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Bill No. 50 of 2006

THE PAYMENT AND SETTLEMENT SYSTEMS BILL, 2006

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Bill No. 50 of 2006

THE PAYMENT AND SETTLEMENT SYSTEMS BILL, 2006

A

BILL

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-seventh Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. (1) This Act may be called the Payment and Settlement Systems Act, 2006.
- (2) It extends to the whole of India.

Short title,
extent and
commencement.

57 (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.

Definitions.

2. (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; 5

(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 (ccr) of section 5, as inserted by section 56, of the Banking Regulation Act, 1949; and 10 of 1949.

(v) such other bank as the Central Government may, by notification, specify 10 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 a combination of more than one of them and includes interest rate swaps, forward rate agreements, foreign currency 15 swaps, foreign currency rupee swaps, foreign currency options, foreign currency rupee options or such other instruments as may be specified by the Reserve Bank from time to time;

(c) "electronic funds transfer" means any transfer of funds which is initiated through electronic means so as to instruct, authorise or order a bank to debit or credit 20 an account with that bank, and includes point of sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, transfers initiated by telephone and card payment;

(d) "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, 25 the claims and obligations among the system participants, including the claims and obligations arising out of the termination by the system provider, on the insolvency or liquidation of any system participant or such other circumstances as the system provider may specify in its rules or regulations, of the transactions admitted for settlement at a future date so that only a net claim be demanded or a net obligation be owed; 30

(e) "notification" means a notification published in the Official Gazette;

(f) "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; 35

(g) "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;

(h) "payment system" means a system that enables payment to be effected between 40 a payer and a beneficiary, and includes clearing, payment or settlement service or all of them, but does not include a stock exchange;

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

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

(k) "Reserve Bank" means the Reserve Bank of India, constituted under the 45 Reserve Bank of India Act, 1934; 2 of 1934.

18 of 1944.

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

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

(n) "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

10 (ii) any disruption in the system,

which may cause other participants to fail to meet their obligations when due, ultimately likely to have an impact on the stability of the system;

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

15- (p) "system provider" means a person who operates an authorised payment system.

2 of 1934.
10 of 1949.

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

CHAPTER II

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DESIGNATED AUTHORITY AND ITS COMMITTEE

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

Designated
authority and
its Committee.

25- (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 the Central Board of the Reserve Bank.

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

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

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

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

35- (4) The powers and functions of the Committee 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.

CHAPTER III

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AUTHORISATION OF PAYMENT SYSTEMS

4. (1) No person 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:

Payment
system not to
operate without
authorisation.

Provided that nothing contained in this section shall apply to—

45- (a) the continued operation of an existing payment system on the 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;

(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.

Application for
authorisation.

5. (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.

Inquiry by the
Reserve Bank.

6. 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.

Issue or refusal
of authorisation.

7. (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 of 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:

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

8. (1) If a system provider,—

Revocation of
authorisation.

(i) contravenes any provisions of this Act, or

(ii) does not comply with the regulations, or

10 (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:

15 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

20 (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.

25 (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.

30 (4) Where a system provider becomes insolvent and is wound up, he shall inform the fact of his being insolvent or being wound up to the Reserve Bank and thereupon the Reserve Bank shall take such steps as deemed necessary, revoke his authorisation to operate the payment system.

9. (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.

Appeal to
the Central
Government.

35 (2) 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. (1) The Reserve Bank may, from time to time, prescribe—

40 (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 institutions;

45 (d) such other standards to be complied with the payment systems generally;

Power to
determine
standards.

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

(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. 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. 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. 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. (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. 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. 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

Notice of change in the payment system.

Power to call for returns, documents or other information.

Access to information.

Power to enter and inspect.

Information, etc., to be confidential.

Power to carry out audit and inspection.

Power to issue directions.

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

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

5 (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.

10 18. 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
15 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.

Power of Reserve Bank to give directions generally.

20 19. 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.

Directions of Reserve Bank to be complied with.

CHAPTER V

RIGHTS AND DUTIES OF A SYSTEM PROVIDER

25 20. 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.

System provider to act in accordance with the Act, regulations, etc.

30 21. (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.

Duties of a system provider.

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

35 22. (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.

Duty to keep documents in the payment system confidential.

18 of 1991. 40 (2) The provisions of the Bankers' Book Evidence Act, 1891 shall apply in relation to the information or documents or other books in whatever form maintained by the system provider.

45 23. (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.

Settlement and netting.

(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 or the Banking Regulation Act, 1949 or any other law for the time being in force, the order of dissolution or adjudication or winding up, as the case may be, shall not affect any settlement that has become final and irrevocable. 1 of 1956, 10 of 1949.

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. 10

CHAPTER VI

SETTLEMENT OF DISPUTES

Settlement of disputes.

24. (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. 15

(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). 20

(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. 25

(5) Where a dispute arises between the Reserve Bank, while acting in its capacity as system provider or as system participant, and another system participant, the matter shall be referred to a Securities Appellate Tribunal established under section 15K of the Securities and Exchange Board of India Act, 1992 for settlement of the dispute and the decision of the said Tribunal shall be final and binding. 30 15 of 1992.

Dishonour of electronic funds Transfer for insufficiency, etc., of funds in the account.

25. (1) Where an electronic funds transfer initiated by a person cannot be executed because of the account 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 provision of this Act, be punished with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the electronic funds transfer, or with both: 35

Provided that nothing contained in this section shall apply unless— 40

(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 on other liability;

(b) the electronic funds transfer was initiated in accordance with the relevant procedural guidelines issued by the system provider; 45

(c) the payee 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 payee within fifteen days of the receipt of the said notice.

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

26 of 1881. 5 (2) The provisions of Chapter XVII of the Negotiable Instruments Act, 1881 shall apply to the dishonour of electronic funds transfer to the extent the circumstances admit.

CHAPTER VII

OFFENCES AND PENALTIES

26. (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. Penalties.

15 (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.

25 (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.

30 (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.

35 (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.

45 (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.

Offences by
companies.

27. (1) Where a person committing a contravention of any of the provisions of this Act or any regulation, direction or order made thereunder 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: 5

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. 10 15

Explanation.— For the purposes of this section,—

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

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

Cognizance of
offences.

28. (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. 20

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, 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. 2 of 1974. 25

Application of
fine.

29. 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.

Power of
Reserve Bank
to impose fines.

30. (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. 30 35

(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. 40

(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. 45

(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:

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.

(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.

2 of 1974. 10

31. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, 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.

Power to compound offences.

(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.

20

CHAPTER VIII

MISCELLANEOUS

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

Act to have overriding effect.

33. (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.

Mode of recovery of penalty.

(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 sub-section 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. 57

(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. 10

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. 157

34. Nothing contained in this Act shall apply to any of the securities traded on Stock Exchanges or other Exchanges except in so far as they relate to settlement of payment instructions. Non-applicability to Stock and other Exchanges.

45 of 1860.

35. (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. Certain persons deemed to be public servants. 20

36. 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. Protection of action taken in good faith. 157

37. (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: Power to remove difficulties.

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. 30

(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. (1) The Reserve Bank may, with the previous sanction of the Central Government, by notification, make regulations for carrying out the provisions of this Act. Power of Reserve Bank to make regulations. 35

(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 (1) of section 3; 40

(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; 45

(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.

5 (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.

10 (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
15 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.

STATEMENT OF OBJECTS AND REASONS

The payment and settlement systems serve as a backbone of financial system of a country. In India, a host of payment systems are in operation ranging from manual paper-based clearing to the Real Time Gross Settlement (RTGS) System for facilitating non-cash mode of payments. The various retail payment systems in operation include the manual paper based clearing, MICR Clearing, Electronic Funds Transfer Systems (including the Electronic Clearing Services), Card Based Payment Systems, Government Securities Clearing, Forex Clearing, etc. The paper-based cheque processing is operated and managed by the Reserve Bank of India at the four metro centres, whereas at twelve other centres it is operated by public sector banks and managed by Reserve Bank of India, while at the remaining centres it is operated as well as managed by certain public sector banks. Clearing houses are not legal entities but voluntary bodies of banks who have come together for the expressed purpose of clearing payment instruments and instructions. The rules and regulations for the functioning of clearing houses are contractual in nature. Among the large-value payment systems, the Real Time Gross Settlement System is operated by the Reserve Bank of India while the inter-bank Government Securities and Foreign Exchange Clearing Systems are at present operated by Clearing Corporation of India Ltd. (CCIL). A new National Payments Corporation of India would be taking over the operations of retail payment systems. Both these corporate entities will be outside the specific regulatory purview. The operations of Card Based systems is not under the regulatory purview of the Reserve Bank of India, however, the Bank is indirectly regulating it through the card issuing banks.

2. The Central Board of Directors of the Reserve Bank of India under section 58(2)(p) of the Reserve Bank of India Act, 1934 is empowered to make regulations of clearing houses for banks and under 58(2)(pp) of the said Act, to make regulations of fund transfer through electronic means. These regulations are adopted by the members of the clearing houses by way of contractual agreement.

3. The procedure of netting (arriving at the multilateral net settlement) is not legally recognised but has been adopted as a working procedure adopted by the members of the clearing houses.

4. In view of the above, it is considered necessary to enact a specific legislation which will, *inter alia*, empower the Reserve Bank of India to act as the designated authority with the following powers and functions, namely:—

(a) to regulate and oversee the various payment and settlement systems in the country including those operated by non-banks like CCIL, card companies, other payment system providers and the proposed umbrella organisation for retail payments;

(b) lay down the procedure for authorisation of payment systems as well as revocation of authorisation;

(c) to lay down operational and technical standards for various payment systems;

(d) to call for information and furnish returns and documents from the service providers;

(e) to issue directions and guidelines to system providers;

(f) to audit and inspect the systems and premises of the system providers;

(g) to lay down the duties of the system providers;

(h) to levy fines and impose penalties for not providing information or documents or wrongfully disclosing information, etc.; and

(i) to make regulations for carrying out the provisions of the proposed legislation.

5. The Bill, *inter alia*, seeks to provide for the following matters, namely:—

(a) to designate the Reserve Bank of India as the designated authority for the regulation and supervision of payment systems in India for their smooth operations;

(b) to give legal recognition to the netting procedure and settlement finality; and

(c) to empower the Securities Appellate Tribunals to settle disputes between the Reserve Bank of India and the system providers.

6. The Bill seeks to achieve the above objects.

P. CHIDAMBARAM.

NEW DELHI;
The 22nd May, 2006.

Notes on Clauses

Clause 1.- This clause provides for the name of the Act, its application and the commencement thereof.

Clause 2.- This clause seeks to define certain expressions used in the Bill. The definitions of the terms "derivative", "electronic fund transfer", "netting", "payment instruction", "payment obligation", "payment system" and "settlement" are some of them. A "payment system" means a system which enables payment to be effected between a payer and a beneficiary, and includes a clearing, payment or settlement service or all of them, but does not include a stock exchange.

Clause 3.- This clause seeks to designate the Reserve Bank as the authority for the regulation and supervision of payment systems and also provides the constitution of a Committee of the Central Board of Directors of the Reserve Bank of India for such regulation and supervision.

Clause 4.- This clause seeks to provide that any person before commencing or operating a payment system shall obtain authorisation from the Reserve Bank in accordance with the provisions of the proposed legislation.

Clause 5.- This clause seeks to require submission of an application to Reserve Bank by persons desirous of commencing or carrying on a payment system. The form of application, the manner of making such application and the fee which shall accompany such application shall be laid down by the Reserve Bank by regulations.

Clause 6.- This clause seeks to provide for an inquiry by the Reserve Bank before issue of authorisation, *inter alia*, regarding the genuineness of the particulars furnished by the applicant, his capacity to operate the payment system and the credentials of the participants.

Clause 7.- This clause seeks to provide for issue or refusal of authorisation by the Reserve Bank for operating a payment system.

Sub-clause (1) provides that the Reserve Bank may issue an authorisation after an inquiry and after satisfying itself about (i) the need for the proposed payment system, (ii) its technical standards or design, (iii) its financial status, (iv) its experience of management and integrity of the applicant, (v) interests of consumers, (vi) monetary and credit policies and (vii) such other factors as may be considered by the Reserve Bank to be relevant for the purpose.

Sub-clause (2) provides laying down, by regulations, the form of authorisation and also requires that the authorisation should state the date on which it will take effect, the conditions subject to which the authorisation will be in force, the fees to be paid, security to be furnished, etc.

Sub-clause (3) seeks to provide that in case of refusal for authorisation, the Reserve Bank should give the applicant a written notice stating the reasons for such refusal and also provide the applicant a reasonable opportunity of being heard.

Clause 8.- This clause seeks to provide for revocation of authorisations given by the Reserve Bank to any system provider under the proposed section 7.

Sub-clauses (1) and (2) enumerates the circumstances under which an authorisation may be revoked by the Reserve Bank, after providing the concerned system provider a reasonable opportunity of being heard. These circumstances, include, contravention of any provision of the proposed legislation, non-compliance with the regulations, failure to comply with the orders or directions of the Reserve Bank or operation of a payment system contrary to the conditions imposed while giving such authorisation. Further,

the Reserve Bank has been provided with the power to revoke authorisation to a payment system in interest of monetary policy.

Sub-clause (3) provides that the order of revocation shall include provisions for protection and safeguard of the interest of persons affected by such order.

Sub-clause (4) seeks to provide for revocation of authorisation by the Reserve Bank in case of insolvency of the system provider.

Clause 9.- This clause seeks to provide for an appeal to the Central Government against an order of refusal or revocation of authorisation by the Reserve Bank and for finality of the order passed by the Central Government.

Clause 10.- This clause seeks to empower the Reserve Bank with the power to determine and prescribe standards, *inter alia*, in respect of format of payment instructions, timings to be maintained by payment systems, manner of transfer of funds, the criteria of membership of payment systems and their rights and obligations. It also empowers the Reserve Bank to issue guidelines for effective management of payment systems.

Clause 11.- This clause seeks to provide that the system providers shall not cause any change effecting the structure and operation of the payment system without giving notice to the system participants and without the approval of the Reserve Bank.

Clause 12.- This clause seeks to empower the Reserve Bank with the power to call for returns, documents or other information from any system provider regarding the operations of the payment systems.

Clause 13.- This clause seeks to empower the Reserve Bank to access any information relating to any payment system with the system provider and the system participants.

Clause 14.- This clause seeks to provide the officers of the Reserve Bank duly authorised by the Bank the power to enter and inspect any premises where a payment system is operated and any equipment including any computer system or other documents and also require any employee of the system provider working at such premises to furnish information.

Clause 15.- This clause seeks to impose a duty on the Reserve Bank to keep any document or information obtained by it by way of returns or inspection confidential, excepting in cases where the disclosure of such document or information is considered necessary for protecting the integrity, effectiveness or security of the payment system, in the interest of banking or monetary policy or operation of payment systems, or in public interest.

Clause 16.- This clause seeks to provide the Reserve Bank with the power to conduct or get conducted audits and inspections of a payment system or system participants.

Clause 17.- This clause seeks to provide for issuance of written directions by the Reserve Bank to a system provider or system participant to cease and desist from any act, omission or course of conduct that would result in systemic risks or affects the payment system, monetary or credit policy of the country or to perform such acts, as may be necessary, for remedying the situation.

Clause 18.- This clause seeks to empower the Reserve Bank to issue general directions laying down policies for regulation of payment systems, or in the interest of management or operation of any of the payment systems or in the public interest.

Clause 19.- This clause imposes a duty on every person to whom a direction is issued in writing by the Reserve Bank to comply with such directions without delay and furnish such compliance report to the Reserve Bank.

Clause 20.- This clause seeks to impose a duty on every system provider to act in accordance with the provisions of the proposed legislation, regulations, contract governing the relationship among the system participants, rules and regulations which deal with the operation of the payment system and conditions subject to which the authorisation is issued, and the directions given by the Reserve Bank.

Clause 21.- This clause deals with the duties of system providers.

Sub-clause (1) seeks to impose a duty on every system provider to disclose to the system participants, the terms and conditions including the charges and limitation of liabilities under the payment systems and the rules and regulations governing it and to maintain the determined standards.

Sub-clause (2) imposes a duty on the system provider to maintain the standards as determined under the provisions of the proposed legislation.

Clause 22.- This clause deals with the duty of the system providers to keep documents and information provided by the system participants confidential and the applicability of the Bankers' Books Evidence Act, 1891 to such information, documents and other books maintained by the system providers.

Sub-clause (1) imposes a duty on every system provider to keep the documents / and information given to him by the system participant confidential, except where it is required to be disclosed under law.

Sub-clause (2) provides that the Bankers' Books Evidence Act, 1891 shall apply to the information or documents or other books maintained by the system providers.

Clause 23.- This clause provides for gross and netting procedure and for settlement in a payment system, the procedure for distribution of losses among system participants and the finality and irrevocable nature of settlement.

Sub-clause (1) seeks to provide for determination of settlement of payment obligations (both gross and netting) in a payment system.

Sub-clause (2) seeks to provide that the procedure for the distribution of losses between the system participants and the payment system, as provided by the rules for operation of a payment system, shall have effect notwithstanding anything to the contrary contained in any other law.

Sub-clauses (3) and (4) provides for the finality and irrevocability of the settlement, notwithstanding of the provisions of the Companies Act, 1956 or the Banking Regulation Act, 1949 or any other law for the time being in force.

Clause 24.- This clause seeks to provide for settlement of disputes in a payment system.

Sub-clauses (1) and (2) seek to provide for settlement of disputes between system participants, by way of a reference by the system provider, through a panel consisting of not less than three system participants who are not parties to the dispute.

Sub-clauses (3) and (4) seeks to provide for settlement of disputes between system providers and system participants or between system providers or where the system participants are not satisfied with the decision of the panel constituted under *Sub-clause (1)*, by authorised officers of Reserve Bank.

Sub-clause (5) provides that where Reserve Bank is a party to the dispute as a system provider or participant, such disputes shall be referred to a Securities Appellate Tribunal established under section 15K of the Securities and Exchange Board of India Act, 1992 for settlement of disputes.

Clause 25.- This clause provides for the penalty on a person for non-execution of electronic funds transfer, initiated by that person, due to insufficiency of funds etc. and

the conditions under which the provisions of the *clause* shall be attracted and also the applicability of Chapter XVII of the Negotiable Instruments Act, 1881 for dishonour of electronic funds transfer to the extent the circumstances admit.

Clause 26.- This clause contains provisions relating to offences and penalties.

Sub-clause (1) provides that a person contravening the provisions of clause 4 or the conditions subject to which an authorisation has been issued under clause 7, 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 further fine which may extend to one lakh rupees for every day, after the first during which the contravention or failure to comply continues.

Sub-clause (2) provides that in case of offences of wilful submission of false statement or wilful omission to submit material statement, in any application for authorisation or return or other document, the punishment shall be imprisonment for a term which may extend to three years and fine of not less than ten lakh rupees, which may extend to fifty lakh rupees.

Sub-clause (3) provides that whoever fails to produce or furnish any statement, information, return or document under Clauses 12, 13 or 14, he shall be punishable with fine which may extend to ten lakh rupees in respect of each offence and if the offence persists for a further fine which may extend to twenty five thousand rupees for every day for which the offence continues.

Sub-clause (4) provides that whoever discloses information which is prohibited under clause 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 damages incurred by the act, whichever is higher or with both.

Sub-clause (5) provides that when the directions issued by the Reserve Bank is not complied with within the stipulated time or a reasonable time, as the case may be, or penalty imposed under clause 30 is not paid with thirty days from the date of the order, the same 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.

Sub-clause (6) provides a punishment of fine which may extend to ten lakh rupees and where a contravention or default is a continuing one, with further fine which may extend to twenty five thousand rupees for every day, after the first during which the contravention or default continues, for contravention of the provisions of the proposed legislation, or default in complying with any requirement under the proposed legislation or contravention of any regulation, direction or order made or given or condition imposed under the proposed legislation.

Clause 27.- This clause deals with the provisions relating to offences by companies.

Sub-clause (1) provides that where a person committing a contravention of any of the provisions of the proposed legislation or any regulation, direction or order made thereunder 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.

Sub-clause (2) provides that where any offence under the proposed legislation is 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.

Clause 28.- This clause contains provisions relating to cognizance of offences. It provides that no Court shall take cognizance of an offence punishable under the proposed legislation 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 the jurisdiction to try offences have been conferred on Courts not lower than that of a Metropolitan or a Judicial Magistrate of the first class. It also provides with the power to the Court to dispense with the personal attendance of the complainant in the proceedings.

Clause 29.- This clause deals with application of fine towards payment of the costs of the proceedings.

Clause 30.- This clause confers the power on the Reserve Bank to impose fines.

Sub-clause (1) provides for imposition of penalty by the Reserve Bank for contravention of sub-clause (2) or sub-clause (6) of clause 26. The Reserve Bank may impose a penalty which may extend to five lakh rupees or twice the amount involved in the contravention if the same is quantifiable.

Sub-clause (2) seeks to provide for serving of notice on the defaulter specifying the amount of the proposed fine and providing a reasonable opportunity of hearing to him.

Sub-clause (3) provides for payment of penalty imposed by the Reserve Bank within thirty days from date of notice demanding payment and on the failure of which the same shall be recovered on a direction made by the principal Civil Court having jurisdiction.

Sub-clause (4) provides for recovery of the amount of penalty by the Reserve Bank by debiting the current account of the defaulter or by liquidating the securities held to its credit.

Sub-clause (5) provides for issue of certificate by a Court issuing direction under sub-clause (3) specifying the sum payable by the defaulter and the enforceability of such certificate as a decree of a Court.

Sub-clause (6) provides that no proceeding for imposition of fine shall be taken on a person against whom a complaint has been filed before a Court for contravention of sub-clause (2) or sub-clause (4) of clause 26.

Clause 31.- This clause seeks to empower the Reserve Bank to compound offences.

Sub-clause (1) provides that the officer authorised by the Reserve Bank may compound any offences under the proposed legislation, except those which are punishable with imprisonment and also fine, on an application from the offender.

Sub-clause (2) provides that no proceeding can be initiated or continued, in respect of a contravention compounded under sub-clause (1).

Clause 32.- This clause provides that the provisions of the proposed legislation shall have effect notwithstanding of anything inconsistent therewith in any other law for the time being in force.

Clause 33.- This clause provides for the mode of recovery of penalty imposed by the Reserve Bank under clause 30 from a person from whom money is due to the defaulter after issue of notice. It also imposes a duty on such person to whom notice is issued to comply with such notice. Further, it provides for full discharge of such person from his liability to the defaulter to the extent of the amount paid. This clause also provides that the person discharging any liability to the defaulter after receipt of notice shall be

personally liable to the Reserve Bank to the extent of his liability towards the defaulter or to the extent of the fine imposed on the defaulter. If a person fails to make payment on receipt of notice, then he shall be deemed to be the defaulter in respect of the amount specified in the notice and the same shall be recovered from him in the manner provided under the proposed legislation.

Clause 34.- This clause provides that the provisions of the proposed legislation will not be applicable in case of securities traded on stock exchanges or other exchanges, except in so far as they relate to settlement of payment instructions.

Clause 35.- This clause provides that officers of the Reserve Bank entrusted with any power under the proposed legislation shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 36.- This clause seeks to protect the action taken in good faith by the Central Government, the Reserve Bank or any officer thereof, under the proposed legislation. It provides that no suit or legal proceeding for damage caused or likely to be caused, shall lie against the specified persons, for anything done in good faith under the proposed legislation.

Clause 37.- This clause empowers the Central Government issue order published in the Official Gazette making such provisions not inconsistent with the provisions of the proposed legislation for removing difficulties in giving effect to its provisions. Such orders could be issued within two years from the date of commencement of the proposed legislation. It also provides for laying of such orders before each House of Parliament.

Clause 38.- This clause confers power on the Reserve Bank to make regulations, with the previous sanction of Central Government for the purpose of giving effect to the provisions of the proposed legislation. The regulation may, inter alia, provide for (i) constitution of committee under sub-clause (2) of clause 3, (ii) determination of standards to be complied with by payment systems, (iii) regulation of funds transfers and (iv) form and manner in which application for authorisation to operate a payment system under the proposed legislation shall be made. The regulations which may be made by the Reserve Bank shall be published in the Official Gazette and be laid before each House of Parliament.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 38 of the Bill empowers the Reserve Bank of India to make, with the previous sanction of the Central Government and by notification in the Official Gazette, regulations for carrying out the provisions of the proposed legislation.

2. Sub-clause (2) of the said clause enumerates the matters in respect of which such regulations may be made. The matters in respect of which such regulations may be made, *inter alia*, relate to the powers and functions of the Committee constituted under Sub-section (2) of clause 3, the time and venue of its meetings and the procedure to be followed by it as its meetings (including the quorum at such meetings) under Sub-clause (4) of clause 3; the form and manner in which an application for authorisation to operate a payment system under the proposed legislation shall be made under clause 5 and the fees that shall accompany such application; the form and manner in which an application for commencing or carrying on an authorization shall be made and the fee which such application shall accompany under Sub-clause (2) of clause 5; the form in which an authorisation to operate a payment system under the proposed legislation shall be issued under sub-clause (2) of clause 7; the determination of standards to be complied with by the payment systems under of section 10; the intervals, form and manner in which the information or returns required by the Reserve Bank shall be furnished under clause 12.

3. The regulations made under the aforesaid clause 38 shall have effect from an earlier date or a later date but not earlier than the date on commencement of the proposed legislation. The regulations are also required to be laid before both the Houses of Parliament.

4. The matters in respect of which the regulations may be made are matters of procedure or details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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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.

(Shri P. Chidambaram, Minister of Finance)