

Standing Committee Report Summary

The Forward Contract (Regulation) Amendment Bill, 2010

- The Department Related Parliamentary Standing Committee on Consumer Affairs, Food, and Public Distribution submitted its 15th Report on ‘The Forward Contract (Regulation) Amendment Bill, 2010’ on December 22, 2011. The Bill was introduced in the Lok Sabha on December 6, 2010 to amend the Forward Contract (Regulation) Act, 1952.
- The Committee agreed with the views of the Abhijit Sen Committee which did not find any conclusive relationship between futures trading and inflation. It recommends that the government should use its powers imposing/lifting the ban on the trading of certain agricultural commodities including food grains based on the market situation.
- The Committee recommended that the storage and infrastructural facilities should be enhanced for the proper development of the futures market.
- The Bill intends to amend the definitions of certain terms such as “securities”, “forward contract”, and “association”. It also includes some new definitions such as “commodity derivative”, “demutualization”, and “corporatization”. The Committee agrees with this but suggests that the definition of “option in good”, “insider”, and “price sensitive information” should be included in the definitions.
- At present, the Forward Markets Commission (FMC) which was established in 1953 is the regulator of forward markets. This body is attached to the Ministry of Consumer Affairs and Public Distribution and is financially supported by the Department of Consumer Affairs. The Bill proposes to give FMC financial autonomy. The Committee feels that the FMC should be given financial and operational autonomy to enable it to function in a more efficient manner.
- The Bill amends the provisions which provide for the composition of the FMC. The FMC would comprise a Chairman; two members from the Ministries or Departments relating to Consumer Affairs, Finance, Agriculture, Food and Public Distribution; one member from RBI; five other members of which three should be whole time members. The Committee agrees with the proposed amendment. However, for purposes of transparency in the system, it feels that there should be a provision for the constitution of a Selection Committee which may recommend names for the post of Chairman and other members.
- Currently, there is no provision to fill up any vacancy in the FMC. In the event of any vacancy, the Committee suggests that within one month from the date of such vacancy, the central government should make a reference to the Selection Committee for filling up the vacancy. This will ensure that the work of the FMC is not held up for reasons of vacancy or removal of a member.
- The Bill proposes that certified accounts of the Commission along with the CAG report should be laid before the Parliament. The Committee notes that there is no mention of the period within which such reports shall be presented. The Committee suggests that the reports shall be laid before the each House of the Parliament within three months of its receipt by the central government. In addition, the Committee feels that the FMC should also prepare an Annual Report.
- The Bill prohibits any foreign intermediary from dealing in forward contract in goods or options in commodity derivatives without a certificate of registration from the FMC. The Committee recommends that such participants shall not be allowed as the forward markets are not yet ready for foreign participants.
- In case of failure to comply with the directions of the FMC, the Bill increases the amount of fine from Rs 1000 to Rs 25000 with a maximum limit of Rs 25 lakh. The Committee favoured this increase in penalty and recommended that the amount should be further increased. It suggested that the minimum amount of this fine should be five lakh and the maximum should go up to Rs 50 lakh.
- The Bill proposes that an investigating authority shall be appointed by the Commission which would report about any violation of the provisions of the Act. The Committee suggests that the qualifications of such an authority shall be prescribed.
- The Bill adds a provision for appeals to be made to the Appellate Tribunal. However, no further details regarding the Appellate tribunal are provided. Presently, the Appellate Tribunal formed under the Securities Exchange Board of India is authorized to look at appeals arising from matters dealt with by the FMC. The Committee is of the opinion that it would be economical and efficient to use this present structure in place.

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March 14, 2012

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