

Bill Summary

The Payment and Settlement Systems Bill, 2006

- The Payment and Settlement Systems Bill was introduced in the Lok Sabha on July 25, 2006. The Bill was referred to the Standing Committee on Finance (Chairperson Maj Gen. BC Khanduri) which was scheduled to submit its report by November 28, 2006.
- The Indian financial system depends on a number of payment and settlement systems. These include manual clearing of cheques, MICR clearing, electronic funds transfer systems, clearing for government securities and foreign exchange etc. These are run by a variety of entities: The Real Time Gross Settlement system is operated by the Reserve Bank of India (RBI), inter-bank clearing for government securities and foreign exchange by the Clearing Corporation of India Limited, clearing houses for cheques by RBI and various public sector banks, and card based transactions by the banks that issue these cards.
- This Bill seeks to empower RBI to regulate and oversee the various payments and settlement systems. It lays down the requirements of a settlement system and authorises RBI to permit both gross and net settlement procedures. (Net settlement means that the amount of money or securities due or payable or deliverable among system participants may be adjusted, so that only the resulting amount or securities are paid or transferred. For example, if A owes B Rs 100 and B owes A Rs 30, the net payment of Rs 70 will be due from A to B. In gross settlement, A will pay B Rs 100 and B will pay A Rs 30 as two separate transactions).
- Every person operating a payment and settlement system (system provider) needs to be authorised by the RBI. The form and manner of application for authorisation will be prescribed by RBI. It will consider various factors such as the need for the proposed system, the technical standards and design, the financial status of the applicant, monetary and credit policy, consumer interest etc., while considering the application. In case of rejection, the RBI shall give a reasonable opportunity to the applicant to be heard, and shall give the reasons for refusal in writing.
- The RBI may revoke the authorisation if the system provider does not comply with the Act or its regulations, or with the conditions of authorisation.
- The RBI may prescribe various standards including the format for payment instructions, the timing to be maintained by the systems, the manner of transfer of funds within the system, and the criteria for membership of the system. RBI may also issue directions in writing to system providers to take specific action in case it believes that systematic risk is inadequately controlled. (Systematic risk means the risk arising from the non-payment of one system participant of his obligation or any disruption in the system leading to the inability of other participants to meet their obligations.)
- Any change in the system that affects the structure or payments requires prior approval of RBI. In such cases, the system provider shall give at least 30 days notice to all system participants.
- The RBI is authorised to access any information relating to operation of any payment system, and may conduct audits and inspections of these systems.
- The system provider is required to disclose to existing and potential participants the terms and conditions, including charges, limitations of liability, netting systems etc.
- The payment obligations and instructions for settlement will be in accordance with the procedure approved by RBI while issuing the authorisation of a payment system. The settlement may be either gross settlement or net settlement as approved by RBI. Any settlement, whether gross or net, is final and irrevocable as soon as the money, security, foreign exchange or derivative is determined, even if such transactions are not actually paid.
- The system provider shall constitute a panel of participants for settling any disputes among other participants. Any dispute between a system provider and a participant or between system providers shall be decided by RBI. Any dispute involving RBI in its capacity as a system provider or participant shall be referred to the Securities Appellate Tribunal established under the SEBI Act, 1992.
- The Bill specifies various offences and penalties. Dishonour of electronic funds transfer due to insufficiency of funds carries a maximum punishment of imprisonment for two years and/or fine up to twice the amount of the transfer. Anyone operating a settlement system without authorisation may be imprisoned for a period between one month and ten years and fined up to one crore. Anyone providing false information may be imprisoned for a period up to three years and fined for an amount between Rs 10 lakh and Rs 50 lakh. Failure to furnish information or returns carries a fine of Rs 10 lakh.

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