

Bill Summary

The Payment and Settlement Systems (Amendment) Bill, 2014

- The Payment and Settlement Systems (Amendment) Bill, 2014 was introduced in Lok Sabha on December 8, 2014 by the Minister of Finance, Mr. Arun Jaitley. It was passed by Lok Sabha on December 9, 2014.
- The Bill amends the Payment and Settlement Systems Act, 2007, which was enacted to regulate and supervise payment systems in India. The Act designates the Reserve Bank of India (RBI) as the authority to regulate such systems. These systems include inter-bank transfers such as the National Electronics Funds Transfer (NEFT) system, the Real Time Gross Settlement (RTGS) System, ATMs, credit cards, etc.
- The Bill seeks to extend the application of the Act to a designated trade repository, or issuer, in relation to payment systems. In this regard, it introduces three definitions:
 - (i) **Issuer:** A person who issues a legal entity identifier or similar unique identification, as specified by the RBI from time to time.
 - (ii) **Legal entity identifier:** A unique identity code assigned to a person by an issuer to identify that person in such derivatives or financial transactions, as specified by the RBI.
 - (iii) **Trade repository:** A person who is engaged in the business of collecting, collating, storing, processing or disseminating electronic records or data relating to such derivatives or financial transactions, as specified by the RBI.
- The Act stipulates that payment obligations and settlement instructions among system participants is to be determined in accordance with gross or netting procedure, as approved by the RBI while issuing authorisation to a payment system.

The Bill amends this provision to specify that such payment system would be either that under the provision which deals with the issue or refusal of authentication or under any other provision of the Act.
- The Act states that where a court has declared a system participant as insolvent, or is dissolved or wound up, the settlement which is final and irrevocable would not be affected. Further, the right of the system provider to appropriate any collaterals contributed by the system participant towards its settlement etc. would also not be affected. This provision would override that of the Companies Act, 1956, Companies Act, 2013 and the Banking Regulation Act, 1949.

The Bill modifies this provision to add that the final settlement would not be affected even in cases where the court or tribunal has appointed a liquidator. It further clarifies that this would apply to any settlement made prior to such order or immediately thereafter.
- The Bill introduces a new provision for settlement and netting in relation to central counter parties (who is a system provider who by way of novation interposes between system participants). It states that upon an order of declaration of insolvency, dissolution or winding up in relation to a central counter party, the payment obligations and settlement instructions between the central counter party and the system participants is to be determined by the central counter party in accordance with the gross or netting procedure or any other provision of this Act.

This must be approved by the RBI while issuing authorization and such determination would be final and irrevocable. This provision would override that of the Companies Act, 1956, Companies Act, 2013 and the Banking Regulation Act, 1949.
- The Bill clarifies that the liquidator of the central counter party must: (a) not reopen any determination that has become final and irrevocable; (b) return the collaterals held in excess, after appropriating the collaterals provided by the system participants towards their settlement etc.
- The Bill introduces a new provision which empowers the RBI to direct system providers of a payment system to ensure protection of funds collected from customers. To this end, system providers must: (i) deposit in a separate bank account; or (ii) maintain liquid assets of an amount equal to such percentage of the amounts collected by the system provider from its customers and remaining outstanding, as specified by the RBI.

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