

13 MAY 2005

Bill No. 72 of 2005

THE BANKING REGULATION (AMENDMENT) BILL, 2005

A

BILL

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

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

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

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

Short title and commencement.

Amendment
of section 5.

2. In section 5 of the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act), for clause (a), the following clause shall be substituted, namely:— 10 of 1949.

'(a) "approved securities" means the securities issued by the Central Government or any State Government or such other securities as may be specified by the Reserve Bank from time to time;'

Amendment
of section 12.

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

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

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

(a) ordinary or equity shares, and

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

Provided that no holder of the preference share issued by the company shall be entitled to exercise the voting right specified in clause (b) of sub-section (2) of section 87 of the Companies Act, 1956.;" 15
1 of 1956.

(i) the proviso shall be omitted;

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

Insertion of
new section
12B.

4. After section 12A of the principal Act, the following section shall be inserted, namely:— 20

Regulation of
acquisition of
shares or
voting rights.

'12B. (1) No person (hereinafter referred to as "the applicant") shall, except with the previous approval of the Reserve Bank, on an application being made, acquire or agree to acquire, directly or indirectly, by himself or acting in concert with any other person, shares of a banking company or voting rights therein, which acquisition taken together with shares and voting rights, if any, held by him or his relative or associate enterprise or person acting in concert with him, makes the applicant to hold five per cent. or more of the paid-up share capital of such banking company or entitles him to exercise five per cent. or more of the voting rights in such banking company. 25

Explanation.— For the purposes of this sub-section,— 30

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

(b) "associate enterprise" includes an enterprise which,—

(i) is a holding company or a subsidiary company or a joint venture of the applicant; or 35

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

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

(iv) is able to obtain economic benefits from the activities of the applicant. 40

(c) persons shall be deemed to be "acting in concert" who, for a common objective or purpose of acquisition of shares or voting rights in excess of the percentage mentioned in this sub-section, pursuant to an agreement or

understanding (formal or informal), directly or indirectly co-operate by acquiring or agreeing to acquire shares or voting rights in the banking company.

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

- (a) in the public interest; or
- (b) in the interest of banking policy; or
- (c) to prevent the affairs of any banking company being conducted in a manner detrimental or prejudicial to the interests of the banking company; or
- (d) in view of the emerging trends in banking and international best practices; or
- (e) in the interest of the banking and financial system in India,

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

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

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

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

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

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

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

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

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

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

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

Amendment
of section 20.

Amendment
of section 24.

6. In section 24 of the principal Act, —

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

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

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

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

Insertion of
new section
29A.

Power in
respect of
associate
enterprises.

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

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

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

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

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

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

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

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

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

Insertion of
new Part
IIAB.

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

“PART IIAB

SUPERSESSION OF BOARD OF DIRECTORS OF BANKING COMPANY

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

Supersession
of Board of
directors in
certain cases.

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

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

(3) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

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

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

1 of 1956. (b) all the powers, functions and duties which may, by or under the provisions of the Companies Act, 1956 or this Act, or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of directors of such banking company, or by a resolution passed in general meeting of such banking company, shall, until the Board of directors of such banking company is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (2):

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

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

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

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

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

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

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

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

Amendment
of section 51.

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

Amendment
of section 56.

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

45 (a) in sub-section (1),—

(i) clause (a) shall be omitted;

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

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

(b) in sub-section (2),—

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

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

(iii) in the proviso, —

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

(b) clause (iii) shall be omitted;

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

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

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

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

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

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

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

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

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

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

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

15 (e) any other matter which he considers should be brought to the notice of the Reserve Bank and the shareholders of the co-operative bank.”.

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

Amendment
of certain
enactments.

THE SCHEDULE

(See section 11)

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

STATEMENT OF OBJECTS AND REASONS

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

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

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

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

5. The Reserve Bank has the power to remove any director or other officers of a bank but that power is not sufficient if the entire Board of directors of a bank is functioning in a manner detrimental to the interests of depositors or the bank itself. To deal with such a situation it is necessary that the Reserve Bank has the power to supersede the Board of directors of a bank and appoint an administrator to manage the bank till alternate arrangements are made.

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

7. The Bill seeks to achieve the above objects.

NEW DELHI;
The 6th May, 2005.

P. CHIDAMBARAM.

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

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

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

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

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

ANNEXURE

EXTRACTS FROM THE BANKING REGULATION ACT, 1949

(10 OF 1949)

Interpretation.

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

(a) "approved securities" means—

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

2 of 1882.

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

2 of 1882.

Regulation of paid-up capital, subscribed capital and authorised capital and voting rights of shareholders.

12. (1) No banking company shall carry on business in India, unless it satisfies the following conditions, namely:—

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

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

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

Maintenance of a percentage of assets

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

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

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

2 of 1934.

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

36 of 1962.

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

2 of 1934.

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

(A) in cash, or

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

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

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

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

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

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

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

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

shall be deemed to be cash maintained in India.

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

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

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

Provided that—

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

(b) nothing contained in sub-clause (iii) of clause (b) of sub-section (1) of section 20 shall apply to any bank referred to in sub-section (1), insofar as the

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

said sub-clause (iii) of clause (b) precludes that bank from entering into any commitment for granting any loan or advance to or on behalf of a company (not being a Government company) in which not less than forty per cent. of the paid-up capital is held (whether singly or taken together) by the Central Government or the Reserve Bank or a corporation owned by that bank; and

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

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

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

* * * * *

PART V

APPLICATION OF THE ACT TO CO-OPERATIVE BANKS

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

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

* * * * *

(o) in section 22,—

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

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

(a) it is a primary credit society, or

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

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

(2) Every co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, shall before the expiry of three months from such commencement, every co-operative bank which comes into existence as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business shall, before the expiry of three months from its so coming into existence, every primary credit society which becomes a primary co-operative bank after such commencement shall before the expiry of three months from the date on which it so becomes a primary co-operative bank and every co-operative society other than a primary credit society shall before commencing banking business in India, apply in writing to the Reserve Bank for a licence under this section: 23 of 1965.

Provided that nothing in clause (b) of sub-section (1) shall be deemed to prohibit—

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

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

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

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

* * * * *

EXTRACT FROM THE STATE FINANCIAL CORPORATION ACT, 1951

(63 OF 1951)

Additional capital of the financial Corporation and its borrowing powers.

7. (1) *

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

* * * * *

EXTRACT FROM THE STATE BANK OF INDIA ACT, 1955

(23 OF 1955)

Shares to be Approved securities.

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

2 of 1882.
4 of 1938.
10 of 1949.

* * * * *

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

(38 OF 1959)

Shares to be Approved securities.

20. Notwithstanding anything contained in the Acts hereinafter mentioned in this Section, the shares of a subsidiary bank shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, and also to be approved securities for the purposes of the Insurance Act, 1938, and the Banking Regulation Act, 1949.

2 of 1882.
4 of 1938.
10 of 1949.

* * * * *

EXTRACT FROM THE WAREHOUSING CORPORATION ACT, 1962

(58 OF 1962)

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

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

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

2 of 1882.
4 of 1938.
10 of 1949.

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EXTRACT FROM THE REGIONAL RURAL BANKS ACT, 1976

(21 OF 1976)

7. Notwithstanding anything contained in the Acts hereinafter mentioned in this Section, the shares of a Regional Rural Bank shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, and shall also be deemed to be approved securities for the purposes of the Banking Regulation Act, 1949.

Shares to be
Approved
securities.

2 of 1882.
10 of 1949.

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

(23 OF 1993)

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

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

2 of 1882.
4 of 1938.
10 of 1949.

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

(7 OF 1997)

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

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

2 of 1882.
4 of 1938.
10 of 1949.

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

(58 OF 2002)

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

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

2 of 1882.
4 of 1938.
10 of 1949.

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

(Shri P. Chidambaram, Minister of Finance)