

The Forward Contracts (Regulation) Act, 1952

UNION OF INDIA

India

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Regulation

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Central Government ActThe Forward Contracts (Regulation) Act, 1952The Forward Contracts (Regulation) Act, 1952

1. Short title, extent and commencement.—(1) This Act may be called the Forward Contracts (Regulation) Act, 1952.

(2)It extends to the whole of India 2[***].(3)Chapter I shall come into force at once and the remaining provisions shall come into force on such date3 or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, for different States or areas, and for different goods or classes of goods.

2. Definitions.—In this Act, unless the context otherwise requires,—(a) “association” means any body of individuals, whether incorporated or not, constituted for the purpose of regulating and controlling the business of the sale or purchase of any goods:

(b)“Commission” means the Forward Markets Commission established under section 3; tc" (b) “Commission” means the Forward Markets Commission established under section 3;"(c)“forward contract” means a contract for the delivery of goods 1[*] **and which is not a ready delivery contract; tc" (c) “forward contract” means a contract for the delivery of goods 4[*] and which is not a ready delivery contract;**(d)“goods” means every kind of movable property other than actionable claims, money and securities; tc" (d) “goods” means every kind of movable property other than actionable claims, money and securities;"(e)“Government security” means a Government security as defined in the Public Debt Act, 1944 (18 of 1944); tc" (e) “Government security” means a Government security as defined in the Public Debt Act, 1944 (18 of 1944);"(f)“non-transferable specific delivery contract” means a specific delivery contract, the rights or liabilities under which or

under any delivery order, railway receipt, bill of lading, warehouse receipt or any other document of title relating thereto are not transferable; tc" (f) "non-transferable specific delivery contract" means a specific delivery contract, the rights or liabilities under which or under any delivery order, railway receipt, bill of lading, warehouse receipt or any other document of title relating thereto are not transferable;"(g)"option in goods" means an agreement, by whatever name called, for the purchase or sale of a right to buy or sell, or a right to buy and sell, goods in future, and includes a teji, a mandi, a teji-mandi, a galli, a put, a call or a put and call in goods; tc" (g) "option in goods" means an agreement, by whatever name called, for the purchase or sale of a right to buy or sell, or a right to buy and sell, goods in future, and includes a teji, a mandi, a teji-mandi, a galli, a put, a call or a put and call in goods;"(h)"prescribed" means prescribed by rules made under this Act; tc" (h) "prescribed" means prescribed by rules made under this Act;"(i)"ready delivery contract" means a contract which provides for the delivery of goods and the payment of a price therefor, either immediately or within such period not exceeding eleven days after the date of the contract and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in respect of any goods, the period under such contract not being capable of extension by the mutual consent of the parties thereto or otherwise: tc" (i) "ready delivery contract" means a contract which provides for the delivery of goods and the payment of a price therefor, either immediately or within such period not exceeding eleven days after the date of the contract and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in respect of any goods, the period under such contract not being capable of extension by the mutual consent of the parties thereto or otherwise:" 2[Provided that where any such contract is performed either wholly or in part,—(1) by tendering of the documents of title to the goods covered by the contract by any party thereto (not being a commission agent or a bank) who has acquired ownership of the said documents by purchase, exchange or otherwise, to any other person (including a commission agent but not including a bank); or tc" (1) by tendering of the documents of title to the goods covered by the contract by any party thereto (not being a commission agent or a bank) who has acquired ownership of the said documents by purchase, exchange or otherwise, to any other person (including a commission agent but not including a bank); or"(2)by the realisation of any sum of money, being the difference between the contract rate and the settlement rate or clearing rate or the rate of any offsetting contract; or tc" (2) by the realisation of any sum of money, being the difference between the contract rate and the settlement rate or clearing rate or the rate of any offsetting contract; or"(3)by any other means whatsoever, tc" (3) by any other means whatsoever," and as a result of which the actual tendering of the goods covered by the contract or the payment of the full price therefor is dispensed with, then, such contract shall not be deemed to be a ready delivery contract. tc" and as a result of which the actual tendering of the goods covered by the contract or the payment of the full price therefor is dispensed with, then, such contract shall not be deemed to be a ready delivery contract." Explanation.—For the purposes of this clause,—(i) "bank includes any banking company as defined in the Banking Regulation Act, 1949 (10 of 1949), a co-operative bank as defined in the Reserve Bank of India Act, 1934 (2 of 1934) the State Bank of India and any of its subsidiaries and any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970); tc" (i) "bank includes any banking company as defined in the Banking Regulation Act, 1949 (10 of 1949), a co-operative bank as defined in the Reserve Bank of India Act, 1934 (2 of 1934) the State Bank of India and any of its subsidiaries and any corresponding new bank constituted under section 3 of the Banking Companies

(Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);" (ii) "commission agent" means a person who, in the ordinary course of business, makes contract for the sale or purchase of goods for others for a remuneration (whether known as commissioner or otherwise) which is determined in the contract itself or determinable from the terms of the contract, in either case, only with reference to the quantity of goods or to the price therefor as stipulated in the contract.] tc" (ii) "commission agent" means a person who, in the ordinary course of business, makes contract for the sale or purchase of goods for others for a remuneration (whether known as commissioner or otherwise) which is determined in the contract itself or determinable from the terms of the contract, in either case, only with reference to the quantity of goods or to the price therefor as stipulated in the contract.] 3[(j) "recognised association" means an association to which recognition for the time being has been granted by the Central Government under section 6 in respect of goods or classes of goods specified in such recognition;(jj) "registered association" means an association to which for the time being a certificate of registration has been granted by the Commission under section 14B;] tc" (jj) "registered association" means an association to which for the time being a certificate of registration has been granted by the Commission under section 14B;]" (k) "rules", with reference to the rules relating in general to the constitution and management of an association, includes in the case of an incorporated association its memorandum and articles of association; tc" (k) "rules", with reference to the rules relating in general to the constitution and management of an association, includes in the case of an incorporated association its memorandum and articles of association;" (l) "securities" includes shares, scrips, stocks, bonds, debentures, debenture-stocks, or other marketable securities of a like nature in or of any incorporated company or other body corporate and also Government securities; tc" (l) "securities" includes shares, scrips, stocks, bonds, debentures, debenture-stocks, or other marketable securities of a like nature in or of any incorporated company or other body corporate and also Government securities;" (m) "specific delivery contract" means a forward contract which provides for the actual delivery of specific qualities or types of goods during a specified future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which the names of both the buyer and the seller are mentioned; tc" (m) "specific delivery contract" means a forward contract which provides for the actual delivery of specific qualities or types of goods during a specified future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which the names of both the buyer and the seller are mentioned;" (n) "transferable specific delivery contract" means a specific delivery contract which is not a non-transferable specific delivery contract 4[and which is subject to such conditions relating to its transferability as the Central Government may, by notification in the Official Gazette, specify in this behalf]. tc" (n) "transferable specific delivery contract" means a specific delivery contract which is not a non-transferable specific delivery contract 2[and which is subject to such conditions relating to its transferability as the Central Government may, by notification in the Official Gazette, specify in this behalf]."

3. Establishment and constitution of the Forward Markets Commission.—(1) The Central Government may, by notification in the Official Gazette, establish a Commission to be called the Forward Markets Commission for the purpose of exercising such functions and discharging such duties as may be assigned to the Commission by or under this Act.

(2)The Commission shall consist of not less than two, 1[but not exceeding four], members appointed by the Central Government 2[one of them being nominated by the Central Government to be the Chairman thereof; and the Chairman and the other member or members shall be either whole-time or part-time as the Central Government may direct]: 3[Provided that the members to be so appointed shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to commerce or commodity markets, or in administration or who have special knowledge or practical experience in any matter which renders them suitable for appointment of the Commission.](3)No person shall be qualified for appointment as, or for continuing to be; a member of the Commission if he has, directly or indirectly, any such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission, and every member shall, whenever required by the Central Government so to do, furnish to it such information as it may require for the purpose of securing compliance with the provisions of this sub-section.(4)No member of the Commission shall hold office for a period of more than three years from the date of his appointment, and a member relinquishing his office on the expiry of his term shall be eligible for reappointment.(5)The other terms and conditions of service of members of the Commission shall be such as may be prescribed.

1. [3A Management of Commission. —(1) The Commission shall consist of the following members, namely:—(a) a Chairman;

(b)two members from amongst the officials of the Ministries or Departments of the Central Government dealing with Consumer Affairs, Commodity Derivatives, Food and Public Distribution, Agriculture or Finance;(c)one member from amongst the officials of the Reserve Bank;(d)five other members of whom at least three shall be the whole-time members.(2)The general superintendence, direction and management of the affairs of the Commission shall vest in a board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Commission.(3)Save as otherwise determined, by regulations, the Chairman shall have powers of general superintendence and direction of the affairs of the Commission and may also exercise all powers and do all acts and things which may be exercised or done by the Commission.(4)The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of the sub-section shall be nominated by the Central Government and the Reserve Bank, respectively.(5)The Chairman and other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to commodity markets or who have special knowledge or experience of commerce or economics or law or finance or in administration or have practical experience in any matter which renders them suitable for appointment on the Commission: Provided that every person appointed as Chairman and every other person appointed as member of the Commission and holding office as such immediately before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall, notwithstanding any order for their appointment made under sub-section (2) of section 3 as it stood before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall hold office till the Chairman or other member has been appointed in accordance with this section after such commencement and no person shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

3B. Term of office and conditions of service of Chairman and members of Commission. —(1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 3A shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of sub-section (1) of section 3A, at any time before the expiry of the period prescribed under sub-section (1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

3C. Removal of member from office. —The Central Government shall remove a member from office if he—(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court; (c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude; (d) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest: Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

3D. Meetings of Commission. —(1) The Commission shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings including quorum at such meetings as may be provided by regulations.

(2) The Chairman or, if for any reason he is unable to attend the meeting of the Commission, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting. (3) All questions which come up before any meeting of the Commission shall be decided by a majority of votes of the members of the Commission present and voting, and in the event of an equality of votes, the Chairman or in his absence the member presiding, shall have a second or casting vote.

3E. Vacancies etc. not to invalidate proceedings of Commissions. —No act or proceeding of the Commission shall be invalid merely by reason of—(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as a member of the Commission; or (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

3F. Member not to participate in meetings in certain cases. —Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Commission, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Commission, and the member shall not take any part in any deliberation or decision of the Commission with respect to that matter..

3G. Bar on future employment of members. —The Chairman and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept any employment with any person dealing with the commodities derivatives or with any intermediary.

3H. Officers and employees of Commission. —(1) The Commission may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2)The terms and conditions of service of the officers and employees of the Commission appointed under sub-section (1) shall be such as may be determined by regulations: Provided that every officer and other employee holding any office under the Commission, before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall continue to hold his office as such after such commencement for the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the said Ordinance had not come into force and shall continue to do so as an officer or other employee of the Commission until the regulations are made under this sub-section or the expiry of one year from the date of such commencement or till the date on which such officer or other employee opts not to be the officer or other employee of the Commission, whichever is earlier.]

4. Functions of the Commission.—The functions of the Commission shall be—(a) to advise the Central Government in respect of the recognition of, or the withdrawal of recognition from, any association or in respect of any other matter arising out of the administration of this Act; tc" (a) to advise the Central Government in respect of the recognition of, or the withdrawal of recognition from, any association or in respect of any other matter arising out of the administration of this Act;" 1[(b) to keep forward markets under observation and to take such action in relation to them as it may consider

necessary, in exercise of the powers assigned to it by or under this Act;]

(c)to collect and whenever the Commission thinks it necessary publish information regarding the trading conditions in respect of goods to which any of the provisions of this Act is made applicable, including information regarding supply, demand and prices, and to submit to the Central Government periodical reports on the operation of this Act and on the working of forward markets relating to such goods; tc" (c) to collect and whenever the Commission thinks it necessary publish information regarding the trading conditions in respect of goods to which any of the provisions of this Act is made applicable, including information regarding supply, demand and prices, and to submit to the Central Government periodical reports on the operation of this Act and on the working of forward markets relating to such goods;"(d)to make recommendations generally with a view to improving the organisation and working of forward markets; tc" (d) to make recommendations generally with a view to improving the organisation and working of forward markets;"(e)to undertake the inspection of the accounts and other documents of 2[any recognised association or registered association or any member of such association] whenever it considers it necessary; and tc" (e) to undertake the inspection of the accounts and other documents of 3[any recognised association or registered association or any member of such association] whenever it considers it necessary; and"(f)to perform such other duties and exercise such other powers as may be assigned to the Commission by or under this Act, or as may be prescribed. tc" (f) to perform such other duties and exercise such other powers as may be assigned to the Commission by or under this Act, or as may be prescribed."

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[4A. Powers of the Commission.—(1) The Commission shall, in the performance of its functions, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely:(a) summoning and enforcing the attendance of any person and examining him on oath; tc" (a) summoning and enforcing the attendance of any person and examining him on oath;"(b)requiring the discovery and production of any document; tc" (b) requiring the discovery and production of any document;"(c)receiving evidence on affidavits; tc" (c) receiving evidence on affidavits;"(d)requisitioning any public record or copy thereof from any office; tc" (d) requisitioning any public record or copy thereof from any office;"(e)any other matter which may be prescribed. tc" (e) any other matter which may be prescribed."(2)The Commission shall have the power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, any matter under the consideration of the Commission and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 of the Indian Penal Code (45 of 1860).(3)The Commission shall be deemed to be a civil court and when any offence described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (45 of 1860) is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898 (5 of 1898)², forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the

complaint against the accused as if the case had been forwarded to him under section 4823 of the said Code.(4)Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

Explanation.—For the purposes of enforcing the attendance of witnesses, the local limits of the Commission's jurisdiction shall be the limits of the territory of India.]

4. [4B Power to issue directions by Commission. —Save as otherwise provided in section 4, if after making or causing to be made an inquiry, the Commission is satisfied that it is necessary, in the interest of trade and orderly development of commodity derivatives market, it may issue directions to any intermediary or association.

4C. Cease and desist proceedings. —If the Commission finds, after causing an inquiry to be made, that any person has violated, or is likely to violate any provisions of this Act or any rules or regulations made thereunder, the Commission may pass an order requiring such person to cease and desist from committing or causing such violations.]

5. [4D Grants by Central Government. —The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act.]

6. [4E Fund. —(1) There shall be constituted a Fund to be called the Forward Markets Commission General Fund and there shall be credited thereto—(i) all grants and fees received by the Commission under this Act;

(ii)all sums received by the Commission from such other sources as may be decided upon by the Central Government.(2)The Fund shall be applied for meeting—(i) the salaries, allowances and other remuneration of the members, officers and other employees of the Commission;(ii)the expenses of the Commission in the discharge of its functions under section 4;(iii)the expenses on objects and for purposes authorised by this Act:Provided that the sums authorised to be paid and applied from and out of the Consolidated Fund of India and appropriated by law made by Parliament for the services and purposes of the Commission shall continue to be paid and applied for such services and purposes of the Commission till the Fund is constituted under this section.

7. [4F Accounts and audit.— (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of

India.

(2)The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.(3)The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Commission shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts, and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.(4)The accounts of the Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.]

5. Application for recognition of associations.—(1) Any association concerned with the regulation and control of forward contracts which is desirous of being recognised for the purposes of this Act may make an application in the prescribed manner to the Central Government.

(2)Every application made under sub-section (1) shall contain such particulars as may be prescribed and shall be accompanied by a copy of the bye-laws for the regulation and control of forward contracts and also a copy of the rules relating in general to the constitution of the association, and, in particular, to—(a) the governing body of such association, its constitution and powers of management and the manner in which its business is to be transacted; tc" (a) the governing body of such association, its constitution and powers of management and the manner in which its business is to be transacted;"(b)the powers and duties of the office bearers of the association; tc" (b) the powers and duties of the office bearers of the association;"(c)the admission into the association of various classes of members, the qualifications of members, and the exclusion, suspension, expulsion and readmission of members therefrom or thereinto; tc" (c) the admission into the association of various classes of members, the qualifications of members, and the exclusion, suspension, expulsion and readmission of members therefrom or thereinto;"(d)the procedure for registration of partnerships as members of the association and the nomination and appointment of authorised representatives and clerks. tc" (d) the procedure for registration of partnerships as members of the association and the nomination and appointment of authorised representatives and clerks."

6. Grant of recognition to association.—(1) If the Central Government, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require, is satisfied that it would be in the interest of the trade and also in the public interest to grant recognition to the association which has made an application under section 5, it may grant recognition to the association in such form and subject to such

conditions as may be prescribed or specified, and shall specify in such recognition the goods or classes of goods with respect to which forward contracts may be entered into between members of such association or through or with any such member.

(2) Before granting recognition under sub-section (1) the Central Government may, by order, direct,—(a) that there shall be no limitation on the number of members of the association or that there shall be such limitation on the number of members as may be specified; tc" (a) that there shall be no limitation on the number of members of the association or that there shall be such limitation on the number of members as may be specified;"(b)that the association shall provide for the appointment by the Central Government of a person, whether a member of the association or not, as its representative on, and of not more than three persons representing interests not directly represented through membership of the association as member or members of, the governing body of such association, and may require the association to incorporate in its rules any such direction and the conditions, if any, accompanying it. tc" (b) that the association shall provide for the appointment by the Central Government of a person, whether a member of the association or not, as its representative on, and of not more than three persons representing interests not directly represented through membership of the association as member or members of, the governing body of such association, and may require the association to incorporate in its rules any such direction and the conditions, if any, accompanying it."(3) No rules of a recognised association shall be amended except with the approval of the Central Government.(4) Every grant of recognition under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised association is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.

7. Withdrawal of recognition.—If the Central Government is of opinion that any recognition granted to an association under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may, after giving a reasonable opportunity to the association to be heard in the matter, withdraw by notification in the Official Gazette, the recognition granted to the said association: Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

7A. Corporation and demutualisation of associations. —On and from the appointed date, all recognized associations (if not corporatised and demutualised before the appointed date) shall be corporatised and

demutualised in accordance with the provisions contained in section 7B: Provided that different appointed dates may be appointed for different recognized associations: Provided further that the Commission may, if it is satisfied that any recognized association was prevented by sufficient, cause from being corporatised and demutualised on or after the appointed date, extend the appointed date specified in respect of that recognized association and such recognized association may continue as such before such appointed date. Explanation.—For the purposes of this section, “appointed date” means the date which the Commission may, by notification, appoint.

7B. Procedure for corporation and demutualisation. —All recognized associations referred to in section 7A shall, within such time as may be specified by the Commission, submit a scheme for corporatisation and demutualisation for its approval: Provided that the Commission may, by notification, specify name of the recognised association, which had already been corporatised and demutualised, and such association shall not be required to submit the scheme under this section.(2) On receipt of the scheme referred to in sub-section (1), the Commission may, after making such inquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade in goods or commodity derivatives and also in the public interest, approve the scheme with or without modification.

(3)No scheme under sub-section (2) shall be approved by the Commission if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised association or payment of dividends to members have been proposed out of any reserves or assets of that association.(4)Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—(a) the Commission in the Official Gazette;(b)the recognised association in such two daily newspapers circulating in India, as may be specified by the Commission, and upon such publication, notwithstanding anything contained contrary to any other provision of this Act or in any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members, creditors, depositors and employees of the recognised association and on all persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised association or its members.(5)Where the Commission is satisfied that it would not be in the interest of the trade in goods or commodity derivatives and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette: Provided that the Commission shall give a reasonable opportunity of being heard to all the persons concerned and the recognised association concerned before passing

an order rejecting the scheme.(6)The Commission may, while approving the scheme under sub-section (2), by an order in writing, restrict—(a) the voting rights of the shareholders who are also members of the recognised association;(b)the right of shareholders or a member of the recognised association to appoint the representatives on the governing board of the association;(c)the maximum number of representatives of the members of the recognized association to be appointed on the governing board of the association, which shall not exceed one-fourth of the total strength of the governing board.(7)The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force, have full effect.(8)Every recognised association, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2) shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Commission, ensure that at least fifty-one per cent. of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights: Provided that the Commission may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.]

8. Power of Central Government to call for periodical returns or direct inquiries to be made.—1[(1) Every recognised association and every member thereof shall furnish to the Central Government such periodical returns relating to its affairs, or the affairs of its members, or his affairs, as the case may be, as may be prescribed.]

(2)Without prejudice to the provisions contained in sub-section (1) where the Central Government considers it expedient so to do, it may, by order in writing,—(a) call upon a recognised association 2[or a member thereof] to furnish in writing such information or explanation relating to its affairs or the affairs of any of its members 2[or his affairs, as the case may be,] as the Central Government may require, or tc" (a) call upon a recognised association 2[or a member thereof] to furnish in writing such information or explanation relating to its affairs or the affairs of any of its members 2[or his affairs, as the case may be,] as the Central Government may require, or"(b)appoint one or more persons to make an inquiry in relation to the affairs of such association or the affairs of any of its members and submit a report of the result of such inquiry to the Central Government within such time as may be specified in the order or, in the alternative, direct the inquiry to be made, and the report to be submitted, by the governing body of such association acting jointly with one or more representatives of the Central Government; and tc" (b) appoint one or more persons to make an inquiry in relation to the affairs of such association or the affairs of any of its members and submit a report of the result of such inquiry to the Central Government within such time as may be specified in the order or, in the alternative, direct the inquiry to be made, and the report to be submitted, by the governing body of such association acting jointly with one or more representatives of the Central Government; and"(c)direct the Commission to inspect the accounts and other documents of any recognised association or of any of its members and submit its report thereon to the Central Government. tc" (c) direct the Commission to inspect the accounts and other documents of any

recognised association or of any of its members and submit its report thereon to the Central Government."(3)Where an inquiry in relation to the affairs of a recognised association or the affairs of any of its members has been undertaken under sub-section (2)—(a) every director, manager, secretary or other officer of such association; tc" (a) every director, manager, secretary or other officer of such association;"(b)every member of such association; tc" (b) every member of such association;"(c)if the member of the association is a firm, every partner, manager, secretary or other officer of the firm; and tc" (c) if the member of the association is a firm, every partner, manager, secretary or other officer of the firm; and"(d)every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), tc" (d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c)," shall be bound to produce before the authority making the inquiry, all such books, accounts, correspondence and other documents in his custody or power relating to, or having a bearing on the subject-matter of, such inquiry and also to furnish the authority with any such statement or information relating thereto as may be required of him, within such time as may be specified. 2[(4) Every recognised association and every member thereof shall maintain such books of account and other documents as the Commission may specify and the books of account and other documents so specified shall be preserved for such period not exceeding three years as the Commission may specify and shall be subject to inspection at all reasonable times by the Commission.]

9. Furnishing of annual reports to the Commission by recognised associations.—1[(1) Every recognised association shall furnish to the Commission three copies of its annual report.]

(2)Such annual report shall contain such particulars as may be prescribed.

1.

[9A. Power of recognised association to make rules respecting grouping of members, restricting voting rights, etc., in special cases.—(1) A recognised association may make rules or amend any rules made by it to provide for all or any of the following matters, namely:— 2[(a) the admission of a firm or a Hindu undivided family as a member;] 3[(b)] the grouping of the members of the association according to functional or local interests, the reservation of seats on its governing body for members belonging to each group and appointment of members to such reserved seats—(i) by election exclusively by the members of the association from among persons chosen by the members belonging to the group concerned; tc" (i) by election exclusively by the members of the association from among persons chosen by the members belonging to the group concerned;"(ii)by election by all the members of the association; tc" (ii) by election by all the members of the association;"(iii)by election by all the members belonging to the group concerned for the purpose; tc" (iii) by election by all the members belonging to the group concerned for the purpose;" 3[(c)] the restriction of voting rights in respect of any matter placed before the association at any meeting to those members only who, by reason of their functional or local interests, are actually interested in such matter; 3[(d)] the regulation of voting rights in respect of any matter placed before the association at any meeting so

that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the association; 3[(e)] The restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the association; 4[(f)] the retirement at every annual general meeting of all directors or such number or proportion of their total number as may be specified in the rules;] 3[(g)] such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in 5[clauses (a) to (f)].(2)No rules of a recognised association made or amended in relation to any matter referred to in 6[clauses (a) to (g)] of sub-section (1) shall have effect until they have been approved by the Central Government and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).(3)Where, before the commencement of the Forward Contracts (Regulation) Amendment Act, 1957 (32 of 1957), any rules have been made or amended in relation to any matter referred to in 6[clauses (b) to (e) and (g)] of sub-section (1), the rules so made or amended shall not be deemed to be invalid or ever to have been invalid merely by reason of the fact that the rules so made or amended are repugnant to any of the provisions of the Companies Act, 1956 (1 of 1956).

10. Power of Central Government to direct rules to be made or to make rules.—(1) Whenever the Central Government considers it expedient so to do, it may, by order in writing, direct any recognised association to make any rules or to amend any rules made by the recognised association within such period as it may specify in this behalf.

(2)If any recognised association, against whom an order is issued by the Central Government under sub-section (1), fails or neglects to comply with such order within the specified period, the Central Government may make the rules or amend the rules made by the recognised association, as the case may be, either in the form specified in the order or with such modification thereof as the Central Government may think fit. 1[(3) Where, in pursuance of sub-section (2), any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India, and shall, thereupon, have effect notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, as if they had been made or amended by the recognised association concerned.]

10A. Clearing corporation .—(1) A recognized association may, with the prior approval of the Commission, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purposes of—(a) the periodical settlement of contracts and differences thereunder;

(b)the delivery of, and payment for, goods;(c)any other matter incidental to, or connected with, such transfer.(2)Every clearing corporation shall, for the purpose of transfer of the duties and functions

of a clearing house to a clearing corporation referred to in sub-section (1), make bye-laws and submit the same to the Commission for its approval.(3)The Commission may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the bye-laws submitted to it under sub-section (2) and approve transfer of the duties and functions of clearing house to a clearing corporation referred to in sub-section (1).(4)The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 12A, 12B, and 13(1) shall, as far as may be, apply to a clearing corporation referred to in sub-section as they apply in relation to a recognised association.]

11. Power of recognised association to make bye-laws. —(1) Any recognised association may, subject to the previous approval of the Central Government, make bye-laws for the regulation and control of forward contracts.

(2)In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for—(a) the opening and closing of markets and the regulation of the hours of trade;(b)a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of, and payment for goods, the passing on of delivery orders and for the regulation and maintenance of such clearing house;(c)the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;(d)fixing, altering or postponing days for settlement;(e)determining and declaring market rates, including opening, closing, highest and lowest rates for goods;(f)the terms, conditions and incidents of contracts including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;(g)regulating the entering into, making, performance, rescission and termination of contracts, including contracts between members or between a commission agent and his constituent, or between a broker and his constituent, or between a member of the recognised association and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the responsibility of commission agents and brokers who are not parties to such contracts;(h)the admission and prohibition of specified classes or types of goods or of dealings in goods by a member of the recognised association;(i)the method and procedure for the settlement of claims or disputes including the settlement thereof by arbitration;(j)the levy and recovery fees, fines and penalties;(k)the regulation of the course of business between parties to contracts in any capacity;(l)the fixing of a scale of brokerage and other charges;(m)the making, comparing, settling and closing of bargains;(n)the regulation of fluctuations in rates and prices;(o)the emergencies in trade which may arise and the exercise of powers in such emergencies including the power to fix maximum and minimum prices;(p)the regulation of dealings by members for their own account;(q)the limitations on the volume of trade done by any individual member;(r)the obligation of members to supply such information or explanation and to produce such books relating to their business as the governing body may require.(3)The bye-laws made under this section may—(a) specify the bye-laws the contravention of any of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (2) of section 15;[(aa) specify the bye-laws the contravention of any of which shall make a forward contract entered into otherwise

than in accordance with the bye-laws illegal under sub-section (3A) of section 15;](b)provide that the contravention of any of the bye-laws shall—(i) render the member concerned liable to fine; or(ii)render the member concerned liable to expulsion or suspension from the recognised association or to any other penalty of a like nature not involving the payment of money.(4)Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and when approved by the Central Government, shall be published in the Gazette of India ¹² [***]: Provided that the Central Government may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication, in any case.

12. Power of Central Government to make or amend bye-laws of recognised associations.—(1) The Central Government may, either on a request in writing received by it in this behalf from the governing body of a recognised association, or if in its opinion it is expedient so to do, make bye-laws for all or any of the matters specified in section 11 or amend any bye-laws made by such association under that section.

(2)Where, in pursuance of this section, any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Gazette of India ¹[and shall thereupon have effect] as if they had been made or amended by the recognised association.(3)Notwithstanding anything contained in this section, where the Governing body of a recognised association objects to any bye-laws made or amended under this section by the Central Government on its own motion, it may, within six months of the publication thereof under sub-section (2), apply to the Central Government for a revision thereof, and the Central Government may, after giving a reasonable opportunity to the governing body of the association to be heard in the matter, revise the bye-laws so made or amended and where any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the bye-laws so revised shall be published and shall become effective as provided in sub-section (2).(4)The making or the amendment or revision of any bye-laws under this section shall in all cases be ²[subject to such conditions in regard to previous publication as may be prescribed]: Provided that the Central Government may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication.

1.

[12A. Application of amendment of bye-laws to existing forward contracts.—Any amendment of a bye-law under section 11 other than an amendment made in pursuance of clause(a) or clause (aa) of sub-section (3) of that section or under section 12 shall also apply to all forward contracts entered into before the date of its approval by the Central Government or before the date of its publication in the Gazette of India, as the case may be, and remaining to be performed on or after the said date.]

1.

[12B. Power of Commission to suspend member of recognised association or to prohibit him from trading.—(1) If, in the interest of trade or in the public interest, the Commission considers it necessary to suspend a member from his membership of any recognised association or to prohibit such members from entering into any forward contract for the sale or purchase in his own name or through another member of a recognised association of any goods or class of goods, then, notwithstanding anything contained in any law for the time being in force or in the rules or bye-laws of a recognised association, the Commission may, after giving an opportunity to the member concerned of being heard, by order suspend his membership of any association or prohibit him from entering into any such contract.(2)An order made under sub-section (1) shall specify the period for which the suspension or prohibition is to have effect and such period may be extended from time to time but so as not to exceed three years in the aggregate.(3)No order made under sub-section (1) in respect of any member of a recognised association shall affect the validity of any forward contract entered into or made by, with or through such member on or before the date of such order and remaining to be performed on or after the said date; but the Commission may make such provision as it deems fit in such order or in any subsequent order for the closing out of any such forward contract.]

13. Power of Central Government to supersede governing body of recognised association.—(1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised association should be superseded, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the Central Government may, after giving a reasonable opportunity to the governing body of the recognised association concerned to show cause why it should not be superseded, by notification in the Official Gazette, declare the governing body of such association to be superseded for such period not exceeding six months as may be specified in the notification, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and where more persons than one are appointed may appoint one of such persons to be the chairman and another of such persons to be the vice-chairman.

(2)On the publication of a notification in the Official Gazette under sub-section (1) the following consequences shall ensue, namely:—(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession cease to hold office as such members; te" (a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession cease to hold office as such members;"(b)the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the

governing body which has been superseded; tc" (b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;"(c)all such property of the recognised association as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry out the purposes of this Act, shall vest in such person or persons. tc" (c) all such property of the recognised association as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry out the purposes of this Act, shall vest in such person or persons."(3)Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the association whose governing body is superseded under sub-section (1), the person or persons appointed under that sub-section shall hold office for such period as may be specified in the notification published under that sub-section, and the Central Government may, from time to time, by like notification vary such period.(4)On the determination of the period of office of any person or persons appointed under this section the recognised association shall forthwith reconstitute a governing body in accordance with its rules: Provided that until a governing body is so reconstituted, the person or persons appointed under sub-section (1) shall, notwithstanding anything contained in sub-section (1), continue to exercise and perform their powers and duties.(5)On the reconstitution of a governing body under sub-section (4), all the property of the recognised association which had vested in, or was in the possession of, the person or persons appointed under sub-section (1) shall vest or revest, as the case may be, in the governing body so reconstituted.

14. Power to suspend business of recognised associations.—If in the interest of the trade or in the public interest the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, direct a recognised association to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and may if, in the opinion of the Central Government, the interest of the trade or the public interest so requires by like notification extend the said period from time to time: Provided that where the period of suspension is likely to exceed one month, no notification extending the suspension beyond such period shall be issued, unless the governing body of the recognised association has been given an opportunity of being heard in the matter.

¹⁷ [14A. Certificate of registration to be obtained by all associations.—(1) No association concerned with the regulation and control of business relating to forward contracts shall, after the commencement of the Forward Contracts (Regulation) Amendment Act, 1960 (62 of 1960) (hereinafter referred to as such commencement), carry on such business except under, and in accordance with, the conditions of a certificate of registration granted under this Act by the Commission.(2)Every association referred to in sub-section (1) which is in existence at such commencement, before the expiry of six months from such commencement, and every association referred to in sub-section (1)

which is not in existence at such commencement, before commencing such business, shall make an application for a certificate of registration to the Commission in such form and containing such particulars as may be prescribed: Provided that the Commission may in its discretion extend from time to time the period of six months aforesaid up to one year in the aggregate.(3)Nothing in this section shall be deemed—(a) to prohibit an association in existence at such commencement from carrying on its business until the disposal of the application made by it under sub-section (2); or to"

(a) to prohibit an association in existence at such commencement from carrying on its business until the disposal of the application made by it under sub-section (2); or"(b)to require a recognised association in existence at such commencement to make an application under sub-section (2); and every such association shall, as soon as may be after such commencement, be granted free of cost by the Commission a certificate of registration.] to" (b) to require a recognised association in existence at such commencement to make an application under sub-section (2); and every such association shall, as soon as may be after such commencement, be granted free of cost by the Commission a certificate of registration." ¹⁸ [14B. Grant or refusal of certificate of registration.—On receipt of an application under section 14A, the Commission, after making such enquiry as it considers necessary in this behalf, may by order in writing grant a certificate of registration or refuse to grant it: Provided that before refusing to grant such certificate, the association shall be given an opportunity of being heard in the matter.]

15. Forward contracts in notified goods illegal or void in certain circumstances.—(1) The Central Government may, by notification in the Official Gazette, declare this section to apply to such goods or class of goods and in such areas as may be specified in the notification, and thereupon, subject to the provisions contained in section 18, every forward contract for the sale or purchase of any goods specified in the notification which is entered into in the area specified therein otherwise than between members of a recognised association or through or with any such member shall be illegal.

(2)Any forward contract in goods entered into in pursuance of sub-section (1) which is in contravention of any of the bye-laws specified in this behalf under clause (a) of sub-section (3) of section 11 shall be void—(i) as respects the rights of any member of the recognised association who has entered into such contract in contravention of any such bye-law, and also(ii)as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.(3)Nothing in sub-section (2) shall affect the right of any person other than a member of the recognised association to enforce any such contract or to recover any sum under or in respect of such contract: Provided that such person had no knowledge that such transaction was in contravention of any of the bye-laws specified under clause (a) of sub-section (3) of section 11.

1[(3A) Any forward contract in goods entered into in pursuance of sub-section (1) which at the date of the contract is in contravention of any of the bye-laws specified in this behalf under clause (aa) of sub-section (3) of section 11 shall be illegal.](4)No member of a recognised association shall, in respect of any goods specified in the notification under sub-section (1), enter into any contract on

his own account with any person other than a member of the recognised association, unless he has secured the consent or authority of such person and discloses in the note, memorandum or agreement of sale or purchase that he has bought or sold the goods, as the case may be, on his own account: Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person of such consent or authority within three days from the date of such contract: Provided further that in respect of any outstanding contract entered into by a member with a person other than a member of the recognised association, no consent or authority of such person shall be necessary for closing out in accordance with the bye-laws the outstanding contract, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he has bought or sold the goods, as the case may be, on his own account.

16. Consequences of notification under section 15.—Where a notification has been issued under section 15, then notwithstanding anything contained in any other law for the time being in force or in any custom, usage or practice of the trade or the terms of any contract or the bye-laws of any association concerned relating to any contract,—(a) every forward contract for the sale or purchase of any goods specified in the notification 1[entered into on or before the date of the notification] and remaining to be performed after the said date and which is not in conformity with the provisions of section 15, shall be deemed to be closed out at such rate as the Central Government may fix in this behalf, and different rates may be fixed for different classes of such contracts; tc" (a) every forward contract for the sale or purchase of any goods specified in the notification 2[entered into on or before the date of the notification] and remaining to be performed after the said date and which is not in conformity with the provisions of section 15, shall be deemed to be closed out at such rate as the Central Government may fix in this behalf, and different rates may be fixed for different classes of such contracts;"

(b)all differences arising out of any contract so deemed to be closed out shall be payable on the basis of the rate fixed under clause (a) and the seller shall not be bound to give and the buyer shall not be bound to take delivery of the goods. tc" (b) all differences arising out of any contract so deemed to be closed out shall be payable on the basis of the rate fixed under clause (a) and the seller shall not be bound to give and the buyer shall not be bound to take delivery of the goods."

17. Power to prohibit forward contracts in certain cases.—(1) The Central Government may, by notification in the Official Gazette, declare that no person shall, save with the permission of the Central Government, enter into any forward contract for the sale or purchase of any goods or class of goods specified in the notification and to which the provisions of section 15 have

not been made applicable, except to the extent and in the manner, if any, as may be specified in the notification.

(2) All forward contracts in contravention of the provisions of sub-section (1) entered into after the date of publication of the notification thereunder shall be illegal. (3) Where a notification has been issued under sub-section (1), the provisions of section 16 shall, in the absence of anything to the contrary in the notification, apply to all forward contracts for the sale or purchase of any goods specified in the notification 1[entered into on or before the date of the notification] and remaining to be performed after the said date as they apply to all forward contracts for the sale or purchase of any goods specified in the notification under section 15.

18. Special provisions respecting certain kinds of forward contracts.—(1) Nothing contained in Chapter III or Chapter IV shall apply to non-transferable specific delivery contracts for the sale or purchase of any goods: Provided that no person shall organise or assist in organising or be a member of any association in any area to which the provisions of section 15 have been made applicable (other than a recognised association) which provides facilities for the performance of any non-transferable specific delivery contract by any party thereto without having to make or to receive actual delivery to or from the other party to the contract or to or from any other party named in the contract.

(2) Where in respect of any area the provisions of section 15 have been made applicable in relation to forward contracts for the sale or purchase of any goods or class of goods, the Central Government may, by a like notification, declare that in the said area or any part thereof as may be specified in the notification all or any of the provisions of Chapter III or Chapter IV shall not apply to transferable specific delivery contracts for the sale or purchase of the said goods or class of goods either generally, or to any class of such contracts in particular. (3) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control non-transferable specific delivery contracts in any area, it may, by notification in the Official Gazette, declare that all or any of the provisions of Chapters III and IV shall apply to such class or classes of non-transferable specific delivery contracts in such area and in respect of such goods or class of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply.

19. Prohibition of options in goods.—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, all options in goods entered into after the date on which this section comes into force shall be illegal.

(2) Any option in goods which has been entered into before the date on which this section comes into force and which remains to be performed, whether wholly or in part, after the said date shall, to that extent, become void.

1.

[20. Penalties.—Any person who—(a) (i) in any return, statement or other document required by or under this Act, makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement; or tc" (a) (i) in any return, statement or other document required by or under this Act, makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement; or"(ii) without reasonable excuse (the burden of proving which shall be on him) fails to furnish any return, statement or other document or any information or to answer any question or to comply with any requisition made under this Act or any rules made thereunder; or tc" (ii) without reasonable excuse (the burden of proving which shall be on him) fails to furnish any return, statement or other document or any information or to answer any question or to comply with any requisition made under this Act or any rules made thereunder; or"(iii) enters into any forward contract during the period of suspension of business of a recognised association in pursuance of a notification under section 14; or tc" (iii) enters into any forward contract during the period of suspension of business of a recognised association in pursuance of a notification under section 14; or"(b) is a member of any association, other than a recognised association, to which a certificate of registration has not been granted under this Act; or tc" (b) is a member of any association, other than a recognised association, to which a certificate of registration has not been granted under this Act; or"(c) publishes or circulates information relating to the rate at which any forward contract has been entered into in contravention of any of the bye-laws of a recognised association; or tc" (c) publishes or circulates information relating to the rate at which any forward contract has been entered into in contravention of any of the bye-laws of a recognised association; or"(d) organises or assists in organising, or is a member of, any association in contravention of the provisions contained in the proviso to sub-section (1) of section 18; or tc" (d) organises or assists in organising, or is a member of, any association in contravention of the provisions contained in the proviso to sub-section (1) of section 18; or"(e) enters into any forward contract or any option in goods in contravention of any of the provisions contained in sub-section (1) or sub-section (3A) or sub-section (4) of section 15, section 17 or section 19, shall, on conviction, be punishable— tc" shall, on conviction, be punishable—" (i) for a first offence, with imprisonment which may extend to one year, or with a fine of not less than one thousand rupees, or with both; tc" (i) for a first offence, with imprisonment which may extend to one year, or with a fine of not less than one thousand rupees, or with both;" (ii) for a second or subsequent offence under clause (d) or under clause (e) [other than an offence in respect of a contravention of the provisions of sub-section (4) of section 15], with imprisonment which may extend to one year and also with fine: provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall be not less than one month and the fine shall be not less than one thousand rupees.] tc" (ii) for a second or subsequent offence under clause (d) or under clause (e) [other than an offence in respect of a contravention of the provisions of sub-section (4) of section 15], with imprisonment which may extend to one year and also with fine: provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the

court, the imprisonment shall be not less than one month and the fine shall be not less than one thousand rupees.]"

21. Penalty for owning or keeping place used for entering into forward contracts in goods.—Any person who—(a) owns or keeps a place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes, or (a) owns or keeps a place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes, or"

(b) without the permission of the Central Government, organises, or assists in organising, or becomes a member of, any association, other than a recognised association, for the purpose of assisting in, entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act, or

tc" (b) without the permission of the Central Government, organises, or assists in organising, or becomes a member of, any association, other than a recognised association, for the purpose of assisting in, entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act, or"

(c) manages, controls or assists in keeping any place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act or at which such forward contracts are recorded or adjusted, or rights or liabilities arising out of such forward contracts are adjusted, regulated or enforced in any manner whatsoever, or

tc" (c) manages, controls or assists in keeping any place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act or at which such forward contracts are recorded or adjusted, or rights or liabilities arising out of such forward contracts are adjusted, regulated or enforced in any manner whatsoever, or"

(d) not being a member of a recognised association, wilfully represents to, or induces, any person to believe that he is a member of a recognised association or that forward contracts can be entered into or made or performed, whether wholly or in part, under this Act through him, or

tc" (d) not being a member of a recognised association, wilfully represents to, or induces, any person to believe that he is a member of a recognised association or that forward contracts can be entered into or made or performed, whether wholly or in part, under this Act through him, or"

(e) not being a member of a recognised association or his agent authorised as such under the rules or bye-laws of such association, canvasses, advertises or touts in any manner, either for himself or on behalf of any other person, for any business connected with forward contracts in contravention of any of the provisions of this Act, or

tc" (e) not being a member of a recognised association or his agent authorised as such under the rules or bye-laws of such association, canvasses, advertises or touts in any manner, either for himself or on behalf of any other person, for

any business connected with forward contracts in contravention of any of the provisions of this Act, or" (f) joins, gathers, or assists in gathering at any place, other than the place of business specified in the bye-laws of a recognised association, any person or persons for making bids or offers or for entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act, or tc" (f) joins, gathers, or assists in gathering at any place, other than the place of business specified in the bye-laws of a recognised association, any person or persons for making bids or offers or for entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act, or"(g)makes, publishes or circulates any statement or information which is false and which he either knows or believes to be false, affecting or tending to affect the course of business in forward contracts in respect of goods to which the provisions of section 15 have been made applicable, 1[or] tc" (g) makes, publishes or circulates any statement or information which is false and which he either knows or believes to be false, affecting or tending to affect the course of business in forward contracts in respect of goods to which the provisions of section 15 have been made applicable, 1[or]" 1[(h) manipulates or attempts to manipulate prices in respect of forward contracts for the sale or purchase of any goods specified in any notification under section 15, in any area specified in that notification.] 2[shall, on conviction, be punishable—(i) for a first offence, with imprisonment which may extend to two years, or with a fine of not less than one thousand rupees, or with both; tc" (i) for a first offence, with imprisonment which may extend to two years, or with a fine of not less than one thousand rupees, or with both;"(ii)for a second or subsequent offence, with imprisonment which may extend to two years and also with fine: provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall be not less than one month and the fine shall be not less than one thousand rupees.] tc" (ii) for a second or subsequent offence, with imprisonment which may extend to two years and also with fine: provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall be not less than one month and the fine shall be not less than one thousand rupees.]"

25. [21A Penalty for failure to furnish information, return, etc. —If any person, who is required under this Act or any rules or regulations made thereunder,—(a) to furnish any document, return or report to the Commission, fails to furnish the same, he shall be liable to a penalty of twenty thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less;

(b)to file any return or furnish any information, books or other documents within the time specified therefore in the regulations, fails to file or furnish the same within the time specified therefore in the regulations, he shall be liable to pay a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less;(c)to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of ten thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less;(d)or who was in charge of, and was responsible to, an association for the conduct of the business of the association, obstructs any officer of the Commission or any other person authorised by it to conduct

inspection or to discharge any other function assigned by the Commission, such person as well as the association shall be liable to pay a fine of rupees one lakh for every occasion of such obstruction.

21B. Penalty for failure by any person to enter into an agreement with clients. —If any person, who is registered as a member or an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to a penalty of twenty thousand rupees for each such failure during which such failure continues or five lakh rupees, whichever is less.

21C. Penalty for failure to redress clients grievances. —If any person, who is registered as a member or an intermediary, after having been called upon by the Commission in writing to redress the grievances of clients, fails to redress such grievances within the time specified by the Commission, he shall be liable to a penalty not exceeding two thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less.

21D. Penalty for insider trading. —If any insider who,—(i) either on his own behalf or on behalf of any other person, deals in forward contract or option in goods or option in commodity derivative on any association on the basis of any unpublished price sensitive information; or

(ii) communicates any unpublished price sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or (iii) counsels, or procures for any other person to deal in any forward contract or option in goods or option in commodity derivative on the basis of unpublished price sensitive information, shall be liable to a penalty of twenty-five lakh rupees or three times the amount of profits made out of insider trading, whichever is higher.

21E. Penalty for fraudulent and unfair trade practices. —If any person indulges in fraudulent and unfair trade practices relating to forward contract or option in goods or option in commodity derivative, he shall be liable to penalty of twenty-five lakh rupees or three times the amount of profits made out of such practices, whichever is higher.

21F. Penalty for default in case of an Intermediary. —If any person, who is registered as an intermediary under this Act or any regulations made thereunder,—(a) fails to issue contract notes in the form and manner specified by the association of which such intermediary is a member, he

shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that intermediary;

(b) fails to deliver any goods or fails to make payment of the amount due to the client or in the manner or within the period specified in the regulations, he shall be liable to a penalty not exceeding five thousand rupees for each day during which such failure continues; (c) charges an amount of brokerage which is in excess of the brokerage specified by the association, he shall be liable to a penalty of five thousand rupees or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

21G. Penalty for failure to comply with directions of Commission. —Any person, who fails to comply with the directions issued by the Commission under section 4B, shall be liable to pay a penalty not exceeding two lakh rupees for each day during which such failure continues which may extend to five lakh rupees.

21H. Consequences of failure to pay penalty. —(1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention any of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years or with fine or with both.

21.

-I Power to adjudicate. —(1) For the purposes of adjudging under sections 21A to 21G, the Commission shall appoint any of its officers not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty. (2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

21J. Factors to be taken into account by adjudicating officer. —While adjudging the quantum of penalty under section 21-I, the adjudicating officer shall have due regard to the following factors, namely:—(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to a client or group of clients as a result of the default; (c) the repetitive nature of the default.

21K. Crediting sums realised by way of penalties to Consolidated Fund of India. —All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

21L. Power of court to order forfeiture of property. —Any court trying an offence punishable under this Act, may, if it thinks fit and in addition to any sentence which it may impose for such offence, direct that any money, goods or other property in respect of which the offence has been committed, shall be forfeited to the Central Government. **Explanation.—**For the purposes of this section, property in respect of which an offence has been committed, shall include deposits in a bank where the said property is converted into such deposits.]

22. Offences by companies.—(1) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. **Explanation.—**For the purposes of this section,—(a) “company” means any body corporate and includes a firm or other association of individuals; and (b) (a) “company” means any

body corporate and includes a firm or other association of individuals; and "(b) 'director', in relation to a firm, means a partner in the firm. tc" (b) "director", in relation to a firm, means a partner in the firm."

1.

[22A. Power to search and seize books of account or other documents.—(1) Any presidency magistrate or a magistrate of the first class may, by warrant, authorise any police officer not below the rank of sub-inspector to enter upon and search any place where books of account or other documents relating to forward contracts or options in goods entered into in contravention of the provisions of this Act, may be or may be reasonably suspected to be, and such police officer may seize any such book or document, if in his opinion, it relates to any such forward contract or option in goods.(2)The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), shall, so far as may be, apply to any search or seizure made under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.]

27. [22B Presumptions to be drawn in certain cases. —(1) Where any books of account or other documents are seized from any place and there are entries therein making reference to quantity, quotations, rates, months of delivery, receipt or payment of differences or sale or purchase of goods or option in goods, such books of account or other documents shall be admitted in evidence without witnesses having to appear to prove the same; and such entries shall be prima facie evidence of the matters, transactions and accounts purported to be therein recorded.

(2)In any trial for an offence punishable under section 21, it shall be presumed, until the contrary is proved, that the place in which the books of account or other documents referred to in sub-section (1) were seized, was used, and that the persons found therein were present, for the purpose of committing the said offence.]

28. [22C Investigation.— (1) Where the Commission has reasonable grounds to believe that—(a) the transactions in forward contracts or option in goods or option in commodity derivative are being dealt with in a manner detrimental to the commodity market or person associated with the commodity market; or

(b)any intermediary or any person associated with the commodities market has violated any of the provisions of this Act or the rules or regulations made or directions issued by the Commission thereunder, it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or person associated with the commodities market and to report thereon to the

Commission.(2)Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 14A, every person associated with the commodities market to preserve and to produce to the Investigating Authority or any person authorised by him in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.(3)The Investigating Authority may require any intermediary or any person associated with commodities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by him in this behalf as he may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.(4)The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter shall return the same to any intermediary or any person associated with commodities market by whom or on whose behalf the books, registers, other documents and record are produced: Provided that the Investigation Authority may call for any books, registers, other documents and record if they are needed again: Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record where produced.(5)Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with commodities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.(6)If any person fails without reasonable cause or refuses—(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or(b)to furnish any information which is his duty under sub-section (3) to furnish; or(c)to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or(d)to sign the notes of any examination referred to in sub-section (7), he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to one lakh rupees, or with both, and also with a further fine which may extend to twenty thousand rupees for every day after the first during which the failure or refusal continues.(7)Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.(8)Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, intermediary or any person associated with commodities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record.(9)After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—(a) to enter, with such assistance,

as may be required, the place or places where such books, registers, other documents and record are kept;(b)to search that place or those places in the manner specified in the order; and(c)to seize books, registers, other documents and record, as it considers necessary for the purposes of the investigation.(10)The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized and inform the Magistrate of such return: Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.(11)Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to searches or seizures made under that Code.]

23. Certain offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), 1[the following offences shall be deemed to be cognizable within the meaning of that Code namely:—(a) an offence falling under sub-clause (ii) of clause (a) of section 20 in so far as it relates to the failure to comply with any requisition made under sub-section (3) of section 8; tc" (a) an offence falling under sub-clause (ii) of clause (a) of section 20 in so far as it relates to the failure to comply with any requisition made under sub-section (3) of section 8;"

(b)an offence falling under clause (d) of section 20; tc" (b) an offence falling under clause (d) of section 20;"(c)an offence falling under clause (e) of section 20 other than a contravention of the provisions of sub-section (3A) or sub-section (4) of section 15; tc" (c) an offence falling under clause (e) of section 20 other than a contravention of the provisions of sub-section (3A) or sub-section (4) of section 15;"(d)an offence falling under section 21.] tc" (d) an offence falling under section 21.]"

24. Jurisdiction to try offences under this Act.—No court inferior to that of a presidency magistrate or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.

30. [24A Civil court not to have jurisdiction. —No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

24B. Appeal to Appellate Tribunal. —(1) Save as provided in sub-section (2) any person aggrieved on or after the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, or by an order of the Commission made, or the rules or regulations made thereunder or by an order made by an adjudicating officer under this Act may prefer an appeal to the Appellate Tribunal having jurisdiction in the matter.

(2)The Central Government shall specify, by notification, the matters and places in relation to which the Appellate Tribunal may exercise jurisdiction.(3)No appeal shall lie to the Appellate Tribunal from an order made by the Commission or an adjudicating officer with the consent of the parties.(4)Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Chairman of the Commission is received by the aggrieved person and it shall be in such form and be accompanied by such fee as may be prescribed: Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filling it within that period.(5)On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity or being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.(6)The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned authority whose order has been appealed against.(7)The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

24C. Right to legal representation. —The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal. Explanation.—For the purposes of this section,—(a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of the Act;

(b)“company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;(c)“cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;(d)“legal practitioner” means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

24D. Limitation. —The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to the Appellate Tribunal.

24E. Appeal to Supreme Court. —Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order: Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

25. Advisory committee.—For the purpose of advising the Central Government in relation to any matter concerning the operation of this Act, the Central Government may establish an advisory committee consisting of such number of persons as may be prescribed.

26. Power to delegate.—The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may, in such circumstances and subject to such conditions, if any, as may be specified, be exercised by such officer or authority, including any State Government or officers or authorities thereof as may be specified in the direction.

31. [26A Power of Central Government to issue directions. —(1) Without prejudice to the foregoing provisions of this Act, the Commission shall, in exercise of its powers or performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time: Provided that the Commission shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2)The decision of the Central Government, whether a question is one of policy or not, shall be final.

26B. Power of Central Government to supersede Commission. —If at any time the Central Government is of the opinion—(a) that on account of grave emergency, the Commission is unable to discharge the functions and perform the duties imposed on it by or under the provisions of this Act; or

(b)that the Commission has persistently made wilful default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and perform the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Commission or the administration of the Commission has deteriorated; or(c)that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Commission for such period, not exceeding six months, as may be specified in the notification.(2)Upon the publication of a notification under sub-section (1) superseding the Commission,—(a) all the members shall, as from the date of supersession, vacate their offices as such;(b)all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Commission shall, until the Commission is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and(c)all property owned or controlled by the Commission shall, until the Commission is reconstituted, vest in the Central Government.(3)On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Commission by fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for such appointment: Provided that the Central Government may, at any time before the expiration of the period of supersession, take action under this sub-section.(4)The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

26C. Returns and reports. —(1) The Commission shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the commodities market, as the Central Government may, from time to time, require.

(2)Without prejudice to the provisions of sub-section (1), the Commission shall, within ninety days, after the end of each financial year, submit to the Central Government report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.(3)A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

26D. Delegation. —The Commission may, by general or special order in writing, delegate to any member or officer of the Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 28) as it may deem necessary.

26E. Bar of jurisdiction. —No order passed by the Commission or adjudicating officer under this Act shall be appealable except as provided in section 24B and no civil court shall have jurisdiction in respect of any matter which the Commission or the adjudication officer is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Commission or the adjudicating officer by, or under, this Act.

26F. Members, officers and employees of Commission to be public servants. —All members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

27. Power to exempt.—The Central Government may, by notification in the Official Gazette, exempt, subject to such conditions and in such circumstances and in such areas as may be specified in the notification, any contract or class of contracts from the operation of all or any of the provisions of this Act.

1.

[27A. Protection of action taken in good faith.—(1) No suit or other legal proceeding shall lie in any court against the Central Government or any member, officer or servant of the Commission for anything which is in good faith done or intended to be done under this Act, or any rule or bye-law made thereunder.(2)No suit or other legal proceeding shall lie in any court against the governing body or any member, office-bearer or servant of any recognised association or against any person appointed under sub-section (1) of section 13 for anything which is in good faith done or intended to be done with the approval, or at the instance, of the Commission and in pursuance of this Act, or of any rule or bye-law made thereunder.]

33. [27B Exemption from tax on wealth and income. —Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Income-tax Act, 1961 (43 of 1961), or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Commission shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.]

28. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect, the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—(a) the terms and conditions of service of members of the Commission; (b) the manner in which applications for recognition may be made under section 5 and the levy of fees in respect thereof; (c) the manner in which any inquiry for the purpose of recognising any association may be made and the form in which recognition shall be granted; (d) the manner in which applications for certificates of registration may be made under section 14A and the levy of fees in respect of such applications; (e) the particulars to be contained in the annual reports of recognised associations; (f) the manner in which the bye-laws to be made, amended or revised under this Act shall, before being so made amended or revised, be published for criticism; (g) the constitution of the advisory committee established under section 25, the terms of office of and the manner of filling vacancies among members of the committee; the interval within which meetings of the advisory committee may be held and the procedure to be followed at such meetings; and the matters which may be referred by the Central Government to the advisory committee for advice; (h) any other matter which is to be or may be prescribed. (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or this successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.]

36. [28A Power to make regulations. —(1) The Commission may, by notification, make regulations consistent with this Act and rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—(a) the time and places of meetings of the Commission and the procedure to be followed at such meetings under section 3D including quorum necessary for the transaction of business; (b) the terms and other conditions of service of officers and employees of the Commission under sub-section (2) of section 3H; (c) the manner in which the fresh issue of equity shares shall be made to the public under sub-section (8) of section 7B; (d) the conditions of certificate of registration to act as a member or intermediary to deal with forward contract or option in goods or options in commodity derivative under sub-section (1) of section 14A; (e) the fee for a class or classes of member or intermediary under the second proviso to sub-section (2) of section 14A; (f) the terms and conditions subject to which registration may be granted under sub-section (4) of section 14A; (g) the manner in which the certificate of registration may be suspended or cancelled under section 14B; (h) any other matter relating to trading, clearing,

settlement, and delivery of goods, forward contract, option in goods or option in commodity derivative.(3)Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

28B. Application of other laws not barred. —The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.]

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[29. Repeals and savings.—If immediately before the date on which this Act or any provision contained therein is made applicable to any goods or classes of goods in any State, there is in force in that State any law corresponding to this Act or, as the case may be, to any provision contained therein which is applicable to those goods or classes of goods, that law shall stand repealed on the said date: Provided that the repeal shall not affect—(a) the previous operation of any law so repealed or anything duly done or suffered thereunder; or tc" (a) the previous operation of any law so repealed or anything duly done or suffered thereunder; or"(b)any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed; or tc" (b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed; or"(c)any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or tc" (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or"(d)any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, tc" (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid," and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed: Provided further that, subject to the preceding proviso, anything done or any action taken (including any appointment made, notification or order issued, rule, regulation, form or bye-law framed, or recognition granted) under any such law shall be deemed to have been done or taken under the corresponding provision of this Act, and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.]

1. Ins. by Ord. 3 of 2008, sec. 5 (w.e.f. 31-1-2008).

- 2. Subs. by Act 62 of 1960, sec. 5, for clause (b) (w.e.f. 28-12-1960).**
- 3. Ins. by Act 62 of 1960, sec. 6 (w.e.f. 28-12-1960).**
- 4. Ins. by Ord. 3 of 2008, sec. 8 (w.e.f. 31-1-2008).**
- 5. Ins. by Ord. 3 of 2008, sec. 9 (w.e.f. 31-1-2008).**
- 6. Ins. by Ord. 3 of 2008, sec. 9 (w.e.f. 31-1-2008).**
- 7. Ins. by Ord. 3 of 2008, sec. 9 (w.e.f. 31-1-2008).**
- 8. Subs. by Act 62 of 1960, sec. 7, for sub-section (1) (w.e.f. 28-12-1960).**
- 9. Subs. by Act 62 of 1960, sec. 8, for sub-section (1) (w.e.f. 28-12-1960).**
- 10. Ins. by Act 32 of 1957, sec. 2 (w.e.f. 17-9-1957). tc" 2. Ins. by Act 32 of 1957, sec. 2 (w.e.f. 17-9-1957)."**
- 11. Subs. by Act 62 of 1960, sec. 10, for sub-section (3) (w.e.f. 28-12-1960).**
- 12. Certain words omitted by Act 62 of 1960, sec. 11 (w.e.f. 28-12-1960).**
- 13. Subs. by Act 62 of 1960, sec. 12, for certain words (w.e.f. 28-12-1960).**
- 14. Subs. by Act 62 of 1960, sec. 12, for "subject to the condition of previous publication" (w.e.f.28-12-1960).**
- 15. Ins. by Act 62 of 1960, sec. 13 (w.e.f. 28-12-1960).**
- 16. Ins. by Act 62 of 1960, sec. 13 (w.e.f. 28-12-1960).**
- 17. Ins. by Act 62 of 1960, sec. 14 (w.e.f. 28-12-1960).**
- 18. Ins. by Act 62 of 1960, sec. 14 (w.e.f. 28-12-1960).**
- 19. Ins. by Act 62 of 1960, sec. 15 (w.e.f. 28-12-1960).**

- 20. Subs. by Act 62 of 1960, sec. 16, for “entered into before the date of the notification” (w.e.f. 28-12-1960). tc” 2. Subs. by Act 62 of 1960, sec. 16, for “entered into before the date of the notification” (w.e.f. 28-12-1960).”**
- 21. Subs. by Act 62 of 1960, sec. 16, for “entered into before the date of the notification” (w.e.f. 28-12-1960).**
- 22. Subs. by Act 62 of 1960, sec. 17, for section 20 (w.e.f 28-12-1960).**
- 23. Ins. by Act 62 of 1960, sec. 18 (w.e.f. 28-12-1960).**
- 24. Subs. by Act 62 of 1960, sec. 18, for certain words (w.e.f. 28-12-1960).**
- 25. Subs. by Ord. 3 of 2008, sec. 25(v), for clause (e) (w.e.f. 31-1-2008). Clause (e), before substitution, stood as under:**
- 26. Ins. by Act 62 of 1960, sec. 20 (w.e.f. 28-12-1960).**
- 27. Ins. by Act 60 of 1960, sec. 20 (w.e.f. 28-12-1960).**
- 28. Ins. by Act 62 of 1960, sec. 20 (w.e.f. 28-12-1960).**
- 29. Subs. by Act 62 of 1960, sec. 21, for certain words (w.e.f. 28-12-1960).**
- 30. Ins. by Ord. 3 of 2008, sec. 32 (w.e.f. 31-1-2008).**
- 31. Ins. by Ord. 3 of 2008, sec. 34 (w.e.f. 31-1-2008).**
- 32. Ins. by Act 62 of 1960, sec. 22 (w.e.f. 28-12-1960).**
- 33. Ins. by Ord. 3 of 2008, sec. 35 (w.e.f. 31-1-2008).**
- 34. Ins. by Act 62 of 1960, sec. 23 (w.e.f. 28-12-1960).**
- 35. Ins. by Act 4 of 1986, sec. 2 and Sch. (w.e.f. 15-5-1986).**
- 36. Ins. by Ord. 3 of 2008, sec. 37 (w.e.f. 31-1-2008).**

37. Ins. by Act 46 of 1953, sec. 3 (w.e.f. 23-12-1953).