

The Deposit Insurance Corporation (Amendment And Miscellaneousprovisions) Act, 1978

UNION OF INDIA

India

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Act 21 of 1978

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An Act to provide for the acquisition and transfer of the undertaking of the Credit Guarantee Corporation of India Limited in order to serve better the need for providing credit guarantee to commercial banks, and further to amend the Deposit Insurance Corporation Act, 1961, and the Reserve Bank of India Act, 1934, and for matters connected therewith or incidental thereto. BE it enacted by parliament in the Twenty- ninth Year of the Republic of India as follows:--

Chapter I

PRELIMINARY

1. Short title and commencement.

(1) This Act may be called the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978 .(2) It shall come into force on such date [15th July, 1978 (except section 9), vide Notification No. S. O. 429 (E), dated the 4th July, 1978, Gazette of India, Extraordinary, 1978, Pt. II, Sec. 3 (ii), p. 806] as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act; and any reference in any provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. Definitions.

In this Act, unless the context otherwise requires,--(a)" Company" means the Credit Guarantee Corporation of India Limited, a Company formed and registered under the Companies Act, 1956 (1 of 1956), and having its registered office at Bombay;(b)" Corporation" means the Deposit Insurance

Corporation established under sub- section (1) of section 3 of the Deposit Insurance Corporation Act, 1961 (47 of 1961);(c)" re- named Corporation" means the Corporation as re- named in accordance with the provisions of section 4;(d)words and expressions used in this Act and not defined but defined in the Deposit Insurance Corporation Act, 1961 (47 of 1961), shall have the meanings respectively assigned to them in that Act.

Chapter II

ACQUISITION AND TRANSFER OF UNDERTAKING OF THE CREDIT GUARANTEE CORPORATION OF INDIA LIMITED

3. Undertaking of the Company to vest in the Corporation.

(1)On the commencement of this Act, the undertaking of the Company shall stand transferred to, and shall vest in, the Corporation.(2)The undertaking of the Company shall be deemed to include all assets, business, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were, immediately before the commencement of this Act, in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the Company in relation to its undertaking.

4. Merger of the undertaking of the Company with the undertaking of the Corporation.

(1)On the transfer to, and vesting in, the Corporation of the undertaking of the Company, such undertaking shall be deemed to have merged with the undertaking of the Corporation and, consequent on such merger, the Corporation shall be re- named as the Deposit Insurance and Credit Guarantee Corporation, and thereupon any reference to the Deposit Insurance Corporation or to the Credit Guarantee Corporation of India Limited, in the Deposit Insurance Corporation Act, 1961 (47 of 1961), or in any other law for the time being in force or in any instrument or other document in force immediately before such transfer and vesting, and to which either the Deposit Insurance Corporation or the Credit Guarantee Corporation of India Limited is a party or which is in favour of either of them, shall be construed as a reference to the Deposit Insurance and Credit Guarantee Corporation.(2)The change of name of the Deposit Insurance Corporation, by virtue of the provisions of sub- section (1), shall not--(a)affect any right or obligation of that Corporation, subsisting immediately before the commencement of the Deposit Insurance Corporation (Amendment and Miscellaneous Provisions) Act, 1978 ;(b)render defective any suit or other legal proceeding pending, immediately before such commencement, by or against that Corporation in its former name; and(c)affect the institution or commencement of any suit or other legal proceeding which could have been instituted or commenced, before such commencement, by or against the Corporation in its former name, and every such suit or legal proceeding may be instituted or

commenced, after the commencement of this Act, by or against the re- named Corporation.

5. General effect of merger.

(1) Unless otherwise expressly provided by this Act, all the assets, obligations and liabilities, respectively, of the Corporation, or the Company, and all contracts, deeds, bonds, agreements, guarantees, indemnities, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Act and to which either the Corporation or the Company is a party or which are in favour of either the Corporation, or the Company shall be of as full force and effect against or in favour of the re- named Corporation, and may be enforced or acted upon as fully and effectually as if in place of the Corporation or the Company, as the case may be, the re- named Corporation had been a party thereto or as if they had been issued in favour of the re- named Corporation. (2) If immediately before the commencement of this Act, any suit, appeal or other proceeding of whatever nature, in relation to any business of the undertaking of the Corporation or of the Company, instituted or preferred by or against the Corporation or the Company, is pending, the same shall not abate, be discontinued or be in any way prejudicially affected, by reason of the transfer of the undertaking of the Company to the Corporation or the merger of the undertaking of the Company with the undertaking of the Corporation, or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the re- named Corporation.

6. Payment of amount.

(1) For the transfer to, and vesting in, the Corporation, under section 3, of the undertaking of the Company, there shall be given by the Corporation to the Company an amount of rupees two crores. (2) The amount specified in sub- section (1) shall be given, in cash, within thirty days from the commencement of this Act and such amount shall carry interest at the rate of four per cent. per annum from such commencement till the date on which the amount is paid to the Company: Provided that if the amount specified in sub- section (1) is paid within seven days from the commencement of this Act, no interest shall be payable.

7. Power of Central Government to authorise a person or body of persons to take over the management of the Company.

(1) The Central Government may, at any time after the commencement of this Act, authorise a person or body of persons to take over the management of the affairs of the Company; and, when any person or body of persons is so authorised, it shall be the duty of such person or body of persons to bring the operations of the Company to a close, realise the amount payable to the Company under section 6, and distribute such amount amongst the creditors of the Company in due course of administration and, if there is a surplus, amongst the contributories of the Company in accordance with their rights and interests and, after such realisation and distribution, to obtain an order of the Central Government for the dissolution of the Company. (2) For the purposes of sub- section (1), the person or body of persons authorised under that sub- section shall have such of the powers and

duties of the Official Liquidator, appointed under the Companies Act, 1956 (1 of 1956), as are necessary to give effect to the provisions of that sub- section as if the Company were being wound up by the court, and, for this purpose, the provisions of the Companies Act, 1956 , shall apply subject to the modification that for the word" Court", wherever it occurs, the words" Central Government" shall be substituted.(3)When any person or body of persons is authorised by the Central Government under sub- section (1), to take over the management of the affairs of the Company,--(a)the provisions of the Companies Act, 1956 (1 of 1956), or of any other law for the time being in force or any instrument having effect by virtue of any such Act or other law shall, in so far as they are inconsistent with the provisions of this Act, cease to apply to, or in relation to, the Company;(b)all persons in charge of the management, including any person holding office as manager, director or secretary of the Company, immediately before the authorisation of such person or body of persons, shall be deemed to have vacated their offices as such.(4)As soon as the affairs of the Company have been wholly wound up, the person or body of persons, authorised under sub- section (1), shall submit his or their duly audited final accounts to the Central Government and shall apply to that Government for orders as to the dissolution of the Company.(5)The Central Government shall, after hearing such person as it may think fit, and upon perusing the accounts as audited, if satisfied that the affairs of the Company have been wholly wound up, make an order that the Company be dissolved from the date of the order and the Company shall stand dissolved accordingly.(6)The Central Government may also make an order relating to--(a)the application, subject to the provisions of the Companies Act, 1956 (1 of 1956), of the balance in the hands of the person or body of persons authorised under sub- section (1); or(b)the payment of such balance into the general revenue account of the Central Government; and(c)the disposal of the books and papers of the Company.(7)A copy of the order made by the Central Government for the dissolution of the Company shall be filed by the re- named Corporation with the Registrar of Companies within thirty days from the date of such order and the Registrar of Companies shall give effect to the said order as if it were an order made by the court for the dissolution of the Company.(8)The provisions of this section shall have effect 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. Section 8 and 9 amend the Deposit Insurance Corporation Act, 1961 and the Reserve Bank of India Act, 1934 respectively and as such not printed here.