

THE FINANCIAL RESOLUTION AND DEPOSIT INSURANCE BILL, 2016

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| | THE FINANCIAL RESOLUTION AND DEPOSIT INSURANCE BILL, 2016 | |
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| | BILL | |
| | BE it enacted by Parliament in the sixty-seventh Year of the Republic of India as follows: | |
| | PART I PRELIMINARY AND DEFINITIONS | |
| Preamble. | <p><i>An Act to establish a framework to carry out the resolution of certain categories of financial service providers in distress, to provide deposit insurance to consumers of certain categories of financial services and for designation of Systemically Important Financial Institutions by the Central Government for resolution;</i></p> <p><i>And whereas it is necessary to establish a corporation with the objective of protecting consumers of covered service providers and public funds to the extent possible thereby contributing to the stability and resilience of the financial system;</i></p> <p><i>And for matters connected therewith or incidental thereto.</i></p> | |
| Short title, application and commencement. | <p>1. (1) This Act may be called the Financial Resolution and Deposit Insurance Act, 2016.</p> <p>(2) This Act extends to the whole of India.</p> <p>(3) This Act will come into force from such date as may be notified by the Central Government.</p> <p>(4) The Central Government may notify different dates for different provisions of this Act to be brought into force.</p> | |
| Definitions | <p>2. In this Act, unless the context requires otherwise, –</p> <p>(1) “Act” means the Financial Resolution and Deposit Insurance Act, 2016.</p> | |

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| | <p>(2) “Appropriate Regulator” means a financial sector regulator or financial sector regulators where the relevant covered service provider is regulated by more than one financial service regulator, as described under Schedule 1.</p> <p>(3) “Banking” means banking as defined under clause (b) of section 5 of the Banking Regulation Act, 1949 (10 of 1949).</p> <p>(4) “Banking institution” means a banking company as defined under clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) and shall include any eligible cooperative bank, any multi state co-operative bank, any corresponding new bank, any Regional Rural Bank and the State Bank of India.</p> <p>(5) “Board” means the Board of the Corporation established under section 4.</p> <p>(6) “Bridge service provider” means a company limited by shares, set up in accordance with section 50.</p> <p>(7) “Central co-operative bank” means a central co-operative bank as defined under sub-section (d) of section 2 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981).</p> <p>(8) “Central Counterparty” means an entity that interposes itself between counterparties to contracts traded in one or more financial markets, becoming the buyer to every seller and the seller to every buyer and thereby ensuring the performance of open contracts, and shall include system provider operating as a Central Counterparty under the Payment and Settlement Systems Act, 2007 and Clearing Corporations as provided under section 8A of the Securities Contract Regulation Act, 1956.</p> <p>(9) “Chapter” includes all rules and regulations made under that Chapter.</p> <p>(10) “Cooperative bank” means a state co-operative bank, a central</p> | |
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| | <p>cooperative bank and a primary co-operative bank.</p> <p>(11) “Consumer” means a person who has availed, avails or intends to avail of a financial service or had, has or intends to have a right or interest in a financial service.</p> <p>(12) “Corporation” means the Resolution Corporation established under section 3.</p> <p>(13) “Corresponding new bank” means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or as the case may be, under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).</p> <p>(14) “Covered Service Provider” means a person as described under Schedule 2.</p> <p>(15) “Deposit” means the aggregate of the unpaid balances due to a depositor (other than a foreign Government, the Central Government, a State Government, or a banking institution or a co-operative bank) in respect of all his or her accounts, by whatever name called, with a banking institution and includes credit balances in any cash credit account but does not include,</p> <p style="padding-left: 40px;">(i) where a banking institution at the commencement of this Act or where an eligible co-operative bank is working under a scheme of compromise or arrangement sanctioned by any competent authority providing for the acceptance of fresh deposits, any amount due to the depositor in respect of his or her deposit before the date of the coming into force of the scheme to the extent it is not credited after the said date under the provisions of that scheme; or</p> <p style="padding-left: 40px;">(ii) any amount due on account of any deposit with any insured service provider which has been specially exempted in this behalf by the Corporation with the previous approval of the Appropriate Regulator or, by a notification in the Official Gazette.</p> <p style="padding-left: 40px;">(iii) any amount due on account of any deposit received outside India.</p> | |
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| | <p>(16) “Deposit Insurance” means the insurance provided by the Corporation to depositors of an insured service provider, under section 29.</p> <p>(17) “Eligible co-operative bank” means a co-operative bank, other than a multi-state co-operative bank, the law for the time being governing which provides that,</p> <ul style="list-style-type: none"> (i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation, of the bank may be made only with the previous sanction in writing of the Reserve Bank; (ii) an order for the winding up of the bank shall be made if so required by the Reserve Bank in the circumstances referred to in section 131; (iii) if so required by the Reserve Bank in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made for the supersession of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an administrator therefore for such period or periods not exceeding five years in the aggregate as may from time to time be specified by the Reserve Bank; (iv) the powers exercisable by the Reserve Bank under (i), (ii) and (iii) shall only be exercised by the Corporation in the event of the bank being classified as imminent or critical risk to viability under this Act. (v) an order for the winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or an order for the supersession of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an administrator therefore made with the previous sanction in writing or on the requisition of the Reserve Bank or the Corporation, as the case may be shall not be liable to be called in question in any manner; and (vi) the liquidator or the insured service provider or the transferee bank, as the case may be, shall be under an obligation to the Corporation in the circumstances, to | |
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| | <p style="text-align: center;">the extent and in the manner referred to in section 29.</p> <p>(18) “Financial market infrastructure” includes, -</p> <ul style="list-style-type: none"> (a) “depository” as defined under the Depositories Act, 1996; (b) “payment systems” and “trade repositories” as defined under the Payment and Settlement Systems Act, 2007, as may be notified by the Central Government; (c) “recognized stock exchange” as defined under the Securities Contracts (Regulation) Act, 1956; (d) “securities settlement systems” as notified by the Central Government; (e) “Clearing Corporation” as defined under Securities Contracts (Regulation) Act, 1956; and (f) such other entity as may be notified by the Central Government. <p><i>Explanation:</i> Financial market infrastructure shall not include settlement systems owned or operated by the Reserve Bank of India.</p> | |
| | <p>(19) “Financial Service Provider” shall have the same meaning as assigned to it under section 3(17) of the Insolvency and Bankruptcy Code, 2016.</p> | |
| | <p>(20) “Information utility” shall have the same meaning as assigned to it under section 210 of the Insolvency and Bankruptcy Code, 2016.</p> | |
| | <p>(21) “Insurance company” means any person who has obtained the certificate of registration under sub-section (1) of section 3 of the Insurance Act, 1938 (4 of 1938) and shall include the Life Insurance Corporation of India and General Insurance Corporation of India.</p> | |
| | <p>(22) “Insured deposit” means the deposit or any portion thereof the repayment whereof is insured by the Corporation under section 29.</p> | |

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| | <p>(23) “Insured Service Provider” means any person as described under Schedule 3, that has obtained deposit insurance under section 33.</p> <p>(24) “Liquidation commencement date” means the date on which the National Company Law Tribunal passes an order of liquidation under section 62 of this Act.</p> <p>(25) “Multi state cooperative banks” shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949)”.</p> <p>(26) “National Company Law Tribunal” means the National Company Law Tribunal established under section 408 of the Companies Act, 2013 (18 of 2013).</p> <p>(27) “National Company Law Appellate Tribunal” means the National Company Law Appellate Tribunal established under section 410 of the Companies Act, 2013 (18 of 2013).</p> <p>(28) “Notification” means a notification published in the Official Gazette, and the term “notified” and “notify” will be construed accordingly.</p> <p>(29) “Person” includes, –</p> <ul style="list-style-type: none"> (a) an individual; (b) a Hindu undivided family; (c) a company; (d) a trust; (e) a partnership; (f) a limited liability partnership; (g) an association of persons or body of individuals, whether incorporated or not; (h) every body-corporate or artificial juridical person not falling within clauses (a) to (g); or (i) any agency, office or branch owned or controlled by any of the persons mentioned in clauses (a) to (g). | |
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| | <p>(30) “Premium” means the sum payable by an insured service provider for Deposit Insurance, under section 24.</p> <p>(31) “Prescribe” means prescribed by rules made by the Central Government under this Act, and the term “prescribed” will be construed accordingly.</p> <p>(32) “Primary co-operative bank” means a primary co-operative bank as defined under Part V of the Banking Regulation Act, 1949 (10 of 1949).</p> <p>(33) “Public servant” shall have the same meaning as assigned to it under section 21 of the Indian Penal Code, 1860 (45 of 1860).</p> <p>(34) “Resolution” means the process of resolving a covered service provider in accordance with Part IV of this Act.</p> <p>(35) “Resolution Plan” means a plan for resolution of a covered service provider as envisaged in section 41.</p> <p>(36) “Restoration Plan” means a plan for restoration of a covered service provider as envisaged in section 40.</p> <p>(37) “Run-off entity” means an insurance company which is under resolution under section 48(2) of this Act.</p> <p>(38) “Specify” means specified by regulations made under this Act and the term “specified” shall be construed accordingly.</p> <p>(39) “State co-operative bank” means a state co-operative bank as defined under sub-section (d) of section 2 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981).</p> <p>(40) “State Bank of India” means the State Bank of India constituted under sub-section (1) of section 3 of the State Bank of India Act, 1955 (23 of 1955) and a subsidiary bank, as defined in clause (nd) of section 5 of the Banking Regulation Act, 1949.</p> | |
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| | <p>(41) “Special court” shall have the same meaning as assigned to it under Chapter XXVIII of the Companies Act, 2013.</p> <p>(42) “Systemically Important Financial Institution” means a person designated as such under section 25 and shall include a Central Counterparty.</p> <p>(43) Words and expressions used but not defined in this Act but defined in the Banking Regulation Act, 1949, the Insolvency and Bankruptcy Code, 2016, Reserve Bank of India Act, 1934, Payment and Settlement Systems Act, 2007, the Insurance Act, 1938, the Depositories Act, 1996, the Securities Contract (Regulation) Act, 1956, the Securities Exchange Board of India Act, 1992, and the Companies Act, 2013, shall have the meanings respectively assigned to them in those Acts.</p> <p><i>Explanation:</i> The words and expressions defined in the Payment and Settlement Systems Act, 2007 are not overridden by the words and expressions defined in this Act.</p> | |
| <p>PART II RESOLUTION CORPORATION</p> | | |
| <p>CHAPTER 1 ESTABLISHMENT</p> | | |
| <p>Establishment</p> | <p>3. (1) With effect from such date as the Central Government may, by notification appoint, there shall be established a Corporation by the name of the Resolution Corporation.</p> <p>(2) The Corporation will be a body corporate having, –</p> <ul style="list-style-type: none"> (a) perpetual succession; (b) a common seal; (c) the power to acquire, hold or dispose of property; (d) the power to enter into contracts; and (e) the power to sue and be sued by the said name. <p>(3) The head office of the Corporation shall be at Mumbai.</p> | |

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| | (4) The Corporation may establish offices at other places in India. | |
| <p>CHAPTER 2</p> <p>BOARD</p> | | |
| Constitution of Board | <p>4. (1) The general direction and management of the affairs and business of the Corporation shall vest in the Board, subject to the terms and conditions of this Act.</p> <p>(2) The Board shall consist of the following members who shall be appointed by the Central Government, namely: -</p> <ul style="list-style-type: none"> (a) a Chairperson; (b) one member nominated by the Central Government representing the Ministry of Finance <i>ex officio</i>; (c) one member nominated by the Reserve Bank of India representing the Reserve Bank of India <i>ex officio</i>; (d) one member nominated by the Securities and Exchange Board of India <i>ex officio</i>; (e) one member nominated by the Insurance Regulatory and Development Authority of India representing the Insurance Regulatory and Development Authority of India <i>ex officio</i>; (f) one member nominated by the Pension Fund Regulatory and Development Authority representing the Pension Fund Regulatory and Development Authority <i>ex officio</i>; (g) upto three whole-time members to be appointed by the Central Government; and (h) two independent members to be appointed by the Central Government. <p>(3) The Chairperson and other members shall be persons of ability, integrity and standing, who have expertise in finance, economics, risk management, or the regulation, supervision, resolution of financial firms, law or public policy in the area of financial services.</p> <p>(4) Every appointment made, other than the appointment of an <i>ex officio</i> member, under this section shall be made after</p> | |

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| | <p>obtaining the recommendation of a search and selection committee consisting of-</p> <ul style="list-style-type: none"> (a) Cabinet Secretary-Chairperson; (b) Secretary to the Government of India to be nominated by the Central Government-Member; (c) three experts of repute from the field of finance, law, management, insolvency and related subjects, to be nominated by the Central Government-Members. <p>(5) The term of office of the Chairperson and members (other than <i>ex officio</i> members) shall be five years or till they attain the age of sixty-five years, whichever is earlier, and they shall be eligible for reappointment subject to sub-section (6):</p> <p>Provided that the age-limit to determine the term of office of independent members under clause (h) of sub-section (2) of this section shall be seventy years.</p> <p>(6) A person is disqualified from being appointed as the Chairperson or whole-time member of the Board, other than as an <i>ex officio</i> member, if at the time of appointment such person, -</p> <ul style="list-style-type: none"> (a) has been appointed twice as a member of the Board; (b) will not be able to serve a term of at least three years before reaching the age of retirement; and (c) holds or has held, in three years preceding such appointment, any position which is likely to conflict with his or her duties as a member of the Board. <p>(7) The salaries and allowances payable to, and other terms and conditions of service of the Chairperson and members (other than <i>ex officio</i> members) shall be such as may be prescribed.</p> | |
| <p>Restriction on future employment of members.</p> | <p>5. The Chairperson and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept-</p> <ul style="list-style-type: none"> (a) any employment either under the Central Government or under any State Government; or | |

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| | (b) any appointment in any covered service provider. | |
| Removal of members | <p>6. (1) The Central Government may remove the Chairperson or member from office, if he or she -</p> <ul style="list-style-type: none"> (a) has been adjudicated as insolvent; (b) has become physically or mentally incapable of acting as a member; (c) has been convicted of an offence, which in the opinion of the Central Government involves moral turpitude; (d) has so abused his or her position as to render his or her continuation in office detrimental to the public interest; or (e) has acquired such financial or other interest as is likely to affect prejudicially his or her functions as a member. <p>(2) No member shall be removed under this section unless he or she has been given a reasonable opportunity of being heard in the matter.</p> | |
| Powers of Chairperson | <p>7. The Chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Corporation and may also exercise such other powers as may be delegated to him or her by the Board except the power under section 12.</p> | |
| Meetings of the Board | <p>8. (1) The Board shall meet at such times and places, observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be specified.</p> <p>(2) If, for any reason, the Chairperson is unable to attend any meetings of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.</p> <p>(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of members present and voting and in the event of an equality of votes, the Chairperson or in his or her absence, the person presiding, shall have a second casting vote.</p> | |

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| Member not to participate in meetings in certain cases. | <p>9. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his or her knowledge, disclose the nature of his or her interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.</p> | |
| Vacancies etc. not to invalidate proceedings. | <p>10. No act or proceeding of the Board, shall be invalid merely by reason of-</p> <ul style="list-style-type: none"> (a) any vacancy in or any defect in the constitution of the Board; (b) any defect in the appointment of a person as a member of the Board; or, (c) any irregularity in the procedure of the Board not affecting the merits of the case. | |
| Power to appoint officers and employees. | <p>11. (1) The Board may appoint such officers and employees of the Corporation as it considers necessary for the efficient discharge of its functions under this Act.</p> <p>(2) The salaries and allowance payable to, and other terms and conditions of service of such officers and employees of the Corporation shall be specified.</p> | |
| Powers of officers | <p>12. The Board may make regulations not inconsistent with this Act, and the rules made thereunder, to authorise officers to carry out any functions for the purposes of this Act.</p> | |
| <p>CHAPTER 3</p> <p>FUNCTIONS AND POWERS</p> | | |
| Powers and functions | <p>13. (1) Save as provided by regulations, the Corporation shall, perform any of the following functions, namely: -</p> <ul style="list-style-type: none"> (a) provide Deposit Insurance under Part III; (b) assign risk to viability of a covered service provider | |

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| | <p style="text-align: center;">under section 37;</p> <ul style="list-style-type: none"> (c) inspect a covered service provider under section 17; (d) resolve a covered service provider as per the provisions of Part IV; (e) act as liquidator for a covered service provider under Chapter 14; and (f) any other functions stated in the Act. <p>(2) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under this Act, the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely: -</p> <ul style="list-style-type: none"> (a) the discovery and production of books of account and other documents, at such place and such time as may be specified; (b) summoning and enforcing the attendance of persons and examining them on oath; (c) inspection of any books, registers and other documents of any person at any place; (d) issuing of commissions for the examination of witnesses or documents. (e) any other matter as maybe prescribed. | |
| <p>Powers of investigation</p> | <p>14. (1) Where the Board has reasonable grounds to believe that, –</p> <ul style="list-style-type: none"> (a) the activities of a covered service provider are being conducted in a manner detrimental to the interest of the consumers; or (b) any person or entity associated with the covered service provider has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder, it may, at any time, by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) mentioned in the order to investigate the affairs of such persons or entity associated with the covered service provider and to report thereon to the Board. | |

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| | <p>(2) Without prejudice to the provisions contained in sections 210, 213, 214, 215, 217, 219, 220 and 223 of the Companies Act, 2013 (18 of 2013), it shall be the duty of every manager, managing director, officer and other employee of the company, in case of a company functioning as a covered service provider and every person associated with a covered service provider, to preserve and to produce to the Investigating Authority or any person authorised by him or her in this behalf, such books, registers, other documents and records of, or relating to the covered service provider, as specified by the Investigating Authority, by a notice, which are in their custody or power.</p> <p>(3) Subject to the Banker’s Book of Evidence Act, 1891, the Investigating Authority may require any person associated with the covered service provider in any manner to furnish such information to, or produce such books, or other documents, or records before him or her or any person authorised by him or her in this behalf as he or she may consider necessary if the furnishing of such information or the production of such books, or register, or other documents, or s is relevant or necessary for the purposes of its investigation.</p> <p>(4) The Investigating Authority may keep in its custody any books, registers, other documents and records produced under sub-section (2) or sub-section (3) for six months and thereafter shall return the same to any person or entity associated with the covered service provider by whom or on whose behalf the books, registers, other documents and records are produced:</p> <p style="padding-left: 40px;">Provided that the Investigating Authority may call for any book, register, other documents or records if they are required again:</p> <p style="padding-left: 40px;">Provided further that if the person on whose behalf the books, registers, other documents or records are produced requires certified copies of the books, registers, other documents or records produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents or, as the case may be, records to such person or entity on whose behalf the books, registers, other documents and records were produced.</p> <p>(5) Any person, directed to make an investigation under sub-</p> | |
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| | <p>section (1), may examine on oath any person or entity associated with the covered service provider in any manner, in relation to the affairs of his or her business and may administer an oath accordingly and for that purpose may require any of those persons to appear before him or her personally.</p> <p>(6) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him or her.</p> <p>(7) Upon the conclusion of an investigation under this section, the Board shall prepare a report of such investigation, a copy of which shall be forwarded to the Appropriate Regulator within such time as may be specified.</p> | |
| <p>Powers pending investigation</p> | <p>15. Without prejudice to the provisions contained in section 13 and section 14, the Board may authorise a member of the Board to carry out any of the following measures, pending investigation, –</p> <p>(a) restrain a covered service provider from carrying out such business activities as it thinks fit;</p> <p>(b) restrain any office bearer of a covered service provider from acting as such;</p> <p>(c) impound and retain the proceeds in respect of any activity of a covered service provider which is under investigation;</p> <p>(d) (i) Provisionally attach, for a period not exceeding thirty days, any assets of a covered service provider or any person associated with such covered service provider, where it has reason to believe that such covered service provider or any person associated with such covered service provider has committed a violation of any of the provisions of this Act or the rules or the regulations made thereunder.</p> <p>(ii) The Board shall, within fifteen days of the order under sub-clause (i), make an application supported by an affidavit stating the grounds on which it has issued the said order, to the District Judge having jurisdiction for confirmation of the provisional order of</p> | |

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| | <p style="text-align: center;">attachment.</p> <p style="text-align: center;">(iii) Upon receipt of the application under sub-clause (ii), the District Judge having jurisdiction shall, after considering the affidavit and providing a summary hearing to the concerned covered service provider, by an order in writing, either confirm or revoke the order:</p> <p style="text-align: center;">Provided that only the assets, relating to the proceeds involved in the violation of any of the provisions of this Act or the rules or the regulations made thereunder shall be attached;</p> <p>(e) direct a covered service provider or any person associated with the covered service provider in any manner not to dispose of for alienate an asset forming part of any activity which is under investigation:</p> <p style="text-align: center;">Provided that a member of the Board shall, either before or after, passing such orders, under this section, give to such covered service provider or persons concerned a reasonable opportunity of being heard.</p> | |
| <p>Search and seizure.</p> | <p>16. (1) Where the Board, in consequence of information in its possession, has reason to believe that, –</p> <p>(a) any person associated with a covered service provider who has been required to produce, or cause to be produced, any books, accounts or other documents in his or her custody or power has omitted or failed to produce, or cause to be produced, such books, accounts or other documents; or</p> <p>(b) any person to whom a requisition to produce any books, accounts or other documents as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books, accounts or other documents which shall be useful for, or relevant to, an investigation under this Act; or</p> <p>(c) a contravention of any provision of this Act has been committed or is likely to be committed by a covered service provider; or</p> <p>(d) any claim which is due to be settled by the covered</p> | |

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| | <p>service provider, has been or is likely to be rejected or settled at a figure higher than a reasonable amount; or</p> <p>(e) any claim which is due to be settled by a covered service provider, has been or is likely to be rejected or settled at a figure lower than a reasonable amount; or</p> <p>(f) any books, accounts, papers, receipts, vouchers, survey reports or other documents, belonging to a covered service provider are likely to be tampered with, falsified or forged,</p> | |
| | <p>it may authorise any suitable officer (hereinafter referred as the authorised officer), to, –</p> <p>(a) enter and search any building or place where he or she has reason to suspect that such books, accounts or other documents are kept;</p> <p>(b) break open the lock of any box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (a) where the keys thereof are not available;</p> <p>(c) seize all or any such books, accounts or other documents, found as a result of such search;</p> <p>(d) place marks of identification on such books, accounts or other documents or make or cause to be made extracts or copies therefrom.</p> <p>(2) The authorised officer may requisition the services of any police officer to assist him or her for all or any of the purposes specified in sub-section (1) and it shall be the duty of every such police officer to comply with such requisition.</p> <p>(3) The authorised officer may, where it is not practicable to seize any such book, account or other document, specified in sub-section (1), serve an order on the person who is in immediate possession or control thereof that he or she shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.</p> <p>(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books, accounts or other</p> | |

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| | <p>documents, and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Act.</p> <p>(5) The books, accounts, papers, receipts, vouchers, reports, or other documents seized under sub-section (1) shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him or her in writing and the approval of the Board for such retention is obtained:</p> <p style="padding-left: 40px;">Provided that the Board shall not authorise the retention of the books, accounts, papers, receipts, vouchers, reports or other documents for a period exceeding thirty days after all the proceedings under this Act, for which the books, accounts, papers, receipts, vouchers, reports, or other documents are relevant, are completed.</p> <p>(6) The person from whose custody the books, accounts, papers, receipts, vouchers, reports, or other documents are seized under sub-section (1) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by the authorised officer in this behalf at such place and time as the authorised officer may appoint in this behalf.</p> <p>(7) If a person legally entitled to the books, accounts, papers, receipts, vouchers, reports or other documents seized under sub-section (1) objects for any reason to the approval given by the Board under sub-section (5), such person may make an application to the National Company Law Tribunal stating therein the reason for such objection and requesting for the return of the books, accounts, papers, receipts, vouchers, report or other documents.</p> <p>(8) On receipt of the application under sub-section (7), the National Company Law Tribunal may, after giving the applicant a reasonable opportunity of being heard, pass such order as it thinks fit.</p> <p>(9) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall apply, so far as may be,</p> | |
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| | <p>to every search and seizure made under sub-section (1).</p> <p>(10) The Board may specify the manner of any search or seizure conducted under this section and in particular, and without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed, –</p> <p>(a) for obtaining ingress into such building or place to be searched where free ingress thereto is not available; and</p> <p>(b) for ensuring safe custody of any books, accounts, papers, receipts, vouchers, reports, or other documents seized under this section.</p> | |
| Power to enter premises | <p>17. The Board or the Appropriate Regulator may authorise any officer or agent of the Corporation or of the Appropriate Regulator as applicable, and such officer or agent , for ensuring compliance with the provisions of this Act, may enter any premises where a covered service provider carries out business and may inspect any equipment, including any computer system or other documents situated at such premises and call upon any employee of such covered service provider or any other person working in such premises to furnish such information or documents as may be required by such officer.</p> | |
| Conditions on exercise of powers. | <p>18. The powers under sections 14, 15, 16 and 17 with respect to a covered service provider or any person or entity associated with such covered service provider, shall be exercised by the Corporation only after such covered service provider is classified by the Appropriate Regulator or the Corporation to be at imminent risk to viability under section 44 or critical risk to viability under section 46.</p> | |
| Constitution of committees | <p>19. The Board may, for efficient discharge of its functions, constitute committees, as it may deem fit, consisting of a Chairperson and such other members as may be specified by regulations.</p> | |
| Transparency | <p>20. (1) The Board shall hold due consultations with all relevant stakeholders before issuing any regulation under this Act.</p> <p>(2) The Board shall ensure transparency in the discharge of its powers and functions.</p> | |

| CHAPTER 4 FINANCE, ACCOUNTS AND AUDIT | | |
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| Funds of the Corporation. | <p>21. (1) The following funds shall be constituted for the Corporation, –</p> <ul style="list-style-type: none"> (a) a fund for Deposit Insurance provided by the Corporation to the insured service providers, called the Corporation Insurance Fund; (b) a fund for meeting the expenses of carrying out resolution of insured service providers, called the Corporation Resolution Fund; and (c) a fund for all other functions of the Corporation called the Corporation General Fund. <p>(2) The funds under this section shall be credited in the following manner, –</p> <ul style="list-style-type: none"> (a) premium for Deposit Insurance collected from insured service providers, in the Corporation Insurance Fund; (b) fees for resolution collected from the covered service provider in the Corporation Resolution Fund; and (c) all other fees in the Corporation General Fund. <p>(3) The Corporation shall, prudently invest the monies in the Corporation Insurance Fund in such manner as may be specified.</p> <p>(4) The Corporation may invest the monies in the other funds in a prudent manner.</p> <p>(5) Any income from any investment made by the Corporation under sub-section (3) and (4) shall be remitted to the respective fund from which such investment was made.</p> <p>(6) The Corporation shall utilise each fund only for the purpose for which it has been constituted.</p> | |
| Grants by Central Government. | <p>22. Without prejudice to section 21, the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Corporation grants or loans of such sums of money, on</p> | |

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| | <p>such terms, as the Central Government may think fit for being utilised for the purposes of this Act:</p> <p>Provided that the Central Government may require such grants to be deposited in such fund of the Corporation as the Central Government may direct.</p> | |
| Accounts and audit | <p>23. (1) The Corporation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.</p> <p>(2) The accounts of the Corporation shall be audited by the Comptroller and Auditor- General of India at such intervals as may be prescribed by the Central Government and any expenditure incurred in connection with such audit shall be payable by the Corporation to the Comptroller and Auditor General of India.</p> <p>(3) The Comptroller and Auditor General of India and any other person appointed by him or her in connection with the audit of the accounts of the Corporation shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General of India generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Corporation.</p> <p>(4) The accounts of the Corporation as certified by the Comptroller and Auditor General of India or any other person appointed by the Comptroller and Auditor General of India in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.</p> | |
| Fees to be paid to the Corporation. | <p>24. (1) Every covered service provider shall pay to the Corporation, such amounts as may be specified by the Board as –</p> <p>(a) fees for resolution; and</p> <p>(b) fees for administrative expenses of the Corporation</p> | |

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| | <p style="text-align: center;">including the fees charged under section 33.</p> <p>(2) Every insured service provider shall additionally pay such amounts, at such frequency, as premium for Deposit Insurance, as may be specified by the Board.</p> <p>(3) Without prejudice to the generality of sub-sections (1) and (2) the Board shall specify–</p> <p>(a) the amount, manner and methodology of assessment of fees and premium payable by a covered service provider or insured service provider as applicable, including different rates for different categories of covered service providers and insured service providers, based on considerations which may include the risk profile of the covered service provider, amongst others;</p> <p>(b) the information which a covered service provider and an insured service provider, shall provide to the Corporation to calculate fees or premium as applicable.</p> | |
| <p>CHAPTER 5</p> <p>SYSTEMICALLY IMPORTANT FINANCIAL INSTITUTIONS</p> | | |
| <p>Designation.</p> | <p>25. (1) The Central Government in consultation with the Appropriate Regulator may prescribe such criteria, as it determines to be appropriate, which if a financial service provider meets, such financial service provider should be designated as a Systemically Important Financial Institution.</p> <p>(2) Without prejudice to the generality of sub-section (1), the criteria for designation of a financial service provider as a Systemically Important Financial Institution shall take into consideration, the following features of a financial service provider:</p> <p>(a) size;</p> <p>(b) complexity;</p> <p>(c) nature and volume of transactions with other financial service providers;</p> <p>(d) interconnectedness with other financial service providers; and</p> | |

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| | <p>(e) such other related matter as may be prescribed.</p> <p>(3) The Central Government, in consultation with the Appropriate Regulator, may, by order published in the official gazette, designate such financial service providers which meet the criteria prescribed under sub-section (1):</p> <p>Provided that the Central Government shall provide the concerned financial service provider an opportunity to be heard and present such arguments in writing, before passing an order under this sub-section.</p> | |
| <p>Consequence of designation</p> | <p>26. (1) If a financial service provider is designated as a Systemically Important Financial Institution, then notwithstanding whether such financial service provider is a covered service provider or not, the provisions of this Act, applicable to a covered service provider will apply to such Systemically Important Financial Institution as if it was a covered service provider.</p> <p>(2) All Systemically Important Financial Institutions shall submit a Resolution Plan and a Restoration Plan as per sub-section (2) of section 39, duly approved by the Appropriate Regulator, within ninety days of the publication of order under section 25.</p> <p>(3) All Systemically Important Financial Institutions shall provide such information in such frequency and such manner as may be specified by the Corporation, to monitor the safety, soundness and solvency of such Systemically Important Financial Institutions.</p> <p>(4) Notwithstanding anything contained in section 14, the Corporation and the Appropriate Regulator may, based on information received from such Systemically Important Financial Institution or otherwise and for reasons to be recorded in writing, jointly inspect all Systemically Important Financial Institutions in such manner as may be specified.</p> <p>(5) Notwithstanding anything to the contrary contained in this Act, the regulation and supervision of Systemically Important Financial Institutions shall continue to be governed by the Appropriate Regulator with which the Systemically Important</p> | |

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| | Financial Institution is registered. | |
| De-designation. | 27. If a Systemically Important Financial Institution ceases to meet the criteria specified in subsection (1) of section 25, then the Central Government may, for reasons to be recorded in writing, de-designate such a Systemically Important Financial Institution. | |
| Delegation | 28. The Central Government, may by an order to be published in the official gazette, appoint a body constituted by it to discharge its powers and functions under this Chapter. | |
| PART III DEPOSIT INSURANCE | | |
| CHAPTER 6 LIABILITY OF CORPORATION TO DEPOSITORS | | |
| Liability of the Corporation in respect of insured deposits | <p>29. (1) The Board in consultation with the Appropriate Regulator shall specify the total amount payable by the Corporation with respect to any one depositor, in respect of his or her deposit insured under this Act, in the same capacity and in the same right.</p> <p>(2) The Corporation Insurance Fund shall be used by the Corporation only–</p> <p>(a) for payment of specified amount or amount due to a depositor of an insured service provider in respect of his or her deposit, whichever is less, in case of liquidation of an insured service provider;</p> <p>(b) for payment under -</p> <p>(i) a scheme of compromise or arrangement or amalgamation sanctioned in respect of an eligible co-operative bank, in accordance with the law governing such eligible co-operative bank; or</p> <p>(ii) a scheme of resolution that has been sanctioned under section 48, except bail-in under section 52 in respect of any other insured service provider.</p> <p style="text-align: right;">wherein the said scheme provides for each depositor being</p> | |

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| | <p>paid or credited with, on the date on which the scheme comes into force, an amount which is less than the original amount and also the specified amount, in which case, the Corporation shall be liable to pay to every such depositor in accordance with the provisions of section 29 an amount equivalent to the difference between the amount so paid or credited and the original amount, or the difference between the amount so paid or credited and the specified amount, whichever is less:</p> <p>Provided that where any such scheme also provides that any payment made to a depositor before the coming into force of the scheme shall be reckoned towards the payment due to him or her under that scheme, then the scheme shall be deemed to have provided for that payment being made on the date of its coming into force.</p> <p><i>Explanation:</i> In this sub-section,</p> <p>(i) “original amount” in relation to a depositor means the total amount due by the insured service provider immediately before the date of coming into force of the scheme of compromise, arrangement or amalgamation or the scheme of resolution as the case may be, to the depositor in respect of his or her deposit in the insured service provider in the same capacity and in the same right:</p> <p>Provided that where under the proviso to sub-clause (b) of sub-section (3), the scheme is deemed to have provided for any payment being made on the date of its coming into force, the amount of such payment shall be included in calculating the original amount;</p> <p>(ii) “specified amount” means the amount fixed by the Board under sub-section (1).</p> <p>(c) Where, as a process of resolution of an insured service provider, the Corporation determines that the readily realisable assets of the insured service provider shall not be sufficient to pay for the insured deposits of the insured service provider, the Corporation may, after inviting offers from other insured service providers, form a scheme which involves:</p> <p>(i) another insured service provider taking over the</p> | |
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| | <p>liabilities of the insured service provider in resolution to the extent of the insured liabilities to the depositors;</p> <p>(ii) transferring the deposits of the insured depositors to the other insured service provider to the extent of insured amount;</p> <p>(iii) transferring such readily realisable assets of the insured service provider in resolution as appropriate;</p> <p>(iv) making such payments, as mutually agreed by the Corporation and the other insured service provider, out of the Deposit Insurance Fund for taking over the Insured Deposits; and</p> <p>(v) liquidating an insured service provider under chapter 14, or forming a bridge institution under section 50 with such assets, which are not readily realisable, and all remaining liabilities of the insured service provider in resolution.</p> <p>(3) Where the Corporation forms a scheme under this section, the Corporation may make such payments out of the Deposit Insurance Fund to the other insured service provider, subject to the following conditions –</p> <p>(a) the amount transferred under such scheme shall not be more than the estimated liabilities of the Deposit Insurance Fund, had the insured service provider in resolution been liquidated; and</p> <p>(b) the amount is transferred to an entity which is not related to the insured service provider in liquidation.</p> <p>(4) After the Corporation liquidates the insured service provider or resolves the bridge institution under section 50, then notwithstanding anything contained in section 79, the Corporation’s payment out of the Corporation Insurance Fund under subsection (2) of this section shall have priority over</p> | |
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| | <p>other claims.</p> <p>(5) For the purposes of this section, the amount of a deposit shall be determined after deducting therefrom any ascertained sum of money which the insured service provider may be legally entitled, to claim by way of set-off against the depositor in the same capacity and in the same right.</p> <p>(6) The Corporation shall within ninety days from the date of utilisation of any amount from the Corporation Insurance Fund, submit a report to the Central Government in such form and manner as may be prescribed.</p> <p>(7) In this section,</p> <p style="padding-left: 40px;">(a) “readily realisable assets” means the assets of the insured service provider in resolution which may be sold or transferred at reasonable market value within a short span of time usually not exceeding six months; and</p> <p style="padding-left: 40px;">(b) a party is related to an insured service provider if it owns more than the specified percentage of the equity of the insured service provider or has a common shareholder which owns more than a specified percentage of equity and such other persons as may be specified.</p> <p>(8) Without prejudice to the generality of the previous subsections, for the purposes of this section the Corporation shall specify -</p> <p style="padding-left: 40px;">(a) the process of determining readily realisable assets of an insured service provider in resolution;</p> <p style="padding-left: 40px;">(b) the process of inviting offers from other insured service providers and the time and manner of making offers by other insured service providers;</p> <p style="padding-left: 40px;">(c) the process of estimation of liabilities to the Deposit</p> | |
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| | Insurance Fund. | |
| Manner of payment by Corporation | <p>30. (1) Where any scheme referred to in clause (b) of sub-section (2) of section 29, of any insured service provider with any other banking institution (hereinafter referred to as the transferee insured service provider) in respect of such insured service provider and the Corporation has become liable to pay to depositors of the insured service provider under section 29, the transferee insured service provider shall, with the least possible delay and in any case not later than three months from the date on which such scheme takes effect, furnish to the Corporation, a list in such form and manner as may be specified by the Corporation and certified to be correct by the chief executive officer of the transferee insured service provider.</p> <p>(2) Such list shall show separately, deposits in respect of each depositor and the amounts to be set off referred to in section and also the amounts paid or credited or deemed to have been paid under the scheme.</p> <p>(3) Before the expiry of two months from the receipt of such list, the Corporation shall pay the amount payable under section 29 either directly to the depositor or to the transferee insured service provider or the insured service provider for being credited in his or her account.</p> <p>(4) The manner of payment by the Corporation in case of liquidation shall be as enumerated under section 71.</p> | |
| Discharge of liability of Corporation | <p>31. Any amount paid by the Corporation under section 29 in respect of a deposit shall, to the extent of the amount paid, discharge the Corporation from its liability in respect of that deposit.</p> | |
| Provision for unpaid amounts | <p>32. Where any depositor to whom any payment is to be made in accordance with the provisions of section 30 or section 72 cannot be found or is not readily traceable, adequate provisions shall be made by the Corporation for such payment and the amount of such provision shall be accounted for separately in its books.</p> | |
| <p>CHAPTER 7</p> <p>REGISTRATION AND DE-REGISTRATION</p> | | |

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| <p>Registration.</p> | <p>33. (1) On the date of the commencement of this Act, every existing covered service provider shall be deemed to be registered under this Act.</p> <p>(2) Whenever the Appropriate Regulator issues a new license, authorisation or permission by virtue of which a person is categorized as a covered service provider such person shall be deemed to be registered under this Act.</p> <p>(3) Every banking institution which is registered as an insured bank under the provisions of Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961) as on the date of commencement of the relevant provisions of this Act, shall be deemed to be registered as an insured service provider for obtaining Deposit Insurance under the provisions of this Act.</p> <p>(4) Every new banking institution shall be deemed to be registered as an insured service provider for obtaining Deposit Insurance under this Act once the Appropriate Regulator issues a banking licence to it.</p> <p>(5) The Corporation shall maintain a public register with such details and additional information for this purpose, of each insured service provider and covered service provider as may be specified.</p> <p>(6) For the purpose of sub-section (5), the Corporation may charge such fees as may be specified.</p> <p>(7) For the purposes of sub-section (1) and sub-section (2), the Appropriate Regulator shall, within fifteen days of the commencement of this Act or the issuance of a new license, authorisation or permission as the case may be, provide such information as may be specified for the maintenance of the public register under sub-section (5).</p> | |
| <p>Withdrawal of registration of covered service provider</p> | <p>34. Where the license, authorisation or permission of a covered service provider to carry on business is withdrawn by the Appropriate Regulator, notwithstanding anything contained in this Act, such entity shall be deemed to be a covered service provider for the purposes of this Act.</p> | |

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| <p>Withdrawal of registration of insured service provider</p> | <p>35. (1) The registration of an insured service provider shall stand withdrawn in the following circumstances:</p> <ul style="list-style-type: none"> (a) such insured service provider has been prohibited permanently from receiving fresh deposits; or (b) such insured service provider has ceased to be a banking company or a cooperative bank, as the case may be, within the meaning of sub section (2) of section 36A of the Banking Regulation Act, 1949, or has converted itself into a non-banking institution; or (c) such insured service provider has been informed by notice in writing by the Reserve Bank that its licence has been cancelled under section 22 of the Banking Regulation Act, 1949 or that a licence under that section cannot be granted to it; or (d) such insured service provider has transferred all its deposit liabilities in India to any other institution; or (e) liquidator has been appointed in respect of such insured service provider; or (f) such insured service provider has been amalgamated with any other insured service provider; or (g) where the insured service provider is an eligible co-operative bank, if it ceases to be so under the law for the time being governing it; or (h) such insured service provider has been ordered to be liquidated. <p>(2) (a) The Corporation may, in consultation with the Appropriate Regulator, cancel the registration of an insured service provider and classify it to be at “imminent risk to viability” if it fails to pay the premium for three consecutive periods:</p> <p>Provided that no such registration shall be cancelled except after giving one month’s notice in writing to the insured service provider calling upon it to pay the amount of default.</p> <p>(b) The Corporation in consultation with the Appropriate</p> | |
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| | <p>Regulator may restore the registration of an insured service provider whose registration has been cancelled under sub-section (1), if the insured service provider requests the Corporation to restore the registration and pays all the amounts due by way of premia from the date of default till the date of payment together with interest due thereon, on the date of payment:</p> <p>Provided that the Corporation shall not restore the registration unless it is satisfied, on an inspection of the insured service provider or otherwise that it is eligible to be registered as an insured service provider.</p> | |
| <p>Withdrawal of registration not to affect liability to pay premia etc.</p> | <p>36. (1) Where the registration of a covered service provider has been withdrawn under section 34 or that of an insured service provider has been withdrawn under section 35, it shall not entitle such covered service provider or insured service provider to any refund for any fees or premia paid to the Corporation under this Act.</p> <p>(2) Where the registration of a covered service provider has been withdrawn under section 34 or registration of any insured service provider is withdrawn under section 35, it shall not affect the liability of such covered service provider or insured service provider for payment of premium or fees for the period before such withdrawal and of any interest due under the provisions of this section.</p> <p>(3) If a covered service provider or an insured covered service provider makes any default in payment of any number of fees or premium, it shall, for the period of such default, be liable to pay to the Corporation interest on such amount at such rate not exceeding eight per cent over and above the bank rate, as may be specified by the Corporation.</p> <p><i>Explanation:</i> For the purposes of this sub-section, “bank rate” shall have the same meaning as accorded to it under section 49 of the Reserve Bank of India Act, 1934.</p> | |
| <p>PART IV</p> <p>RESOLUTION OF COVERED SERVICE PROVIDERS</p> | | |

| CHAPTER 8 DETERMINATION OF RISK TO VIABILITY | |
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| Defining risk to viability. | <p>37. (1) The Board shall, in consultation with the appropriate Regulator, specify objective criteria for classification of covered service provider into any one of the following categories of risk to viability, –</p> <ul style="list-style-type: none"> (a) low, where the probability of failure of a covered service provider is substantially below the acceptable probability of failure; (b) moderate, where the probability of failure of a covered service provider is marginally below or equal to acceptable probability of failure; (c) material, where the probability of failure of a covered service provider is marginally above acceptable probability of failure; (d) imminent, where the probability of failure of a covered service provider is substantially above the acceptable probability of failure; (e) critical, where the probability of failure of a covered service provider is substantially above the acceptable probability of failure, and the covered service provider is on the verge of failing to meet its obligations to its consumers. <p>(2) Without prejudice to the generality of sub-section (1), the regulations under this section may take into account the following features of a covered service provider, –</p> <ul style="list-style-type: none"> (a) adequacy of capital, assets and liability; (b) asset quality; (c) capability of management; (d) earnings sufficiency; (e) leverage ratio; (f) liquidity of the covered service provider (g) sensitivity of the covered service provider to adverse market conditions; (h) compliance with applicable laws; (i) risk of failure of a holding company of a covered service provider or a connected body corporate in India or abroad; and |

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| | <p>(j) any other features that the Corporation deems necessary.</p> <p>(3) Without prejudice to sub-sections (1) and (2), the Board in consultation with the Appropriate Regulator may specify additional criteria for assessment of risk to viability of a covered service provider which is operating in India as a branch office of a body corporate incorporated outside India.</p> <p>(4) For the purpose of sub-section (1), the Board may specify different criteria for different categories of covered service provider.</p> <p>(5) The classification of a covered service provider by the Board or the Appropriate Regulator, as the case may be, shall be final and binding on the covered service provider.</p> | |
| <p>Inspection and calling for information</p> | <p>38. (1) For the purpose of section 37 of this Act, the Appropriate Regulator may, by inspection or otherwise, at such frequency as may be specified by the Appropriate Regulator, classify each covered service provider into one of the categories of risk to viability.</p> <p>(2) Where a covered service provider has been classified as having ‘material risk to viability’ by the Appropriate Regulator, and in case the Board has a difference of opinion over such classification, the Board shall, record its reasons in writing and convey the same to the Appropriate Regulator.</p> <p>(3) Where the Board has conveyed its difference of opinion over the assessment under sub-section (2), there shall be a consultation process of not more than fifteen days between the Board and the Appropriate Regulator with a view to arriving at a consensus over the assessment.</p> <p>(4) Notwithstanding anything to the contrary contained in this Act, where even after consultation, the Board continues to hold a different view regarding the assessment, it may decide to conduct an independent inspection to confirm its own view regarding the risk to viability, in which case the Appropriate Regulator may also be present during such inspection, if</p> | |

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| | <p>found necessary by the Appropriate Regulator.</p> <p>(5) After such inspection, the Board shall forward a copy of the inspection report along with its findings to the Appropriate Regulator for its comments.</p> <p>(6) Based on the inspection under sub-section (4) and considering the comments of the Appropriate Regulator, the Board may make a determination of the risk to viability of the covered service provider which shall be final.</p> <p>(7) The Board may request such information relating to its business as may be specified, from any covered service provider designated to be at material, imminent or critical risk to viability.</p> | |
| <p>CHAPTER 9</p> <p>RESTORATION AND RESOLUTION PLANS</p> | | |
| <p>Submission of plans</p> | <p>39. (1) If a covered service provider is classified as material or imminent risk to viability, as the case maybe, such covered service provider shall submit a Restoration Plan to the Appropriate Regulator and a Resolution Plan to the Corporation within thirty days of such classification.</p> <p>(2) Every covered service provider designated as a Systemically Important Financial Institution shall submit a Resolution Plan and Restoration Plan to the Corporation and the Appropriate Regulator respectively, within ninety days of such designation.</p> <p>(3) A copy of every Resolution Plan submitted to the Corporation under this section will be sent to the Appropriate Regulator, and a copy of every Restoration Plan submitted to the Appropriate Regulator under this section will be sent to the Corporation within fifteen days of its receipt.</p> | |
| <p>Restoration plan.</p> | <p>40. (1) Every Restoration Plan shall contain the following,-</p> <p>(a) distinct identification of the assets and liabilities of the</p> | |

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| | <p>covered service provider;</p> <p>(b) any contingent liabilities of the covered service provider;</p> <p>(c) steps which the covered service provider shall take to qualify to be classified as in the category of moderate risk to viability;</p> <p>(d) how the steps may result in the covered service provider to be qualified to be classified as in the category of at least moderate risk to viability;</p> <p>(e) the time within which the entire Restoration Plan and each step of the plan will be executed; and</p> <p>(f) any other relevant information specified by the Appropriate Regulator.</p> <p>(2) For the purposes of sub-section (1), the Appropriate Regulator shall specify, –</p> <p>(a) the form and manner in which the Restoration Plan is required to be made; and</p> <p>(b) any other information required as may be required by the Appropriate Regulator to be included in the Restoration Plan.</p> <p>(3) The Appropriate Regulator may require a covered service provider to provide such additional information as may be required by the Appropriate Regulator to determine the efficacy of a Restoration Plan.</p> | |
| <p>Resolution plan.</p> | <p>41. (1) Every Resolution Plan shall contain the following, –</p> <p>(a) distinct identification of the assets and liabilities of the covered service provider;</p> <p>(b) any contingent liabilities of the covered service provider;</p> <p>(c) distinct identification of critical functions of an insurer;</p> <p>(d) distinct identification of critical shared services;</p> <p>(e) direct or indirect access to Financial Market Infrastructure services; and</p> <p>(f) such other relevant information, including strategy</p> | |

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| | <p>plans to exit the resolution process, which may provide for the consideration of legal or regulatory requirements which may be required by the Corporation to sell or transfer the assets and liabilities of the covered service provide, or change its ownership.</p> | |
| | <p>(2) The Corporation or the Appropriate Regulators may require Systemically Important Financial Institutions to provide such other additional information as may be specified for the purpose of this section.</p> | |
| | <p>(3) Without prejudice to anything contained in sub-section (1), the Corporation or the Appropriate Regulators may, in case of insurance companies, require every Resolution Plan to additionally contain the following, -</p> <ul style="list-style-type: none"> (a) provisions for the transfer of reinsurance (if any) and the impact on cover and their implications on Resolution Planning; and; (b) operational and practical arrangements for ensuring continuity of cover and payment under insurance policies, in various failure scenarios; (c) availability of insurance cover. <p><i>Explanation I</i>-For the purposes of this sub-section, critical functions would mean those functions that would have a significant impact on a covered service provider upon being suddenly discontinued, are not easily substitutable, and are specific to a specific insurer.</p> <p><i>Explanation II</i>-For the purposes of this sub-section, critical shared functions would mean those activities which are performed within an insurance company or outsourced to third parties whose failure would lead to the insurer being unable to continue to perform a critical function.</p> | |
| | <p>(4) The Board shall specify –</p> <ul style="list-style-type: none"> (a) the form and manner in which the Resolution Plan is required to be made; and (b) any relevant information required by the Corporation. | |
| | <p>(5) The Corporation may require a covered service provider to</p> | |

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| | <p>provide such additional information as may be required by the Corporation to transfer or sell the assets of the covered service provider.</p> | |
| <p>Change and update of Resolution Plan and Restoration Plan.</p> | <p>42. (1) Every Resolution Plan shall be updated once every six months and the Corporation shall be notified of such updated Resolution Plan within seven days of such updating.</p> <p>(2) Every material change in the Resolution Plan shall be immediately notified to the Corporation.</p> <p>(3) The Corporation shall review the information provided in the Resolution Plan and if after such review, the Corporation determines that the plan is not accurate and comprehensive, it shall notify the covered service provider of such deficiency, and the covered service provider shall resubmit the Resolution Plan within such time as may be directed by the Corporation.</p> <p>(4) Every Restoration Plan shall be updated once every six months and the Appropriate Regulator shall be notified of such updated Restoration Plan within seven days.</p> <p>(5) Every material change in the Restoration Plan, as may be specified by the Appropriate Regulator, shall be immediately notified to the Appropriate Regulator.</p> <p>(6) The Appropriate Regulator shall review the information provided in the Restoration Plan and if after such review, it determines that the plan would not ensure restoration within a reasonable time period, it shall notify the covered service provider of such deficiency, and the covered service provider shall resubmit the Restoration Plan within a timeframe directed by the Appropriate Regulator.</p> <p><i>Explanation:</i> For the purpose of this section, the meaning of material change in the Resolution Plan shall be specified by the Corporation, in consultation with the Appropriate Regulator.</p> | |
| <p>CHAPTER 10 MATERIAL, IMMINENT AND CRITICAL RISK TO VIABILITY</p> | | |

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| <p>Material risk to viability.</p> | <p>43. (1) If the Appropriate Regulator classifies a covered service provider as being in the category of material risk to viability,-</p> <ul style="list-style-type: none"> (a) the Appropriate Regulator may carry out additional inspections of the covered service provider to monitor the risk to viability of the covered service provider; (b) the covered service provider shall submit a Restoration Plan to the Appropriate Regulator as per section40; (c) the covered service provider shall submit a Resolution Plan to the Corporation as per section41. <p>(2) When a covered service provider is classified as being in the category of material risk to viability by the Appropriate Regulator, the Appropriate Regulator may by order, prevent the covered service provider from carrying out any or all of the following actions, –</p> <ul style="list-style-type: none"> (a) accepting funds which increase liabilities to consumers; (b) declaration or payment of dividends to any shareholder of the covered service provider; (c) payment of any bonuses to any director, employee or manager of the covered service provider; (d) acquiring any interest in any other business; (e) establishing new locations of carrying out business or acquiring new clients; (f) carrying out transactions with any member of any group to which the covered service provider belongs; and (g) repayment of any debt which is not due. <p>(3) When a covered service provider is classified as being in the category of material risk to viability, the Appropriate Regulator may, by order, require the covered service provider to carry out any or all of the following actions, –</p> <ul style="list-style-type: none"> (a) increase the capital of the covered service provider through such means as may be stated in the order, which may include conversion of securities from one type to other in terms of such securities, or (b) issue of new securities; or | |
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| | <p>(c) sell identified assets; or</p> <p>(d) such other action as may be required by the Appropriate Regulator.</p> <p>(4) The Appropriate Regulator may vary an order under sub-sections (3) or (4), on the application of the covered service provider, if it is satisfied that such variation shall, –</p> <p>(a) reduce the financial obligation of the covered service provider; or</p> <p>(b) restore the covered service provider to the category of low or moderate risk to viability.</p> | |
| <p>Imminent risk to viability.</p> | <p>44. (1) A covered service provider may be classified as being in the category of imminent risk to viability: -</p> <p>(a) by the Appropriate Regulator-</p> <p>(i) under sub-section (1) of section 38; or</p> <p>(ii) if the covered service provider has not submitted a Restoration Plan within a reasonable time after being ordered by the Appropriate Regulator to do so; or</p> <p>(iii) if the covered service provider has failed to implement a Restoration Plan, in full or part, within such time as indicated in the Restoration plan</p> <p>(b) by the Corporation-</p> <p>(i) under sub-section (6) of section 38</p> <p>(ii) if the covered service provider has failed to submit to the Corporation a Resolution Plan after being ordered to so;</p> <p>(c) by the Appropriate Regulator or by the Corporation, when an order is made by any court or Tribunal that there has been a fraud in the business of the covered service provider.</p> <p><i>Explanation:</i> For the purposes of sub-section (1), “fraud” shall have the same meaning as assigned to it under the Companies</p> | |

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| | <p>Act, 2013</p> <p>(2) When a covered service provider is classified as being in the category of imminent risk to viability –</p> <p style="padding-left: 20px;">(a) if the covered service provider is not a Systemically Important Financial Institution, it shall submit a Resolution Plan to the Corporation within seven days from the date of being so designated; and</p> <p style="padding-left: 20px;">(b) the Corporation may appoint employees or authorised officers to continuously inspect the covered service provider, including by being present at the principal location of business and any other location of the covered service provider, and observing any meeting of the management of the covered service provider or any other functioning of the covered service provider.</p> <p>(3) When a covered service provider is classified as being in the category of imminent risk to viability, the Corporation may, by order, prevent the covered service provider from carrying out any or all of the following actions –</p> <p style="padding-left: 20px;">(a) actions listed under sub-section (3) of section 43;</p> <p style="padding-left: 20px;">(b) payment of any fees to any agent or service provider of the covered service provider;</p> <p style="padding-left: 20px;">(c) payment of any remuneration to any employee, director or manager of the covered service provider in excess of any limit set in the order;</p> <p style="padding-left: 20px;">(d) carrying out any financial service as may be provided in the order;</p> <p style="padding-left: 20px;">(e) making of any advances;</p> <p style="padding-left: 20px;">(f) any repatriation of capital and deployment of funds where the covered service provider is a branch office unless otherwise approved by the Corporation; and</p> <p style="padding-left: 20px;">(g) any other action which may, in the opinion of the Corporation, help in the resolution of the covered service provider.</p> <p>(4) Any order issued by the Appropriate Regulator pursuant to this provision shall be in writing, a copy of which shall be forwarded to the Corporation.</p> <p>(5) Any designation of a Central Counterparty to be at “imminent</p> | |
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| | <p>risk to viability” shall only be done by the Appropriate Regulator and shall record its reasons for such designation with the Corporation within fifteen days of such designation.</p> <p>(6) Notwithstanding anything contained in any law for the time being in force, for a covered service provider which has been classified to be at “imminent risk to viability” under this section or “critical risk to viability” under section 46 of this Act, the Appropriate Regulator shall exercise only such powers under its parent Act which are not inconsistent with the provisions of this Act:</p> <p>Provided that nothing in this provision shall apply to a voluntary resolution under Chapter 15 of this Act.</p> | |
| <p>Additional powers in respect of Central Counterparties</p> | <p>45. For a Central Counterparty which has been classified to be at material or imminent risk to viability, in addition to the powers enumerated in section 43 and section 44, the Appropriate Regulator may take the following additional measures of recovery in a manner as may be specified:</p> <ul style="list-style-type: none"> (a) measures to allocate uncovered losses caused by participant default including making additional cash calls on its participants, variation margin haircutting and utilizing the initial margin of participants; (b) measures to address uncovered liquidity shortfalls such as obtaining additional funds from third-party institutions or from participants; (c) measures to replenish financial resources including making cash calls on participants or recapitalizing such central counterparties in a manner as may be specified by the Appropriate Regulator; (d) measures to re-establish a matched book by a Central Counterparty including forced allocation of contracts or partial or complete termination of contracts; (e) measures to allocate losses which are not related to participant default including allocating additional capital. (f) setoff, close-out, netting, collateralisation and segregation of member assets; (h) issuance of equity to the creditors; | |

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| | <p>(i) impose a stay on early termination rights;</p> <p>(j) such other measures as may be deemed necessary by the Appropriate Regulator.</p> <p><i>Explanation I:</i> For the purpose of this Act, cash call in the context of a Central Counterparty refers to a situation where such Central Counterparty asks its existing participants to contribute additional funds.</p> <p><i>Explanation II:</i> For the purpose of this Act, “haircut” means a percentage reduction in the amount that shall be paid to the creditors.</p> | |
| <p>Critical risk to viability</p> | <p>46. (1) Where a covered service provider is classified to be at ‘critical’ risk to viability:</p> <p>(i) by the Appropriate Regulator under sub-section (1) of section 38 ; or</p> <p>(ii) by the Corporation under sub-section (6) of section 38, or by the Corporation from ‘imminent’ risk to viability to ‘critical’ risk to viability, the provisions of chapter 12, chapter 13 and chapter 14 will apply.</p> <p>(2) Any classification of a covered service provider to be at critical risk to viability shall be by an order in writing.</p> <p>(3) The classification of a covered service provider shall be applicable from the date of the order under sub-section (2) and shall be published in such form and manner as may be specified, and shall, notwithstanding anything to the contrary contained in the Companies Act, 2013 (18 of 2013), or any other law for the time being in force, have full effect.</p> <p>(4) Upon publication of the order in the manner specified under sub-section (3), notwithstanding anything to the contrary therein, the order shall come into effect.</p> <p>(5) On the classification of a covered service provider at critical risk to viability under sub-section (2)-</p> <p>(a) The Corporation shall be deemed to be a receiver of such a covered service provider, and may, undertake any of the functions as laid out in Chapter 13.</p> | |

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| | <p>(b) There shall be a stay on:</p> <p>(i) the commencement or continuance of all legal actions and proceedings against such covered service provider, till such time that the Board declares that resolution under section 56 has concluded,</p> <p>(ii) any payment or acceptance of deposits to the depositors of the covered service providers, except on such terms and conditions as may be provided by the Board, by an order in writing:</p> <p>Provided that for Central Counterparties, no such stay mentioned in sub-clause (ii) shall come into effect unless so directed by the Board through an order under sub-section (2), in consultation with the Appropriate Regulator, and on such terms as may be specified.</p> <p>(c) Without prejudice to clause (b) of sub-section (5), for insurance companies, there shall be a stay on the contractual rights to exercise surrender rights or a stay on terminating an insurance cover or any other stay as decided by the Corporation to be relevant for the purposes of carrying out resolution while preserving value:</p> <p>Provided that the stay referred to in sub-clauses (b) and (c) of sub-section (5) shall cease to have an effect from the date of the order appointing the Corporation as the liquidator under section 62.</p> <p>(d) the Corporation shall make payment of Deposit Insurance under section 29.</p> | |
| | <p>(6) On the classification of a covered service provider at critical risk to viability under sub-section (2), then notwithstanding anything contained in any law for the time being in force-</p> <p>(a) the Appropriate Regulator may withdraw or modify any authorisations or licenses granted to the covered service provider to carry out any financial service;</p> <p>(b) the Appropriate Regulator shall publish the withdrawal or modification of authorisations or licenses to carry out financial services;</p> <p>(c) no depositor of the relevant insured service provider</p> | |

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| | <p style="text-align: center;">shall enjoy any Deposit Insurance with respect to any new deposit accepted by it after from the date of the order under sub-section (5), unless otherwise provided in that order.</p> | |
| <p>CHAPTER 11</p> <p>BOARD'S POWER IN RELATION TO CERTAIN TERMINATION RIGHTS</p> | | |
| <p>Board's power in relation to certain termination rights.</p> | <p>47. (1) Notwithstanding the provisions relating to netting and set-off under Payments and Settlement Act 2007, Reserve Bank of India Act, 1934 and the Securities (Contracts) Regulation Act 1956, the Board shall have the power, subject to adequate safeguards, as may be specified, to temporarily stay the exercise of termination rights of any party to a specified contract with the relevant covered service provider or its subsidiary (where such subsidiary's obligations are guaranteed or otherwise supported by such covered service provider) if the relevant termination right is exercisable solely on entry into resolution or in connection with the exercise of any resolution power, except liquidation in respect of such covered service provider or its subsidiary, as the case may be, under this Act.</p> <p>(2) For the purpose of sub-section (1), the stay:</p> <p style="margin-left: 40px;">(a) shall not exceed two business days;</p> <p style="margin-left: 40px;">(b) shall not affect the exercise of early termination rights of a counter party against a covered service provider that is being resolved in the case of any event of default not related to an entry into resolution or the exercise of any power by the Board under section 48.</p> <p>(3) The powers under this section shall be exercised by the Board:</p> <p style="margin-left: 40px;">(a) in consultation with the Appropriate Regulator; and</p> <p style="margin-left: 40px;">(b) only for ensuring the systemic stability of the country.</p> <p><i>Explanation:</i> For the purpose of this section, the term "entry into resolution" shall have such meaning as may be specified in consultation with the Appropriate Regulator.</p> | |
| <p>CHAPTER 12</p> <p>METHODS, TOOLS AND TIME LIMIT ON RESOLUTION</p> | | |

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| <p>Methods of resolving a covered service provider</p> | <p>48. (1) The Corporation may resolve a covered service provider, through any of the following means:</p> <ul style="list-style-type: none"> (a) transferring the whole or part of the assets and liabilities of the covered service provider to another person, on terms agreed between the Corporation and such person; (a) creating a bridge service provider in accordance with section 50; (b) bail-in in accordance with section 52; (c) merger or amalgamation of the covered service provider as per this Act; (d) acquisition of the covered service provider; (e) liquidation in accordance with Chapter 14; (f) a combination of any of the methods listed above. <p>(2) (a) Notwithstanding anything contained in sub-section (1), in the case of insurance companies, the Corporation, in consultation with the Appropriate Regulator, may classify such insurance company as a run-off entity in order to allow the present insurance policies to run to their expiration dates, for which, the Corporation may:</p> <ul style="list-style-type: none"> (i) bar such insurance company from writing any new business; (ii) subject such insurance company to a stay as per section 47; (iii) take measures to replenish financial resources including recapitalizing such insurance company in a manner as may be specified by the Corporation, in consultation with the Appropriate Regulator: <p style="padding-left: 40px;">Provided that shortfall, if any, over time shall be allocated across policyholders, creditors, shareholders in accordance with section 79.</p> <p>(b) The form and manner of carrying out the powers enumerated in this sub-section shall be specified by the Corporation.</p> <p>(3) Notwithstanding anything contained in sub-section (1), in the case of insurance companies, the Resolution Corporation, in</p> |
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| | <p>consultation with the Appropriate Regulator, may sell or transfer the portfolios of the insurance company to another insurance company, (including a run-off entity) in the manner specified.</p> <p>(4) The Corporation shall, for the purposes of resolution of a covered service provider, prepare a scheme of resolution in accordance with section 49, except in the case of bail-in under section 52, which may or may not be a part of a scheme or liquidation which shall be as per chapter 14:</p> <p style="padding-left: 40px;">Provided that where the proposed scheme of resolution involves any transfer of the assets and liabilities of covered service provider or acquisition, amalgamation or merger of a covered service provider or any combination thereof, no such scheme shall be made by the Corporation unless the proposed transferee entity has obtained the consent of the Appropriate Regulator in this regard.</p> <p style="padding-left: 40px;">Provided further that the Board may specify other regulations to give effect to resolution tools envisaged under this section.</p> <p>(5) The Corporation shall sanction the scheme by an order in writing.</p> <p>(6) A scheme made under this section shall, as far as possible,</p> <p style="padding-left: 40px;">(a) be consistent with treating all the liabilities of the covered service provider in accordance with the priority they would have in liquidation, and</p> <p style="padding-left: 40px;">(b) treat such persons affected adversely by the order, who would have equal priority on a liquidation, to bear losses on an equal footing with each other:</p> <p style="padding-left: 40px;">Provided that the provisions of this sub-section shall not apply in such circumstances as the Corporation may consider appropriate.</p> <p>(7) Where a scheme is sanctioned under sub-section (5), the scheme shall be published by the Corporation in such form and manner as may be specified, and also in the Official Gazette.</p> | |
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| Contents of the scheme | <p>49. (1) Any scheme sanctioned under sub-section (4) of section 48 may contain provisions for all or any of the following matters, namely:</p> <ul style="list-style-type: none"> (a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations, of the transferee covered service provider; (b) the transfer to the transferee covered service provider of the business, properties, assets and liabilities of the covered service provider on such terms and conditions as may be specified in the scheme; (c) any change in the Board of Directors, or the appointment of a new Board of Directors, of the covered service provider or of the transferee covered service provider and the authority by whom, the manner in which, and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of Directors or of any director, the period for which such appointment shall be made; (d) the alteration of the memorandum and articles of association of the covered service provider or of the transferee covered service provider for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the amalgamation; (e) subject to the provisions of the scheme, the continuation by or against the covered service provider or, as the case may be, the transferee covered service provider, of any action or proceedings pending against the covered service provider immediately before the date of the order of stay under section 46; (f) the reduction of interest or rights which the members, depositors and other creditors have in or against the covered service provider before its resolution to such extent as the Corporation and the Appropriate Regulator considers necessary in the public interest or in the interests of the members, depositors and other creditors or for the maintenance of the business of the covered service provider; (g) the payment in cash or otherwise to depositors and other creditors in full satisfaction of their claim— <ul style="list-style-type: none"> (i) in respect of their interest or rights in or against |
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| | <p>the covered service provider before its resolution; or</p> <p>(ii) where their interest or rights aforesaid in or against the covered service provider has or have been reduced under sub-clause(f) in respect of such interest or rights as so reduced;</p> <p>(h) the allotment to the members of the covered service provider for shares held by them therein before its resolution whether their interest in such shares has been reduced under sub-clause (f) or not, of shares in the covered service provider in the transferee covered service provider and where any members' claim payment in cash, not allotment of shares, or where it is not possible to allot shares to any members, the payment in cash to those members in full satisfaction of their claim—</p> <p>(i) in respect of their interest in shares in the covered service provider before its amalgamation; or</p> <p>(ii) where such interest has been reduced under sub-clause (f), in respect of their interest in shares or resolution; or</p> <p>(i) the continuance of the service of all the employees of the covered service provider excepting such of them as not being workmen within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), are specifically mentioned in the scheme in the covered service provider itself in the transferee covered service provider at the same remuneration and on the same terms and conditions of service, which they were getting or, as case may be, by which they were being governed, immediately before the date of the order of stay under section 46:</p> <p>Provided that the scheme may contain a provision that—</p> <p>(i) the covered service provider shall pay or grant not later than the expiry of the period of three years from the date on which the scheme is sanctioned under section 48, to the said employees the same remuneration and the same terms and conditions of service 'as are, at the</p> | |
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| | <p>time of such payment or grant, applicable to the other employees of corresponding rank or status of a comparable covered service provider to be determined for this purpose by the Appropriate Regulator (whose determination in this respect shall be final);</p> <p>(ii) the transferee covered service provider shall pay or grant not later than the expiry of the aforesaid period of three years, to the said employees the same remuneration and the same terms and conditions of service as are, at the time of such payment or grant, applicable to the other employees of corresponding rank or status of the transferee covered service provider subject to the qualifications and experience of the said employees being the same as or equivalent to those of such other employees of the transferee covered service provider:</p> <p>Provided further that if in any case under clause. (ii) of the first proviso any doubt or difference arises as to whether the qualification and experience of any of the said employees are the same as or equivalent to the qualifications and experience of the other employees of corresponding rank or status of the transferee covered service provider, the doubt or difference shall be referred, before the expiry of a period of three years from the date of the payment or grant mentioned in that clause, to the Appropriate Regulator whose decision thereon shall be final;</p> <p>(j) notwithstanding anything contained in clause (i) where any of the employees of the covered service provider not being workmen within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), are specifically mentioned in the scheme under clause (i) or where any employees of the covered service provider have by notice in writing given to the covered service provider or, as the case may be, the transferee covered service provider at any time before the expiry of one month next following the date on which the scheme is approved under section 48, intimated their intention of not becoming employees of the covered service provider of the transferee covered service</p> | |
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| | <p>provider, the payment to the such employees of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947 (14 of 1947), and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorizations of the covered service provider immediately before the date of the order of stay under section 46;</p> <p>(k) any other terms and conditions for the resolution of the covered service provider; and</p> <p>(l) such incidental, consequential and supplemental matters as are necessary to secure that the resolution shall be fully and effectively carried out.</p> <p>(2) On and from the date of the coming into operation of the scheme or any provision thereof under section 48, the scheme or such provision shall be binding on the covered service provider or, as the case may be, on the transferee covered service provider and any other covered service provider concerned in the resolution and also on all the members, depositors and other creditors and employees of each of those companies and of the covered service provider, and on any other person having any right or liability in relation to any of those companies or the covered service provider; including the trustees or other persons, managing, or connected in any other manner with, any provident fund or other fund maintained by any of those companies or the covered service provider.</p> <p>(3) If any difficulty arises in giving effect to the provisions of the scheme, the Corporation, in consultation with the Appropriate Regulator may by order do anything not inconsistent with such provisions which appears to it necessary or expedient for the purpose of removing the difficulty.</p> <p>(4) Copies of the scheme made under section 48 shall be forwarded to the Central Government to be laid before both Houses of Parliament,</p> <p>(5) Nothing in this section shall be deemed to prevent the resolution with a covered service provider by a single scheme of several covered service providers in respect of each of which an order of stay under section 46 has been made under this section.</p> | |
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| | <p>(6) The provisions of this section and of any scheme made under it shall have effect notwithstanding anything to the contrary contained in any other provisions of this Act or in any other law or any agreement, award or other instrument for the time being in force.</p> <p>(7) Any scheme prepared under section 48 may contain all or any of the particulars enumerated under this section to the extent that it is relevant for the methods of resolution under section 48, used for resolving a covered service provider.</p> <p>(8) The provisions relating to contents of the scheme under sub-section (1) are illustrative and not exhaustive.</p> <p><i>Explanation.</i> -Reference in this section to the terms and conditions of service as applicable to an employee shall not be construed as extending to the rank and status of such employee.</p> | |
| <p>Transfer of assets and liabilities to Bridge Provider</p> | <p>50. (1) The Corporation may create a bridge service provider by incorporating a company, for the purpose of resolving a covered service provider, with the aim of eventual sale or resolution as per sub-section (12).</p> <p>(2) The capital of the bridge service provider shall be in the form of equity shares, held entirely by the Corporation.</p> <p>(3) The articles of association of the bridge service provider shall be, –</p> <p>(a) approved by the Corporation; and</p> <p>(b) executed by at least three representatives of the Corporation.</p> <p>(4) The bridge service provider shall have a board of directors comprising of at least three directors and not more than ten directors, as appointed by the Corporation.</p> <p>(5) Upon an application, being made by the Corporation, the Appropriate Regulator shall, subject to such terms and</p> | |

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| | <p>conditions as it deems fit, provide authorisation to the bridge service provider as may be required.</p> | |
| | <p>(6) After the Appropriate Regulator has granted the appropriate authorisation to the bridge service provider, –</p> <p>(a) the Corporation may by a scheme under section 48, transfer the whole or part of the assets, liabilities, businesses, properties and undertakings of the covered service provider to such bridge service provider;</p> <p>(b) the Corporation may through the scheme under 48, provide for different arrangements for management and control at different stages;</p> <p>(c) the bridge service provider shall have the same powers and be subject to the same laws as a covered service provider carrying out similar financial services.</p> | |
| | <p>(7) The Corporation may direct the bridge service provider in respect of any matter relating to its functions and the bridge service provider shall comply with such directions.</p> | |
| | <p>(8) The Appropriate Regulator and the Corporation may exempt the bridge service provider from complying with the provisions of this Act or any other law for the time being in force, for such period not exceeding two years.</p> | |
| | <p>(9) The bridge service provider may be entitled to any other exception which the Central Government may, in writing, provide for such bridge service provider.</p> | |
| | <p>(10) The Corporation may provide the bridge service provider with such funds from the resolution fund, as may be reasonably required by the bridge service provider to carry on the business of the bridge service provider.</p> | |
| | <p>(11) The Corporation shall resolve the bridge service provider as expeditiously as possible, and in any event, within two years from the date of its incorporation.</p> | |
| | <p>(12) The Corporation shall resolve the bridge service provider, –</p> <p>(a) by transferring, by way of a scheme under section 48,</p> | |

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| | <p>the whole or any part of the assets, liabilities, businesses, properties or undertakings of the bridge service provider to another person capable of providing the services of a covered service provider, on terms agreed between the Corporation and such person; or</p> <p>(b) sale, by way of a scheme under section 48, of the shares of the bridge service provider constituting more than three-fourths of the equity capital of the bridge service provider; or</p> <p>(c) liquidation of the bridge service provider as per Chapter 14 and the provisions of Chapter 14 shall apply to such bridge service provider <i>mutatis mutandis</i>.</p> | |
| <p>Claw-back of performance incentive.</p> | <p>51. (1) A covered service provider shall submit such details of remuneration paid to its chairman, director, chief executive officer (by whatever name called) and such other officer as may be specified, in such manner, form and frequency to the Appropriate Regulator, as maybe specified, in consultation with the Corporation:</p> <p>Provided that no covered service provider shall be required to submit details of remuneration when it is classified as low or moderate stages of risk to viability.</p> <p>(2) The Appropriate Regulator shall specify the manner in which certain portion of such remuneration may be designated as performance based incentive for such chairman, director, chief executive officer (by whatever name called) and such other officer.</p> <p>(3) The covered service provider may, by an order in writing, after providing an opportunity of hearing, in compliance with regulations made under sub-section (2) designate part of the remuneration, of such officers of a covered service provider as specified under sub-section (1), as performance based incentive, as it considers fit.</p> <p>(4) If a covered service provider is classified at critical risk to viability, under section 46, by the Appropriate Regulator or the Corporation, the Corporation may by order after giving a reasonable opportunity of hearing, require such chairman, director, chief executive officer (by whatever name called) and</p> | |

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| | <p>such other officer, to return the performance based incentive, as classified by the Appropriate Regulator under sub-section (3), to the covered service provider.</p> <p>(5) No payment made before three years from the date on which the covered service provider was classified as in critical risk to viability, shall be required to be repaid to the covered service provider under this section.</p> <p><i>Explanation:</i> Such order shall be applicable against a chairman, director, chief executive officer (by whatever name called) and such other officer even if such individual has ceased to hold the position before the order was made, but held such position within the time mentioned in this subsection.</p> <p>(6) If a chairman, director, chief executive officer (by whatever name called) specified in sub-section (1) fails to comply with an order issued under sub-section (4), the Board may, by order in writing, proceed to realise the amount by employing the modes of recovery set out in the second schedule to the Income Tax Act, 1961.</p> | |
| Bail In. | <p>52. (1) Notwithstanding anything contained in section 49, any action taken by the Corporation pursuant to this section may be through a bail-in instrument or a scheme under section 48 the form and manner of which shall be specified.</p> <p>(2) The bail-in instrument may contain:</p> <p>(a) a bail-in provision; or</p> <p>(b) a provision for the purposes of, or in connection with, any bail-in provision made by that or another instrument.</p> <p>(3) A bail-in provision means any or a combination of the following: –</p> <p>(a) a provision cancelling a liability owed by a covered service provider;</p> <p>(b) a provision modifying, or changing the form of, a</p> | |

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| | <p>liability owed by a covered service provider</p> <p>(c) a provision that a contract or agreement under which a covered service provider has a liability is to have effect as if a specified right had been exercised under it.</p> <p>(4) (a) for the purposes of clause (a) of sub-section (3) of this section cancelling a liability owed by the covered service provider includes cancelling a contract under which the covered service provider has a liability.</p> <p>(b) for the purposes of clause (b) of sub-section (3) of this section,</p> <p>(i) modifying a liability owed by covered service provider includes modifying the terms or the effect of the terms of a contract under which the covered service provider has a liability.</p> <p>(ii) changing the form of, a liability includes,</p> <p>(a) converting an instrument under which the covered service provider owes a liability from one form or class to another,</p> <p>(b) replacing such an instrument with another instrument of a different form or class,</p> <p>(c) creating a new security, of any form or class, in connection with the modification of such an instrument.</p> <p>(5) The Corporation may specify the liabilities, or classes of liabilities of a covered service provider, which may be subject to bail-in.</p> <p>(6) In addition to the actions enumerated in sub-section (3), for Central Counterparties, the Board may, in consultation with the Appropriate Regulator also take the following actions:</p> <p>(a) direct the haircutting of the collaterals and margins;</p> <p>(b) direct the issuance of equity to the creditors.</p> <p><i>Explanation:</i> For the purpose of this section, haircut shall have the same meaning as assigned to it in section 45 of this Act.</p> | |
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| | <p>(7) An instrument for the purposes of this section shall not affect -</p> <ul style="list-style-type: none"> (a) any liability owed by a covered service provider to the depositors to the extent that deposits are covered by Deposit Insurance; (b) any liability that the covered service provider has by virtue of holding client assets; (c) any liability of original maturities upto seven days; (d) any obligation to a central counter party; (e) any liability, so far as it is secured; (f) any liability owed to employees or workmen including pension liabilities of the covered service provider except for liabilities designated as performance based incentive under section 51; (g) any transaction covered under section 47; and (h) such other liabilities as may be specified by the Appropriate Regulator in consultation with the Corporation and the Central Government. <p>(8) Whenever the Corporation makes a bail-in instrument under this section it must forward such bail-in instrument along with a report to the Central Government in such form and manner as may be prescribed and such report must contain –</p> <ul style="list-style-type: none"> (a) the reasons why a bail-in instrument under this section was made; (b) the effect of the bail-in instrument; (c) if the bail-in instrument deviates from the requirements of section (3), then the reasons for such deviation. <p>(9) A copy of the report received under sub-section (8) shall be, as soon as may be after it is received by the Central Government, be laid before each House of Parliament.</p> <p>(10) The provisions of sub-sections (3), and (6) of section 49 shall apply to this section <i>mutatis mutandis</i>.</p> <p><i>Explanation I:</i> In this section, “client assets” shall have such meaning as may be specified.</p> | |
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| | <p><i>Explanation II:</i> The purpose of bail-in is to absorb the losses incurred, or reasonably expected to be incurred, by the covered service provider and to provide a measure of capital for it so as to enable it to carry on business for a reasonable period and maintain market confidence in it.</p> | |
| <p>Powers of a bail-in instrument in relation to securities.</p> | <p>53. (1) A bail-in instrument may—</p> <ul style="list-style-type: none"> (a) cancel or modify any securities to which section 52 applies; (b) convert any such securities from one form or class into another, including the creation of a new security in connection with the modification of an existing security. (c) make provision with respect to rights attaching to securities issued by the covered service provider including: <ul style="list-style-type: none"> (i) a provision that specified rights attaching to securities are to be treated as having been exercised; (ii) a provision that the Corporation is authorised to exercise specified rights attaching to securities; (iii) a provision that specified rights attaching to securities may not be exercised for a period specified in the instrument; (d) provide for the listing of securities issued by the covered service provider to be discontinued. (e) provide for securities issued by covered service provider to be transferred to the Corporation or any other entity (f) make any other provision for, or in connection with, the transfer of securities issued by the covered service provider, whether or not the transfer was the subject of that instrument. <p>(2) The provision that may be made under this section in relation to any securities is in addition to any power of the Corporation under section 52.</p> | |
| <p>Onward transfer of securities</p> | <p>54. (1) Where the Corporation has made a bail-in instrument providing for securities issued by a covered service provider to be transferred to any entity under clause (e) of sub-section (1) of section 53, the Corporation may make one or more onward transfer bail-in</p> | |

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| | <p>instruments.</p> <p>(2) An onward transfer bail-in instrument under sub-section (1) may—</p> <p>(a) provide for the transfer of—</p> <p>(i) securities that were issued by the covered service provider before the bail-in instrument was made and had been transferred by such bail-in instrument; or</p> <p>(ii) securities that were issued by the covered service provider after the bail-in instrument was made; or</p> <p>(b) make any other provision for, or in connection with, the transfer of securities issued by the covered service provider whether or not the transfer was the subject of that bail-in instrument.</p> <p>(3) An onward transfer bail-in instrument may not transfer securities to the transferor under the bail-in instrument.</p> <p>(4) The form and manner of the bail-in instrument under section 52 shall apply to the onward transfer bail-in instrument.</p> | |
| <p>Safeguards for applying resolution tools</p> | <p>55. (1) For the purpose of this chapter, the Corporation shall have regard to the following principles:</p> <p>(a) ensuring the continuity of critical functions of the relevant covered service provider;</p> <p>(b) ensuring that no creditor of the relevant covered service provider is left in a worse position as a result of application of any method of resolving such covered service provider under section 48, than such creditor would have been in the event of its liquidation in accordance with chapter 14;</p> <p>(c) protecting client funds, and client assets of a covered service provider to no less an extent than they would be protected on liquidation in accordance with chapter 14.</p> <p><i>Explanation:</i> In this section, “client asset” and “client funds” shall have such meaning as may be specified.</p> | |

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| | <p>(2) Notwithstanding anything contained in sub-section (1), for the purpose of bail-in in accordance with section 52, the Corporation may have regard to the following additional principles:</p> <p>(a) cancellation of the liabilities of any covered service provider to its creditors shall be done in accordance with section 79 of this Act; and</p> <p>(b) only those liabilities may be cancelled the instrument creating which contain a provision to the effect that the parties to the contract agree that the liability is eligible to be the subject of a bail-in.</p> <p>(c) the tool of bail-in should be resorted to only after attempts of recovery of the covered service provider has been attempted and not been successful.</p> | |
| <p>Time limit on resolution</p> | <p>56. (1) Any process of resolution of a covered service provider under this Act, except liquidation under Chapter 14 shall be completed expeditiously, no later than two years from the date on which such covered service provider is classified to be at critical risk to viability.</p> <p>(2) The time period specified in sub-section (1) may be extended for up to one additional year, on an order of the Board, in writing, specifying the reasons for such extension.</p> <p>(3) In case resolution of a covered service provider is not completed within the time period provided in sub-section (1) and (2), the Corporation shall liquidate such covered service provider under Chapter 14.</p> <p>(4) The Corporation may, subject to the time limits enumerated in sub-sections (1) and (2), specify different time limits on resolution depending on the process of resolution, size and complexity of the covered service provider.</p> | |
| <p>CHAPTER 13 RECEIVERSHIP</p> | | |
| <p>Powers of the Corporation</p> | <p>57. (1) From the date of order of the covered service provider</p> | |

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| as a Receiver | <p>at ‘critical’ risk to viability under section 46, –</p> <ul style="list-style-type: none"> (a) the management of the affairs of the covered service provider shall vest in the Corporation as the receiver (hereinafter known as the “receiver”); (b) the powers of the board of directors of the covered service provider as the case may be, shall stand suspended and be exercised by the receiver; (c) the personnel of the covered service provider shall extend all assistance and cooperation to the receiver as may be required by the receiver in managing the affairs of the covered service provider, (d) the financial institutions maintaining accounts of the covered service provider shall act on the instructions of the receiver in relation to such accounts and furnish all information relating to the covered service provider available with them to the receiver. <p>(2) The Corporation as the receiver vested with the management of the covered service provider shall-</p> <ul style="list-style-type: none"> (a) act and execute in the name and on behalf of the covered service provider all deeds, receipts, and other documents, if any; (b) take such actions, in the manner and subject to such restrictions, as may be specified by the Board; (c) have the authority to access the electronic records of covered service provider from information utility having financial information of the covered service provider; (d) have the authority to access the books of account, records and other relevant documents of covered service provider available with government authorities, statutory auditors, accountants and such other persons as may be specified; (e) have the authority to appoint, in consultation with the Appropriate Regulator for such period as it may determine, an officer of the Corporation in the covered service provider; and (f) undertake any action under section 48, except liquidation, which shall be as per Chapter 14 of this Act. <p>(3) While the Corporation is the receiver, it shall not be lawful for</p> | |
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| | <p>the shareholders of the covered service provider or any other person to nominate or appoint any person to be a director of such covered service provider;</p> | |
| | <p>(4) While the Corporation is the receiver, no resolution passed at any meeting of the shareholders of such covered service provider shall be given effect to, unless approved by the Corporation.</p> | |
| | <p>(5) 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 or her office.</p> | |
| | <p>(6) Notwithstanding anything contained in sub-section (1), for Central Counterparties, the Corporation, in consultation with the Appropriate Regulator may take the following additional measures in a manner as may be specified:</p> <ul style="list-style-type: none"> (a) measures to allocate uncovered losses caused by participant default including making additional cash calls on its participants, variation margin haircutting and utilizing the initial margin of participants; (b) measures to address uncovered liquidity shortfalls such as obtaining additional funds from third-party institutions or from participants; (c) measures to replenish financial resources including making cash calls on participants or recapitalizing such central counterparties in a manner as may be specified by the Corporation in consultation with the Appropriate Regulator; (d) measures to re-establish a matched book by a Central Counterparty including forced allocation of contracts or partial or complete termination of contracts; (e) measures to allocate losses which are not related to participant default including allocating additional capital. (f) setoff, close-out, netting, collateralisation and segregation of member assets; (h) issuance of equity to the creditors; (g) impose a temporary stay on early termination rights; (h) such other measures as may be deemed necessary by | |

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| | <p style="text-align: center;">the Corporation.</p> <p><i>Explanation I:</i> For the purpose of this section, cash-call shall have the same meaning as assigned to it in section 45 of this Act.</p> <p><i>Explanation II:</i> For the purpose of this section, haircut shall have the same meaning as assigned to it in section 45 of this Act.</p> <p>(7) The Corporation may, subject to the provisions of section 48 and section 49, place the covered service provider, except a Central Counterparty, in liquidation, as per the provisions of Chapter 14.</p> | |
| <p>Functions of the Corporation as a receiver</p> | <p>58. The Corporation, as a receiver shall perform the following functions, namely: —</p> <p>(1) take control and custody of any asset over which the covered service provider has ownership rights as recorded in the balance sheet of the covered service provider, or with information utility or the depository of securities or any other registry that records the ownership of assets including—</p> <ul style="list-style-type: none"> (a) assets over which the covered service provider has ownership rights which may be located in a foreign country; (b) assets that may or may not be in possession of the covered service provider; (c) tangible assets, whether movable or immovable; (d) intangible assets including intellectual property; (e) securities including shares held in any subsidiary of the covered service provider, financial instruments, insurance policies of the covered service provider; (f) assets subject to the determination of ownership by a court or authority; <p>(2) perform such other functions as may be specified by the Board.</p> <p><i>Explanation.</i> —For the purposes of this sub-section, the term "assets" shall not include the following, namely: —</p> <p>(a) assets owned by a third party in possession of the covered</p> | |

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| | <p>service provider held under trust or under contractual arrangements including bailment; and</p> <p>(b) assets of any Indian or foreign subsidiary of the covered service provider;</p> | |
| <p>Power of Corporation to remove managerial and other persons from office</p> | <p>59. (1) Without prejudice to the powers of the Corporation under section 57, the Board may for reasons to be recorded in writing, by order, remove from office, with effect from such date as may be specified in the order, any chairman, director, chief executive officer (by whatever name called) or other officer or employee of the covered service provider which has been classified to be at imminent or critical risk to viability under section 44 and 46 of this Act.</p> <p>(2) No order under sub-section (1) shall be made unless the chairman, director or chief executive officer or other officer or employee concerned has been given a reasonable opportunity of making a representation to the Corporation against the proposed order:</p> <p>Provided that if, in the opinion of the Corporation, any delay would be detrimental to the interests of the covered service provider, the Corporation may, at the time of giving the aforesaid opportunity or at any time thereafter, by order direct that, pending the consideration of the representation aforesaid, if any, the chairman or, as the case may be, director or chief executive officer or other officer or employee, shall not, with effect from the date of such order, –</p> <p>(a) act as such chairman or director or chief executive officer or other officer or employee of the covered service provider;</p> <p>(b) in any way, whether directly or indirectly, be concerned with, or take part in the management of, the covered service provider.</p> <p>(3) (a) Any person against whom an order of removal has been made under sub-section (1) may, within thirty days from the date of communication to him or her of the order, prefer an appeal to the National Company Law Appellate Tribunal.</p> <p>(b) The decision of the National Company Law Appellate Tribunal on such appeal, and subject thereto, the order made by the Corporation under sub-section (1), shall be final and shall not be called into question in any</p> | |

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| | <p>court.</p> | |
| | <p>(4) Where any order is made in respect of a chairman, director or chief executive officer or other officer or employee of a covered service provider under sub-section (1), he or she shall cease to be a chairman or, as the case may be, a director, chief executive officer or other officer or employee of the covered service provider and shall not, in any way, whether directly or indirectly, be concerned with, or take part in the management of, any covered service provider for such period not exceeding five years as may be mentioned in the order.</p> | |
| | <p>(5) Where an order under sub-section (1) has been made, the Corporation may, by order in writing, appoint a suitable person in place of the chairman or director, or chief executive officer or other officer or employee who has been removed from his or her office under that sub-section, with effect from such date as may be mentioned in the order.</p> | |
| | <p>(6) Any person appointed as chairman, director or chief executive officer or other officer or employee under this section, shall, –</p> <p style="padding-left: 40px;">(a) hold office during the pleasure of the Corporation and subject thereto for a period not exceeding the period of resolution as set out in section 56;</p> <p style="padding-left: 40px;">(b) not incur any obligation or liability by reason only of his or her being a chairman, director or chief executive officer or other officer or employee or for anything done or omitted to be done in good faith in the execution of the duties of his or her office or in relation thereto.</p> <p style="padding-left: 40px;">(c) shall not be required to hold qualification-shares in the covered service provider.</p> | |
| | <p>(7) Notwithstanding anything contained in any law or in any contract, memorandum or articles of association, on the removal of a person from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.</p> | |
| | <p>(8) Any appointment or removal of a director, chief executive officer or other officer or employee in pursuance of this</p> | |

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| | <p>section shall have effect notwithstanding anything to the contrary contained in the Companies Act, 2013 (18 of 2013) or any other law for the time being in force or in any contract or any other instrument.</p> | |
| <p>Power of Corporation to appoint additional directors</p> | <p>60. (1) Without prejudice to the powers of the Corporation under section 57, if the Corporation is of the opinion that in the public interest or in the interests of the covered service provider it is necessary to do so, it may, from time to time by order in writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the covered service provider which has been classified to be at imminent or critical stages of risk to viability under section 44 and section 46.</p> <p>(2) Any person appointed as additional director in pursuance of this section, –</p> <p>(a) shall hold office during the pleasure of the Corporation;</p> <p>(b) shall not incur any obligation or liability by reason only of his or her being a director or for anything done or omitted to be done in good faith in the execution of the duties of his or her office or in relation thereto; and</p> <p>(c) shall not be required to hold qualification-shares in the covered service provider.</p> <p>(3) For the purpose of reckoning any proportion of the total number of directors of the covered service provider, any additional director appointed under this section shall not be taken into account.</p> | |
| <p>Supersession of board of directors</p> | <p>61. (1) Without prejudice to its power under section 57, where a covered service provider has been classified to be at imminent or critical stages of risk to viability under section 44 and section 46 and the Corporation is satisfied that in the public interest or for preventing the affairs of such covered service provider being conducted in a manner detrimental to the interest of the consumers or depositors of the covered service provider or for securing the proper management of the covered service provider, it is necessary to do so, the Corporation may, for reasons to be recorded in writing, by an order, supersede the Board of directors of such covered service provider for a period not exceeding two years, as may be specified in the order, which may be extended from time to time, so, however, that the total period shall not</p> | |

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| | <p>exceed two years.</p> <p>(2) The Corporation may, on supersession of the board of directors of the covered service provider under sub-section (1) appoint an officer of the Corporation as an Administrator for such period as it may determine.</p> <p>(3) The Corporation may issue such directions to the Administrator as it may deem appropriate, and the Administrator shall be bound to follow such directions.</p> <p>(4) Upon making the order of supersession of the board of directors of a covered service provider, –</p> <p style="padding-left: 20px;">(a) The Chairman, managing director and other directors as from the date of supersession of the Board shall vacate their offices as such;</p> <p style="padding-left: 20px;">(b) All the powers, functions and duties which may, by or under the provisions of 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 a covered service provider or by a resolution passed in general meeting of such covered service provider, shall, until the board of directors of such covered service provider is reconstituted, be exercised and discharged by the Administrator appointed by the Corporation under sub-section (2):</p> <p style="padding-left: 40px;">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 covered service provider.</p> <p>(5) (a) The Corporation may constitute a committee of three or more persons who have experience in law, finance, banking, administration or accountancy to assist the Administrator in discharge of his or her duties.</p> <p style="padding-left: 20px;">(b) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Corporation.</p> <p>(6) The salary and allowances to the Administrator and the members of the committee constituted by the Corporation shall be such as may be specified by the Corporation and may be payable by the concerned covered service provider.</p> | |
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| | <p>(7) On and before expiration of period of supersession of the board of directors as specified in the order issued under sub-section (1), the Administrator of the covered service provider shall call the general meeting of the covered service provider to elect new directors.</p> <p>(8) Notwithstanding anything contained in any other law or in any other contract, or bye-laws of the covered service provider, no person shall be entitled to claim any compensation for the loss or termination of his or her office.</p> <p>(9) The Administrator appointed under sub-section (2) shall vacate office immediately after the board of directors of the covered service provider has been constituted.</p> | |
| <p>CHAPTER 14 LIQUIDATION</p> | | |
| <p>Order of liquidation</p> | <p>62. (1) Where the Corporation determines that liquidation is the most appropriate tool for the resolution of a covered service provider, the Corporation shall make an application to the National Company Law Tribunal for an order of liquidation in respect of such covered service provider.</p> <p>(2) The National Company Law Tribunal shall, within a period of fourteen days from the date on which an application under sub-section (1) or section 84 is received, pass an order of liquidation and appoint the Corporation as a liquidator for a covered service provider, in accordance with the provisions of this chapter.</p> <p>(3) If the relevant documents as prescribed by the Central Government for this purpose are adduced by the Corporation along with the application under sub-section (1), the National Company Law Tribunal shall:</p> <p>(a) issue an immediate notice to the covered service provider to appear before it within seven working days and cause a copy of such notice to be forwarded to the Corporation;</p> <p>(b) unless the covered service provider is able to establish any patent illegality in the documents adduced, endeavour to immediately pass an order under sub-</p> | |

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| | <p>section (2).</p> | |
| | <p>(4) The National Company Law Tribunal may, while passing the order of liquidation under sub-section (2), issue a stay on the commencement or continuance of all legal actions and proceedings against such covered service provider, till such time as the liquidation is in continuance under this chapter.</p> <p>(5) On the appointment of a liquidator under sub-section (1), all powers of the board of directors, key managerial personnel and the partners of the covered service provider, shall cease to have effect and shall be vested in the liquidator.</p> <p>(6) Any person aggrieved by the order of the National Company Law Tribunal under this section may prefer an appeal to the National Company Law Appellate Tribunal, within thirty days of the order:</p> <p style="padding-left: 40px;">Provided that the National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.</p> <p>(7) Any person aggrieved by an order of the National Company Law Appellate Tribunal may file an appeal to the Supreme Court on a question of law arising out of such order under this Act within forty-five days from the date of receipt of such order.</p> <p>(8) The Supreme Court may, if it is satisfied that a person was prevented by sufficient cause from filing an appeal within forty-five days, allow the appeal to be filed within a further period not exceeding fifteen days.</p> <p>(9) The order of liquidation under sub-section (2) shall be deemed to be a notice of discharge to the officers, employees and workmen of the covered service provider, except when the business of the covered service provider is continued during the liquidation process by the liquidator.</p> | |

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| Cessation of liability to pay premium. | 63. The liability of an insured service provider to pay premium under section 24 shall cease upon the appointment of the Corporation as the liquidator under section 62. | |
| Bar on jurisdiction and transfer of proceedings | <p>64. (1) Notwithstanding anything to the contrary contained in any law for the time being in force, no proceeding for liquidation of a covered service provider shall be entertained by any court or tribunal other than the National Company Law Tribunal, in accordance with the provisions of this Act.</p> <p>(2) Any liquidation proceeding or any other claims, suits, applications or proceedings, pending against any covered service provider, before any court or tribunal, on the date this provision comes into effect, shall stand transferred to the National Company Law Tribunal from the date of the order of liquidation under section 62.</p> <p>(3) Subject to section 84, when an order of liquidation has been passed under section 62, no suit or other legal proceeding shall be instituted by or against the covered service provider before any court, tribunal or authority except before the National Company Law Tribunal referred to in sub-section (1):</p> <p style="padding-left: 40px;">Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the covered service provider, with the prior approval of the National Company Law Tribunal.</p> <p>(4) Nothing in this section shall apply to any proceeding pending in appeal before the Supreme Court or a High Court.</p> | |
| Powers of the Corporation as liquidator. | <p>65. (1) The powers of the Corporation, as a liquidator, shall include the power –</p> <p style="padding-left: 40px;">(a) to verify claims of all the creditors;</p> <p style="padding-left: 40px;">(b) to take into its custody or control all the assets, property, effects and actionable claims of the covered service provider;</p> <p style="padding-left: 40px;">(c) to carry on the business of the covered service provider for its beneficial liquidation as he or she considers necessary;</p> | |

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| | <ul style="list-style-type: none"> (d) subject to section 78 to sell the immovable and movable property and actionable claims of the covered service provider in liquidation by public auction or private contract, with power to transfer such property to any person or body corporate, or to sell the same in parcels in such manner as may be specified; (e) to draw, accept, make and endorse any negotiable instruments including bill of exchange, hundi or promissory note in the name and on behalf of the covered service provider, with the same effect with respect to the liability as if such instruments were drawn, accepted, made or endorsed by or on behalf of the covered service provider in the ordinary course of its business; (f) to take out, in its official name, letter of administration to any deceased contributory and to do in his or her official name any other act necessary for obtaining payment of any money due and payable from a contributory or his or her estate which cannot be ordinarily done in the name of the covered service provider, and in all such cases, the money due and payable shall, for the purpose of enabling the liquidator to take out the letter of administration or recover the money, be deemed to be due to the liquidator himself; (g) to exercise powers for giving effect to the provisions of section 81; (h) to obtain professional assistance from any person or appoint any professional, in discharge of its duties, obligations and responsibilities and for protection of the assets of the covered service provider, (i) to appoint an agent to do any business which the Corporation is entitled to do; (j) to continue the employment of some or all employees of the covered service provider on such terms as may be agreed upon; (k) to invite and settle claims of creditors (including depositors) and claimants and distribute proceeds in accordance with the provisions of this Act; (l) to institute or defend any suit, prosecution or other legal proceedings, civil or criminal, in the name of on behalf of the covered service provider; (m) to investigate the financial affairs of the covered service provider to determine undervalued or preferential transactions; | |
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| | <p>(n) to take all such actions, steps, or to sign, execute and verify any paper, deed, receipt document, application, petition, affidavit, bond or instrument and for such purpose to use the common seal, if any, as may be necessary for liquidation, distribution of assets and in discharge of its duties and obligations and functions as liquidator;</p> <p>(o) to apply to the National Company Law Tribunal for such orders or directions as may be necessary for the liquidation of the covered service provider and to report the progress of the liquidation process in a manner as may be specified;</p> <p>(p) in respect of covered service providers which are insurance companies, to reduce the amount of the insurance contracts of such covered service providers or other insurers, upon such terms and conditions as the Corporation deems fit;</p> <p>(q) subject to the provisions of chapter 16, engage with the resolution authorities of other jurisdictions for the purpose of giving effect to this Act; and</p> <p>(r) to perform such other functions as may be specified.</p> <p>(2) The Corporation, as the liquidator shall have the power to consult any person entitled to proceeds from liquidation under section 79 of this Act:</p> <p style="padding-left: 40px;">Provided that any such consultation shall not be binding on the liquidator.</p> <p style="padding-left: 40px;">Provided further that the records of any such consultation shall be made available to all other persons not so consulted, in writing.</p> <p>(3) The Central Government may make rules governing the actions of the Corporation as a liquidator under this section.</p> | |
| Liquidation estate | <p>66. (1) For the purposes of liquidation, the liquidator shall form an estate of the assets mentioned in sub-section (3), which will be called the liquidation estate in relation to the covered service provider.</p> | |

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| | <p>(2) The liquidator shall hold the liquidation estate as a fiduciary.</p> <p>(3) Subject to sub-section (4), the liquidation estate shall comprise all liquidation estate assets which shall include the following: —</p> <ul style="list-style-type: none"> (a) any tangible or intangible assets over which the covered service provider has ownership rights, including all rights and interests therein as evidenced in the balance sheet of the covered service provider or an information utility or records in the registry or any depository recording securities of the covered service provider or by any other means as may be specified by the Corporation in consultation with Appropriate Regulator, including shares held in any subsidiary of the covered service provider; (b) assets that may or may not be in possession of the covered service provider including but not limited to encumbered assets; (c) assets subject to the determination of ownership by the court or authority; (d) any assets or their value recovered through proceedings for avoidance of transactions in accordance with this Chapter; (e) any asset of the covered service provider in respect of which a secured creditor has relinquished security interest; (f) any other property belonging to or vested in the covered service provider from the date of the order of liquidation; and (g) all proceeds of liquidation as and when they are realised. <p>(4) The following shall not be included in the liquidation estate assets and shall not be used for recovery in the liquidation: —</p> <ul style="list-style-type: none"> (a) assets owned by a third party which are in possession of the covered service provider, including— <ul style="list-style-type: none"> (i) assets held in trust for any third party; (ii) bailment contracts; (iii) all sums due to any workman or employee from | |
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| | <p>the provident fund, the pension fund and the gratuity fund;</p> <ul style="list-style-type: none"> (iv) other contractual arrangements which do not stipulate transfer of title but only use of the assets; and (v) such other assets as may be notified by the Central Government in consultation with Appropriate Regulator; <ul style="list-style-type: none"> (b) assets held by a covered service provider as collateral and are subject to netting, set-off or adjustment in multi-lateral trading or clearing transactions; (c) personal assets of any shareholder or partner of a covered service provider as the case may be provided, except those included under provided such assets are not held on account of avoidance transactions that may be avoided under this section; (d) assets of any Indian or foreign subsidiary of the covered service provider; or (e) any other assets as may be specified by the Appropriate Regulator in consultation with Corporation, including assets which could be subject to set-off or adjustment. | |
| <p>Powers of liquidator to access information</p> | <p>67. (1) Notwithstanding anything contained in any other law for the time being in force, the liquidator shall have the power to access any information systems for the purpose of admission and proof of claims and identification of the liquidation estate assets relating to the covered service provider from the following sources, namely: —</p> <ul style="list-style-type: none"> (a) an information utility; (b) credit information systems regulated under any law for the time being in force; (c) any agency of the Central, State or Local Government including any registration authorities; (d) information systems for financial and non-financial liabilities regulated under any law for the time being in force; (e) information systems for securities and assets posted as security interest regulated under any law for the time being in force; (f) any other source as may be specified by the Board. | |

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| | <p>(2) The creditors may require the liquidator to provide them any financial information relating to the covered service provider in such manner as may be specified.</p> <p>(3) The liquidator shall provide information referred to in sub-section (2) to such creditors who have requested for such information within a period of seven days from the date of such request or provide reasons for not providing such information.</p> | |
| <p>Consolidation of claims</p> | <p>68. (1) The liquidator shall receive or collect the claims of all consumers and creditors in such manner as may be specified by the Corporation, within a period of ninety days from the date of the commencement of the liquidation process.</p> <p>(2) A financial creditor (other than a depositor) may submit a claim to the liquidator by providing a record of such claim with an information utility:</p> <p style="padding-left: 40px;">Provided that where the information relating to such claim is not recorded in the information utility, the financial creditor may submit the claim in the same manner as provided for the submission of claims for the operational creditor under sub-section (3).</p> <p>(3) A depositor or operational creditor may submit a claim to the liquidator in such form and in such manner and along with such supporting documents required to prove the claim as may be specified by the Board.</p> <p>(4) A creditor who is partly a financial creditor and partly an operational creditor shall submit claims to the liquidator to the extent of his or her financial debt in the manner as provided in sub-section (2) and to the extent of his or her operational debt under sub-section (3).</p> <p><i>Explanation:</i> For the purpose of this chapter, the terms “financial creditor”, “operational creditor”, “financial debt” and “operational debt” shall have the same meaning as assigned to them in section 5 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).</p> | |

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| | <p>(5) A creditor may withdraw or vary his or her claim under this section within fourteen days of its submission:</p> <p>Provided that in any proceeding for the winding-up of a covered service provider, every depositor of a covered service provider which is a banking institution shall be deemed to have filed its claim for the amount shown in the books of the covered service provider as standing to its credit and, notwithstanding anything to the contrary contained in the Companies Act, 2013 (18 of 2013) or this Act or any other law, the Corporation shall presume such claims to have been proved, unless it has reason for doubting its correctness.</p> | |
| <p>Verification of claims</p> | <p>69. (1) The liquidator shall verify the claims submitted under section 68 within such time and in such manner as may be specified by the Board.</p> <p>(2) The liquidator may require any creditor or the covered service provider or any other person to produce any other document or evidence which he or she thinks necessary for the purpose of verifying the whole or any part of the claim.</p> | |
| <p>Special provisions to make calls on contributories</p> | <p>70. Notwithstanding anything to the contrary contained in any law for the time being in force, the National Company Law Tribunal may, if it appears to it necessary or expedient so to do at any time after the appointment of the Corporation as liquidator make a call on and order payment thereof by any contributory, if such contributory has been placed on the list of contributories by the Corporation and has not appeared to dispute his or her liability.</p> | |
| <p>Manner of payment by Corporation in case of liquidation</p> | <p>71. (1) Where an insured service provider has been ordered to be liquidated and the Corporation has been appointed as a liquidator under section 62, or where a liquidator, by whatever name called has been appointed for an insured service provider, which is an eligible co-operative bank, the Corporation or the liquidator, as the case may be, shall prepare, with the least possible delay and in any case not later than three months from the date of being appointed as liquidator, a list in such form and manner and following such procedure as may be specified by the Board, showing separately the deposits in respect of each depositor and the amounts of set-off in the same capacity and in the same right as referred to in section 29.</p> | |

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| | <p>(2) Before the expiry of two months from the receipt of such list from the insured service provider, the liquidator shall pay the amount payable under section 29 in respect of the deposit of each depositor:</p> <p>(i) directly to the depositor, or</p> <p>(ii) to the depositor through such agency as the liquidator may determine.</p> <p>(3) Any expenses incurred by the liquidator in making payments under sub-section (2) shall be treated as expenses incurred in the liquidation of the insured service provider.</p> | |
| <p>Admission or rejection of claims and payment of deposit insurance</p> | <p>72. (1) The liquidator may, after verification of claims under section 69, either admit or reject the claim, in whole or in part, as the case may be:</p> <p>Provided that where the liquidator rejects a claim, he or she shall record in writing the reasons for such rejection.</p> <p>(2) The liquidator shall communicate the decision of admission or rejection of claims to the depositor, the creditor and insured service provider within sixty days of such admission or rejection of claims.</p> <p>(3) Where the liquidator has accepted the claims made by depositors under section 71, it shall proceed to pay out any amounts covered under deposit insurance in such manner as may be specified.</p> | |
| <p>Documents of covered service provider to be evidence</p> | <p>73. (1) Entries in the books of account or other documents of a covered service provider which is being liquidated shall be admitted in evidence in all legal proceedings; and all such entries may be provided either by the production of the books of accounts or other documents of the covered service provider containing such entries or by the production of a copy of the entries, certified by the liquidator under his or her signature and stating that it is a true copy of the original entries and that such original entries are contained in the books of account or other documents of the covered service provider in his or her possession.</p> <p>(2) Notwithstanding anything to the contrary contained in the Indian Evidence Act, 1872 (1 of 1872), all such entries in the</p> | |

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| | <p>books of account or other documents of a covered service provider shall, as against the directors, officers and other employees of the covered service provider in respect of which an order of liquidation has been made be prima facie evidence of the truth of all matters purporting to be therein recorded.</p> | |
| <p>Public examination of directors and auditors</p> | <p>74. (1) Where an order has been made for the liquidation of a covered service provider, the liquidator shall examine whether in its opinion any loss has been caused to the covered service provider since its formation by any act or omission (whether or not a fraud has been committed by such act or omission) of any person in the promotion or formation of the covered service provider or of any director or auditor of the covered service provider.</p> <p>(2) If after examination, as per sub-section (1), the Corporation is of the opinion that any person who has taken part in the promotion or formation of the covered service provider or has been a Director or an auditor of the covered service provider should be publicly examined, it may file an application before the National Company Law Tribunal to hold a public sitting on a date to be appointed for that purpose and thereupon, the National Company Law Tribunal may direct that such person, Director or auditor shall attend there at and shall be publicly examined as to the promotion or formation or the conduct of the business of the covered service provider, or as to his or her conduct and dealings, provided that no such person shall be publicly examined unless has had been given an opportunity to show cause why he or she should not be examined</p> <p>(3). The Corporation shall take part in the examination and for that purpose may, if specifically authorized by the National Company Law Tribunal in that behalf, employ such legal assistance as may be sanctioned by the National Company Law Tribunal.</p> <p>(4) Any creditor or contributory may also take part in the examination either personally or by any person entitled to appear before the National Company Law Tribunal.</p> <p>(5) The National Company Law Tribunal may put such question to the person examined as it thinks fit.</p> | |

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| | <p>(6) The person examined shall be examined on oath and shall answer all such questions as the National Company Law Tribunal may put or allow to be put to him or her.</p> <p>(7) A person ordered to be examined under this section may, at his or her own cost, employ any person entitled to appear before National Company Law Tribunal who shall be at liberty to put to him or her such question as the National Company Law Tribunal may deem just for the purpose of enabling him or her to explain or qualify any answer given by him or her:</p> <p style="padding-left: 40px;">Provided that if he or she is, in the opinion of the National Company Law Tribunal, exculpated from any charges made or suggested against him or her, the National Company Law Tribunal may allow him or her such costs in its discretion as it may deem fit.</p> <p>(8) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined and may thereafter be used in evidence against him or her in any proceeding, civil or criminal, and shall be open to the inspection of any creditor or contributory at all reasonable times.</p> <p>(9) Where on such examination, the National Company Law Tribunal is of opinion (whether a fraud has been committed or not)—</p> <ul style="list-style-type: none"> (a) that a person, who has been a director of a covered service provider, is not fit to be a director of a company, or (b) that a person, who has been an auditor of a covered service provider or a partner of a firm acting as such auditor, is not fit to act as an auditor of a company or to be a partner of firm acting as such auditor, the National Company Law Tribunal may make an order that the person shall not, without the leave of the Tribunal, be a director of, or in any way, whether directly or indirectly, be concerned or take part in the management of any company or, as the case may be, act as an auditor of, or be partner of a firm acting as auditors of any company for such period not exceeding five years as may be specified in the order. | |
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| <p>Power of Tribunal to assess damages against delinquent directors, etc.</p> | <p>75. (1) If in the course of liquidation of a covered service provider, it appears that any person who has taken part in the promotion or formation of the covered service provider, or any person, who is or has been a director, manager, company liquidator or officer of the covered service provider—</p> <ul style="list-style-type: none"> (a) has misapplied, or retained, or become liable or accountable for, any money or property of the company; or (b) has been guilty of any misfeasance or breach of trust in relation to the covered service provider, the National Law Company Tribunal may, on the application of the liquidator, or the company liquidator, or of any creditor or contributory, made within the period specified in that behalf in sub-section (2), inquire into the conduct of the person, director, manager, company liquidator or officer aforesaid, and order him or her to repay or restore the money or property or any part thereof respectively, with interest at such rate as the National Company Law Tribunal considers just and proper, or to contribute such sum to the assets of the covered service provider by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust, as the National Company Law Tribunal considers just and proper. <p>(2) Where the person involved is that of a covered service provider which is a banking institution and an application has been filed under sub-section (1), the National Company Law Tribunal, -</p> <ul style="list-style-type: none"> (a) shall make an order against such person to repay and restore the money or property unless he or she proves that he or she is not liable to make the repayment or restoration either wholly or in part; (b) has reason to believe that a property belongs to any person referred to in sub-section (1), whether the property stands in the name of such person or any other person as an ostensible owner, then the National Company Law Tribunal may, at any time, whether before or after making an order under clause (a), direct the attachment of such property, or such portion thereof, as it thinks fit and the property so attached shall remain subject to attachment unless the ostensible owner can prove to the satisfaction of the National Company Law Tribunal that he or she is the real owner and the provisions of the Code of Civil Procedure, |
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| | <p style="text-align: center;">1908 (5 of 1908), relating to attachment of property shall, as far as may be, apply to such attachment.</p> <p>(3) An application under sub-section (1) shall be made within five years from the date of the order of liquidation, or of the misapplication, retainer, misfeasance or breach of trust, as the case may be, whichever is longer.</p> <p>(4) This section shall apply, notwithstanding that the matter is one for which the person concerned may be criminally liable.</p> | |
| Appeal against the decision of liquidator | 76. A creditor (including a depositor) may appeal to the National Company Law Tribunal against the decision of the liquidator rejecting the claims within fourteen days of the receipt of such decision. | |
| Determination of valuation of claims | 77. The liquidator shall determine the value of claims admitted under section 72 in such manner as may be specified. | |
| Secured creditor in liquidation proceedings | <p>78. (1) A secured creditor in the liquidation proceedings may—</p> <p style="padding-left: 40px;">(a) relinquish its security interest to the liquidation estate and receive proceeds from the sale of assets by the liquidator in the manner specified in section 79; or</p> <p style="padding-left: 40px;">(b) notwithstanding anything contained in sub-section (4) of section 61, realise its security interest in the manner specified in this section.</p> <p>(2) Where the secured creditor realises security interest under clause (b) of sub-section (1), he or she shall inform the liquidator of such security interest and identify the asset subject to such security interest to be realised.</p> <p>(3) Before any security interest is realised by the secured creditor under this section, the liquidator shall verify such security interest and permit the secured creditor to realise only such security interest, the existence of which may be proved either—</p> <p style="padding-left: 40px;">(a) by the records of such security interest maintained by</p> | |

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| | <p style="text-align: center;">an information utility; or</p> <p>(b) by such other means as may be specified.</p> <p>(4) A secured creditor may enforce, realise, settle, compromise or deal with the secured assets in accordance with such law as applicable to the security interest being realised and to the secured creditor and apply the proceeds to recover the debts due to it.</p> <p>(5) If in the course of realising a secured asset, any secured creditor faces resistance from the covered service provider or any person connected therewith in taking possession of, selling or otherwise disposing off the security, the secured creditor may make an application to the National Company Law Tribunal to facilitate the secured creditor to realise such security interest in accordance with law for the time being in force.</p> <p>(6) The National Company Law Tribunal, on the receipt of an application from a secured creditor under sub-section (5) may pass such order as may be necessary to permit a secured creditor to realise security interest in accordance with law for the time being in force.</p> <p>(7) Where the enforcement of the security interest under sub-section (4) yields an amount by way of proceeds which is in excess of the debts due to the secured creditor, the secured creditor shall—</p> <p style="padding-left: 40px;">(a) account to the liquidator for such surplus; and</p> <p style="padding-left: 40px;">(b) tender to the liquidator any surplus funds received from the enforcement of such secured assets.</p> <p>(8) The amount of resolution costs (including the costs for liquidation) under clause (b) of sub-section (1) of section 79 due from secured creditors who realise their security interests in the manner provided in this section, shall be deducted from the proceeds of any realisation by such secured creditors, and they shall transfer such amounts to the liquidator to be included in the liquidation estate.</p> <p>(9) Where the proceeds of the realisation of the secured assets are not adequate to repay debts owed to the secured creditor, the</p> | |
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| | <p>unpaid debts of such secured creditor shall be paid by the liquidator in the manner specified in section 79.</p> | |
| <p>Distribution of assets</p> | <p>79. (1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period and in such manner as may be specified, namely:-</p> <p>(a) The sums paid by the Corporation to a depositor of an insured service provider which is covered by Deposit Insurance;</p> <p>(b) The costs incurred by the Corporation for the resolution, including its costs for the liquidation process;</p> <p>(c) the following debts which shall rank equally between and among the following: —</p> <p>(i) workmen's dues for the period of twenty-four months preceding the liquidation commencement date; and</p> <p>(ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 78;</p> <p>(d) wages owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;</p> <p>(e) the following debts which shall rank equally between and among the following:</p> <p>(i) amounts due to uninsured depositors</p> <p>(ii) such amounts due to insurance policy holders as may be specified;</p> <p>(f) financial debts owed to unsecured creditors;</p> <p>(g) the following dues shall rank equally between and among the following: —</p> <p>(i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;</p> | |

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| | <p style="margin-left: 40px;">(ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;</p> <p style="margin-left: 40px;">(h) any remaining debts and dues;</p> <p style="margin-left: 40px;">(i) preference shareholders, if any; and</p> <p style="margin-left: 40px;">(j) equity shareholders or partners, as the case may be:</p> <p>Provided that for central counterparties, the following claims shall rank above the claims enumerated under sub-section (1):</p> <p style="margin-left: 40px;">(a) any collateral or assets collected in terms of the rules of the central counterparties; and</p> <p style="margin-left: 40px;">(b) any other liabilities of the Central Counterparty to its system.</p> <p>(2) Any contractual arrangements between recipients under sub-section (1) with equal ranking, if disrupting the order of priority under that sub-section shall be disregarded by the liquidator.</p> <p>(3) The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients under sub-section (1), and the proceeds to the relevant recipient shall be distributed after such deduction.</p> <p><i>Explanation.</i> —For the purpose of this section—</p> <p style="margin-left: 40px;">(i) it is hereby clarified that at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients, if the proceeds are insufficient to meet the debts in full; and</p> <p style="margin-left: 40px;">(ii) the term "workmen's dues" shall have the same meaning as assigned to it in section 325 of the Companies Act, 2013 (18 of 2013).</p> | |
| <p>Dissolution of covered service provider</p> | <p>80. (1) Where the assets of the covered service provider have been completely liquidated, the liquidator shall make an application to the National Company Law Tribunal for the dissolution of such covered service provider.</p> | |

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| | <p>(2) The National Company Law Tribunal shall on application filed by the liquidator under sub-section (1) order that the covered service provider shall be dissolved from the date of that order and the covered service provider shall be dissolved accordingly.</p> <p>(3) A copy of an order under sub-section (2) shall within seven days from the date of such order, be forwarded to the authority with which the covered service provider is registered.</p> | |
| <p>Applicability of certain provisions of the Bankruptcy Code</p> | <p>81. The provisions of section 43 to 51 of Chapter III of Part – II of the Insolvency and Bankruptcy Code, 2016(31 of 2016) shall apply to resolution, including liquidation of a covered service provider under this Act, <i>mutatis mutandis</i>.</p> <p><i>Explanation I:</i> The term “corporate debtor” as used in the said provisions shall be construed to mean a covered service provider under this Act.</p> <p><i>Explanation II:</i> The Corporation shall have all the powers conferred on the liquidator and the insolvency professional under the said provisions for the purpose of initiating proceedings in this regard.</p> <p><i>Explanation III:</i> The term “insolvency commencement date” as used in the said provisions shall be construed as the date on which an order under section 46 is made.</p> | |
| <p>Assistance by related parties.</p> | <p>82. (1) On being appointed as liquidator or receiver of a covered service provider the Corporation may, by order, require parties related to the covered service provider to continue to provide to the covered service provider, the liquidator established by the Corporation to resolve the covered service provider, such services or honour such contracts as the Corporation may direct, for a period not exceeding two years from the date of the Corporation being appointed as liquidator or receiver, as the case may be.</p> <p>(2) For the purpose of this section the term related party shall include a “holding company”, “subsidiary company” or “associate company” as defined in the Companies Act, 2013 (18 of 2013) and any other person with similar relationship with the covered service provider as the Corporation may</p> | |

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| | <p>direct by order.</p> | |
| <p>Assistance and cooperation.</p> | <p>83. (1) The Appropriate Regulator shall provide necessary assistance and cooperate with the Corporation in the discharge of its duties under this Chapter.</p> <p>(2) The Chief Metropolitan Magistrate or District Magistrate shall provide necessary assistance and cooperate with the Corporation in the discharge of its duties under this Chapter.</p> <p>(3) For the purpose of enabling the Corporation to take into its custody or under its control, all property, effects and actionable claims to which a covered service provider under liquidation, is or appears to be entitled, the Corporation may request in writing the Chief Metropolitan Magistrate or the District Magistrate, within whose jurisdiction any property, books of accounts or other documents of such banking institution may be situate or be found, to take possession thereof, and the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, shall, on such request being made to him or her,</p> <p style="margin-left: 40px;">(a) take possession of such property, books of accounts or other documents; and</p> <p style="margin-left: 40px;">(b) forward them to the Corporation.</p> <p>(4) Where any such property and effects of the covered service provider under liquidation, are in the possession of the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, such Magistrate shall, on request in writing being made to him or her by the Corporation, sell such property and effects and forward the net proceeds of the sale to the Corporation:</p> <p style="margin-left: 40px;">Provided that such sale shall, as far as practicable, be effected by public auction.</p> <p>(5) For the purpose of securing compliance with the provisions of sub-section (3), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use or cause to be used such force as may, in his or her opinion, be necessary.</p> | |

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| | <p>(6) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.</p> | |
| <p>CHAPTER 15 VOLUNTARY RESOLUTION AND WINDING UP UNDER COMPANIES ACT, 2013</p> | | |
| <p>Voluntary resolution</p> | <p>84. (1) A covered service provider which wants to voluntarily close its business, shall apply, in writing to the Corporation, in such manner as may be specified.</p> <p>(2) On examination of an application under sub-section (1), if the Corporation in consultation with the Appropriate Regulator determines that the covered service provider ought to be classified at low or moderate risk to viability under section 37, the Corporation shall permit the applicant to close down its business, and for this purpose the Corporation shall apply to the National Company Law Tribunal under Chapter 62, to be appointed as the liquidator for such covered service provider, and all the provisions of Chapter 14 shall apply.</p> <p>(3) On examination of an application under sub-section (1), if the Corporation in consultation with the Appropriate Regulator determines that the covered service provider ought to be classified at material, imminent or critical risk to viability under sections 43, 44, 38, or 46 , the Corporation shall resolve such covered service provider as per the provisions of this Act.</p> | |
| <p>Winding up under section 271 of Companies Act 2013</p> | <p>85. (1) Notwithstanding anything contained in the Companies Act, 2013 (18 of 2013), the National Company Law Tribunal shall not entertain any application for winding up of a covered service provider or bridge service provider under section 271 of that Act, unless the Tribunal obtains a report from the Corporation stating that such a covered service provider should be liquidated:</p> <p>Provided that, where the covered service provider is classified as in low, moderate or material stages of risk to viability, the Corporation shall require the Appropriate Regulator to furnish the report for submission before the Tribunal.</p> <p>(2) Upon submission of the report by the Corporation, if the</p> | |

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| | <p>Tribunal is satisfied that the covered service provider has to be liquidated, it shall appoint the Corporation as the liquidator, and the covered service provider shall be liquidated as per the provisions of this Act.</p> | |
| <p>CHAPTER 16 CROSS BORDER RESOLUTION</p> | | |
| <p>Power to enter into memorandum of understanding</p> | <p>86. (1) The Central Government may enter into an agreement with the government of any country outside India for enforcing the provisions of this Act.</p> <p>(2) Without prejudice to sub-section (1), the Corporation may, with the prior approval of the Central Government, enter into one or more memorandum of understanding with such international organisations or other authorities outside India, which have functions similar to those of the Corporation, for sharing information on reciprocal basis to the extent permissible under the law.</p> <p>(3) Subject to the provisions of this Act or any other law for the time being in force, the information received by the Corporation from the authorities referred to in sub-section (1), shall be treated as confidential.</p> <p>(4) The Corporation shall require the authority outside India to undertake to maintain confidentiality of the information furnished by it under the memorandum of understanding and not to disclose that information to any person or authority:</p> <p style="padding-left: 40px;">Provided that in case the laws of the country of the authority outside India do not provide immunity from disclosure of the information furnished by the Corporation and such authority is directed by a court of law, tribunal or other authority to disclose such information, the said authority shall inform the Corporation forthwith of such direction.</p> <p>(5) Subject to the provisions of this Act, the Corporation shall assist on a reciprocal basis the authority outside India with whom it has entered into a memorandum of understanding under sub-section (1), in the resolution of a branch or office, situated in India and which is a covered service provider, of a</p> | |

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| | <p>person situated in the country of such authority.</p> <p>(6) Notwithstanding anything contained in this Act or any law for the time being in force if, in the course of resolution or liquidation proceedings, as the case may be, under this Act, the Corporation is of the opinion that assets of the covered service provider, are situated in a country outside India with which reciprocal arrangements have been made under this section, the Corporation may make an application to the National Company Law Tribunal that evidence or action relating to such assets is required in connection with such process or proceeding.</p> <p>(7) The National Company Law Tribunal on receipt of an application under sub-section (6) and, on being satisfied that evidence or action relating to assets under sub-section (6) is required in connection with resolution or liquidation proceedings, may issue a letter of request to a court or an authority of such country competent to deal with such request.</p> | |
| <p>Rights of local creditors to get priority.</p> | <p>87. (1) Notwithstanding anything contained in this Act or in any law for the time being in force, in the event of entry into resolution, including liquidation of a body corporate incorporated outside India, whose branch office is a covered service provider,</p> <p>(a) such branch office shall be classified to be at “critical risk to viability” under section 46 and resolved as per the provisions of this Part;</p> <p>(b) the creditors of the covered service provider in India shall have first charge on the assets of the covered service provider for the purpose of resolution and liquidation under this Act, unless the agreement entered into between the Central Government and the country of the body corporate on reciprocal basis under section 86, provides otherwise.</p> <p><i>Explanation:</i> For the purpose of this section, the meaning of the term “entry into resolution” shall be as specified by the Corporation, in consultation with the Appropriate Regulator.</p> | |
| <p>CHAPTER 17</p> | | |

| OFFENCES AND PENALTIES | |
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| Punishment for concealment of property | <p>88. (1) Where any officer of the covered service provider has,-</p> <p>(i) within the twelve months immediately preceding the date of the order of liquidation, —</p> <p style="margin-left: 20px;">(a) wilfully concealed any property or part of such property of the covered service provider or concealed any debt due to, or from, the covered service provider, of the value of ten thousand rupees or more; or</p> <p style="margin-left: 20px;">(b) fraudulently removed any part of the property of the covered service provider of the value of ten thousand rupees or more; or</p> <p style="margin-left: 20px;">(c) wilfully concealed, destroyed, mutilated or falsified any book or paper affecting or relating to the property of the covered service provider or its affairs, or</p> <p style="margin-left: 20px;">(d) wilfully made any false entry in any book or paper affecting or relating to the property of the covered service provider or its affairs; or</p> <p style="margin-left: 20px;">(e) fraudulently parted with, altered or made any omission in any document affecting or relating to the property of the covered service provider or its affairs; or</p> <p style="margin-left: 20px;">(f) wilfully created any security interest over, transferred or disposed of any property of the covered service provider which has been obtained on credit and has not been paid for unless such creation, transfer or disposal was in the ordinary course of the business of the covered service provider; or</p> <p style="margin-left: 20px;">(g) wilfully concealed the knowledge of the doing by others of any of the acts mentioned in clauses (c), (d) or clause (e); or</p> <p>(ii) at any time after the date of the order of liquidation, committed any of the acts mentioned in sub-clause (a) to (f) of clause (i) or has the knowledge of the doing by others of any of the things mentioned in sub-clauses (c) to (e) of clause (i); or</p> <p>(iii) at any time after the date of the order of liquidation, taken in pawn or pledge, or otherwise received the property knowing it to be so secured, transferred or disposed, such officer shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years, or with fine, which shall not be less than one lakh rupees, but</p> |

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| | <p>may extend to one crore rupees, or with both:</p> <p>Provided that nothing in this section shall render a person liable to any punishment under this section if he or she proves that he or she had no intent to defraud or to conceal the state of affairs of the covered service provider.</p> | |
| <p>Punishment for transactions defrauding creditors</p> | <p>89. On or after the date of the order of liquidation, if an officer of the covered service provider or the covered service provider—</p> <ul style="list-style-type: none"> (a) has made or caused to be made any gift or transfer of, or charge on, or has caused or connived in the execution of a decree or order against, the property of the covered service provider; (b) has concealed or removed any part of the property of the covered service provider within two months before the date of any unsatisfied judgment, decree or order for payment of money obtained against the covered service provider, such officer of the covered service provider or the covered service provider, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one year, but which may extend to five years, or with fine, which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both: <p>Provided that a person shall not be punishable under this section if the acts mentioned in sub-clause (a) were committed more than five years before the date of the order of liquidation, or if he or she proves that, at the time of commission of those acts, he or she had no intent to defraud the creditors of the covered service provider.</p> | |
| <p>Punishment for misconduct in course of liquidation</p> | <p>90. On or after the date of the order of liquidation, where an officer of the covered service provider or bridge service provider, as the case may be —</p> <ul style="list-style-type: none"> (a) does not disclose to the Corporation all the details of property of the covered service provider, and details of transactions thereof, or any such other information as the Corporation may require; or (b) does not deliver to the Corporation all or part of the property of the covered service provider in his or her control or custody and which he or she is required to | |

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| | <p style="text-align: center;">deliver; or</p> <p>(c) does not deliver to the Corporation all books and papers in his or her control or custody belonging to the covered service provider and which he or she is required to deliver; or</p> <p>(d) fails to inform the Corporation the information in his or her knowledge that a debt has been falsely proved by any person during the liquidation; or</p> <p>(e) prevents the production of any book or paper affecting or relating to the property or affairs of the covered service provider; or</p> <p>(f) accounts for any part of the property of the covered service provider by fictitious losses or expenses, or if he or she has so attempted at any meeting of the creditors of the covered service provider within the twelve months immediately preceding the date of the order of liquidation, he or she shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years, or with fine, which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both:</p> <p style="text-align: center;">Provided that nothing in this section shall render a person liable to any punishment under this section if he or she proves that he or she had no intent to do so in relation to the state of affairs of the covered service provider.</p> | |
| <p>Punishment for falsification of books of covered service provider</p> | <p>91. On and after the date of the order of liquidation, where any person destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is in the knowledge of making of any false or fraudulent entry in any register, books of account or document belonging to the covered service provider with an intent to defraud or deceive any person, he or she shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years, or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both.</p> | |
| <p>Punishment for wilful and material omissions from statements relating to</p> | <p>92. Where an officer of the covered service provider makes any material and wilful omission in any statement relating to the affairs of the covered service provider, he or she shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years, or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, or with</p> | |

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| affairs of covered service provider | both. | |
| Punishment for contravention of stay | <p>93. (1) Where the covered service provider or any of its officer violates the provisions of sub-clause (b) of sub-section (5) of section 46 and section 62, any such officer who knowingly or wilfully committed or authorised or permitted such contravention shall be punishable with imprisonment for a term which shall not be less than three years, but may extend to five years or with fine which shall not be less than one lakh rupees, but may extend to three lakh rupees, or with both.</p> <p>(2) Where any creditor violates the provisions of sub-clause (b) of sub-section (5) of section 46, any person who knowingly and wilfully authorised or permitted such contravention by a creditor shall be punishable with imprisonment for a term which shall not be less than one year, but may extend to five years, or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both.</p> | |
| Interference in Investigation | <p>94. If any person fails without reasonable cause or refuses, in violation of section 14,-</p> <p>(a) to produce to an Investigating Authority or any person authorised by him or her in this behalf any book, register, other document or record which it is his or her duty under subsection (2) or sub-section (3) to furnish; or</p> <p>(b) to furnish any information which it is his or her duty under sub-section (3) to furnish; or</p> <p>(c) to appear before the Investigating Authority personally when required to do so under sub-section (4) or to answer any question which is put to him or her by the Investigating Authority in pursuance of that sub-section; or</p> <p>(d) to sign the notes of any examination referred to in sub-section (5),</p> <p>he or she shall be punishable with imprisonment for a term which may</p> | |

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| | <p>extend to one year, or with fine, which may extend to twenty-five crore rupees, or with both, and also with a further fine which may extend to ten lakh rupees for every day after the first day during which the failure or refusal.</p> | |
| <p>Offences</p> | <p>95. (1) Where any employee, manager or person in control of a covered service provider—</p> <ul style="list-style-type: none"> (a) transfers any assets of the covered service provider in violation of any order of the Appropriate Regulator or the Corporation under this Act; (b) transfers any assets of the covered service provider after such covered service provider has been classified as in the category of imminent risk to viability; (c) transfers any assets of the covered service provider before it is classified as in the category of imminent risk to viability, with the objective of reducing the amount of assets available to the Corporation as a receiver and liquidator; (d) refuses to provide information regarding the covered service provider be in liquidation when required to do so by the Corporation; or (e) conceals or provides false information regarding a covered service provider in resolution when required by the Corporation to provide information about the covered service provider; <p>such employee, manager or person in control of the covered service provider shall, in addition to the payment of the amount disgorged, if any, be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to one crore rupees.</p> <p>(2) If any person –</p> <ul style="list-style-type: none"> (a) assists a person commit any offence under sub-section (2); (b) knowingly accepts or deals in any asset of a covered service provider which is in resolution; or (c) causes any asset of a covered service provider in resolution to be hidden from the Corporation, | |

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| | <p>such person shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to one crore rupees.</p> <p>(3) Whoever in any return, balance-sheet, or other document or in any information required or furnished by or under or for the purposes 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 which may extend to three years or with fine which shall not be less than one lakh rupees but which may extend to one crore rupees.</p> <p>(4) If any person fails to produce any book, account or other document, or to furnish any statement or information which under the provisions of this Act, it is his or her duty to produce or furnish, he or she shall be punishable with a fine which may extend to two thousand rupees in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to one hundred rupees for every day during which the failure continues after conviction for the first such failure.</p> <p>(5) No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by an officer of the Corporation.</p> | |
| <p>Offences by companies</p> | <p>96. (1) Where a covered service provider committing a contravention or default referred to in section 95 is a company, -</p> <p>(a) every person who at the time the contravention or default was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly;</p> <p>(b) every person in respect of whom it is proved that the same was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer or employee of the company, shall be deemed to be guilty of the contravention or default and shall be liable to be</p> | |

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| | <p style="text-align: center;">proceeded against and punished accordingly.</p> <p>(2) Nothing contained in sub-section (1) shall render any such person liable to punishment if he or she proves that the contravention of default was committed without his or her knowledge or that he or she had exercised all due diligence to prevent the contravention or default.</p> <p>(3) Any offence punishable under this Act shall be deemed to have been committed at the place where the registered office or the principal place of business, as the case may be, in India, of the company is situated.</p> <p>(4) For the purpose of this section, –</p> <p>(a) “a company” means any body corporate and includes a corporation, a firm, a statutory body, a co-operative society or other association of individuals; and</p> <p>(b) “director”, in relation to a firm, means a partner in the firm.</p> | |
| <p>Penalties</p> | <p>97. (1) Any person who deliberately violates any order, regulation or rule under this Act, shall be liable to a penalty which may extend up to three times the amount of unlawful gains accrued out of such violation or extend up to twenty-five crore rupees, whichever is higher.</p> <p>(2) Any person who by gross negligence violates any order, regulation or rule under this Act, shall be liable to a penalty which may extend up to two times the amount of unlawful gains accrued out of such violation or extend up to five crore rupees, whichever is higher.</p> <p>(3) Any person who by mistake violates any order, regulation or rule under this Act, shall be liable to a penalty which may extend up to the amount of unlawful gains accrued out of such violation or extend up to five crore rupees, whichever is higher.</p> | |
| <p>Offences and Penalties in relation to</p> | <p>98. (1) If any covered service provider fails to submit a Restoration Plan or Resolution Plan in contravention of section 39, the</p> | |

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| Restoration and Resolution Plans | <p>Appropriate Regulator or the Corporation, as the case may be, may impose a penalty of up to twenty-five crore rupees on such covered service provider.</p> <p>(2) If any covered service provider fails to update a Restoration Plan in contravention of section 42, the Appropriate Regulator may impose a penalty of up to five crore rupees on such covered service provider.</p> <p>(3) If any covered service provider fails to intimate a material change in the Resolution Plan to the Corporation in contravention of section 42, the Corporation may impose a penalty of up to ten crore rupees on such covered service provider and every officer in default of the covered service provider shall be punishable with a fine which may extend to one crore rupees or imprisonment for a term which may extend to five years or both.</p> <p>(4) If any covered service provider fails to modify and resubmit a Restoration Plan in contravention of section 42, the Appropriate Regulator may impose a penalty of up to ten crore rupees on such covered service provider and every officer in default of the covered service provider shall be punishable with imprisonment for a term which may extend to five years.</p> <p>(5) If any covered service provider or Systemically Important Financial Institution fails to submit or update a Resolution Plan in contravention of section 42, the Corporation may impose a penalty of up to ten crore rupees on such covered service provider or Systemically Important Financial Institution, as the case may be.</p> <p>(6) If any covered service provider or Systemically Important Financial Institution fails to intimate a material change in the Resolution Plan in contravention of section 42, the Corporation may impose a penalty of up to twenty-five crore rupees on such covered service provider or Systemically Important Financial Institution, as the case may be, and every officer in default of the covered service provider or Systemically Important Financial Institution shall be punishable with imprisonment for a term which may extend to five years.</p> | |
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| | <p>(7) If any covered service provider or Systemically Important Financial Institution fails to modify and resubmit its Resolution Plan in contravention of section 42, the Corporation may impose a penalty of up to ten crore rupees on such covered service provider or Systemically Important Financial Institution, as the case may be, and every officer in default of the covered service provider or Systemically Important Financial Institution shall be punishable with imprisonment for a term which may extend to five years.</p> <p>(8) The mechanism and procedure of the imposition of penalties by the Corporation or Appropriate Regulator, shall be in accordance with the manner laid down in this Act.</p> <p>(9) Offences enumerated under sub-section (3), (4), (6) and (7) shall be tried by the Special Court in accordance with section 102.</p> | |
| <p>Procedure for imposition of penalty by the Corporation or the Appropriate Regulator</p> | <p>99. (1) The Corporation or the Appropriate Regulator as the case may be shall issue a show cause notice to a person against whom it proposes to impose a penalty.</p> <p>(2) The show cause notice shall contain an assessment by the Corporation or the Appropriate Regulator as the case may be of the manner in which the relevant factors under sub-section (3) are applicable to the violation committed by the person.</p> <p>(3) The following relevant factors shall be taken into account by the Corporation or the Appropriate Regulator as the case may be:</p> <ul style="list-style-type: none"> (a) the nature and seriousness of the violation committed by the person; (b) the consequences and impact of the violation including the extent of benefit or unfair advantage gained by the person or loss caused or likely to be caused to other persons as a result of the violation; (c) the conduct of the person after discovery of the occurrence of the violation; (d) repetitive nature of the violation; (e) offences committed by the person under this Act. | |

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| | <p>(4) The Corporation or the Appropriate Regulator as the case may be, shall give a reasonable opportunity to the person to reply to the show cause notice.</p> <p>(5) The Corporation or the Appropriate Regulator as the case may be, shall consider the reply and give a reasonable opportunity of hearing to the person.</p> <p>(6) If the Resolution Corporation or the Appropriate Regulator as the case may be, chooses to impose any penalty, it shall pass a reasoned order in writing and immediately intimate the person of the same.</p> <p>(7) If after issuing a show cause notice under sub-section (1) but before passing an order under sub-section (6), the Corporation or the Appropriate Regulator as the case may be, seeks to amend any of the grounds in the show cause notice, it shall issue a fresh show cause notice and follow the procedure in this section.</p> | |
| <p>Recovery of penalty under this chapter.</p> | <p>100. If any person fails to comply with an order issued under this chapter requiring him or her to pay any amount by way of penalty, the Board may, by order in writing, proceed to realise the amount by employing the modes of recovery set out in the second schedule to the Income Tax Act, 1961.</p> | |
| <p>Appeal against penalty order</p> | <p>101. (1) Any person aggrieved by an order imposing penalty under this chapter may prefer an appeal to the National Companies Law Tribunal having jurisdiction in the matter.</p> <p>(2) An appeal under this section shall be filed within a period of forty-five days from the date on which a copy of the penalty order by the Corporation or the Appropriate Regulator as the case may be, is received by the aggrieved person and it shall be in such form and be accompanied by such fee as may be prescribed.</p> <p>(3) The National Companies Law Tribunal may entertain an appeal after the expiry of forty-five days under sub-section (2) if it is satisfied that there was sufficient cause for not filing it</p> | |

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| | within that period. | |
| Trial of offences by Special Court. | <p>102. (1) Notwithstanding anything in the Code of Criminal Procedure, 1973, offences under this Act shall be tried by the Special Court established under Chapter XXVIII of the Companies Act, 2013.</p> <p>(2) No Court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Board or the Central Government or any person authorised by the Central Government in this behalf.</p> <p>(3) The provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.</p> <p>(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in case of a complaint under sub-section (2), the presence of the person authorised by the Central Government or the Board before the Court trying the offences shall not be necessary unless the Court requires his or her personal attendance at the trial.</p> | |
| Appeal and revision. | <p>103. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.</p> | |
| <p>PART V</p> <p>MISCELLANEOUS</p> | | |
| National Company Law Tribunal | <p>104. For the purposes of this Act, National Company Law Tribunal”, in relation to a covered service provider or creditor, means the National Company Law Tribunal exercising jurisdiction in the place where the registered office of the covered service provider is situated, or in the case of a covered service provider incorporated</p> | |

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| | outside India, where its principal place of business in India is situated. | |
| National Company Law Appellate Tribunal | 105. For the purposes of this Act, National Company Law Appellate Tribunal”, in relation to a covered service provider, means the National Company Law Appellate Tribunal constituted under section 410 of the Companies Act, 2013. | |
| Power of Central Government to supersede Board | <p>106. (1). If at any time the Central Government is of the opinion-</p> <ul style="list-style-type: none"> (a) that on account of a grave emergency, the Corporation is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or (b) that the Corporation has persistently not complied with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such non-compliance the financial position of the Corporation or the administration of the Corporation has deteriorated; or (c) that circumstances exist which render it necessary in the public interest to do so, the Central Government, may, by notification, supersede the Corporation for such period, not exceeding six months, as may be specified in the notification. <p>(2) Upon the publication of a notification under sub-section (1), of the Central Government superseding the Corporation-</p> <ul style="list-style-type: none"> (a) all the members shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may, by or under the provisions of this Code, be exercised or discharged by or on behalf of the Corporation shall, until the Corporation is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and (c) all property owned or controlled by the Corporation shall, until the Corporation is reconstituted under sub-section (3), vest in the Central Government. <p>(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central</p> | |

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| | <p>Government may reconstitute the Corporation by a fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2) of this section, shall not be deemed disqualified for appointment.</p> <p>(4) The Central Government may, at any time before the expiry of the period of supersession, take action under sub-section (3).</p> <p>(5) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid down before each House of Parliament at the earliest.</p> | |
| Budget | <p>107. The Board shall prepare, in such form and at such time in the financial year as may be prescribed, the budget for the next financial year, showing the estimated receipts and expenditure of the Corporation.</p> | |
| Annual Report | <p>108. (1). The Board shall prepare, in such form and at such time in the financial year as may be prescribed, the annual report, giving a full account of the activities of the Corporation during the previous financial year, and submit a copy thereof to the Central Government.</p> <p>(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each house of Parliament.</p> | |
| Bar of jurisdiction | <p>109. Unless otherwise provided in this Act, no court or tribunal shall have jurisdiction in respect of any matter which the Corporation, the Appropriate Regulator, the National Company Law Tribunal or the National Company Law Appellate Tribunal is empowered by, or under, this Act and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred on the Corporation the Appropriate Regulator, the National Company Law Tribunal or the National Company Law Appellate Tribunal under this Act, as the case may be.</p> | |
| Members, officers and | <p>110. The Chairperson, members, officers and other employees of</p> | |

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| employees of Corporation to be public servants. | the Corporation shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860. | |
| Amounts collected as Penalties | 111. Any amount collected by the Corporation or the Appropriate Regulator as a penalty under this Act, shall be credited to the Consolidated Fund of India. | |
| Exemption from tax on wealth, income, profits and gains. | <p>112. Notwithstanding anything contained in</p> <ul style="list-style-type: none"> (i) the Wealth Tax Act, 1957; (ii) the Income Tax Act, 1961; (iii) the Finance Act, 1994; or (iv) any other enactment for the time being in force. <p>the Corporation shall not be liable to pay wealth tax, income tax, service tax or any other tax with respect to its wealth, income, expenditure, profits or gains, or the services provided to or received by the Corporation.</p> | |
| Provisions of this Act to override other laws. | <p>113. (1) The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.</p> <p>(2) Without prejudice to sub-section (1), the provisions of this Act shall override the provisions of any other law for the time being in force in relation to resolution or insolvency of a covered service provider notwithstanding anything to the contrary contained in such law:</p> <p>Provided that nothing contained in this Act, other than section 47, shall supersede or override the provisions of the Payment and Settlement Systems Act, 2007, the Securities Contract Regulation Act, 1956 or regulations made thereunder for Central Counterparties.</p> | |
| Power to make rules. | 114. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act. | |

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| | <p>(2) Without prejudice to the generality of the provisions of subsection (1), the Central Government may make rules for all or any of the following matters, namely:</p> <ul style="list-style-type: none"> (a) salaries and allowances and other terms and conditions of service of, the Chairperson and members (other than <i>ex officio members</i>), under section 4(7); (b) any other matter, in respect of which the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, under section 15(2)(e); (c) power of the Corporation to enter into premises, including the procedure to be followed by the Corporation, under section 17(10); (d) the form and manner of the annual statement of accounts, under section 23; (e) the manner and frequency of the auditing of the accounts of Corporation under section 23; (f) factors to be taken into consideration while designating a financial service provider as a Systemically Important Financial Institution, under section 25; (g) criteria for designating a financial service provider as designating Systemically Important Financial Institutions, under section 25; (h) the time within which a Systemically Important Financial Institution shall submit Resolution Plan and Restoration Plan under section (39); (i) the form and manner of the report to be submitted by the Corporation upon the utilization of any amount from the Corporation Insurance Fund under section 21 (j) details of a covered service provider and insured service provider to be maintained by the Corporation in the public register, under section 0 (k) the meaning of ‘material change’ in restoration and Resolution Plans under section 42; (l) the form and manner of the report under section 52; (m) fees for filing an appeal against any order imposing penalty under section 101; (n) the form and the time for preparation of the budget by the Corporation under section 107; (o) the form and the time for preparation of the annual report by the Corporation under section 108; | |
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| | <p>(p) any other matter in respect of procedure before the Tribunal and the Appellate Tribunal.</p> <p>(3) Notwithstanding anything to the contrary contained in this Act, the Central Government may, by notification, direct that any of the provisions of this Act, other than section 117, or any notification or order issued or direction given thereunder, (other than the provisions relating to the making of rules or regulations), specified in the notification-</p> <p>(a) shall not apply to a Central Counterparty or a class of Central Counterparties or all Central Counterparties; or</p> <p>(b) shall apply to a Central Counterparty or a class of Central Counterparties or all Central Counterparties only with such exceptions, modifications and adaptation, as may be specified in the notification;</p> <p>upon being satisfied that it is necessary to do so, in the interest of management or operation of any Central Counterparty or in public interest, (including stability of the financial system) or pertaining to the conduct of business relating to Central Counterparties.</p> <p>(4) A copy of every notification proposed to be issued under subsection (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.</p> | |
| <p>Power to make regulations.</p> | <p>115. (1) The Board or the Appropriate Regulator may, as the case may be, by notification, make regulations consistent with this Act and the rules made thereunder, to carry out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following, –</p> <p>(a) the time and place of meeting of the Board and the procedure to be followed in regard to the transaction of</p> | |

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| | <p>business at such meetings (including quorum at such meetings), under section 8(1);</p> <p>(b) the salary and allowances payable to and other terms and conditions of service of, such officers and employees of the Corporation, under section 11;</p> <p>(c) place and time for the discovery and production of books of account and other documents of the covered service provider, under section 16;</p> <p>(d) other members of advisory committees, executive committees or other committees of the Corporation, under section 19;</p> <p>(e) the determination of fees payable for resolution and for administrative expenses of the Corporation, under section 24;</p> <p>(f) the determination of premium payable for Deposit Insurance, under section 24;</p> <p>(g) the manner and methodology of assessment of fees and insurance premium payable by a covered service provider or an insured service provider, as applicable, under section 24;</p> <p>(h) the form and manner of maintaining the Public Register under section 0</p> <p>(i) the criteria for classifying a covered service provider into a category of risk to viability under section 37;</p> <p>(j) the form and manner of Restoration Plans under section 40</p> <p>(k) the form and manner of Resolution Plans under section 41;</p> <p>(l) the form and manner of details of remuneration paid to chairman, director etc. under section 51;</p> <p>(m) the manner of designating a portion of the remuneration as a performance based incentive under section 51;</p> <p>(n) different time limits on resolution under section 56;</p> <p>(o) powers of the Corporation as the receiver under section 57;</p> <p>(p) functions of the corporation as a receiver under section 58;</p> <p>(q) time and place of meetings of committees under section 61;</p> <p>(r) any other matter as may be necessary to give effect to</p> | |
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| | <p>provisions of this Act.</p> <p>(3) The matters in respect of which rules may be made or notification issued are matters of procedure or administrative detail and it is not practicable to provide for them in the Act itself. The delegation of legislative power is, therefore, of a normal character.</p> | |
| <p>Rules and regulations to be laid before Parliament.</p> | <p>116. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or 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 rule or regulation.</p> | |
| <p>Power to remove difficulties.</p> | <p>117. (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 provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:</p> <p>Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.</p> <p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p> | |
| <p>Power of Central Government to give directions</p> | <p>118. (1) Without prejudice to the foregoing provisions of this Act, the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:</p> <p>Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under</p> | |

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| | <p>this sub-section.</p> <p>(2) The decision of the Central Government whether a question is one of policy or not shall be final.</p> | |
| Declaration of Fidelity | <p>119. Every auditor, member or officer of the Corporation or any person whose services are utilized by the Corporation under section 11 shall, before entering upon his or her duties, make a declaration of fidelity and secrecy in the form set out in Schedule 17 to this Act.</p> | |
| Disclosure of information | <p>120. The Corporation or Appropriate Regulator shall not divulge any information relating to any covered service provider, except as otherwise required by section 125 of this Act, or under any other law, and, in particular, it shall not divulge any information relating to any covered service provider or its consumers except in circumstances in which it is, in accordance with law or when so authorised by this Act.</p> | |
| Indemnity of members of the board | <p>121. (1) Every member of the Board shall be indemnified by the Corporation against all losses and expenses incurred by him or her in, or in relation to, the discharge of his or her duties except such as are caused by his or her own wilful act or default.</p> <p>(2) A member of the Board shall not be responsible for any other member or, for any other officer or other employee of the Corporation, or for any loss or expenses resulting to the Corporation from the insufficiency or deficiency of value of or title to any property or security acquired or taken on behalf of the Corporation or the insolvency or wrongful act of any debtor or any person under obligation to the Corporation or anything done in good faith in the execution of the duties of his or her office or in relation thereto.</p> | |
| Protection of action taken under this Act | <p>122. (1) No suit or other legal proceeding shall lie against the Corporation or the Appropriate Regulator, or any member or officer of the Corporation or the Appropriate Regulator or any other person or agency authorised by the Corporation or the Appropriate Regulator to discharge any functions under this Act 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.</p> | |

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| | <p>(2) To protect the interest of the consumers of a covered service provider, all transactions carried out by the Corporation or the Appropriate Regulator under this Act shall be final, and no court or tribunal may grant any injunction of any transaction proposed or taken by the Corporation or the Appropriate Regulator or reverse any transaction carried out by the Corporation or the Appropriate Regulator, under this Act.</p> | |
| Non applicability of Competition Act | <p>123. Nothing in the Competition Act 2002, shall apply to any transaction carried out in pursuance of Chapter 12 of this Act.</p> | |
| Liquidation of Corporation | <p>124. (1) The Corporation shall not be placed in liquidation save by order of the Central Government and in such manner as the Government may direct.</p> <p>(2) On the liquidation of the Corporation,</p> <p>(a) the outstanding assets of the Corporation in so far as they relate to the Corporation Insurance Fund shall be distributed among the insured service providers in such manner and in such proportion as may be determined by the Central Government having regard to the amounts of fees paid by them during any prescribed period or the deposits of the said insured service providers as on the date of liquidation of the Corporation or other relevant circumstances;</p> <p>(b) the remaining outstanding assets of the Corporation shall be transferred to the Central Government.</p> | |
| Information Sharing between regulators and corporation | <p>125. (1) Notwithstanding anything contained in section 120, the Corporation and the Appropriate Regulator shall-</p> <p>(a) share and exchange, supervisory information, relating to such covered service providers which have been classified to be at material, imminent and critical risk to viability and in such form and manner as may be specified or whenever any material information as suitably specified, comes to light;</p> <p>(b) hold regular meetings to discuss matters of common interest;</p> <p>(c) have the power to enter into memoranda of understanding;</p> <p>(d) consult each other regarding any cross-border</p> | |

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| | <p style="text-align: center;">establishment or investment by the covered service providers and covered insured service providers; and</p> <p>(e) keep the supervisory information shared, confidential and to restrict the sharing, use and onward disclosure of such information in accordance with the provisions of the arrangements.</p> <p>(2) The Appropriate Regulator shall share the findings of its inspections and the basis of classification of a covered service provider to the category of risk to viability.</p> | |
| <p>Repeal and savings of the Deposit Insurance and Credit Guarantee Corporation Act, 1961.</p> | <p>126. (1) The Deposit Insurance and Credit Guarantee Corporation Act, 1961 is hereby repealed.</p> <p>(2) On and from the date of repeal of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, –</p> <p>(a) the regulations and directions issued by the Board and the Central Government under the Deposit Insurance and Credit Guarantee Corporation Act, 1961, respectively, shall stand repealed;</p> <p>(b) the Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, including the Board and the Committees of that Corporation, shall stand dissolved;</p> <p>(c) anything done or any action taken or purported to have been done or taken under the Deposit Insurance and Credit Guarantee Corporation Act, 1961, repealed in sub-section (1), shall insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and be continued or enforced by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016, as if that Act had not been repealed;</p> <p>(d) notwithstanding anything contained in section 54AA of the Reserve Bank of India Act, 1934 (2 of 1934), the employees of the Deposit Insurance and Credit Guarantee Corporation will become the employees of the Corporation for a period of one year;</p> <p>(e) at the completion of one year and before the completion of two years from the employees of the Deposit Insurance and Credit Guarantee Corporation becoming employees of the Corporation, such employees of the Deposit Insurance and</p> | |

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| | <p>Credit Guarantee Corporation shall choose to continue with the Corporation or return to the Reserve Bank;</p> <p>(f) the seniority of the employees returning to the Reserve Bank will be protected and the employees will be eligible for deputation and other allowances while working in the Corporation.</p> <p>(g) all offences committed, and existing proceedings with respect to offences which may have been committed under the Deposit Insurance and Credit Guarantee Corporation Act, 1961, shall continue to be governed by the provisions of that Act, as if that Act had not been repealed and the Corporation may continue the existing proceedings as if such those proceedings had been initiated by it;</p> <p>(h) a fresh proceeding related to an offence under the Deposit Insurance and Credit Guarantee Corporation Act, 1961, may be initiated by the Corporation under the Financial Resolution and Deposit Insurance Act, 2016, within a period of three years from the date on which that Act is repealed and be proceeded with as if that Act had not been repealed;</p> <p>(i) no court shall take cognizance of any offence under the Deposit Insurance and Credit Guarantee Corporation Act, 1961, from the date on which that Act is repealed, except as provided in clauses (d) and (e);</p> <p>(j) any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction or exemption shall not be affected, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactment;</p> <p>(k) any jurisdiction, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not in existence or in force shall not be revised or restored.</p> <p>(3) The mention of particular matters under sub-section (1) shall not be held to or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal to matters not covered under these sub-sections.”</p> <p>(4) On the date on which the Deposit Insurance and Credit Guarantee Corporation Act, 1961, is repealed, the assets, liabilities, properties, undertakings, rights and claims of the Corporation established under section 3 of that Act, shall stand transferred to, and vested with the Corporation:</p> <p>Provided that the outstanding assets of the Deposit Insurance and Credit Guarantee Corporation insofar as they relate to the</p> | |
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| | <p>Deposit Insurance Fund, under section 23 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as on the date of repeal of that Act, shall stand transferred to the Corporation Insurance Fund, constituted under section 21.</p> <p>Provided further that the outstanding assets including rights and liabilities, if any, of the Deposit Insurance and Credit Guarantee Corporation insofar as they relate to the Credit Guarantee Fund, under section 23A of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as on the date of repeal of that Act, shall stand transferred to the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934.</p> <p>Provided further that existing proceedings with respect to Credit Guarantee Fund, shall continue to be governed by the provisions of Deposit Insurance and Credit Guarantee Corporation Act, 1961 as if that Act had not been repealed and such proceedings may be continued or enforced by or against Reserve Bank</p> <p>Provided also that the outstanding assets of the Deposit Insurance and Credit Guarantee Corporation insofar as they relate to the General Fund, under section 24 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as on the date of repeal of that Act, shall stand transferred to the Reserve Bank of India constituted under Reserve Bank of India Act, 1934.</p> <p>(5) Every existing banking institution which is registered as an insured bank under the Deposit Insurance and Credit Guarantee Corporation Act, 1961, shall be deemed to be an insured service provider under this Act.</p> <p>(6) Every insured service provider referred to in sub-section (5), shall pay a premium, as determined under section 15 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as if that Act had not been repealed, to the Corporation, till the Corporation determines the applicable premium under this Act:</p> <p>Provided that the premium paid by such insured service provider as on the date of repeal of that Act, to the</p> | |
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| | <p>Corporation, shall be credited to the Corporation Insurance Fund, constituted under section 21.</p> | |
| | <p>(7) If there is any existing proceeding or cause of action or rights or claims against the Deposit Insurance and Credit Guarantee Corporation in relation to the assets, liabilities, properties and undertakings (other than those relating to Credit Guarantee Fund) on the date on which the Deposit Insurance and Credit Guarantee Corporation Act, 1961, is repealed, such proceeding or cause of action or rights or claims may be continued or enforced by or against the Corporation.</p> | |
| | <p>(8) If any amount is repayable to the Deposit Insurance and Credit Guarantee Corporation, established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, under the provisions of that Act or under any law governing an eligible co-operative bank, then notwithstanding the repeal of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 the Corporation shall be entitled to claim such amount as if the obligation to repay such amount was to the Corporation.</p> | |
| | <p>(9) The concessions, privileges, benefits and exemptions including any benefits and exemptions with regard to the payment of any tax, duty and cess granted to the Deposit Insurance and Credit Guarantee Corporation with respect to its undertaking shall be transferred to the Corporation on the date on which the Deposit Insurance and Credit Guarantee Corporation Act, 1961, is repealed and the Corporation shall be entitled to such concessions, privileges, benefits and exemptions.</p> | |
| | <p>(10) Every employee holding any office (excluding members of the Deposit Insurance and Credit Guarantee Corporation and employees of Reserve Bank of India) under the Deposit Insurance and Credit Guarantee Corporation immediately before the date on which the Deposit Insurance and Credit Guarantee Corporation Act, 1961, is repealed, will hold office in the Corporation, for the same tenure and on the same terms and conditions of service as such employee would have held such office if the Deposit Insurance and Credit Guarantee Corporation had not been dissolved.</p> | |

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| | <p>(11) Without prejudice to the provisions of section 11, it shall be lawful for the Corporation to utilize and for the Appropriate Regulator to make available, the services of such employees of the Appropriate Regulator on such terms and conditions as may be agreed upon between the Corporation and the Appropriate Regulator.</p> <p>(12) Nothing contained in any other law in force shall entitle any employee or member of the Deposit Insurance and Credit Guarantee Corporation to any compensation for the loss of office due to the repeal of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, and the consequent dissolution of the Deposit Insurance and Credit Guarantee Corporation, and no such claim shall be entertained by any court, tribunal or other authority.</p> <p>(13) The members of the Board of the Deposit Insurance and Credit Guarantee Corporation under section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, shall cease to hold office from the date on which the Deposit Insurance and Credit Guarantee Corporation Act, 1961, is repealed.</p> <p>(14) The members of the Board of the Deposit Insurance and Credit Guarantee Corporation shall not be entitled to any compensation for the loss of office due to the repeal of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, and the consequent dissolution of the Deposit Insurance and Credit Guarantee Corporation or for the premature termination of any contract of management entered into by such member with the Deposit Insurance and Credit Guarantee Corporation, and no such claim shall be entertained by any court, tribunal or other authority.</p> | |
| <p>Information utility</p> | <p>127. Notwithstanding anything to the contrary contained in the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the provisions relating to information utilities in the Code shall apply to covered service providers under this Act in such manner as may be specified.</p> | |
| <p>Procedure before Tribunal and Appellate</p> | <p>128. (1) The Tribunal and the Appellate Tribunal shall not, while disposing of any proceeding before it or, as the case may be, an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural</p> | |

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| Tribunal. | <p>justice, and, subject to the other provisions of this Act and of any rules made thereunder, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure.</p> <p>(2) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely: -</p> <ul style="list-style-type: none"> (a) summoning and enforcing the attendance of any person and examining him or her on oath; (b) requiring the discovery and production of documents; (c) receiving evidence on affidavits; (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office; (e) issuing commissions for the examination of witnesses or documents; (f) dismissing a representation for default or deciding it ex parte; (g) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and (h) any other matter which may be prescribed. <p>(3) Any order made by the Tribunal or the Appellate Tribunal may be enforced by that Tribunal in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Tribunal or the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction, —</p> <ul style="list-style-type: none"> (a) in the case of an order against a covered service provider, the registered office of the covered service provider is situated; or (b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain. <p>(4) All proceedings before the Tribunal or the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Tribunal and the Appellate</p> |
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| | Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. | |
| Power to punish for contempt. | <p>129. For the purpose of this Act, the National Company Law Tribunal and the National Company Law Appellate Tribunal shall have the same jurisdiction, powers and authority in respect of contempt of themselves as the High Court has and may exercise, for this purpose, the powers under the provisions of the Contempt of Courts Act, 1971, which shall have the effect subject to modifications that—</p> <p>(a) the reference therein to a High Court shall be construed as including a reference to the Tribunal and the Appellate Tribunal; and</p> <p>(b) the reference to Advocate-General in section 15 of the said Act shall be construed as a reference to such Law Officers as the Central Government may, specify in this behalf.</p> | |
| <p>PART VI</p> <p>SPECIAL PROVISIONS RELATING TO ELIGIBLE CO-OPERATIVE BANKS</p> | | |
| Continuation of Deposit Insurance for existing eligible co-operative banks | <p>130. (1) A co-operative bank which satisfies the requirements of an “ an eligible co-operative bank” as defined under sub-section (gg) of section 2of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 prior to the commencement of this Act, shall be deemed to be an “eligible co-operative bank” for the purposes of this Act for a period of 2 years from the date of such commencement or for a further period not exceeding one year as may be notified by the Central Government, unless the law for the time being governing such co-operative bank meets with the requirements of an eligible co-operative bank under this Act.</p> <p>(2) If on the expiry of the period stated in sub-section (2), the law for the time being governing the co-operative bank does not meet with the requirements of an eligible co-operative bank under this Act, those co-operative banks shall cease to be an insured service provider under this Act.</p> | |
| Circumstances in which winding up of co-operative banks can be | <p>131. The circumstances in which the winding up of an eligible co-operative bank can be required under this Act are the following, namely: -</p> <p>(a) that the co-operative bank has failed to comply with the</p> | |

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| sought under this Act | <p>requirements specified in section 11 of the Banking Regulation Act, 1949(10 of 1949); or</p> <p>(b) that the co-operative bank has by reason of the provisions of section 22 of the Banking Regulation Act become disentitled to carry on banking business in India; or</p> <p>(c) that the co-operative bank has been prohibited from receiving fresh deposits by an order under sub- section (4) of section 35 of the Banking Regulation Act or under clause (b) of sub- section (3A) of section 42 of the Reserve Bank of India Act, 1935 (2 of 1934); or</p> <p>(d) that the co-operative bank having failed to comply with any requirement of the Banking Regulation Act, 1949(10 of 1949), other than the requirements laid down in section 11 thereof, has continued such failure or, having contravened any provision of that Act has continued such contravention beyond such period or periods as may be specified in that behalf by the Reserve Bank from time to time, after notice in writing of such failure or contravention has been conveyed to the co-operative bank; or</p> <p>(e) that the co-operative bank is unable to pay its debts; or</p> <p>(f) that in the opinion of the Reserve Bank-</p> <p style="padding-left: 20px;">(i) a compromise or arrangement sanctioned by a competent authority in respect of the co-operative bank cannot be worked satisfactorily with or without modifications, or</p> <p style="padding-left: 20px;">(ii) the continuance of the co-operative bank is prejudicial to the interests of its depositors.</p> <p>(2) Without prejudice to the provisions of any other law for the time being in force, a co-operative bank shall, for the purpose of clause (e) of sub- section (1), be deemed to be unable to pay its debts: -</p> <p style="padding-left: 20px;">(i) if, on the basis of the returns, statements or information furnished to the Reserve Bank under or in pursuance of the provisions of the Banking Regulation Act, 1949, the Reserve Bank is of opinion that the co-operative bank is unable to pay its debts; or</p> <p style="padding-left: 20px;">(ii) if the co-operative bank has refused to meet any lawful demand made at any of its offices or branches within two working days, if such demand is made at a place where there is an office, branch or agency of the Reserve Bank, or within five working days if such demand is made elsewhere and, in either case, the</p> |
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| | <p style="text-align: center;">Reserve Bank certifies in writing that the co-operative bank is unable to pay its debts.</p> | |
| <p>Repayment of amount to the Corporation</p> | <p>132. (1) Where any amount has been paid under section 71 or section 30 or any provision for which has been made under section 32, the Corporation shall furnish to the liquidator or to the insured service provider or to the transferee insured service provider, as the case may be, information as regards the amount so paid or provided for.</p> <p>(2) On receipt of the information under sub-section (1), notwithstanding anything to the contrary contained in any other law for the time being in force, -</p> <p>(a) the liquidator shall, within such time and in such manner as may be prescribed, repay to the Corporation out of the amount, if any payable by him or her in respect of any deposit such sum or sums as make up the amount paid or provided for by the Corporation in respect of that deposit;</p> <p><i>Explanation:</i> Where the Corporation has been appointed as the liquidator under section 62 of this Act, repayment to the Corporation may be by way of an adjustment to the funds of the Corporation in a manner as may be specified.</p> <p>(b) the insured service provider or, as the case may be, the transferee insured service provider, shall, within such time and in such manner as may be prescribed, repay to the Corporation out of the amount, if any, to be paid or credited in respect of any deposit after the date of the coming into force of the scheme referred to in section 30, such sum or sums as make up the amount paid or provided for by the Corporation in respect of that deposit.</p> | |
| <p>PART VII REPEALS AND AMENDMENTS</p> | | |
| <p>CHAPTER 14 REPEALS AND AMENDMENTS</p> | | |

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| Repeal of certain enactment and savings. | 133. The Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961) is hereby repealed, in the manner as provided under section 126. | |
| Amendment to Act 26 of 1967 | 134. The Regional Rural Bank Act, 1976 shall be amended in the manner specified in schedule 4. | |
| Amendment to Act 23 of 1955 | 135. The State Bank of India Act, 1955 shall be amended in the manner specified in schedule 5. | |
| Amendment to Act 4 of 1938. | 136. The Insurance Act, 1938 shall be amended in the manner specified in schedule 6. | |
| Amendment to Act 10 of 1949. | 137. The Banking Regulation Act, 1949 shall be amended in the manner specified in schedule 7. | |
| Amendment to Act 31 of 1956. | 138. The Life Insurance Corporation Act, 1956 shall be amended in the manner specified in schedule 8. | |
| Amendment to Act 57 of 1972. | 139. The General Insurance Business (Nationalisation) India Act, 1972 shall be amended in the manner specified in schedule 9. | |
| Amendment to Act 5 of 1970. | 140. The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, shall be amended in the manner specified in schedule 10. | |
| Amendment to Act 40 of 1980. | 141. The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, shall be amended in the manner specified in schedule 11. | |
| Amendment to Act 38 of 1980 | 142. The State Bank of India (Subsidiary Banks) Act, 1959, shall be amended in the manner specified in schedule 12. | |
| Amendment to Act 39 of 2002 | 143. The Multi-State Cooperative Societies Act, 2002, shall be amended in the manner specified in schedule 13. | |
| Amendment to Act 2 of 1934 | 144. The Reserve Bank of India Act, 1934 shall be modified in the manner specified in schedule 14. | |
| Amendment to Act 18 of 2013 | 145. The Companies Act, 2013 shall be modified in the manner specified in schedule 15. | |
| Amendment to Act 42 of | 146. The Securities Contracts (Regulation) Act, 1956 shall be | |

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| 1956 | amended in the manner specified in schedule 16. | |
| <p>PART VIII SCHEDULES</p> | | |
| | <p>Schedule 1: Appropriate Regulator</p> <p>See section 2(2)</p> <p>For the purposes of this Act, the Appropriate Regulator shall be, –</p> <p>(1) the Reserve Bank of India, as constituted under sub-section (1) of section 3 of the Reserve Bank of India Act, 1934 (2 of 1934), for banking institutions, non-banking financial companies, and ‘payment systems’ under the Payment and Settlement Systems Act, 2007;</p> <p>(2) the Insurance Regulatory and Development Authority of India, as established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999), for insurance companies;</p> <p>(3) the Securities and Exchange Board of India, as established under sub-section (1) of section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) for all entities requiring registration under section 12 of the said Act, recognized stock exchange as defined in clause (f) of section 2 and clearing corporation as referred to in section 8A of Securities Contracts (Regulation) Act, 1956 (42 of 1956), and depository as defined under clause (e) of sub-section (1) of section 2 of Depositories Act, 1996 (22 of 1996);</p> <p>(4) the Pension Fund Regulatory Development Authority, as established under sub-section (1) of section 3 of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) for any entities regulated by them which is covered under schedule 2 of this Act; and</p> <p>(5) any other regulator as may be notified by the Central Government.</p> | |

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| | <p>Schedule 2: Covered Service Provider</p> <p><i>See section 2(14)</i></p> <p style="text-align: center;">Part I</p> <p>For the purposes of this Act, a covered service provider shall be a person, which is–</p> <ol style="list-style-type: none"> (1) any banking institution other than eligible co-operative bank; (2) any insurance company; (3) financial market infrastructures, (4) any payment system as defined under the Payment and Settlement Systems Act, 2007; (5) any non-banking financial company; (6) any Systemically Important Financial Institution; (7) any other financial service provider (excluding individuals and partnership firms); (8) holding company of any covered service provider enumerated under (1) to (6), registered in India; and (9) non regulated operational entities within a financial group or conglomerate of a covered service provider enumerated under (1) to (6); (10) branch offices of body corporates incorporated outside India, carrying out the business of providing financial service in India; (11) any other entity or fund which may be notified by the Central Government. <p style="text-align: center;">Part II</p> <p>A financial service provider mentioned under items (4), (5) and (8) of Part I but notified under section 227 of the Insolvency and Bankruptcy Code, 2016, shall not be a covered service provider for the purpose of this Act.</p> | |
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| | <p><i>Explanation:</i> The meaning of the terms “holding company of a covered service provider” and “non-regulated operational entity within a financial group or conglomerate of a covered service provider” shall be as notified.</p> | |
| | <p>Schedule 3: Insured Service Provider</p> <p><i>See section 2(25)</i></p> <p>For the purposes of this Act, an insured service provider shall be any banking institution that has obtained Deposit Insurance from the Corporation under section 29 this Act.</p> | |
| Resolution by Resolution Corporation. | <p>Schedule 4: Amendment to Regional Rural Bank Act, 1976 (26 of 1976)</p> <p><i>See section 134</i></p> <p>1. For section 26, the following section shall be substituted namely: - “Notwithstanding anything contained in any other law, the Corporation established under the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) shall have the powers under that Act, and may carry out resolution, including liquidation in accordance with the provisions of that Act.</p> <p><i>Explanation:</i> For the purposes of this section, the word “resolution” shall have the same meaning as assigned to it under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016).”</p> | |
| Resolution by Resolution Corporation. | <p>Schedule 5: Amendment to the State Bank of India, Act, 1955 (23 of 1955)</p> <p><i>See section 135</i></p> <p>(1) For section 45, following section shall be substituted namely: - “Notwithstanding anything contained in any other law, the Central Government by order can direct winding up of State Bank and under such direction, the Resolution Corporation shall be appointed as the liquidator and liquidation shall be as per the applicable provisions of Financial Resolution and</p> | |

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| | Deposit Insurance Act, 2016 (___ of 2016).” | |
| Resolution by Resolution Corporation. | <p>Schedule 6: Amendment to the Insurance Act, 1938 (4 of 1938)</p> <p>See section 136</p> <p>(1) In section 3, for sub-clause (4)(b), the following sub-clause shall be substituted, namely: - “(b) if the insurer is in liquidation or is adjudged an insolvent as per the applicable provisions of the Financial Resolution and Deposit Insurance Act, 2016.</p> <p>(2) In section 33, For clause (c) of sub-section (6), the following shall be substituted, namely: - “(c) direct any person to apply to the Tribunal for the winding up of the intermediary or insurance intermediary, as the case may be, as per the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016), if it is a company, whether the registration of the intermediary or insurance intermediary, as the case may be, has been cancelled under clause (b) or not.”</p> <p>(3) In section 35, after sub-section 3, the following sub-section shall be inserted, namely: “(4)The powers exercisable under this section by the Authority shall be exercised by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) when an insurance company is classified to be at imminent or critical risk to viability under the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016)”</p> <p>(4) In section 36, the following proviso shall be inserted, namely: “The powers exercisable under this section by the Authority shall be exercised by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) when an insurance company is classified to be at imminent or critical risk to viability under the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of</p> | |

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| | <p>2016)”</p> <p>(5) In section 37, the following proviso shall be inserted, namely: “The powers exercisable under this section by the Authority shall be exercised by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) when an insurance company is classified to be at imminent or critical risk to viability under the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016)”</p> <p>(6) In section 37A, after sub-section (13), the following new sub-section shall be inserted, namely: - “(14) The powers exercisable under this section by the Authority shall be exercised by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) when an insurance company is classified to be at imminent or critical risk to viability under the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016)”</p> <p>(7) In section clause (c) of sub-section (1) of 52B, for the words “the winding up of the insurer; and” the words and numbers “the winding up of the insurer, as per applicable provisions of the Financial Resolution and Deposit Insurance Act, 2016; and” shall be substituted.</p> <p>(8) After section 52G, the following new section shall be inserted, namely: “52H Provided that the powers exercisable under section 52A to section 52G by the Authority shall be exercised by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) when an insurance company is classified to be at imminent or critical risk to viability under the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016)”</p> <p>(9) In section 53: - (c) The title shall be changed to ‘Winding Up’</p> | |
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| | <p>(d) Sub-section (1) shall be omitted.</p> <p>(e) Clause (a) of sub-section (2) shall be omitted.</p> <p>(f) In clause (b) of sub-section (2), for the words “if the Authority, who is hereby authorised to do so, applies in this behalf to the Court”, the words “The Authority may make an application under this section for the winding up of an insurance company” shall be substituted</p> <p>(g) After sub-section (2), the following sub-section shall be inserted, namely: -</p> <p>“(3) All the provisions of the Financial Resolution and Deposit Insurance Act, 2016(____ of 2016) relating to winding up shall apply to a proceeding initiated on the application made by the Authority under this section.”</p> <p>(f) After section (2), the following explanation shall be added, namely:</p> <p>“<i>Explanation:</i> For the purpose of sections 53 to 61A, “Tribunal” means the National Company Law Tribunal constituted under sub-section (1) of section 408 of Companies Act, 2013 (18 of 2013)”</p> <p>(10) In section 54, after the words, “the Companies Act, 2013 (18 of 2013)”, the words “but without prejudice to section 84 of the Financial Resolution and Deposit Insurance Act, 2015 (____ of 2015)” shall be inserted.</p> <p>(11) In section 55,</p> <p>(a) in sub-section (1), the words “liquidator or receiver in insolvency” shall be substituted by words “the Resolution Corporation which has been appointed as the liquidator under the Financial Resolution and Deposit Insurance Act, 2016(____ of 2016).”</p> <p>(b) Sub-section (3) shall be omitted.</p> <p>(12) In section 57, after sub-section (6), the following new sub-section shall be added:</p> <p>“(7) All the provisions of the Financial Resolution and Deposit Insurance Act, 2016(____ of 2016) relating to winding up shall apply to a proceeding under this section.”</p> | |
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| | <p>(13) In section 58, after sub-section (4), the following new sub-section shall be inserted, namely:</p> <p style="padding-left: 40px;">“(5) The powers under this section exercisable by the Authority shall not be exercised by it where the insurance company is classified as imminent or critical risk to viability under the provisions of Financial Resolution and Deposit Insurance Act, 2016 (____ of 2016)”</p> <p>(14) In section 60, the following proviso shall be inserted, namely:-</p> <p style="padding-left: 40px;">“The powers under this section exercisable by the liquidator or assignee, as the case may be shall be exercisable by the Resolution Corporation which has been appointed as the liquidator under the Financial Resolution and Deposit Insurance Act, 2016 (____ of 2016) where the insurance company is classified as imminent or critical risk to viability under the provisions of that Act”</p> <p>(15) For sub-section (3) of section 61, the following new sub-section (3) shall be substituted, namely:</p> <p style="padding-left: 40px;">“Application for an order under this section may be made by the Corporation as per the applicable provisions of under the provisions of Financial Resolution and Deposit Insurance Act, 2016, in consultation with the Authority.”</p> <p>(16) In section 64VA, in sub-section (2), the following proviso shall be inserted, namely:</p> <p style="padding-left: 40px;">“The powers under this section exercisable by the Authority shall not be exercised by it where the insurance company is classified as imminent or critical risk to viability under the provisions of Financial Resolution and Deposit Insurance Act, 2016 (____ of 2016)”</p> | |
| <p>Resolution by Resolution Corporation.</p> | <p>Schedule 7: Amendment to Banking Regulation Act, 1949 (10 of 1949)</p> <p><i>See section 137</i></p> <ol style="list-style-type: none"> 1. In section 35, sub-clause 4(b), shall be omitted. 2. Part IIC shall be omitted. 3. Section 36 B shall be omitted. | |

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| | <p>4. Section 37 shall be omitted.</p> <p>5. In section 38: -</p> <p style="padding-left: 20px;">(a) Sub-section (1) and sub-section (2) shall be omitted.</p> <p style="padding-left: 20px;">(b) In sub-section (3), item (i) of clause (b), the word “court” shall be substituted with the words “National Company Law Tribunal”.</p> <p style="padding-left: 20px;">(c) In sub-section (4), for the words and figures “section 434 of the Companies Act, 1956 (1 of 1956), the words and figures “sub-section (2) of section 271 of the Companies Act, 2013 (18 of 2013)” shall be substituted.</p> <p style="padding-left: 20px;">(d) After sub-section (5), the following sub-section shall be inserted, namely: -</p> <p style="padding-left: 40px;">“(6) All the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) relating to winding up shall apply to a proceeding initiated on the application made by the Reserve Bank under this section.”</p> <p>6. Section 38A shall be omitted.</p> <p>7. Section 39 shall be omitted.</p> <p>8. Section 39A shall be omitted.</p> <p>9. Section 40 shall be omitted.</p> <p>10. Section 41 shall be omitted.</p> <p>11. Section 41A, shall be omitted.</p> <p>12. Section 42 shall be omitted.</p> <p>13. Section 43 shall be omitted.</p> <p>14. Section 43A shall be omitted.</p> <p>15. Section 44 shall be omitted.</p> <p>16. In section 44A, after sub-section (7), the following new sub-section shall be inserted, namely:</p> <p style="padding-left: 20px;">“(8) The powers under this section exercisable by the Reserve Bank shall not be exercised by it where the banking company is classified as imminent or critical risk to viability under the provisions of Financial Resolution and Deposit Insurance Act, 2016 (of 2016)”</p> | |
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| | <p>17. In section 44B,</p> <p>(a) in sub-section (1), for the word “High Court”, the word “National Company Law Tribunal” shall be substituted;</p> <p>(b) in sub-section (2), for the words and figures “section 391 of the Companies Act, 1956 (1 of 1956), the words and figures “section 230 of the Companies Act, 2013 (18 of 2013) shall be substituted and for the words “High Court” wherever they occur, the words “National Company Law Tribunal” shall be substituted.</p> <p>(c) After sub-section (3), the following sub-section shall be inserted, namely: -</p> <p>“(3) The powers and functions of the Reserve Bank under sub-section (1) and sub-section (2) shall be exercised by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) when a banking company is classified at imminent or critical risk to viability under the Financial Resolution and Deposit Insurance Act, 2016 (_____ of 2016).”</p> <p>18. In section 45, after sub-section (15), the following sub-section shall be inserted, namely: -</p> <p>“(16) The powers under this section exercisable by the Reserve Bank shall not be exercised by it where the banking company is classified as imminent or critical risk to viability under the provisions of Financial Resolution and Deposit Insurance Act, 2016 (_____ of 2016)”</p> <p>19. Section 45B shall be omitted.</p> <p>20. Section 45C shall be omitted.</p> <p>21. Section 45D shall be omitted.</p> <p>22. Section 45E shall be omitted.,”</p> <p>23. Section 45F shall be omitted.</p> <p>24. Section 45G shall be omitted.</p> <p>25. Section 45 H shall be omitted.</p> <p>26. Section 45I shall be omitted.</p> <p>27. Section 45J shall be omitted.</p> | |
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| | <p>28. In section 45L,</p> <p>(a) In sub-section (1),</p> <p>(I) for the words and figures “391 of Companies Act, 1956 (1 of 1956)”, the words and figures 230 of Companies Act, 2013 (18 of 2013);</p> <p>(ii) for the words “High Court”, the words “National Company Law Tribunal”;</p> <p>(iii) after the words “Reserve Bank or”, the words “Corporation under the Financial Resolution and Deposit Insurance Act, 2016 (____ of 2016) or”;</p> <p>(iv) for the words, figures and letter “section 45-G”, the words, figures and letters section 74 of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016), as the case may be,”</p> <p>shall be substituted.</p> <p>(b) In sub-section (2).</p> <p>(I) for the words and figures “391 of Companies Act, 1956 (1 of 1956)”, the words and figures 230 of Companies Act, 2013 (18 of 2013);</p> <p>(ii) for the figures “543”, the figures “340”;</p> <p>(iii) for the words, figures and letter “section 45-H of this Act”, the words, figures and letters “section 75 of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016)”</p> <p>shall be substituted.</p> <p>(c) In sub-section (3), for the words “High Court” wherever they occur, the words “National Company Law Tribunal shall be substituted.</p> <p>(d) In sub-section (4),</p> <p>(i) for the figure “543” wherever they occur, the figure “340”;</p> <p>(ii) for the words, figures and letters “of the Companies Act, 1956(1 of 1956), and of section 45-H of this Act”, the words, figures and letter “of the Companies Act, 2013 (18 of 2013) and “of section 75 of the Financial Resolution and Deposit Insurance Act, 2016 (____ of 2016)”, shall be substituted.</p> | |
| | <p>29. Section 45M shall be omitted.</p> | |
| | <p>30. Section 45N shall be omitted.</p> | |
| | <p>31. Section 45O shall be omitted.</p> | |

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| | <p>32. Section 45P shall be omitted.</p> <p>33. Section 45Q shall be omitted.</p> <p>34. Section 45S shall be omitted.</p> <p>35. Section 45T shall be omitted.</p> <p>36. Section 45U shall be omitted.</p> | |
| <p>Resolution by Resolution Corporation.</p> | <p>Schedule 8: Amendment to Life Insurance Corporation Act, 1956 (31 of 1961)</p> <p><i>See section 138</i></p> <p>1.</p> <p>(1) For section 38, following section shall be substituted: - “Notwithstanding anything contained in any other law, the Resolution Corporation established under the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) shall have the powers under that Act, and may carry out resolution, including liquidation in accordance with the provisions of that Act.</p> <p style="padding-left: 40px;"><i>Explanation:</i> For the purposes of this section, the word “resolution” shall have the same meaning as assigned to it under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016).”</p> <p>(2) For section 39, following section shall be substituted:- “Where any insurer being a company (other than a composite insurer) whose controlled business has been transferred to and vested in the Corporation under this Act has in accordance with the provisions of this Act collected and distributed any moneys paid to him or her by the Corporation by the way of compensation, or otherwise and has also complied with any direction given to him or her by the Corporation for the purposes of securing that the ownership of any property or any right is effectively transferred to the Corporation, the Central Government may on application being made to it in this behalf by such insurer grant a certificate to the insurer that there is no reason for the continued existence of the insurer and where such a certificate has been granted shall cause the certificate to be published in the Official Gazette and upon publication thereof the insurer shall be dissolved as per the applicable provisions of The Financial Resolution and Deposit Insurance</p> | |

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| | Act, 2016” | |
| Resolution by Resolution Corporation. | <p>Schedule 9: Amendment to General Insurance Business (Nationalisation) Act, 1972 (57 of 1972)</p> <p><i>See section 139</i></p> <p>1.</p> <p>(1) In section 33, the following new sub-section shall be added namely: -</p> <p>“(2) The powers under this section shall be exercised by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) when a banking company is classified at imminent or critical risk to viability under the Financial Resolution and Deposit Insurance Act, 2016 (_____ of 2016).</p> <p><i>Explanation:</i> For the purposes of this section, the word “resolution” shall have the same meaning as assigned to it under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016).”</p> | |
| Resolution by Resolution Corporation. | <p>Schedule 10: Amendment to Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970)</p> <p><i>See section 140</i></p> <p>1. In section 18, the following new sub-section shall be added namely: -</p> <p>“(2) The powers under this section shall be exercised by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) when a banking company is classified at imminent or critical risk to viability under the Financial Resolution and Deposit Insurance Act, 2016 (_____ of 2016).</p> <p><i>Explanation:</i> For the purposes of this section, the word “resolution” shall have the same meaning as assigned to it</p> | |

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| | under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016).” | |
| Resolution by Resolution Corporation. | <p>Schedule 11: Amendment to Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980)</p> <p>See section 141</p> <p>(1) In section 18, the following new sub-section shall be added namely: -</p> <p>“(2) The powers under this section shall be exercised by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) when a banking company is classified at imminent or critical risk to viability under the Financial Resolution and Deposit Insurance Act, 2016 (_____ of 2016).</p> <p><i>Explanation:</i> For the purposes of this section, the word “resolution” shall have the same meaning as assigned to it under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016).”</p> | |

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| Winding up by Resolution Corporation | <p>Schedule 12: Amendment to State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1980)</p> <p>See section 142</p> <p>1. In section 57, the following new sub-section shall be inserted, namely:</p> <p>“(2) “The powers under this section shall be exercised by the Corporation established under the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016) where the State Bank of India is classified to be at imminent or critical risk to viability under the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016)”</p> | |
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| <p>Winding up by Resolution Corporation</p> | <p>Schedule 13: Amendment to the Multi-State Cooperative Societies Act, 2002 (39 of 2002)</p> <p>See section 143</p> <p>1. In section 3, after clause (v), the following shall be inserted, namely: -</p> <p>(va) “Resolution Corporation” means the Resolution Corporation established under section 3 of the Financial Resolution and Deposit Insurance Act, 2016 (of 2016)”</p> <p>2. In section 17, in sub-section (6), in clause (a), after the words “has been obtained”, the words “and in the case of a co-operative bank, previous sanction in writing of the Reserve Bank has also been obtained”.</p> <p>3. After section 18, the following shall be inserted, namely: -</p> <p>“18A. Resolution of a co-operative bank by Resolution Corporation. - (1) Notwithstanding anything contained in this Act, where a co-operative bank is classified as imminent or critical risk to viability under the provisions of the Financial Resolution and Deposit Insurance Act, 2016 (___ of 2016), the Resolution Corporation may exercise over such co-operative bank any of the powers available to it for resolution under the provisions of that Act;</p> <p>(2) The exercise of powers by the Resolution Corporation under the provisions of Financial Resolution and Deposit Insurance Act, 2016 (of 2016) for resolution of a co-operative bank referred to in sub-section (1) or the resolution tools used by the Resolution Corporation for such resolution, shall not be subject to any limitation contained in this Act.”</p> <p><i>Explanation:</i> For the purpose of this section and section 20, the expression “resolution” shall have the same meaning assigned to it under the Financial Resolution and Deposit Insurance Act, 2016 (of 2016).</p> <p>4. For section 20, the following shall be substituted, namely: -</p> <p>“20. Liability to Resolution Corporation in case of resolution of co-operative bank.- Notwithstanding anything contained in section 17 or any other provision of this Act,</p> | |
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where a cooperative bank, being an insured service provider within the meaning of section 2 (17) of the Financial Resolution and Deposit Insurance Act, 2016 is under resolution under the provisions of that Act and the Resolution Corporation has become liable to pay to the depositors of such insured service provider under section 30 of that Act, the transferee or acquiring entity under the scheme sanctioned for such resolution or the liquidator in case of liquidation of co-operative bank ,shall be under an obligation to repay to the Resolution Corporation in the circumstances, to the extent and in the manner referred to in section 131 of the Financial Resolution and Deposit Insurance Act, 2016.”

5. In section 86, for sub-section (5), the following shall be inserted, namely:

“(5) Notwithstanding anything contained in this section, no co-operative bank shall be wound up, except in accordance with the provisions of section 87.”

6. For section 87, the following shall be substituted, namely:

“87. Winding up of co-operative bank: Notwithstanding anything to the contrary contained in this Act, the National Company Law Tribunal shall make an order for the winding up of a cooperative bank, if so required

(i) by the Resolution Corporation in the circumstances mentioned in section 62 of the Financial Resolution and Deposit Insurance Act, 2016.

(ii) by the Reserve Bank, if any of the circumstances referred to in clauses (a) to (f) of sub-section (1) of section 130 of the Financial Resolution and Deposit Insurance Act, 2016 have arisen with respect to that co-operative bank.

Explanation: For removal of doubt, it is clarified that all the provisions of Financial Resolution and Deposit Insurance Act, 2016 relating to winding up shall apply to a proceeding initiated on the application made by the Reserve Bank under

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| | <p>this section.</p> <p>7. Section 88 shall be omitted.</p> | |
| <p>Netting of mutual transactions in insolvency, winding up or liquidation</p> | <p>Schedule 14: Amendment to Reserve Bank of India Act, 1934 (2 of 1934)</p> <p><i>See</i> section 144</p> <p>1. In section 45MC,</p> <p style="padding-left: 40px;">(i) in sub-section (1), for the words “the Companies Act, 1956 (1 of 1956)”, the words “the Financial Resolution and Deposit Insurance Act, 2016 (of 2016) or the Insolvency and Bankruptcy Code, 2016 (of 2016), as the case may be” shall be substituted.</p> <p style="padding-left: 40px;">(ii) in sub-section (4), for the words “the Companies Act, 1956 (1 of 1956) relating to winding up of a company”, the words ‘the Financial Resolution and Deposit Insurance Act, 2016 (of 2016) or the Insolvency and Bankruptcy Code, 2016 (of 2016), as the case may be, relating to winding up’ shall be substituted.</p> <p>2. After section 45X, the following section shall be inserted, namely: -</p> <p>“ 45XA (1) Notwithstanding anything to the contrary contained in any other law for the time being in force or any rule, regulation, scheme, direction or order that may be issued under any law or any order of a court, tribunal or other authority, where one of the parties to the specified transaction is a party referred to in section 45V, netting shall be applicable in the event of insolvency, winding up or liquidation of a party to such transaction, including a bank or a financial institution.</p> | |

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| | <p><i>Explanation:</i> For the purposes of this sub-section, -</p> <p>(i) “netting” means determination of any payment or other obligation arising out of any specified transaction between the parties, whether or not due or payable, by set off or adjustment between the parties and a net obligation is arrived at in the manner specified by the Bank;</p> <p>(ii) “specified transaction” means a transaction in securities, money market instruments, derivatives or such other instruments or transactions, as may be specified by the Bank from time to time.</p> <p>(2) For the purpose of netting under sub-section (1), the following shall be taken into account –</p> <p>(a) the value of cash or security or collateral provided by either party or a guarantor or other person and the proceeds of sale of securities available with either parties to the transaction; and</p> <p>(b) the current value of payment or other obligations due at a future date arrived at by prematurely terminating the transactions.</p> <p>(3) The amount payable or other claims that may be made, determined under sub-section (1) and sub-section (2), shall be final and irrevocable and shall be binding on the liquidator, receiver or trustee, by whatever name called, of the party in insolvency, winding up or liquidation.</p> <p>(4) Notwithstanding anything to the contrary contained in any agreement or contract between the parties, for the realization, appropriation and/or liquidation of any collateral to determine the amount payable or other claims that may be made under sub-section (1) and sub-section (2), no prior notice to or consent of the party in insolvency, winding up or liquidation or its liquidator or receiver or trustee, by whatever name called shall be required.”</p> | |
| | Schedule 15: Amendment to Companies Act, 2013 (18 of 2013) | |

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| | <p>See section 145</p> <ol style="list-style-type: none"> 1. In section 419, after sub-section (4), the following sub-section shall be inserted, namely: — <ul style="list-style-type: none"> “(5) The Central Government may, by notification, establish such number of benches of the Tribunal, as it may consider necessary, to exercise the jurisdiction, powers and authority conferred on the Tribunal under the Financial Resolution and Deposit Insurance Act, 2016.” 2. In section 424: <ul style="list-style-type: none"> (i) in sub-section (1), after the words, “or of the Insolvency and Bankruptcy Code, 2016”, the words “or the Financial Resolution and Deposit Insurance Act, 2016” shall be inserted; (ii) in sub-section (2), after the words "or under the Insolvency and Bankruptcy Code, 2016" the words “or the Financial Resolution and Deposit Insurance Act, 2016” shall be inserted. 3. In section 429, in sub-section (1), after the words “the Insolvency and Bankruptcy Code, 2016”, the words “and the Financial Resolution and Deposit Insurance Act, 2016” shall be inserted. | |
| | <p>Schedule 16: Amendment to the Securities Contracts (Regulation) Act, 1956 (42 of 1956)</p> <p>See section 146</p> <ol style="list-style-type: none"> 1. In section 2, after clause (c) the following clause shall be inserted, namely, - <ul style="list-style-type: none"> “(ca) “netting” means the determination by clearing corporation of net payment or delivery obligations of the clearing members of a recognised clearing corporation by setting off or adjustment of the inter se obligations or claims arising out of buying and selling of securities including the claims and obligations arising out of the determination by the clearing corporation or stock exchange, on the insolvency or dissolution or winding up of any clearing member or trading member or client or such other circumstances as the clearing corporation may specify in its bye-laws, of the transactions admitted for settlement at a future date so that only a net claim be | |

demanded, or a net obligation be owned.”

2. After section 20, the following sections shall be inserted, namely-

“Right of Clearing Corporation.

20A. Notwithstanding anything contained in any other law for the time being in force, the right of clearing corporation to recover their dues from clearing members, incurred in discharge of their clearing and settlement functions, from the collaterals, deposits and the assets of clearing members, in case of winding-up or insolvency, as the case may be, of such clearing member, shall take precedence over the rights of other persons in such insolvency or winding-up proceedings.

Settlement and Netting.

20B. (1) The payment and settlement in respect of transactions in recognized stock exchange and recognized clearing corporation shall be determined in accordance with the netting (or gross) procedure as per the bye-laws of a recognized stock exchange or recognized clearing corporation, as the case may be, with the prior approval of the Securities and Exchange Board of India.

(2) Notwithstanding anything contained in any other law for the time being in force, a payment and settlement referred to in sub-section (1), between the parties thereto, effected as per the bye-laws of a recognized stock exchange or recognized clearing corporation, as the case may be, shall be final, irrevocable and binding on such parties.

(3) Where a trading member or a clearing member or an investor client is declared by a court of competent jurisdiction as insolvent or is dissolved or wound up, or a liquidator, receiver or assignee (by whatever name called), whether provisional or otherwise, is appointed in a proceeding relating to insolvency or dissolution or winding up of a system participant, then such order of adjudication or dissolution or winding-up, as the case may be, shall not affect any settlement that has become final and irrevocable and the right of the recognized clearing

corporation or recognized stock exchange, as the case may be, to appropriate any collaterals or deposits or margins contributed by the said trading member or clearing member or client towards its settlement or other obligations in accordance with the bye-laws of such recognized stock exchange or recognized clearing corporation, as the case may be.

Explanation. – For 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 or other transactions payable as a result of such settlement is determined, whether or not such money, securities or other transactions is actually paid.

(4) Where an order referred to in sub-section (3) is made with respect to a clearing corporation or stock exchange, then, notwithstanding such order or anything contained in any other law for the time being in force, the payment obligations and settlement instructions between the clearing corporation and the clearing members including those arising from transactions admitted for settlement at a future date, shall be determined forthwith by the clearing corporation, in accordance with the gross or netting procedure, as the case may be, in accordance with the bye-laws of such clearing corporation, , and such determination shall be final and irrevocable.

(5) Notwithstanding anything contained in any other law for the time being in force, the liquidator, receiver or assignee (by whatever name called) of the clearing corporation, whether appointed as provisional or otherwise, shall –

- a) not re-open any determination that has become final and irrevocable;
- b) after appropriating in accordance with the bye-laws of the clearing corporation, the collaterals provided by the clearing members towards their settlement or other obligations, return the collaterals held in excess to the clearing members concerned;
- c) while distributing the assets, apply the assets in

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| | <p>priority against the dues arising out of settlement obligations of the clearing corporation and only thereafter apply the assets against third party claims. "</p> | |
| <p>Declaration of fidelity and secrecy</p> | <p>Schedule 17: Declaration of fidelity and secrecy</p> <p>I do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director, auditor, officer or other employee (as the case may be) of the Corporation and which properly relate to the office or position held by me in the Corporation. I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Corporation or to the affairs of any person having any dealing with the Corporation; nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation or the business of any person having any dealing with the Corporation.</p> <p style="text-align: right;"><i>(Signature)</i></p> <p><i>Signed before me:</i></p> | |