THE FINANCIAL RESOLUTION AND DEPOSIT INSURANCE BILL, 2017

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BILL

to provide for the resolution of certain categories of financial service providers in distress; the deposit insurance to consumers of certain categories of financial services; designation of systemically important financial institutions; and establishment of a Resolution Corporation for protection of consumers of specified service providers and of public funds for ensuring the stability and resilience

WRONG DIAGNOSIS Financial Resolution and Deposit Insurance Act, (2) It shall come into force on such dates may be appointed for different provisions in A experimental appoints and different dates may be appointed for different provisions

Short title and commencement

Definitions.

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All India Bank Officer's Confederation limited by shares, created by National Alliance of People's Movements

New Trade Union Initiative and an entity that interposes itself between Centre for Financial Accountability financial markets, becoming the

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counterparty under the Payment and Settlement Systems Act, 2007 or a clearing 51 of 2007. corporation under section 8A of the Securities Contract Regulation Act, 1956;

42 of 1956.

^{(7) &}quot;co-operative bank" means—

Wrong Diagnosis, Harmful Prescription

A Critique of Financial Resolution and Deposit Insurance (FRDI) Bill, 2017

Introduction

On August 10, 2017, the Financial Resolution and Deposit Insurance (FRDI) Bill was introduced in the Lok Sabha by the Minister of State for Finance, Arjun Ram Meghwal. The said purpose of this Bill is to provide a comprehensive framework for resolving financial sector entities under stress. Its stated aims, as defined in the drafting committee's report, are to "contribute to the stability and resilience of the financial system, protecting consumers up to a reasonable limit and protecting public funds to the extent possible." Meant to complement the Insolvency and Bankruptcy Code, 2016 which deals with resolution of non-financial entities, FRDI in its current form poses a dire threat to the functioning of public sector banks (PSBs).

In his 2016-17 Budget speech, while speaking on financial sector reforms, Union Finance Minister Arun Jaitley said, "The bill relating to resolution of financial firms will be introduced in the current Budget Session of Parliament. This will contribute to stability and resilience of our financial system. It will also protect the consumers of various financial institutions. Together with the Insolvency and Bankruptcy Code (IBC), a resolution mechanism for financial firms will ensure comprehensiveness of the resolution system in our country." Accordingly, on March 15, 2016, a Committee was set-up to create a draft Code under the chairmanship of Ajay Tyagi, Additional Secretary of the Ministry of Finance. By September 28, with both the Drafting Committee's Report¹ and a Draft Bill² out, the Ministry of Finance invited public comments³ to be submitted by October 14.

The following year, it was announced⁴ that the Union Cabinet, chaired by Prime Minister Narendra Modi, has given the approval to introduce the Financial Resolution and Deposit Insurance (FRDI) Bill, 2017 in the Parliament. It was then introduced on August 10, 2017, the penultimate day of the Monsoon Session, leaving no scope for debate. Despite protests from the opposition on the cavalier manner of the introduction, without timely distribution of copies among members, the Bill was allowed.

On the same day, it was referred to a Joint Committee without even a preliminary reading of the Bill or a debate on its principles and spirit. Objections were raised by some parliamentarians on the need of joint committee when there already existed a Standing Committee on Finance, which was empowered to look into the Bill and also had representation from all political parties. It was alleged that the standing committee was being circumvented in order to secure passing of the Bill in both the houses, as they would be bound by the report of the Joint Committee. It seemed that either the government had some hidden agenda or was worried that the Bill would be blocked in Rajya Sabha, where the ruling party did not enjoy the majority.

¹ http://dea.gov.in/sites/default/files/report rc sept21 1.pdf

http://dea.gov.in/sites/default/files/FDI%20BILL-27092016_1.pdf

³ http://pib.nic.in/newsite/mbErel.aspx?relid=151215

⁴ http://pib.nic.in/newsite/PrintRelease.aspx?relid=165620

A list of members of the joint committee is given in Table 1.

Table 1: List of members of Joint Committee on the Financial Resolution and Deposit Insurance Bill, 2017

Members from Lok Sabha

S.No.	Name of Members	Political Party
1	Shri Anil (alias Padmakar) Gulabrao Shirole	Bharatiya Janata Party (BJP)
2	Shri Subhash Chandra Baheria	Bharatiya Janata Party (BJP)
3	Dr. Kirit Somaiya	Bharatiya Janata Party (BJP)
4	Shri Nishikant Dubey	Bharatiya Janata Party (BJP)
5	Shri Jayadev Galla	Telugu Desam Party (TDP)
6	Shri Gaurav Gogoi	Indian National Congress (INC)
7	Dr. Sanjay Jaiswal	Bharatiya Janata Party (BJP)
8	Shri P. Karunakaran	Communist Party of India (Marxist) (CPI(M))
9	Shri Gajanan Chandrakant Kirtikar	Shiv Sena (SS)
10	Shri Bhartruhari Mahtab	Biju Janata Dal (BJD)
11	Shri S.P. Muddahanumegowda	Indian National Congress (INC)
12	Shri Jagdambika Pal	Bharatiya Janata Party (BJP)
13	Shri Chirag Paswan	Lok Jan Shakti Party (LJSP)
14	Shri Konda Vishweshwar Reddy	Telangana Rashtra Samithi (TRS)
15	Prof. Saugata Roy	All India Trinamool Congress (AITC)
16	Shri Gopal Chinayya Shetty	Bharatiya Janata Party (BJP)
17	Shri Abhishek Singh	Bharatiya Janata Party (BJP)
18	Shri Shivkumar Chanabasappa Udasi	Bharatiya Janata Party (BJP)
19	Dr. Ponnusamy Venugopal	All India Anna Dravida Munnetra Kazhagam(AIADMK)

Vacant Seat: 1

Members from Rajya Sabha

S.No.	Name of Members	Political Party
1	Shri Bhupender Yadav	Bharatiya Janata Party(BJP)
2	Shri Anand Sharma	Indian National Congress (INC)
3	Shri Naresh Gujral	Shiromani Akali Dal (SAD)
4	Shri Bhubaneswar Kalita	Indian National Congress (INC)
5	Shri Satish Chandra Misra	Bahujan Samaj Party (BSP)
6	Shri Praful Patel	Nationalist Congress Party (NCP)
7	Shri Sukhendu Sekhar Ray	All India Trinamool Congress (AITC)

^{1.} Shri Gajendra Singh Shekhawat resigned from the membership of the Joint Committee w.e.f. 04.09.2017 on his appointment as Minister.

8	Shri Ajay Sancheti	Bharatiya Janata Party(BJP)
9	Shri Ram Chandra Prasad Singh	Janata Dal (United)
10	Shri Ravi Prakash Verma	Samajwadi Party

The Joint Committee on the Financial Resolution and Deposit Insurance Bill, 2017 was constituted on August 19, 2017, under the Chairmanship of Bhupender Yadav (BJP) and was mandated to submit its report by the last day of the first week of the next session. It invited public comments ⁵ on the Bill on September 8, 2017, to be submitted latest by September 29, 2017. It needs to be mentioned here that the entire process has taken place in a hurried manner and enough time has not been given to foster a meaningful public debate.

The following is a critique of the Financial Resolution and Deposit Insurance (FRDI) Bill, 2017 from the perspective of its impact on public sector financial entities (Banks, NBFCs, insurance companies, etc.). [For the sake of convenience we will use public sector banks (PSBs) to represent all of these].

According to this Bill, in case of a stressed PSB, the resolution can be undertaken in following ways- (i) transferring the assets and liabilities of the PSB to another person as per terms agreed upon between such person and the Resolution Corporation, (ii) creating a bridge service provider to take over assets not readily realizable, (iii) "bail in" of capital from creditors and depositors, (iv) merger or amalgamation with another firm, (v) acquisition (the PSB being sold outright), or (vi) liquidation (subject to approval by the National Company Law Tribunal). This implies that assets and the liabilities of stressed PSBs can be transferred to private companies or a bridge service provider, depositors can lose their deposits under the provision of bail in, and merger, amalgamation and acquisition can lead to consolidation or privatization of Public Banks. The current drive in government towards privatization of PSBs is a clear indication of the direction in which the wind is blowing.

The FRDI, in tandem with the IBC, was formulated as a means to reform and reinvigorate a domestic banking sector suffering from exponential increases in NPAs and severe contractions in credit over the past decade. That this situation was a direct result of cronyism and indiscriminate lending is indisputable, yet the FRDI chooses to punish the victims, PSBs hamstrung by political interference and small depositors, letting the offenders go free.

Its impact on the people's deposits, as also on emoluments and the very job security of the employees and officers is apparent; but the most dangerous consequence of FRDI is that it will take out the issue of the existence of a public sector bank from the domain of public debate and leave it to the whims of an executive proxy, the Resolution Corporation. This in return, will affect farmers, small, marginal and landless peasants, all sections of urban working people, small traders and businessman, employed and unemployed people. These people and others who are dependent on the public sector banks for saving their money as well as loans will have an economic meltdown and be left financially excluded in an environment that is not only financialized but also digitized.

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⁵ http://pib.nic.in/newsite/PrintRelease.aspx?relid=170610

1. Establishment of All Powerful "Resolution Corporation":

This Bill seeks to establish a Resolution Corporation (RC) as provided for in Chapter 2 of the Bill. This Corporation will replace the Deposit Insurance and Credit Guarantee Corporation (DICGC) as the principal agency to provide deposit insurance, classify banks based on risk to viability, provide for the resolution of specified service providers (SSP), which under FRDI covers the entire gamut of financial service providers and their holding companies, if any, and act as an administrator for the SSPs classified as being "critical".

The board of RC would have sweeping powers to order amalgamation, merger, liquidation and acquisition of any SSP- including the SBI and other nationalised banks, regional rural banks, cooperative banks and payment banks, any insurance company including the LIC and GIC and any non-banking financial institution if, in its opinion, the concerned institution's risk to viability is at imminent or critical levels. The RC will thus become an all-powerful body, usurping the domain of Reserve Bank of India (RBI) and other regulatory institutions.

Following are the ways in which RC will become undesirably powerful-

- o) Section 42(2)(c), 43(3)(b)(iii), 49(1)(i), 58(3)(c) and 60(1) provide for the denial of bonus, denial of emoluments, change in service conditions and summary termination of employees under various stages of resolution of a SSP. Such provisions provide the RC with excessive power sans any accountability. Also, as per Clause 58(3)(c), no employee can question the decision of RC in case of termination or loss of job once the Corporation takes over the financial institution. This is the violation of the rights of the workers. This also means that the employees' lives will be left at the mercy of the RC without recourse to justice under law.
- o) The Constitution of India, in the chapter dealing with the Right to Constitutional Remedies, under Article 32(4) says "The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution". But this Bill has a provision under Section 65 and 133 prohibiting Constitutional remedies by specifically saying that no proceedings for the liquidation of a service provider shall be entertained by any Court or Tribunal other than the Tribunal in accordance with the provisions of this Act (i.e. National Company Law Tribunal NCLT). Sec 133 says "Unless otherwise provided in this Act, no court or other tribunal shall have jurisdiction to entertain or adjudicate upon any matter which the Corporation, the appropriate regulator, the Tribunal or the Appellate Tribunal is empowered to decide or determine under this Act and no court or tribunal shall grant any injunction in respect of any actions proposed or reverse any such action"
- o) Under Section 36(5), the RC will have the power to classify SSPs into the five categories of risk to viability- low, moderate, material, imminent and critical. Currently, RBI undertakes a risk assessment of financial institutions. However, the Bill will transfer the absolute power to the RC and leave the regulator with merely advisory powers. Also, under Section 37, the Corporation has the power to override the regulator's classification of an SSP as being at material risk. This effectively allows the Corporation to drag any SSP within its purview if it wishes to do so. It also leaves open the possibility for the Executive to discriminate against public sector financial institutions.
- o) According to Section 4 on the composition of RC, 7 out of 11 board members will be appointed by the Central Government. This implies that the Board will be under the influence

of the Executive and not subject to the oversight of the Parliament. Thus, an RC, whose autonomy is questionable will regulate the entire financial system with an executive fiat.

- o) Section 10 ensures that RC will not be held accountable to defects in its constitution and defects in appointing a member or in the event of "irregularity of procedure not affecting the merits of the case", effectively leaving regulation of the entire financial system completely unaccountable.
- o) There are no clauses to ensure scrutiny of the decisions of the RC and its oversight.
- o) Resolution Corporation is expected to cover all entities regulated by the RBI, SEBI, IRDA and PFRDA.
- o) RBI has already initiated restoration plans for certain weak banks under its Prompt Corrective Action framework and the power of RC to intervene in banks having "material" risk to viability would interfere with that.
- o) Service providers can also directly approach RC for voluntary liquidation, without referencing the regulator.
- o) The regulators are required to share information to RC on the basis of classification and on inspection findings regardless of risk to viability to a service provider, effectively reducing the regulator to a post office.
- o) This Bill proposes the creation of a Supreme Authority which will be more powerful than Reserve Bank of India. Such an authority will be under the Finance Ministry as the Ministry has powers to appoint the Chairperson and most of its member. This implies that the independence of this authority will be subservient to the political party in power.

When the government, the RBI and boards of the banks have all played an active part in indiscriminately disbursing loans and in their subsequent restructuring, then can the government now relegate their responsibility when these loans are going bad leading to severe stress in the financial sector. The public sector banks enjoy the trust of the people even under such severe stress because they are government banks and come with an implicit sovereign guarantee. If the government, through this Bill, begins to handover its responsibility and that of the RBI to a Resolution Corporation, it would be breaking this trust.

When an SSP is at a critical risk level, its management is invested with the RC as the RC must now resolve the SSP. It no longer monitors the SSP, but rather controls it. The conflict of interest lies with the administrator and monitor being the same person. But in that too, it is only an issue as there has been a clear drive to privatize and in light of that, it wouldn't be far-fetched to assume that a public bank can be arbitrarily classified as critical to bringing it under the RC's control so as it privatize it, wholesale or piecemeal.

2. Deposit Insurance and Annulment of DICGC

All banked deposits in India are insured under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (DICGC Act), for a sum of Rs. 1 Lakh each. The act established a

corporation to collect premiums from banks, up to a maximum of 15%, and in return, provide depositors with an assurance that in the event of the bank's collapse, recovery of the insured amount was at least guaranteed.

FRDI, by rendering the DICGC Act void retracts this guarantee and entrusts the Resolution Corporation with the duties of DICGC, to collect the premium and insure deposits under Sections 22(2) and 29(1). The DICGC is a wholly owned subsidiary of the Reserve Bank of India is functioning very effectively. In fact since its inception, DICGC had to pay only 50.3 Billion Rupees whereas it has 701.5 Billion Rupees as deposit insurance fund as on March 2017. It also has Rupees 716322 Million as investments. As on March 2017, the balance in Deposit Insurance Fund is 645578.48 million and the balance in Credit Guarantee Fund is Rs.730027.64 million. Except few Co-operative Banks no other banks have required claim from DICGC. This clearly shows that the depositors are safe in our country.

However, unlike under DICGC Act where these amounts were drafted into the legislation, there are no amounts fixed in FRDI Bill as such. Under FRDI, the RC should specify the premium payable and the amount insured in its regulations.

This effectively transfers power to determine premiums and the sum assured by the Parliament and the public domain to the executive via its proxy, the Resolution Corporation.

3. Bail-In:

According to Section 48(1)(c), the RC can choose to resolve an SSP classified as a critical risk to viability through a bail-in. Bail-in refers to a situation wherein, the depositor's money, beyond the insured amount, can be converted into equity and the depositors can be made shareholders sans consent. This means that working class depositors will have to bear the brunt and sacrifice their hard-earned savings for the greater good of saving politically manipulated banks and their inept or wilfully defaulting borrowers. Thus the Bail-in concept is a double whammy. Here the Bill is taking away the right of the depositors to get back what they deposited in a Public Sector Bank in full trust that their money would be safe. This raises an important question that how a depositor who had no authority in deciding the investments of a financial institution be made to bear the brunt of such indiscriminate lending?

The government knows that problem of bad loans has been caused by large corporate borrowers, including some who are wilful defaulters. It is then unfortunate that through this Bill the burden for debt repayment is shifted on to the depositors and not borrowers.

Post-2008, in order to protect big banks from an economic recession, several provisions were made to keep liquidity in the bank and the option of bail-in was introduced.

This crisis took place recently in Cyprus where the depositors lost almost 50% of their savings when the resolution corporation implemented a "bail-in", which is similar to that proposed in this Bill. In March 2013, the people of Cyprus had to face the choice where depositors with

over €100,000 would either lose 40% of their money (Bank of Cyprus) or lose 60% (Laiki bank). While the banks survived, the depositors lost their savings. Just in February that year (a month before the bail-in was implemented), the government of Cyprus announced that it had reached an agreement for a bailout with the European Union and yet the country opted for bail in instead of the bailout. There was even a limit over withdrawal above €100 put by banks.

4. Haircut:

As per Section 44(1)(a), with regard to central counterparties (a corporate entity that acts as a guarantor to parties of a trade) which are included within the definition of SSPs, the appropriate regulator can "allocate uncovered losses caused by participant default via variation margin haircutting." In section 44(2)(b), Haircut is defined as "percentage reduction in the amount that is payable to the creditors."

The term haircut has been in the financial lexicon for a while now. It is nothing but writing off a part of the loan amount, which means the borrower will have to repay only a part of the loan taken and the lenders will incur losses. If the purpose of the Bill is to help the banks address the problem of NPAs, the government should have been putting efforts in recovering the money that is due to the banks and not writing it off. Writing off money does not constitute recovery of loan or mitigation of losses. The changes in legislation are not promising when the RBI, on one hand, directs banks to file bankruptcy proceedings against companies and on the other orders them to keep 100 percent provisions for bad loans in case of liquidation! Such provisions are nothing but stealing from the poor to pay the rich.

5. Merger And Liquidation Of The Public Sector Banks:

This Bill, in Section 48(1)(d), provides for merger or amalgamation of the specified service provider for the purpose of resolution.

The merger of State Bank of India with its subsidiaries on the 1st April 2017 was claimed to be a "success" that has catapulted SBI into top 50 global banks in terms of its assets, expanding its customer base to 37 crore, with a deposit base of Rs. 26 lakh crore. However, the first quarterly results⁶ of the financial year 2018 saw the operating profit of SBI group declining by 13.72% from Rs. 13,762 crore in the first quarter of 2017 to Rs. 11,874 crore in the same period for the year 2018. Despite this revelation, which invalidates the argument that merger will improve the operations of the bank, the government is hell-bent on more mergers, when even rating agencies⁷ have shown scepticism of its effectiveness in fighting NPAs.

https://www.sbi.co.in/portal/documents/44589/101996501/Press+Release+Q1FY18/19bd6486-72f7-41cc-8b38-b80d22e2af8d

https://www.bloombergquint.com/business/2017/06/08/consolidation-not-the-answer-to-banking-sector-stress-say-moodys-and-icra

Post this debacle, the Finance Minister recently said that the government would now merge stronger banks together and not stronger ones with weak banks. The merger of Banks will only advance the concentration of capital and not help the common citizen of the country. A merger also means a reduction in brick and mortar branches, which will be detrimental to the country which is still underbanked when compared with other developing and developed nations. Hence what India needs is an expansion of banking and not its consolidation! Branch closure will also lead to cutting down on the staff.

The banking crisis is today being used as an opportunity to overhaul the banking system as we know it. The combination, of merging small banks to create a few 'lending giants' along with the introduction of payment banks, most of which are in private hands, is a perfect way to end brick and mortar branches

Apart from mergers, the Bill also proposes to bring about various amendments across legislation like SBI Act to create provisions for the liquidation of SBI, Regional Rural Banks, other Public sector banks and Co-operative banks. Any Act passed in the Parliament which is the supreme lawmaking authority of the country should create confidence in the minds of the people. In our country, more than 80% of the depositors are classified as household depositors with small savings which they keep in the bank with the absolute trust that the government will ensure repayment of the same. However, this Bill has brought the SBI as well as other PSBs under its ambit and has provided a clause for the liquidation of these banks. This will create insecurity among the depositors. Everyone should recall that in spite of the US financial crisis 2008 which spread to Europe and most parts of the world there was no run on Indian Banks because of this trust. If this trust is broken it can lead to turmoil even in case of a small crisis in the financial sector. People will not like to keep their savings in the banks as they may lose them in case of bail-ins or liquidation.

6. Systemically Important Financial Institutions (SIFI):

Under Section 25, the ability to characterize what is a SIFI is vested specifically with the Central Government.

The RBI had, prior to FRDI, already identified the State Bank of India, ICICI Bank and HDFC Bank as Domestic Systemically Important Banks (DSIBs). What is new is that the Bill in Section 25(1) states: "any person designated as Domestic Systemically Important Bank by the Reserve Bank of India shall be deemed to be a systemically important financial institution for the purposes of this Act, for a period of six months with effect from such date as the Central Government may, by notification, specify." Moreover, Sections 26 (2) and 38(2), treat all SIFIs that are classified as being 'low' or 'moderate' risk as if they were permanently under 'material' and 'imminent' levels of risk. These clauses adequately read together to give the Executive the ability to have control of any financial institution. Doing this would not only delay the decision-making and response time but also aggravate the SIFI's lack of autonomy and also serve as a deterrent for further growth.

7. Bridge Service Providers:

This Bill proposes the establishment of bridge service providers. These will be wholly-owned subsidiaries of the Resolution Corporation with its members also appointed by such. According to Section 50 (1), "The Corporation may create a bridge service provider by incorporating a company under the provisions of the Companies Act, 2013" and Section 50 (4) states that "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." However, the nature of the persons who can be appointed and the criteria for a company to be selected is not mentioned. Therefore, there is ambiguity regarding the nature of the management of the bridge service provider.

The purpose of the bridge service provider is to act as a repository for assets and liabilities not immediately realizable and continue critical functions.

The stipulated time period for a bridge service provider to be resolved is one year (which can be extended by another year), but is this time sufficient? This will only push banks into liquidation, rather than any other durable solution.

8. Making the Judiciary non-functionary:

Section 65(1) states "Notwithstanding anything in any other law for the time being in force, no proceeding for the liquidation of a specified service provider shall be entertained by any court or tribunal other than the Tribunal, in accordance with the provisions of this Act." Section 133 also prohibits constitutional remedies by preventing courts and Tribunals from entering any proceedings for the liquidation of a service provider. The Corporation according to this Bill can act with impunity and the only appellate body is the National Company Law Tribunal (NCLT), which is highly understaffed comprising of only 11 benches, 16 judicial members and seven technicians.

A similar restriction is imposed on the employees who are terminated under this act, that they cannot avail a judicial relief. Proposing such a provision in the Bill will put up restrictions on the judiciary and abridge peoples' rights, which make this provision unconstitutional.

9. Key Attributes For Financial Resolution Of The Financial Stability Board:

The 2008 financial recession was a strong blow to finance capital as their "too big to fail" model crumbled in the market crash. The state, which had stepped out of the economic game, governed by the rules of the market, had to step in to bail out many of the banks and corporations. The global economy is still haunted by the spectre of 2008. Hence 2008 became a

defining moment in the recent financial history giving birth to new and innovative ideas to save finance capital.

The Financial Stability Board, 2009 (FSB) was formed (or rather derived from its earlier avatar of Financial Stability Forum (1999)) by the G7 countries, in the aftermath of the global recession. Its primary objective was to ensure the stability of the big corporate companies and banks. Thus, the Financial Stability Board brought out a resolution regime into the picture. A report titled "Key Attributes of Effective Resolution Regimes of Financial Institutions", for Financial Resolution was adopted in November 2011 by the G20 Heads of the States as the new International standards for resolution regimes. This was endorsed by IMF. FSB and IMF were to individually and jointly assess the progress of the implementation of these policies through peer review of member countries and inform their progress to G20 countries.

The Resolution Authority (as mentioned in the report) is the institution that would ensure this financial stability. At the risk of being dismissed as oversimplification – the simplest way to understand the purpose of the Resolution Authority is to ensure that there is money at the financial institutions at all times, just in case, the market crashes again.

The FRDI Bill is, in fact, the product of this report of the Financial Stability Board. However, many parts of this Bill along with the Resolution Corporation just reproduce the model and other recommendations of the report in the letter as well in spirit without even considering the peculiarities of the Indian scenario. These include the provision of bail-in, bridge service provider, haircut, Resolution Corporation and its discretionary and sweeping powers, all of which are taken from the report. Some parts of the Bill have even been adopted verbatim from the "Key Attributes of Effective Resolution Regimes for Financial Institution" document published in October 2014. In RBI's "Financial Stability Report December 2016", it is mentioned in Section 3.25 that " the setting up of Resolution Corporation would help India adhere to Financial Stability Board's Key Attributes (FSB-KAs) of Effective Resolution Regimes for Financial Institutions". All of this has been done with no due consideration for the people of the country that stand to lose their savings if these resolution tools, such as the bail-in are implemented.

Contrary to all this, India was relatively insulated from the effects of the market crash because, among other reasons, the Indian banks were primarily deposit driven. The Indian economy survived because it had state-run financial institutions (public banks). The Indian economy and its intuitions are very different from that of the west. In such a situation, there is no reason for the government to accept this report and adhere to it without taking the Indian reality into consideration? The committee headed by Mr Ajay Tyagi, Additional Secretary, Department of Economic Affairs has only copied from the recommendations of the Financial Stability Board and has not gone into the assessment of the Indian financial sector. Hence, the recommendations are not practical and not suitable for our country.

We cannot compare the public sector banks in India with the banks of the western countries. Between 2008 & 2012, 465 banks failed in the United States of America during the financial meltdown because they were private. Many of them were small and some of them were big. Some were undertaking only specific areas of business like "Mortgage Banks". On the other hand, in India post-1969, due to the government guarantee, no bank has failed.

10. Privatisation Route through FRDI

State Bank of India Act has a provision that SBI can never be liquidated, whereas this Bill proposes to amend various Acts including SBI Act and create a provision for liquidation of SBI, public sector banks, Regional Rural Banks and co-operative banks. Moreover, it seems that instead of being liquidated, these banks will be handed over to the private sector. It was only because of the mismanagement by the private sector that the banks were nationalised. After nationalisation banks have played a major role in development of the economy. Even now for the recovery of the economic growth, banks have to play a key role. At this crucial juncture the passage of this Bill will only lead to further deterioration of the economy.

Conclusion

A Bill of this nature has the potential of changing the financial landscape of the country. Yet, it has not engaged seriously with the Indian systems of finance in its drafting. The Bill negates the existing systems of resolution instead of strengthening them and has focused on blindly adopting the FSB's recommendations. Given that the PSBs are already facing NPA crisis, the government should look into recapitalizing and recovering the loan money with the intent of helping the financial institutions. Instead, this Bill will tear down the institutions and burden the people of this country.

The committee in its invitation for views had mentioned 'all stakeholders'. The largest stakeholders are the working people and retirees who have deposits and savings in the banks and a large number of them are unaware that the stakes are against them.

It is known that over 89 percent of the bad loans are those of big corporate companies. Given the slump in the growth and stagnation of many vital sectors in the recent past, this situation was inevitable. That being said, the government has not taken any steps against wilful defaulters. Even the Supreme Court had in its verdict asked for the names of the wilful defaulters to be published. Publishing the names of the wilful defaulters and holding them accountable would certainly be less tedious than liquidating banks and bailing-in deposits of hundreds of people of the country.

Life Insurance Corporation (LIC) of India which was started with just an investment of Rs. 5 crore by the Government of India has today grown into a great institution with an excellent track record of honouring insurance policies and the LIC also contributes a huge sum to the annual budget of the country via dividends. LIC is also a shareholder in most of the banks and financial institutions as per the directives of the government. With the passage of the Bill, an institution as great as LIC and General Insurance Corporation (GIC) of India will also come under the ambit of resolution through Resolution Corporation. Moreover, Regional Rural Banks, which have a large outreach in rural areas and cooperative banks which cater to the rural and remote parts of the country, will also be easily liquidated. State governments and NABARD support them as they provide the last mile

outreach of credit to farmers and poor. Therefore, the Bill also infringes on the powers of the state governments. What is this, if not an attack on the people, especially those who are more dependent on the State for their survival and livelihood?

When the government, RBI, board of the banks have all played an active part in indiscriminately disbursing loans, then the government cannot delegate its responsibility now. The public sector banks enjoy the trust of the people even under such severe stress because they are government banks and are regulated by the Central Bank of the country. The public sector banks form the backbone of the economy. If the government through this Bill reshapes public sector banks and redefines their role (by minimizing it) in the Indian economy, without addressing the policy measures (or the lack thereof) that have contributed to the crisis of public sector banks and the needs of the economy, then the government will further deepen the economic crisis. This would amount to breaking the trust of the people.

Frequently Asked Questions (FAQs)

The campaign against the Bill led to media houses, political parties and common people questioning the Bill. Even though most of the criticisms was restricted to the 'bail-in' clause, the furore it created forced the finance ministry and even the Prime Minister to respond to the people. The Joint Parliamentary Committee on FRDI requested more time to engage with the Bill. The Bill is now set to be tabled in the budget session.

In the meanwhile there have been multiple news reports trying to defend the Bill and spreading misinformation and half-truth among the public. A few of these have been answered below:

1. Is it true that the insurance coverage is going to be increased beyond 1 Lakh?

The maximum deposit Insurance according to Deposit Insurance and Credit Guarantee Corporation Act, 1961 is a sum of 1 lakh. The FRDI bill does not change the amount to a higher amount.

The finance minister in his statements have mentioned that the FRDI Bill will have provisions to increase the deposit insurance, but there is no such provisions as of now in the Bill.

2. Is it true that bail-in will not be used for Public Sector Banks?

The FRDI Bill includes all financial institutions, including public sector banks. There is no provisions in the Bill to exempt the Public Sector Banks from bail-in clause. There are a few news-paper reports that have mentioned it, but so far there has been no changes in the Bill.

3. There are reports in the news media that customers are withdrawing deposits fearing the implementation of bail-in clause. What can be done to alleviate such fears?

The bank customers should be informed that there is no immediate threat to their deposits as the FRDI bill is still under the consideration of the parliamentary committee. But the customers should be urged to support the campaign to push back FRDI Bill in its current form.

4. There is a criticism that the Bank unions are opposing every new proposal of the government. Is it true?

The bank employees have always supported and welcomed decisions of the government which have helped the people. It is the bank employees who have worked hard, to implement the government's policy. Even during demonetisation it was the bank employees who worked over time even without any remuneration. But whenever there has been a policy against the interest of the people of this country the bank unions have always opposed it and will continue to do so.

5. Is it correct that public sector banks cannot be liquidated?

According to the FRDI Bill, any institution that has gone to critical risk to viability and against which an order of liquidation is passed, can be liquidated by the Resolution Corporation. The finance ministry in a recent press release dated 07 December 2017, stated that government's implicit guarantee will remain unaffected. But the Bill does not exempt public sector banks from liquidation.

6. Is it true that the co-operative banks have bigger danger if FRDI Bill is implemented?

Yes, co-operative banks in India are in a weaker position. It is a possibility that many of the co-operative banks would fall under critical risk to viability according to the classification of the FRDI Bill, paving way for their resolution.

The co-operative banks and regional rural banks provide the last mile of service to the poor and are governed by state governments and NABARD.

7. How will employees and officers of a financial institution be affected by the Bill?

When any finance institution is under investigation by the Resolution Corporation, the corporation can suspend, withhold remuneration or even terminate any employee or officer. According to the provisions of the Bill, the concerned employee or officer cannot question or appeal against the decision of the Resolution Corporation.

8. Where are deposits safe now? In post office, mutual funds or any other financial institution?

FRDI Bill covers all financial institutions

9. What is the way out?

Join Campaign against FRDI. Go to repealfrdi.net and write to your M.P. asking her/him to vote against the Bill. Be aware of the changes that the government is bringing with regard to finance and financial institutions. Join the fight against privatisation of public sector institutions.

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