

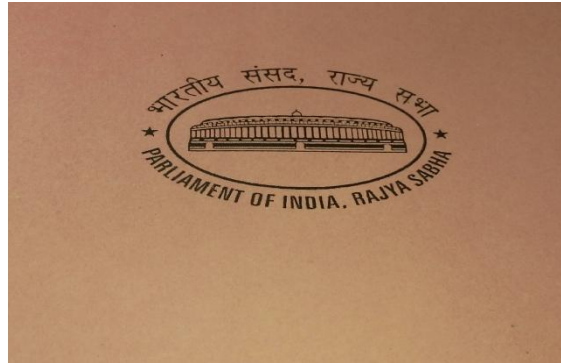


**PARLIAMENT OF INDIA**

**RAJYA SABHA**

**REPORT OF  
THE SELECT COMMITTEE ON  
THE PAYMENT AND SETTLEMENT SYSTEMS  
(AMENDMENT) BILL, 2014**

**PRESENTED TO THE RAJYA SABHA ON THE 26<sup>th</sup> FEBRUARY, 2015**



**RAJYA SABHA SECRETARIAT**

**NEW DELHI**

**February, 2015, 1936 (Saka), Phalguna**

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## **# COMPOSITION OF THE COMMITTEE**

1. Shri V.P. Singh Badnore , Chairman
2. Shri Anil Madhav Dave
3. Shri Ajay Sancheti
4. Dr. E.M. Sudarsana Natchiappan
5. Shri Pramod Tiwari
6. Shri Naresh Agrawal
7. Shri Vivek Gupta
8. Dr. V. Maitreyan
9. Shri Veer Singh
10. Shri P. Rajeeve
11. Shri Naresh Gujral
12. Shri D. Raja
13. Shri Parimal Nathwani
14. Shri Rajeev Shukla
15. Shri Tiruchi Siva
  
16. Shri Ali Anwar Ansari

## **SECRETARIAT**

- |    |                         |   |                    |
|----|-------------------------|---|--------------------|
| 1. | Shri Deepak Goyal       | - | Joint Secretary    |
| 2. | Shri Surendra Tripathi  | - | Director           |
| 3. | Dr. Narmadeshwar Prasad | - | Joint Director     |
| 4. | Shri Anil Kumar Saini   | - | Assistant Director |
| 5. | Smt. Leela Sarna        | - | Assistant Director |

## **REPRESENTATIVES OF THE MINISTRIES**

### **(i) Department of Financial Services (Ministry of Finance)**

1. Dr. Hasmukh Adhia, Secretary
2. Smt. Snehlata Shrivastava, AS
3. Dr. Shashank Saksena, Economic Advisor

### **(ii) Legislative Department (Ministry of Law & Justice)**

1. Dr. M. Vijayawargiya, Joint Secretary
2. Smt. Renu Sinha, ALC
3. Sh. T.S. Muralidharan, ALC
4. Sh. R.S. Jayakrishanan, ALC

## ACRONYMS

AML	Anti-Money Laundering
BR Act	Banking Regulation Act, 1949
CCP	Central Counterparty
CPMI	Committee on Payments and Market Infrastructures
CCIL	Clearing Corporation of India Limited
CPSS	Committee on Payments and Settlement Systems
EMIR	European Market Infrastructure Regulations
G20	Group of Twenty
GLEIS	Global Legal Entity Identifier System
FSB	Financial Stability Board
FSAP	Financial Sector Assessment Programme
LEI	Legal Entity Identifier
LOU	Local Operating Unit
FMI	Financial Market Infrastructure
NIA	Negotiable Instruments Act
NEFT	National Electronic Funds Transfer
NBFC	Non-Banking Financial Companies
NACH	National Automated Clearing House
OTC	Over-the-counter
PMLA	Prevention of Money Laundering Act
PSS Act	Payment and Settlement Systems Act, 2007
PFMI	Principles for Financial Market Infrastructures
RTGS	Real Time Gross Settlement
RBI	Reserve Bank of India
TR	Trade Repository
UNCITRAL	United Nations Commission on International Trade Law

## **Introduction**

I, the Chairman of the Select Committee on Payment and Settlement Systems (Amendment) Bill, 2014 having been authorised by the Committee to submit the Report on its behalf, present this Report on the Bill.

2. The Payment and Settlement Systems (Amendment) Bill, 2014 as passed by the Lok Sabha was referred to the Select Committee comprising of 16 Members of Rajya Sabha on a Motion adopted in the House on the 23rd of December, 2014 for examination and submission of Report thereon to the Rajya Sabha by the last day of the first week of the Budget Session i.e. the 27<sup>th</sup> of February, 2015.

3. The Payment and Settlement Systems Act, 2007 (hereinafter referred to as the PSS Act) was enacted with a view to provide a sound legal basis for the regulation and supervision of payment systems in India by the RBI. Subsequent to this, several developments took place which necessitated certain changes in the PSS Act with a view to primarily increase transparency and stability of Indian financial markets in line with globally accepted norms. The amendments proposed to the PSS Act seek to ensure that the Indian financial sector entities do not face discrimination and exclusion from the international financial sector entities and facilitate integration of the Indian financial sector with the international financial sector.

4. The Committee held 7 sittings in all.

5. The Committee at its first meeting held on the 7<sup>th</sup> of January, 2015 while deciding the course of action and the procedure for examination of the Bill asked the Secretariat to circulate a copy of the 56<sup>th</sup> Report of the Department Related Parliamentary Standing Committee on Finance, (Fourteenth Lok Sabha)( DRPSC) which dealt with the Payment and Settlement Systems Bill, 2006, the Payment and Settlement Systems Act, 2007 and other relevant papers to the Members of the Committee for perusal. It also decided to issue letters to various stakeholders identified by the Ministry of Finance during the examination of the Payment and Settlement Bill 2006 by the DRPSC seeking from them their views/suggestions on

the Bill and also issue of press release/advertisement in all leading national/regional/local dailies seeking views/suggestions in the form of Memorandum on the Bill. The Committee also decided to call the Secretary, Department of Financial Services and the Governor, Reserve Bank of India in its next meetings to be held on the 20<sup>th</sup> and the 21<sup>st</sup> of January, 2015.

6. The Department of Financial Services, in the meantime provided a new list of stakeholders in the light of the specific provisions in the Bill. This included the Clearing Corporation of India (CCIL) and banks including foreign banks like BNP Paribas, Standard Chartered Bank Ltd., Deutsche Bank, Citi bank, Bank of India, ICICI Bank Ltd and the State Bank of India, who according to them were the main players dealing with the Payment and Settlement Systems in the country.

7. The Committee in its second and third meetings heard the representatives of the Department of Financial Services and the RBI and also decided to visit Mumbai from the 10<sup>th</sup> to the 12<sup>th</sup> of February, 2015 to have wider consultations on the subject.

8. In its fourth meeting held on the 28<sup>th</sup> of January, 2015, the Committee heard the representatives of Confederation of Indian Industries and National Confederation of Bank Employees.

9. During its study visit to Mumbai from the 10<sup>th</sup> to the 12<sup>th</sup> of February, 2015, the Committee heard the Governor, Reserve Bank of India, Managing Director, Clearing Corporation of India Ltd.(CCIL), representatives of Securities and Exchange Board of India (SEBI), Fixed Income Money Market and Derivatives Association of India (FIMMDA), BNP Paribas, Standard Chartered Bank, Citi Bank, American Express Bank, Deutsche Bank, State Bank of India, ICICI Bank Limited, National Payments Council of India Ltd. (NPCIL), Visa Card and Master Card.

10. The Committee in all received 6 memoranda and in the process of examination of the Bill heard 19 witnesses (Annexures I & II). The Committee also undertook a field visit to the Head Office of the CCIL at Mumbai to have first hand information on the working of the clearing house.

11. The Committee at its sitting held on the 18<sup>th</sup> of February, 2015 considered the clauses of the Bill and sought related clarifications from the Secretary, Department of Financial Services and the representatives of the RBI.

12. The Committee finalized/adopted its draft report on the Bill at its sitting held on 24<sup>th</sup> February, 2015.

13. Dr. E.M.S. Natchiappan and Shri Pramod Tiwari, Members of the Committee, have submitted Note of Dissent which are appended to the report.

14. The Committee wishes to express its gratitude to the Secretary, Department of Financial Services, the Governor, RBI, the representatives of the Department of Financial Services, the RBI, the Legislative Department and other organizations/stakeholders for furnishing necessary information/documents and rendering valuable assistance to the Committee in its deliberations.

Date:

Chairman

## **Report**

### **Background**

The payment and settlement systems serve as a backbone of the financial system of a country. In India, a host of payment systems were in operation mainly in the form of clearing houses and they were not legal entities but voluntary bodies of banks, which had come together for the express purpose of clearing payment instruments and instructions. The rules and regulations for the functioning of clearing houses were contractual in nature. Among the large-value payment systems, the Real Time Gross Settlement (RTGS) System was operated by the Reserve Bank of India (RBI) while the inter-bank Government Securities and Foreign Exchange Clearing Systems were operated by the Central Counterparties (CCPs) like Clearing Corporation of India Limited (CCIL). Under the circumstances, the need for a specific legislation which empowered RBI to act as a designated authority was felt. Accordingly, the PSS Act was enacted to provide a sound legal basis for the regulation and supervision of payment systems in India.

2. The Committee is given to understand that subsequent to the enactment of the PSS Act, the country witnessed an orderly growth of payment systems, and these payments systems were granted authorisation on the principles of safety, security, soundness, efficiency and accessibility. Post the global financial crisis in 2007-2008, several developments took place, internationally. The Committee on Payments and Market Infrastructures (CPMI) and Technical Committee of the International Organisation of Securities Commissions (IOSCO) came out with a set of Principles for Financial Market Infrastructures (PFMIs) to address various concerns that arose in the functioning of the payment system following the financial



crisis. These principles enunciate the major elements critical to the safe and efficient design and operation of Financial Market Infrastructures (FMIs) including putting in place a transparent system of settling trades in the event of insolvency of a central counterparty (CCP), however remote, such an eventuality might be. This was also important, given the G-20 mandate to move trades in the Over-the-counter (OTC) market to CCP based settlement.

3. India was also a part of Working Group that produced the PFMI report. India being a member of CPMI and G 20 was committed to compliance with the PFMI and G 20 OTC derivatives reform agenda. As more and more trades were moved to CCP it was necessary to put in place legal certainty as to the finality of the settlement even in the event of the bankruptcy of the CCP, however unlikely that might be. Therefore, amendments in the PSS act were considered necessary to help in ensuring that entities operating in global markets were able to operate with equal certainty in our markets also.

4. The Payment and Settlement Systems (Amendment) Bill, 2014 was passed by the Lok Sabha without any amendments. The said Bill was also not examined by the Department Related Parliamentary Standing Committee. The amendments proposed in the Bill ensure congruence with the new international practices and norms and seek to provide, among others, a legal certainty to the market participants in respect of trading and settlement. The provisions being proposed on Trade Repositories and Legal Identity Identifier aim to further facilitate in transparency and consolidation of market trades. The Statement of Objects and Reasons of the Bill which states the reasons behind initiating the legislation reads as follows:-

*“The Payment and Settlement Systems Act, 2007 (the said Act) was enacted for the regulation and supervision of payment systems in India and to designate the Reserve Bank of India as the authority for that purpose and for matters connected therewith.*

2. *Subsequent to the enactment of the said Act, the country has witnessed orderly growth of payment systems, and these payments systems are granted authorization on the principles of safety, security, soundness, efficiency and accessibility. After the global financial crisis in 2007-08, several developments took place, driven primarily by the G20, for reforming the Over the Counter derivatives markets. Some of these new initiatives include setting up of Trade Repositories and Legal Entity Identification System.*

3. *The Trade Repositories have emerged as a new type of Financial Market Infrastructure and are growing in importance, particularly in the Over the Counter derivatives market. However, there is no specific legal provision in any of the laws administered by the Reserve Bank of India to regulate and supervise the Trade Repositories in India. Therefore, compliance of the Trade Repositories with international norms needs to be ensured by the regulator through appropriate legal powers. In line with the G20 commitment and the global developments, the Reserve Bank of India has designated the Clearing Corporation of India Limited as a Trade Repository.*

4. *The global financial crisis in 2007-08 and the resultant difficulties experienced by banks and regulatory agencies to identify the complicated business ventures and to efficiently*

*establish connections between issuers and securities brought forth the need for a standard uniform code to properly attribute Over the Counter derivatives activity to a party or group. Recognising the importance of a global identifier as a key component of necessary improvements in financial data systems, the G20 endorsed the development and maintenance of a global Legal Entity Identifier system. The Legal Entity Identifier is a 20-character unique identity code assigned to entities which are parties to a financial transaction and would be unique across the globe. Currently, there is no legal provision under any of the laws administered by the Reserve Bank of India for regulation and oversight of the Legal Entity Identifier issuer. The Reserve Bank of India has selected the Clearing Corporation of India Limited to act as a Local Operating Unit for issuing globally compatible Legal Entity Identifier in India. The use of the Legal Entity Identifier numbers is likely to be mandated for Over the Counter derivative transactions and large borrowers in a phased manner.*

5. *Given the markets being served by the Clearing Corporation of India Limited, the participating banks run significant exposures against the said Corporation, in its role as central counter party. Hence, it is necessary to provide a sound and enforceable legal basis for “netting” of banks exposures to said Corporation so that their exposure is reduced significantly. The said Act, though providing for netting protection and settlement finality in the event of insolvency or dissolution of system participants, does not expressly contemplate a situation which may warrant netting on account of insolvency or dissolution of the central counter party itself. The proposed amendments on enforceability of netting in the event of insolvency, dissolution or winding up of a central counter party.*

6. *Further, there are some legal difficulties in securing the customers' interest held in escrowed accounts in the event of insolvency or bankruptcy of prepaid instruments, operators, which are required to be addressed.*

7. *The amendments to the said Act have been proposed to increase transparency and stability of Indian financial markets in line with globally accepted norms."*

5. The Payment and Settlement Systems (Amendment) Bill, 2014 seeks to achieve the following objectives:-

- (i) To provide for netting and settlement finality in the event of insolvency, liquidation or resolution of the central counterparty itself;
- (ii) To provide a legal framework to deal with new developments, such as, Trade Repositories and Legal Entity Identifier; and
- (iii) To protect customers' interest in respect of prepaid instruments in the event of insolvency or bankruptcy of payment system operator.

## **Layout of the Bill**

### Clause 2

6. The Clause 2 of the Bill, 2014 seeks to amend section 2 of the PSS Act so as to include the definitions of terms namely, ‘Issuer’, ‘Legal Entity Identifier’ and the ‘Trade Repository’. These terms have been defined as under :-

- (i) **“issuer”** means a person who issues a legal entity identifier or such other unique identification as may be specified by the Reserve Bank from time to time.
- (ii) **“legal entity identifier”** means a unique identity code assigned to a person by an issuer for the purpose of identifying that person in such derivatives or financial transactions, as may be specified by the Reserve Bank from time to time.

*Legal Entity Identifier (LEIs) is a new initiative as per the mandate of G-20 to assign a 20 character Unique Identity Code to Entities that are parties to a financial sanction. The Code is to be unique across the Globe and it is to be mandated for Over the Counter derivative transactions and large borrowings in a phased manner. RBI has selected CCIL to act as a Local Operating Unit for issuing globally compatible Legal Entity Identification in India. Currently there is no legal provision under any of the laws administered by RBI for regulating and oversight of the Legal Entity Identifier Issuer.*

- (iii) **“trade repositories”** means a person who is engaged in the business of collecting, collating, storing, maintaining, processing or disseminating electronic records or data relating to such derivatives or financial transactions, as may be specified by Reserve Bank from time to time.

*Trade Repository is an entity that maintains a centralised electronic record (database) of transaction data. It has emerged as a new type of Financial Market Infrastructure. Its importance is growing particularly in the Over the Counter derivatives market. Currently there is no legal provision under any of the laws administered by RBI for regulating and supervising the Trade Repositories in India. The Regulator needs to ensure compliance of Trade Repositories with international norms through appropriate legal powers. The RBI has designated the CCIL as a Trade Repository for reporting of all OTC interest rate and forex derivative instruments. Clients trades beyond a threshold are also reported to CCIL.*

### Clause 3

7. The clause 3 proposes to incorporate the followings:-

- (i) to substitute sub-section (4) of section 23 by a new sub-section in the PSS Act so as to provide that where by an order of a court, tribunal or authority, a system participant is declared as insolvent or is dissolved or wound up or a liquidator or receiver or assignee, provisional or otherwise, is appointed in proceedings relating to insolvency etc. of a system participant such order shall not affect any settlement that has become final and irrevocable prior to such order or immediately thereafter.

- (ii) to insert a new sub-section (5) in section 23 of the PSS Act so as to provide that where an order under sub-section (4) of section 23 is made with respect to a “central counter party”, the payment obligations and settlement instructions between the central counter party and the system participants shall be determined by such central counter party in accordance with the gross or netting procedure, as the case may be, approved by the Reserve Bank of India.
- (iii) to insert a new sub-section (6) in section 23 of the PSS Act so as to provide that the liquidator or receiver of the central counter party shall not re-open the determination which has become final and irrevocable and after appropriating the collaterals provided by system participants towards their settlement or other obligations, return the excess collaterals to system participants concerned.

#### Clause 4

8. The Clause 4 proposes to insert a new section 23A relating to protection of funds collected from the customers by the payment system providers. The amendment provides for the authorized Payment System Operators (PSO) to keep/maintain the funds collected in course of their business from customers for the purpose of offering the payment service in a distinct / ear-marked account with a scheduled commercial bank. Such funds so held in the bank account are to be used by the PSO and the liquidator of the PSO in the event of insolvency of PSO, only for the purposes specified by RBI from

time to time under the PSS Act, including discharging of liabilities that may accrue towards the customers (for instance PPI holders) of the PSO as well as making of payments towards other entities when the payment service is used by the customers.

#### Clause 5

9. The Clause 5 proposes to insert a new section 34A so as to apply the PSS Act to the designated Trade Repository and Legal Entity Identifier issuer as per the mandate of G-20 (*terms defined in clause 2*).

#### **Committees Observations and recommendations**

10. The Committee deliberated at length on the provisions of the Bill and in the process interacted with many stakeholders including the Governor RBI. The Committee understand that the intention behind bringing the legislation is to ensure financial stability in the market and to give legal sanctity in all possibilities besides giving a positive signal to the world at large.

11. The **first issue** which came before the Committee was the need for inserting sub-section (5) in section 23, particularly when there is no instance available where any CCP has gone insolvent. The instances given by RBI in a reply to the query where CCP/Clearing Houses failed/nearly failed i.e. the French Caisse de Liquidation Clearing House (closed down in 1974), the Malaysian Kuala Lumpur Commodity Clearing House (closed down in 1983) and the Hong Kong Futures Exchange (closed for four days and bailed out by the



Government in 1987) were quite old instances and may not be relevant in present day's context. In this regard the Committee noted the comments of RBI, CCIL and Other Stakeholders wherein it was informed that the banks participating with CCIL run significant exposures against the Corporation in its role as Central Counter Party and it is, therefore, necessary to provide a sound and enforceable legal basis for "netting" of banks exposure to the CCIL. The PSS Act does provide for netting protection and settlement finalities in the event of insolvency or dissolution of system participants, but, it does not expressly contemplate a situation which may warrant netting on account of insolvency or dissolution of the Central Counter Party itself. Further, market participants were raising questions as to what will happen if the CCP becomes insolvent? So the amendment is as per the demands of the market participants. The Committee was further informed that there is remote possibility of CCP going insolvent but this was an upfront provision being brought to build confidence in the market and in the investors that the safeguards in our country are as strong as in any other country. The Committee was also apprised that the amendments proposed in the Bill are as per the global practice since many countries in the world have implemented these changes in their system. **The Committee is of the view that the corresponding amendments proposed in the Bill would send a right message to the outside world and help in creating a healthy atmosphere for attracting investments. The Committee, accordingly, is inclined to go by the above clarifications on the extension of "netting" protection in case of the Central Counter Party also.**

12. The **second issue** which drew the attention of the Committee was the absence of a provision in the proposed sub-sections (4) and (5) of section 23 about obligation on the part of CCP to voluntarily disclose initiation of any insolvency proceedings against it for the

safety of the system participants. The Committee during its deliberation also came across the Payment System Act 2008 (No. 5 of 2008) of Montserrat which has such provision. To this the RBI replied as under:-

*“\*\*\*\*\* the said Act provides for establishment of only one payment system. That payment system is required to be established by the Central Bank itself \*\*\*\*\* The requirement under the Montserrat Act to report insolvency to the Central Bank is nothing but a requirement to report the same to the system provider which is the Central Bank itself.*

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*In this connection, attention is invited to the relevant bye-laws of CCIL (which is a system provider) which already requires the system participants to notify CCIL in such cases. The relevant bye-laws is as follows:-*

## ‘2. MEMBER’S DUTY TO INFORM

- (i) A Member shall be bound to notify Clearing Corporation immediately on the occurrence of any of the circumstances specified in Bye-Law No.1 of this Chapter.*

(ii) *A Member shall forthwith inform Clearing Corporation in writing as and when any notice is received by the Member, in connection with institution of any winding up proceedings against it and no Member shall initiate any proceedings for winding up without the prior written consent of Clearing Corporation. The Member further undertakes to inform Clearing Corporation in writing on the onset of any circumstance which is likely to result into it being wound up or which is likely to, or may render it liable to, any winding up proceedings.'*

*In view of the above, it is not considered necessary to specifically provide in the law*

*\*\*\*\*\**

*A reference is also invited to certain provisions of PSS Act under which Reserve Bank may get information. Under Section 12 of that Act, RBI may call for returns, documents or other information from system providers. RBI has prescribed returns relating to net worth which provide the necessary information about the financial position of system providers. Further, under Section 13 of PSS Act, RBI has the right to access any information relating to the operation of any payment system and system provider and all system participants are required to provide access to such information to RBI. These powers are in addition to the powers of RBI under Section 14 of RBI Act to enter any premises where a payment system is being operated and to inspect any equipment, computer system etc. situated there and call upon any employee of such system provider or participant to furnish such information or documents as may be required. Section 16 of PSS Act,*

*deals with the power of RBI to audit or inspect any payment system or participants and it is the duty of the system provider and the system participants to assist the Reserve Bank to carry out such audit or inspection.*

*These powers are sufficient for RBI to obtain any information that is relevant for performing its functions under the PSS Act. It is therefore not considered necessary to have any provision similar to the provisions of Section 21 of Montserrat Act.”*

13. The Committee takes note of the fact that all the participants who are allowed to participate in the guaranteed settlement arrangement of Clearing Corporation of India Limited (CCIL) where CCIL acts as Central Counter Party (CCP) are regulated entities. Therefore, as the principal regulator of these entities, any problem in the functioning of these entities would first be noticed by regulators like RBI. Further, the CCIL bye laws have a reporting requirement on the participants in case “proceedings have been commenced for winding up against it”. The members are bound to notify to the Clearing Corporation immediately on the occurrences of any of the circumstances specified in Bye-Law, including, commencement of winding up proceeding against it.

14. During the course of the deliberations, there was a reference to the United Nations Commission on International Trade (UNCITRAL) Report (2013) on Recognizing and Preventing Commercial Fraud. The report contains insightful illustrations on how fraudsters use insolvency proceedings to cover up fraud. The report contains valuable advice to the parties on how to be vigilant about such practices of fraudsters. The crux of the advices is, due diligence and independent investigation.

15. The Committee is given to understand that under the present regulatory regime any event leading to bankruptcy of the participants in the system could get detected without much delay. Firstly, because most of the participants are regulated entities under the supervision of RBI and secondly, because, such difficulties start with liquidity problems which get easily flagged and picked up in the existing central systems run by RBI (viz., Real Time Gross Settlement ) and CCIL. Casting a statutory obligation on system participants to voluntarily disclose impending insolvency may not be as efficacious as a built in mechanism to get such information automatically.

16. It may be pertinent to note that financial entities, more so those who take shelter under insolvency to cover up fraudulent activities, are not likely to make voluntary disclosures about impending bankruptcy. Further, in genuine cases of serious stress that could lead to bankruptcy, quite often it may be difficult to assess whether it is temporary liquidity problem or a long term solvency issue. Financial entities would not like to proactively notify the likely problem of solvency as such information could jeopardise their continued functioning in the market and also may lead to a run on them by depositors / investors.

17. The Committee takes note of the fact that section 21 of the Payment System Act, 2008 of Montserrat specifically provides that a system participant or an operator must notify the Central Bank (in our case the RBI) if it becomes insolvent or becomes bankrupt. The provisions of the Act further states that such a notice is to be given as soon as practicable after the proceedings are initiated. In the scheme of things as they exists in our country, the bye-laws of the CCIL make it obligatory for the system participants to inform CCIL in writing on

the onset of any circumstances which may result in to its being wound up. The Committee further notes that the PSS Act also empowers the RBI with the right to access any information from the system providers relating to their operations.

**18. In Committee's view, the issue involved here is important. The Committee is of the view that it may not be appropriate to depend solely on such disclosures. RBI should, however, continue to keep a vigil through its oversight over the operation of payment systems like RTGS and through other sources. Notwithstanding these limitations, to create a sense of discipline and responsibility on the part of the market participants to make such disclosures, RBI should consider issuing suitable directions to the system participants through regulations made under the PSS Act or any other Act under which it regulates and supervises the system participants who may be banks, NBFCs or similar entities. Such directions would provide further regulatory support to the bye laws of CCIL requiring such notification.**

19. The **third point** that came before the Committee arises out of a plain reading of the proposed sub-section (5) of Section 23, which gives an impression that there is a conflict of interest as, in case of insolvency of the CCP, it is the CCP itself which is determining the finality of the payments. It has been pointed out that this appears to be a case of conflict of interest and against the principles of natural justice. The issue was taken up with RBI and the Committee was informed as under :-

*“When CCP becomes bankrupt, it is not required to act as a judge or exercise any discretion to determine its liability to the system participants and vice-a-versa. CCP will have to determine the same strictly in accordance with the settlement procedure in place which has already been approved by the Reserve Bank. Settlement finality is achieved only if determination is done by the CCP in accordance with such approved procedure. Thus, determination of the payment instructions and settlement obligations, when CCP becomes insolvent does not involve any discretion. Therefore, there is no conflict of interest.*

*The determination to be made involves only running the appropriate computer programmes. The staff of CCP or the persons usually operating the computer systems are best suited to run the said programmes and determine the payment instructions and settlement obligations. It may be appreciated that the liquidator would not be able to operate the system for making such a determination. Involving any other authority would result in delay in arriving at the settlement. Any such delay could cause uncertainty and panic among the market participants. This could impact systemic stability. It is therefore not considered necessary to require any other authority to intervene and determine the payment instructions and settlement obligations even if the CCP becomes bankrupt.*

*The CCP as part of its risk management framework has to address the risk, viz., liquidity, credit, etc. It has to mark-to-market trades and call for additional margins, if required. The CCP is also required to perform stress testing/ back-testing on a regular basis. To address risk arising out of any eventuality,*

*CCP has constituted Default fund contributed by members as also set up Settlement Reserve Funds by itself. In broad terms, a CCP's risk management measures should be sufficient to handle most instances of defaults. In spite of all these resources at its command, in case a CCP is unable to meet all the obligations arising out of the default which can happen only in the event of a large stress with multiple participants failure, the CCP will have more liability to meet than the receivable amounts. Moreover, many of these amounts are also not clearly determined as these would be in the form of outstanding trades with the CCP as counterparty.*

*In case the effort to recover the CCP is not successful, the CCP will be resolved as per the regulations that are being decided by all countries. This is known as resolution of a CCP. This would entail close out of all trades as described above and determination of net obligations and recoveries as per pre-agreed processes (outlined in the CCP Regulations). Without the intervention of the CCP, the liquidator would have to unwind the trades and the exposures would then balloon to huge proportions, resulting in systemic crisis.*

*CCIL is regulated and supervised by the RBI. CCIL is subjected to on-site inspection. Also as part of off-site supervision, CCIL is required to submit periodic reports and also get its systems audited, including its IT system audit. The integrity of the systems and procedures of CCIL are thus periodically assessed by the RBI.”*



20. While interaction with Governor RBI, the Committee was informed that no judgment is required to be made by CCP in deciding final settlement and there is no discretion available to CCP in such eventuality besides, similar provisions are there in Australia and other countries also. The stakeholders that appeared before the Committee further informed that CCP had to follow existing guidelines and that everything had been prescribed in this regard. Besides, there were provisions in the regulations of CCIL which prescribe what was to be done in such a case. Above all, the finality of settlement has to be with the approval of the RBI.

**21. The Committee is of the view that there is no conflict of interest and the settlement process is under the complete supervision of RBI. Hence the Committee recommends the amendment.**

22. The Committee heard all the major stakeholders on the setting up of Global Legal Entity Identification System and Trade Repository. It found that all of them were in agreement with proposed initiatives. In their view, these would boost the market. The Committee was informed that Legal Entity Identifiers (LEIs) will help in tracing the transactions as to who is transacting; who is receiving; who is owning and how much to whom? These amendments were keys to financial systems stability. Trade Repository reporting transaction details to trade data repositories (TRs) will improve transparency both for the financial sector and the market participants and curtail the risk of exposure.

**23. In view of its overwhelming support by all, the Committee recommends the amendments that aim to apply PSS Act in relation to the Global Legal Entity Identification System and the Trade Repository be passed.**

24. The Committee also sought a clarification from the RBI about the import of the words “immediately thereafter” used in the proposed sub section (4) of section 23 in the Bill to which the RBI replied that the word ‘immediately thereafter’ occurring in proposed section 23(4) would cover the transactions which are undertaken after the insolvency proceedings have started and liquidator is appointed because the CCP would come to know about the insolvency proceedings after sometime. Therefore, the words ‘immediately thereafter’ has been inserted to protect those transactions.

**25. The Committee did not come across much discussion on the provision of clause 4 of the Bill i.e. insertion of new section 23A in the PSS Act. The Committee is convinced that the proposed amendment would formulate better fund management by the PSOs in the interest of the customers. Accordingly, the Committee recommends that amendment proposed in clause 4 of the Bill, be passed.**

26. The representatives of the Department of Financial Services in the second meeting of the Committee informed that the Department had received some additional amendments which were not part of the Bill as passed by the Lok Sabha. These amendments were part of the presentations of the Department. Later on, vide communication dated the 13<sup>th</sup> February, 2015 from the Governor, RBI, a request was received for consideration of these additional amendments which are as follows:-

- (i) Dispense with the need for registration of charge under the New Companies Act in respect of the collaterals offered by the system participants to the system provider as these change dynamically depending on market conditions and it is practically impossible to continuously register or modify the charge;

- (ii) Rationalize the penalties provided under the PSS Act including the increase in the quantum of penalty from RS.5 lakh to Rs.1 crore;
- (iii) Empower RBI to appoint observers on the Boards of System Providers under certain circumstances; and
- (iv) Enabling clearing houses or clearing corporations of various exchanges with respect to settlement of payments leg of the transaction, if they desire that such settlement should take place in the books of the Reserve Bank, as suggested by various committees/agencies.

27. This issue also came under discussion in Mumbai when Governor RBI raised it with the Committee. The Governor, RBI strongly felt that the Committee does consider the additional amendments in the PSS Act in order to avoid another exercise of amending the Act.

**28. The Committee upon consideration of the above suggestion is of the view that the additional amendment proposed by the RBI do not come within its mandate at this stage. The Committee further observes that adequate consultations did not take place**

**between the Ministry and the RBI in relation to these amendments, as a result of which, the RBI has forwarded these amendments to this Committee for consideration. In Committee's view, it is for the Ministry to take a call on these amendments now in consultation with RBI / SEBI. Accordingly, the Committee decides to forward these amendments to the Ministry.**

29. The Committee while interacting with various stakeholders noticed that all of them were in agreement with the amendments proposed in the bill and were of the view that these were positive steps and would boost the market by bringing finality to settlement of payments in various eventualities in the prevailing payment and settlement system.

30. The Committee also found SEBI in agreement with the proposed amendments in the Bill and noted that SEBI, in consultation with the Clearing Corporation was drafting text for amendments to Security Contract Regulation Act to enshrine similar norms for their security market.

**31. With these observations the Committee recommends enactment of the legislation without any modification.**

\* \* \* \* \*

NOTE OF DISSENT

Dr. E.M. Sudarsana Natchiappan, M.P.

The very purpose of the Amendment is to create confidence to system users to be transparent and dynamic at par with global standards.

The Draft Report followed the representation of the Regulator – Reserve Bank of India to which this amendment is to be used to strengthen the regulatory system by transparency, predictability and sustainable legal system. The advice of UNCITRAL and legal system in UK model law by Caribbean country Montserrat Payment System Act 2008 is a transparent and confidence building Act to the Financial Advisors. But unfortunately it is referred in lighter manner in the draft report.

Moreover many of the organizations such as Deutsche Bank, HDFC Bank gave in writing that amendment needed more clarity.

But the Draft Report wants to give power to Regulatory authority to make regulation for pre-act of insolvency while the amendment allows post insolvency order and follow up action after the court order – is against the principle of legislation.

The entire argument of Draft Report is that the RBI and CCL are perfectly working even in the event of disaster of insolvency by existing system.

Then there is no need for moving this amendment by the government.

The very purpose of the amendment is defeated by the Draft Report.

Sd/-

24<sup>th</sup> February, 2015

Dr. E.M. Sudarsana Natchiappan, M.P.

NOTE OF DISSENT

Shri Pramod Tiwari, M.P.

The very purpose of the Amendment is to create confidence to system users to be transparent and dynamic at par with global standards.

The Draft Report followed the representation of the Regulator – Reserve Bank of India to which this amendment is to be used to strengthen the regulatory system by transparency, predictability and sustainable legal system. The advice of UNCITRAL and legal system in UK model law by Caribbean country Montserrat Payment System Act 2008 is a transparent and confidence building Act to the Financial Advisors. But unfortunately it is referred in lighter manner in the draft report.

Moreover many of the organizations such as Deutsche Bank, HDFC Bank gave in writing that amendment needed more clarity.

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The entire argument of Draft Report is that the RBI and CCL are perfectly working even in the event of disaster of insolvency by existing system.

Then there is no need for moving this amendment by the government.

The very purpose of the amendment is defeated by the Draft Report.

24<sup>th</sup> February, 2015

Sd/-

Shri Pramod Tiwari, , M.P.

**Bill No. 182-C of 2014**

THE PAYMENT AND SETTLEMENT SYSTEMS  
(AMENDMENT) BILL, 2014

A  
BILL

*to amend the Payment and Settlement Systems Act, 2007.*

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

1. (1) This Act may be called the Payment and Settlement Systems (Amendment) Act,  
2014.

Short title  
and com-  
mencement.

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

Amendment of section 2.

2. In section 2 of the Payment and Settlement Systems Act, 2007 (hereinafter referred to as the principal Act),— 51 of 2007.

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

‘(da) “issuer” means a person who issues a legal entity identifier or such other unique identification (by whatever name called), as may be specified by the Reserve Bank from time to time; 5

(db) “legal entity identifier” means a unique identity code assigned to a person by an issuer for the purpose of identifying that person in such derivatives or financial transactions, as may be specified by the Reserve Bank from time to time;’; 10

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

‘(r) “trade repository” means a person who is engaged in the business of collecting, collating, storing, maintaining, processing or disseminating electronic records or data relating to such derivatives or financial transactions, as may be specified by the Reserve Bank from time to time.’. 15

Amendment of section 23.

3. In section 23 of the principal Act,—

(i) in sub-section (1), after the words “to a payment system” occurring at the end, the words and figure “under section 7, or, such gross or netting procedure as may be approved by it under any other provisions of this Act” shall be inserted;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:— 20

“(4) Where, by an order of a court, Tribunal or authority—

(a) a system participant is declared as insolvent or is dissolved or wound up; or

(b) a liquidator or 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, 25

then, notwithstanding anything contained in the Banking Regulation Act, 1949 or the Companies Act, 1956 or the Companies Act, 2013 or any other law for the time being in force, such order shall not affect any settlement that has become final and irrevocable prior to such order or immediately thereafter, and the right of the system provider to appropriate any collaterals contributed by the system participants towards its settlement or other obligations in accordance with the rules, regulations or bye-laws relating to such system provider.”; 10 of 1949. 1 of 1956. 18 of 2013. 30

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

“(5) Where an order referred to in sub-section (4) is made with respect to a central counter party, then, notwithstanding such order or anything contained in the Banking Regulation Act, 1949 or the Companies Act, 1956 or the Companies Act, 2013 or any other law for the time being in force, the payment obligations and settlement instructions between the central counter party and the system participants including those arising from transactions admitted for settlement at a future date, shall be determined forthwith by such central counter party in accordance with the gross or netting procedure, as the case may be, approved by the Reserve Bank, while issuing authorisation or under any other provisions of this Act, and such determination shall be final and irrevocable. 35 10 of 1949. 1 of 1956. 18 of 2013. 40

(6) Notwithstanding anything contained in the Banking Regulation Act, 1949 or the Companies Act, 1956 or the Companies Act, 2013 or any other law for the time being in force, the liquidator or receiver or assignee (by whatever name called) of the central counter party, whether appointed as provisional or otherwise, shall— 45 10 of 1949. 1 of 1956. 18 of 2013.

(a) not re-open any determination that has become final and irrevocable; 50



(b) after appropriating in accordance with the rules, regulations or bye-laws of the central counter party, the collaterals provided by the system participants towards their settlement or other obligations, return the collaterals held in excess to the system participants concerned.”;

5 (iv) the existing *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1*, as so numbered, the following *Explanation* shall be inserted, namely:—

10 ‘*Explanation 2.*—For the purposes of this section, the expression “central counter party” means a system provider who by way of novation interposes between system participants in the transactions admitted for settlement, thereby becoming the buyer to every seller and the seller to every buyer, for the purpose of effecting settlement of their transactions.’.

4. After section 23 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 23A.

15 ‘23A. (1) The Reserve Bank may, in public interest or in the interest of the customers of designated payment systems or to prevent the affairs of such designated payment system from being conducted in a manner prejudicial to the interests of its customers, require system provider of such payment system to—

Protection of funds collected from customers.

20 (a) deposit and keep deposited in a separate account or accounts held in a scheduled commercial bank; or

(b) maintain liquid assets in such manner and form as it may specify from time to time,

25 of an amount equal to such percentage of the amounts collected by the system provider of designated payment system from its customers and remaining outstanding, as may be specified by the Reserve Bank from time to time:

Provided that the Reserve Bank may specify different percentages and the manner and forms for different categories of designated payment systems.

30 (2) The balance held in the account or accounts, referred to in sub-section (1), shall not be utilised for any purpose other than for discharging the liabilities arising on account of the usage of the payment service by the customers or for repaying to the customers or for such other purpose as may be specified by the Reserve Bank from time to time.

10 of 1949.  
1 of 1956.  
18 of 2013. 35 (3) Notwithstanding anything contained in the Banking Regulation Act, 1949 or the Companies Act, 1956 or the Companies Act, 2013 or any other law for the time being in force, the persons entitled to receive payment under sub-section (2) shall have a first and paramount charge on the balance held in that account and the liquidator or receiver or assignee (by whatever name called) of the system provider of the designated payment system or the scheduled commercial bank concerned, whether appointed as provisional or otherwise, shall not utilise the said balances for any other purposes until all such persons are paid in full or adequate provision is made therefor.

40 *Explanation.*—For the purposes of this section, the expressions—

(a) “designated payment system” shall mean a payment system or a class of payment system, as may be specified by the Reserve Bank from time to time, engaged in collection of funds from their customers for rendering payment service;

45 (b) “scheduled commercial bank” shall mean a “banking company”, “corresponding new bank”, “State Bank of India” and “subsidiary bank” as defined in section 5 of the Banking Regulation Act, 1949 and included in the Second Schedule to the Reserve Bank of India Act, 1934.’.

10 of 1949.  
1 of 1934.

Insertion of  
new section  
34A.

5. After section 34 of the principal Act, the following section shall be inserted,  
namely:—

Act to apply  
to designated  
trade  
repository  
and issuer.

‘34A. (1) The provisions of this Act shall apply to, or in relation to, a designated  
trade repository or issuer, as they apply to, or in relation to, payment systems to the  
extent applicable, subject to the modification that, throughout this Act, unless the  
context otherwise requires,— 5

(a) references to a “payment system” or “system provider” shall be  
construed as references to a “designated trade repository” or “issuer”, as the  
case may be;

(b) references to “commencement of this Act” shall be construed with  
reference to— 10

(i) a designated trade repository, as references to the date on which  
a trade repository is specified by the Reserve Bank as a designated trade  
repository; and

(ii) an issuer, as references to commencement of the Payment and  
Settlement Systems (Amendment) Act, 2014. 15

(2) The Reserve Bank may, on an application by a designated trade repository or  
otherwise, permit or direct the designated trade repository to provide such other services  
as are deemed necessary from time to time.

*Explanation.*—For the purposes of this section, the expression “designated  
trade repository” shall mean a trade repository or a class of trade repositories, as may  
be specified by the Reserve Bank from time to time.’ 20

## **ANNEXURES**

**List of witnesses who appeared before the Select Committee**

\*\*\*\*\*

**Department of Financial Services (Ministry of Finance)**

1. Dr. Hasmukh Adhia, Secretary
2. Smt. Snehlata Shrivastava, AS
3. Dr. Shashank Saksena, Economic Advisor
4. Sh. M.M. Dawla, Under Secretary

**Reserve Bank of India**

5. Sh. Raghuram Rajan, Governor
6. Sh. H.R. Khan, Deputy Governor
7. Sh. G. Padmanabhan, Executive Director
8. Smt. Nanda Dave, Chief General Manager
9. Ms. Nilima Ramteke, General Manager
10. Sh. G.S. Hegde, Consultant

**Legislative Department (Ministry of Law & Justice)**

11. Dr. M. Vijayawargiya, Joint Secretary
12. Sh. N.R. Battu, Joint Secretary and Legislative Counsel
13. Smt. Renu Sinha, Assistant Legislative Counsel

**Clearing Corporation of India Ltd.**

14. Sh. R. Sridharan, Managing Director
15. Sh. Ravi Rajan, Executive Vice President
16. Sh. Siddhartha Roy, Chief Risk Officer
17. Smt. Indrani Rao, Chief Forex Officer
18. Sh. O.N. Ravi, Company Secretary and Corporate Development Officer
19. Sh. Deepak Chande, Chief Financial Officer
20. Sh. Pradeep Naik, Senior Vice President
21. Sh. G.C. Nath, Senior Vice President
22. Sh. C. Kajwadkar, Senior Vice President
23. Sh. Kamal Singhania, Vice President
24. Sh. Praveen Mata, Vice President
25. Sh. K.B. Biju, Vice President

**Securities and Exchange Board of India**

26. Sh. Rajeev Kumar Agarwal, Whole time Member
27. Sh. Ananta Barua, Executive Director

- 28. Sh. S.V. Murlidhar Rao, Executive Director
- 29. Sh. Shashikumar Valsakumar, General Manager
- 30. Sh. Deepak Trivedi, General Manager
- 31. Ms. Maninder Cheema, Deputy General Manager
- 32. Sh. Meetesh Patel, Assistant General Manager
- 33. Sh. Jai Sebastian, Assistant General Manager

**Fixed Income Money Market and Derivatives Association of India**

- 34. Sh. N.S. Venkatesh, Chairman

**BNP Paribas India**

- 35. Sh. Chandrashekar Bhanap, Head Compliance

**Standard Chartered Bank**

- 36. Sh. Ananth Narayan, Regional Head Financial Market South Asia
- 37. Sh. Kiran Bajaj, ED
- 38. Sh. Rajeev Mehrotra, Senior Manager

**Citi Bank**

- 39. Ms. Padmaja Chakravarty, Director and In-house Legal Counsel

**American Express Banking Corporation**

- 40. Sh. Pranab Barthwal, Vice President and GM

**Deutsche Bank**

- 41. Sh. Akalpiti Gupta, Head Compliance

**State Bank of India**

- 42. Sh. B. Venugopal Reddy, CGM

**Bank of India**

- 43. Sh. Gopal M Bhagat, General Manager

**ICICI Bank**

- 44. Smt. Shilpa Kumar, Senior General Manager
- 45. Sh. Anand Shah, Joint GM

**National Payments Council of India Limited**

- 46. Sh. A.P. Hota, MD & CEO

**Master Card**

- 47. Sh. A. Sarker, Division President South Asia and Country Corporate Officer – India

**Visa Card**

- 48. Sh. Uttam Naik, Global Head, Emerging Markets Digital

**CII**

- 49. Ms. Anuradha Kapoor Salwan, Director
- 50. Sh. Gaurav Sharma, EO

**All India Bank Officer Bank Officers Confederation**

- 51. Sh. Harvinder Singh General Secretary

**List of stakeholders who have furnished written views/suggestions to the Select Committee**

\*\*\*\*\*

1. Clearing Corporation of India Ltd.
2. HDFC Bank
3. Deutsche Bank
4. Confederation of Indian Industries
5. BNP Paribas India
6. ICICI Bank
7. National Confederation of Bank Employees

## **MINUTES**



**RAJYA SABHA**

**MINUTES OF THE MEETING OF THE SELECT COMMITTEE**

**ON THE PAYMENT AND SETTLEMENT SYSTEMS (AMENDMENT) BILL, 2014**

**(AS PASSED BY LOK SABHA)**

I

**(FIRST MEETING)**

**PRESENT**

Shri V. P. Singh Badnore - Chairman

**MEMBERS**

Dr. E. M. Sudarsana Natchiappan

Shri Vivek Gupta

Dr. V. Maitreyan

Shri Veer Singh

Shri P. Rajeeve

Shri Naresh Gujaral

Shri D. Raja

Shri Tiruchi Siva

Shri Ali Anwar Ansari

**SECRETARIAT**

Shri Deepak Goyal, Joint Secretary

Shri Surendra Tripathi, Director

Shri Narmadeshwar Prasad, Joint Director

Shri Anil Kumar Saini, Assistant Director

Smt. Leela Sarna, Assistant Director

2. At the outset the Chairman welcomed the Members of the Committee and apprised them about the broad outlines of the Pay and Settlement (Amendment) Bill, 2014. The Chairman sought their cooperation in concluding the examination and reporting on the Bill within the given time i.e. by the last day of the first week of the next session which is likely to commence in the last week of February, 2015.

-35-

3. The Chairman informed the Committee that the proposed amendments in the Payment and Settlements System Act broadly cover three areas of its operations viz. (i) providing protection to

system participants mainly banks and financial institutions in case system provider such as Clearing Corporation of India (CCI) becomes insolvent or dissolved, by providing finality to the determination of payment obligations and settlement instructions, (ii) protection of funds collected from customers by the payment system provider and held in escrowed account and (iii) making the Act applicable to Global Legal Entity Identifier System (GLEIS) and the Trade Repository. The Chairman also apprised the Members about the usual practice being followed when a Bill is referred to a Select Committee.

4. After his initial remarks, the Chairman sought the views of the Members in deciding the future course of action of the Committee in the examination of the Bill keeping in view the time available to the Committee. The Committee discussed the guidelines for issue of a Press Note in the form of an advertisement in newspapers inviting suggestions from the public at large and the experts. The Chairman felt that if the Committee wait for the suggestions of the public/experts before starting its deliberations, considerable time would be lost and, therefore, it would be appropriate if, along with issue of Press Note, the deliberations on the Bill with the Ministry of Finance, RBI and stakeholders were also simultaneously started. The Members agreed with the views of the Chairman and accordingly it was decided to issues a Press Note and start deliberations with the Ministry of Finance, RBI and stakeholders. After some discussions, the Committee also decided that views of FICCI, ASSOCHAM, CII and other stakeholders, which were identified in the 56<sup>th</sup> Report of the Department-related Parliamentary Standing Committee on Finance which dealt with the Payment and Settlement Systems Bill, 2006 might also be obtained along with their willingness to appear before the Committee.

5. With a view to ensure a comprehensive understanding of the subject, the Chairman directed the Secretariat to circulate to the Members a copy of the Payment and Settlement Systems Act 2007 and a copy of the 56<sup>th</sup> Report of the Committee on Finance on the Payment and Settlement Systems Bill, 2006.

6. The Committee decided to meet at 3.00 P.M. on 20<sup>th</sup> January, 2015 to hear the Secretary, Department of Financial Services, Ministry of Finance and at 11.00 A.M. on 21<sup>st</sup> January, 2015 to hear the Governor, RBI and other stakeholders who were willing to appear before the Committee.

7. The Committee then adjourned at 4.15 P.M.

**New Delhi**  
**Date: 7.1.2015**

**SURENDRA TRIPATHI**  
**DIRECTOR**

**RAJYA SABHA**  
**MINUTES OF THE MEETING OF THE SELECT COMMITTEE**  
**ON THE PAYMENT AND SETTLEMENT SYSTEMS (AMENDMENT) BILL, 2014**  
**(AS PASSED BY LOK SABHA)**

II

**(SECOND MEETING)**

The Committee met at 3.00 P.M. in Room No.139, First Floor, Parliament House Annexe, New Delhi on Tuesday, the 20<sup>th</sup> January, 2015.

**PRESENT**

Shri V. P. Singh Badnore - Chairman

**MEMBERS**

Sh. Anil Madhav Dave

Dr. E. M. Sudarsana Natchiappan

Sh. Pramod Tiwari

Sh. Vivek Gupta

Dr. V. Maitreyan

Sh. Veer Singh

Sh. P. Rajeeve

Sh. Naresh Gujaral

Sh. D. Raja

Sh. Rajeev Shukla

Shri Ali Anwar Ansari

**Deptt. of Financial Services (Ministry of Finance)**

Smt. Snehlata Shrivastava, AS

Dr. Shashank Saksena, EA

Ms. Nilima Ramteke, GM, RBI

Sh. G.S. Hegde, Legal Consultant, RBI

Sh. M. Unnikrishnan, Asstt. Legal Advisor

**Legislative Department (Ministry of Law & Justice)**

Sh. T.S. Muralidharan, ALC

Sh. R.S. Jayakrishanan, ALC

## **SECRETARIAT**

Shri Deepak Goyal, Joint Secretary  
Shri Surendra Tripathi, Director  
Dr. Narmadeshwar Prasad, Joint Director  
Shri Anil Kumar Saini, Assistant Director  
Smt. Leela Sarna, Assistant Director

2. At the outset Chairman of the Committee welcomed the members and representatives of the Ministry of Finance, RBI and Legislative Department. Thereafter the Additional Secretary of the Deptt. of Financial Services apprised briefly about the Payment and Settlement Systems (Amendment) Bill, 2014 and the requirement to bring in the amendments proposed in the bill. A power point presentation on salient features of bill and necessity of amendments was given before the Committee by the representatives of the RBI.

3. Soon after the presentation, certain queries about probability of entry of private parties for issue of LEI, Commitments made during the summit of G-20 in 2011 and its expectations from India, Powers which RBI lacks in as regards Payment and Settlement Systems were raised. Few other queries raised pertains to the System governing the PSS Act of 2007 and remedy if Central Counter Party (CCP) goes bankrupt as the CCP cannot arbitrarily settle the issue; whether online trading is covered by PSS Act; Total number of clearing houses running in the country and changes in clearing systems as compared to old system prior to introduction of act.

4. The Chairman of the Committee associated himself with the queries raised and desired to know the system being followed by FIIs/NRIs/FDIs as all these are routed through RBI and above all expressed his apprehension on the terror funding through these means and steps taken to identify and check the terror funding and also the criteria for Legal Entity Identification. On the queries regarding the provisions of the Bill the Chairman said that these would be clarified by the representatives of the Ministries of Finance and Law and Justice.

5. The Committee desired to hear the Secretary, Deptt. of Financial Services (M/o Finance) on 21<sup>st</sup> January, 2015 as he was granted leave of absence and also a detailed discussion from RBI to understand the Bill from a common men angle.

6. A verbatim record of the meeting was kept.

7. Thereafter the Committee adjourned at 4-15 P.M. to meet again at 11.00 A.M. on 21<sup>st</sup> January, 2015 to hear the Secretary, Department of Financial Services, Ministry of Finance and representatives of the RBI.

**New Delhi**  
**Date: 20.1.2015**

**SURENDRA TRIPATHI**  
**DIRECTOR**

**RAJYA SABHA**  
**MINUTES OF THE MEETING OF THE SELECT COMMITTEE**  
**ON THE PAYMENT AND SETTLEMENT SYSTEMS (AMENDMENT) BILL, 2014**  
**(AS PASSED BY LOK SABHA)**

III

**(THIRD MEETING)**

The Committee met at 11.00 A.M. in Room No.G-074, First Floor, Parliament Library Building, New Delhi on Wednesday, the 21<sup>st</sup> January, 2015.

**PRESENT**

Shri V. P. Singh Badnore - Chairman

**MEMBERS**

Sh. Ajay Sancheti  
Dr. E. M. Sudarsana Natchiappan  
Sh. Pramod Tiwari  
Sh. Naresh Agrawal  
Sh. Vivek Gupta  
Dr. V. Maitreyan  
Sh. Naresh Gujjaral  
Sh. D. Raja  
Sh. Ali Anwar Ansari

**Deptt. of Financial Services (Ministry of Finance)**

Smt. Snehlata Srivastava, AS

**Reserve Bank of India**

Sh. H.R. Khan, Deputy Governor  
Sh. G.S. Hegde, Legal Consultant  
Ms. Nilima Ramteke, general Manager

**Legislative Department (Ministry of Law & Justice)**

Sh. T.S. Muralidharan, ALC

## **SECRETARIAT**

Shri Deepak Goyal, Joint Secretary  
Shri Surendra Tripathi, Director  
Dr. Narmadeshwar Prasad, Joint Director  
Shri Anil Kumar Saini, Assistant Director  
Smt. Leela Sarna, Assistant Director

2. At the outset the Chairman welcomed the Members of the Committee, Deputy Governor RBI with his team of officers and representative of Legislative Department. Thereafter the floor was given to the representative of RBI to apprise the Committee about the proposed amendments, criteria of the RBI on the amendments and role of the CCP i.e. Clearing Corporation of India Ltd (CCIL).

3. The representative of the RBI enlightened about the clearing houses and their locations in the country and also about the exemption of CCIL from PSS act. The Committee was informed in detail about the mode of payment systems being operated in the country. It was further apprised to the Committee that the Payment system has undergone lot of changes after 2007 and now the major thrust of the RBI is on the insolvency part of the CCP i.e. CCIL. The Payment System is being monitored electronically but still there is uncertainty about the issue of Collateral Security and to avoid this uncertainty between Buyer and Seller, CCP interposes between the two. The Committee was briefed that the issue of insolvency of CCIL is utmost important in international forum and also about the importance and requirement of LEI proposed in G-20 agreement in 2011 which is a 20 character number for identification. The Committee was also enlightened on the importance of amendments in section 23(i), (4), (5) and 23 (A) and the road map for implementation of G-20 agreement, which includes Trade Repository and LEI and these are being considered by RBI.

4. Few Members raised the queries about the preventative steps being taken by RBI in case of bankruptcy of CCP, Amendments proposed as per the international scenario in payment system and settlement; Regulation of settlement in stock and commodity exchange; system prevalent in other foreign countries; settlement of payment in equity sector; main clauses of the G-20 agreement to be adopted to lead the country in Global Banking System; number of clearing houses run by RBI and other banks; CCIL transacting business on commission basis and so on.

5. The Committee was also briefed about Bitcoins – an artificial currency and advisory issued by RBI with its ramifications.
6. One of the Member asked RBI to furnish the details in writing on clearing houses charges prevalent among banks, Regulation of alternative payment system and claim procedure which was assured by RBI
7. The Committee also decided to have next meetings on 28<sup>th</sup> and 29<sup>th</sup> January, 2015 and also to visit Mumbai from 10<sup>th</sup> to 12<sup>th</sup> February, 2015 to discuss the issue of Payment and Settlement Systems with RBI Governor and other stakeholders located in Mumbai.
8. The Committee then adjourned at 12.50 P.M.

**New Delhi**  
**Date: 21.1.2015**

**SURENDRA TRIPATHI**  
**DIRECTOR**



**RAJYA SABHA**  
**MINUTES OF THE MEETING OF THE SELECT COMMITTEE**  
**ON THE PAYMENT AND SETTLEMENT SYSTEMS (AMENDMENT) BILL, 2014**  
**(AS PASSED BY LOK SABHA)**

**IV**

**(FOURTH MEETING)**

The Committee met at 3.00 P.M. in Room No.G-074, First Floor, Parliament Library Building, New Delhi on Wednesday, the 28<sup>th</sup> January, 2015.

**PRESENT**

Shri V. P. Singh Badnore - Chairman

**MEMBERS**

Sh. Ajay Sancheti  
Sh. Vivek Gupta  
Dr. V. Maitreyan  
Sh. Veer Singh  
Sh. P. Rajeeve  
Sh. Naresh Gujaral  
Sh. Ali Anwar Ansari

**SECRETARIAT**

Shri Deepak Goyal, Joint Secretary  
Shri Surendra Tripathi, Director  
Dr. Narmadeshwar Prasad, Joint Director  
Shri Anil Kumar Saini, Assistant Director

**REPRESENTATIVES OF CONFEDERATION OF INDIAN INDUSTRIES**

Ms. Anuradha Kapoor Salwan, Director, CII  
Sh. Gaurav Sharma, EO, CII  
Sh. Shreeram Laxman, CII  
Sh. Kiran Bajaj, ED, Standard Chartered Bank

Sh. Rajiv Mehrotra, Sr. Manager, Standard Chartered Bank

Sh. Anand Shah, Joint GM, ICICI Bank

**Representative of All India Bank Officers Confederation**

Sh. Harvinder Singh, General Secretary

2. At the outset the Chairman of the Select Committee welcomed the representatives of the Confederation of Indian Industries and All India Bank Officers Confederation to the meeting. Thereafter, the floor was given to the CII to submit to the Committee their views on the Bill.

3. The representative of the CII informed the Committee that the Bill was in the right direction to protect the consumer funds and they were supportive of the same. They pointed out that the two issues i.e., Legal Entity Identification and Trade Repository which were being considered as per the requirement of the G-20 countries in a global perspective were also steps towards more transparency. There was discussion at length on amendments in section 23 of the Act.

4. The Committee desired to know the position of escrow account what the RBI has done in this regard and also if CII had any specific proposal to furnish to the Committee on the Bill. The Committee asked the representatives what measures were available in other countries as regards the protection of the consumer in line with G-20 guidelines. The Committee also raised query on the selection of the Clearing Houses and time taken in clearing. The representatives present in the meeting emphasized the need to educate customers on use of electronic in fund transfer and clearing. The committee sought a write up from the representatives of CII on how to check entry of terror money into the system without compromising on efficiency and delay in clearance of cheque.

5. The Committee thereafter adjourned at 4:30 P.M. to meet again on 29<sup>th</sup> January, 2015 at 11:00 A.M. for internal discussion.

6. Verbatim Record of the meeting was kept.

**New Delhi**

**Date: 28.1.2015**

**SURENDRA TRIPATHI**

**DIRECTOR**

**RAJYA SABHA**  
**MINUTES OF THE MEETING OF THE SELECT COMMITTEE**  
**ON THE PAYMENT AND SETTLEMENT SYSTEMS (AMENDMENT) BILL, 2014**  
**(AS PASSED BY LOK SABHA)**

V

**(FIFTH MEETING)**

The Committee met at 11.00 A.M. in Room No.63, First Floor, Parliament House, New Delhi on Thursday, the 29<sup>th</sup> January, 2015.

**PRESENT**

Shri V. P. Singh Badnore - Chairman

**MEMBERS**

Sh. Naresh Agrawal  
Sh. Vivek Gupta  
Sh. Naresh Gujral  
Sh. D. Raja  
Sh. Parimal Nathwani  
Sh. Ali Anwar Ansari

**SECRETARIAT**

Shri Deepak Goyal, Joint Secretary  
Shri Surendra Tripathi, Director  
Dr. Narmadeshwar Prasad, Joint Director  
Shri Anil Kumar Saini, Assistant Director

2. The Chairman of the Committee welcomed the members of the Committee and held internal discussion on how to proceed further with the examination of Bill during study visit to Mumbai and in Delhi. He emphasized on the need to have the views of the stakeholders in writing. The committee decided to meet tentatively on the 18<sup>th</sup> of February, 2015 at Delhi for follow up action and target to present the report well within the available time.
3. The programme to visit Mumbai and meeting with other stakeholders viz. SEBI, City Bank, American Express Bank, HDFC Bank, Master/Visa were concurred to, for which Secretariat was asked to take necessary action.
4. The Committee thereafter adjourned at 11:30 A.M.
5. Verbatim Record of the meeting was kept.

**New Delhi**  
**Date: 29.1.2015**

**SURENDRA TRIPATHI**  
**DIRECTOR**

**RAJYA SABHA**  
**MINUTES OF THE MEETING OF THE SELECT COMMITTEE**  
**ON THE PAYMENT AND SETTLEMENT SYSTEMS (AMENDMENT) BILL, 2014**  
**(AS PASSED BY LOK SABHA)**

VI

**(SIXTH MEETING)**

The Committee met at 11.00 A.M. in Room No. G-074, Parliament Library Building, Parliament House, New Delhi on Wednesday, the 18<sup>th</sup> February, 2015.

**PRESENT**

Shri V. P. Singh Badnore - Chairman

**MEMBERS**

Dr. E.M. Sudarsana Natchiappan  
Sh. Vivek Gupta  
Dr. V. Maitreyan  
Sh. Veer Singh  
Sh. Naresh Gujral  
Sh. D. Raja  
Sh. Rajeev Shukla

**SECRETARIAT**

Shri Deepak Goyal, Joint Secretary  
Shri Vivek Chandra, Assistant Director

**DEPARTMENT OF FINANCIAL SERVICES (MINISTRY OF FINANCE)**

Dr. Hasmukh Adhia, Secretary  
Dr. Shashank Saksena, Economic Advisor

**RESERVE BANK OF INDIA**

Sh. H. R. Khan, Deputy Governor  
Smt. Nanda Dave, CGM  
Smt. Nilima Ramteke, GM  
Sh. G. S. Hegde, Legal Consultant

**LEGISLATIVE DEPARTMENT (MINISTRY OF LAW & JUSTICE)**

Dr. M. Vijayawargiya, Joint Secretary  
Smt. Renu Sinha, ALC

2. At the outset the Chairman welcomed the members and representatives of the Ministry of Finance, Reserve Bank of India to the meeting of the Committee. He informed that the Committee would like to hear the Secretary, Department of Financial Services on the Bill and seek clarifications. He also said the Committee's Study Visit to Mumbai had been very informative.

3. Thereafter Secretary, Department of Financial Services, apologised for his inability in attending the earlier meetings of the Committee. Thereafter he made his submissions giving the rationale behind bringing in the legislation. The Secretary further said that RBI had some more suggestions to the Bill which were being examined and if the Committee had the option to suggest further amendments these could be looked into. At this the Chairman stated that the Committee would forward the proposals received from RBI without the Committee's recommendations. Thereafter the members raised several queries. A member pointed out the Act should have provision for Voluntary Disclosures as was being done in other countries. He said that the Committee was pressing on that issue from the very beginning. He also referred to the Report of UNCITRAL Secretariat and stated that there should be clarity in the Act itself saying that voluntary disclosure is a part of it for all the three players of this particular claim system. He said that RBI does not have a clear mandate by way of the Payment and Settlement Systems Act. He said that RBI should go through the entire document and then come to the conclusion regarding voluntary disclosure.

4. The representative of RBI submitted that all entities whether they are banks or primary lenders or non-banking financial companies are regulated entities and RBI has oversight and regulation powers over them. The RTGS is an effective way to monitor transactions and under the Payment and Settlement systems Act, Sections 12, 13, 14 and 16 documents, returns and other information can be called for.

5. One Member pointed out that during the meetings in Mumbai, SEBI and NPCL said that Parliament will again be subjected to payment in systems amendment for their respective jurisdiction or their act which means they will bring in their own Bill. It was because of the confusion whether this Bill will be applicable to other entities or not.

6. The representative of RBI also pointed out the urgency of these amendments. He said that globally India is subjected to assessment DROIT frank and ESMA want to see whether

CCIL or CIPs are meeting those standards. If these are not meeting those standards, those foreign participants would be banned from participating in Indian financial markets and the volumes and liquidity would drop. He further said that CCIL is a very good and robust institution and want to improve further.

7. Thereafter the Committee decided to meet at 3.00 P.M. on 24-2-2015 to consider and adopt the Draft report.

8. A verbatim record of the meeting was kept.

9. The Committee adjourned at 11.55 A.M.

**Date: 18.2.2015**

**New Delhi**

**DEEPAK GOYAL**

**JOINT SECRETARY**

**RAJYA SABHA**  
**MINUTES OF THE MEETING OF THE SELECT COMMITTEE**  
**ON THE PAYMENT AND SETTLEMENT SYSTEMS (AMENDMENT) BILL, 2014**  
**(AS PASSED BY LOK SABHA)**

**VII**  
**(SEVENTH MEETING)**

The Committee met at 3.00 P.M. in Committee Room-A, Ground Floor, Parliament House Annexe, New Delhi on Tuesday, the 24<sup>th</sup> February, 2015.

**PRESENT**

Shri V. P. Singh Badnore - Chairman

**MEMBERS**

Shri Anil Madhav Dave  
Shri Ajay Sancheti  
Dr. E.M. Sudarsana Natchiappan  
Shri Pramod Tiwari  
Shri Naresh Agrawal  
Shri Vivek Gupta  
Shri P. Rajeeve  
Shri Naresh Gujral  
Shri D. Raja  
Shri Parimal Nathwani  
Shri Rajeev Shukla  
Shri Tiruchi Siva

**SECRETARIAT**

Shri Deepak Goyal, Joint Secretary  
Shri S.K. Tripathi, Director  
Dr. Narmadeshwar Prasad, Joint Director  
Smt. Leela Sarna, Assistant Director

**DEPARTMENT OF FINANCIAL SERVICES (MINISTRY OF FINANCE)**

Smt. Snehlata Shrivastava, AS  
Dr. Shashank Saksena, Economic Advisor  
Sh. M.M. Dawla, US

**RESERVE BANK OF INDIA**

Sh. H.R. Khan, Deputy Governor  
Sh. G.S. Hegde, Legal Consultant  
Ms. Nilima Ramteke, GM  
Ms. Unnikrishnan, Asstt. Legal Advisor

**LEGISLATIVE DEPARTMENT (MINISTRY OF LAW & JUSTICE)**

Sh. N.R. Battu, JS&LC  
Smt. Renu Sinha, ALC

2. At the outset the Chairman, welcomed the Members to the meeting and informed that the meeting was to consider and adopt the Report of the Committee.
3. Some members pointed out that they were not in agreement with the Report as going by the views expressed by the representatives of the Ministry of Finance in the meetings held during the study visit of the Committee to Mumbai, it was observed that there no adequate consultations between ministry of Finance and Reserve Bank of India. The Member requested that this point may be mentioned in the Report also. The Chairman agreed to do so.
4. A member wanted that a provision may be included in the Act regarding voluntary Disclosure as part of pre-solvency Proceedings in order to strengthen the regulatory power of Reserve Bank of India. The Chairman stated that it was already a part of the Act and there was no need for a separate Provision. Some Member did not agree to the Point. The Member then said he want to submit a Dissent Note in this regard.
5. A Member pointed out that SEBI did not agree to the Act and the Amendment to the Act and wanted to be mentioned in the Report.
6. Thereafter the Committee adopted the Report and decided to Present it in the Rajya Sabha on 26<sup>th</sup> February, 2015 and nominated Shri Rajeev Shukla and in his place Shri Vivek Gupta to present the Report.
7. The Committee then adjourned at 4.00 PM.

**Date: 24.2.2015**

**New Delhi**

**SURENDRA TRIPATHI**

**DIRECTOR**