

Bill Summary

The Financial Resolution and Deposit Insurance Bill, 2017

- The Financial Resolution and Deposit Insurance Bill, 2017 was introduced in Lok Sabha by the Minister of Finance, Mr. Arun Jaitley on August 10, 2017. It seeks to create a framework for resolving bankruptcy in financial firms (such as banks and insurance companies). The Bill repeals the Deposit Insurance and Credit Guarantee Corporation Act, 1962 and amends 12 other laws.

- The Bill will apply to financial firms, and any other financial service provider designated as a ‘systemically important financial institution’ by the central government.

- **Resolution Corporation:** The central government will establish a Resolution Corporation. The Corporation will have a Chairperson and its members will include representatives from the Finance Ministry, RBI, and SEBI, among others.

Functions: Functions of the Corporation will include: (i) providing deposit insurance to banks (to repay deposits to consumers in case of failure), (ii) classifying service providers (such as banks and insurance companies) based on their risk, and (iii) undertaking resolution of service providers in case of failure. It may also investigate the activities of service providers, or undertake search and seizure operations if provisions of the Bill are being contravened.

- **Risk based classification:** The Corporation, in consultation with the respective regulators (e.g. RBI for banks, and IRDA for insurance companies) specify criteria for classifying service providers based on their risk of failure.

Table 1: Categories of risk based on failure

Category	Probability of failure
Low	Substantially below acceptable levels
Moderate	Marginally below acceptable levels
Material	Above acceptable levels
Imminent	Substantially above acceptable levels
Critical	Service provider on the verge of failure

Sources: The Financial Resolution and Deposit Insurance Bill, 2017; PRS.

- A service provider categorised under the ‘imminent’ or ‘critical’ category will submit a

restoration plan to the regulator, and a resolution plan to the Corporation. These plans will contain information, including: (i) details of assets and liabilities, (ii) steps to improve risk based categorisation, and (ii) information necessary for resolution of the service provider.

- **Resolution:** The Corporation will undertake resolution of a service provider classified under the ‘critical’ category using options which include: (i) transfer of its assets and liabilities to another person, (ii) merger or acquisition, and (iii) liquidation, among others.

- **Administration:** The Corporation will take over the management of the service provider from the date when it is classified as ‘critical’.

- **Time limit:** The resolution process will be completed within a year from the date when a service provider is classified as ‘critical’. This time limit may be extended by another year (i.e. maximum limit of two years). The service provider will be liquidated if its resolution is not completed during this time period.

- **Liquidation and distribution of assets:** The Corporation will require the approval of the National Company Law Tribunal to liquidate the assets of a service provider.

Proceeds from the sale of assets will be distributed in the following priority order: (i) amount paid by Corporation as deposit insurance to insured depositors, (ii) resolution costs, (iii) workmen dues for 24 months and secured creditors, (iv) wages to employees for 12 months, (v) amount to uninsured depositors and other insurance related amounts, (vi) unsecured creditors, (vii) government dues and remaining secured creditors (remaining debt if they choose to enforce their collateral), (viii) remaining debt and dues, and (ix) shareholders.

- **Offences:** The Bill specifies penalties for offences such as concealment of property, and destruction or falsification of evidence. Penalties vary based on the nature of the offence, with the maximum penalty being imprisonment for five years, along with a fine.

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