section 30.

34. Act not to apply to stock ex-changes or clearing corporations of stock ex-change: Nothing contained in this Act shall apply to stock exchanges or the clearing corporations of the stock exchanges.

35. Certain persons deemed to be public servants : (1) Every officer of the Reserve Bank who has been entrusted with any power under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. (45 of 1860)

36. Protection of action taken in good faith : No suit or other legal proceedings shall lie against the Central Government, the Reserve Bank, or any officer thereof for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act, any regulations, order or direction made or given thereunder.

37. Power to remove difficulties : (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provision is not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

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

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

38. Power of Reserve Bank to make regulations : (1) The Reserve Bank may, by notification, make regulations consistent with this Act to carry out the provisions of this Act.

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

(a) the powers and Functions of the Committee constituted under sub-section (2), the time and venue of its meetings and the procedure to be followed by it at its meetings (including the quorum at such meetings) under sub-section (4) of section 3;

(b) the form and manner in which an application for authorisation for commencing or carrying on a payment system shall be made and the fees which shall accompany such application under sub-section (2) of section 5;

(c) the form in which an authorisation to operate a payment system under this Act shall be issued under sub-section (2) of section 7;

(d) the format of payment instructions and other matters relating to determination of standards to be complied with by the payment systems under sub-section (1) of section 10;

(e) the intervals, at which and the form and manner in which the information or returns required by the Reserve Bank shall be furnished under section 12;

(f) such other matters as are required to be, or may be, prescribed.

(2) Any regulation made under this section shall have effect from such earlier or later date (nor earlier than the date of commencement of this Act) as may be specified in the regulation.

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

ಭಾರತದ ರಾಷ್ಟ್ರಪತಿಯವರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜನಿ

ಪಿ.ಆರ್. 22

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.