

THE MICRO FINANCE INSTITUTIONS (DEVELOPMENT AND
REGULATION) BILL, 2011

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2011

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to provide access to financial services for the rural and urban poor and certain disadvantaged sections of the people by promoting the growth and development of micro finance institutions as extended arms of the banks and financial institutions and for the regulation of micro finance institutions and for matters connected therewith and incidental thereto.

WHEREAS the banking system has achieved significant growth in terms of average population per bank office and has been able to reduce the levels of credit gaps in the economy;

AND WHEREAS inspite of such growth many of the poor households still do not have access to basic financial services such as savings, credit and money transfer and the financial exclusion faced by such people results in discrimination and denial of equal opportunities to them;

AND WHEREAS micro finance sector is engaged in providing credit and other financial services to the poor households and their micro enterprises as an extended arm of the banking system;

AND WHEREAS micro finance sector lacks a formal statutory framework for its financial activities;

NOW THEREFORE it is expedient to provide a formal statutory framework for the promotion, development, regulation and orderly growth of the micro finance sector and thereby to facilitate universal access to integrated financial services for the unbanked population.

BE it enacted by Parliament in the Sixty **Second** Year of the Republic of India as follows: -

	CHAPTER I PRELIMINARY	
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	1. (1) This Act may be called the Micro Finance Institutions (Development and Regulation) Act, 2011	Short title and commencement
	(2) It shall come into force on such date as the Central Government may, by notification in the Official gazette, appoint:	
	Provided that different dates may be appointed for different provisions of this Act and any reference in such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.	
	2. In this Act, unless the context otherwise requires, -	Definitions
	<i>(a) "annual percentage rate" means aggregate rate consisting of interest, processing fees, service charges and any other charges or fees charged by the micro finance institution on any financial assistance granted to any client;</i>	
	(b) "co-operative society" means a society or cooperative registered or deemed to be registered, under the Cooperative Societies Act, 1912 or any other Central or State law relating to cooperative societies or cooperatives for the time being in force;	
	(c) "Council" means the Micro Finance Development Council constituted under section 3;	
	(d) "financial assistance" means any loan, advance, grant or any guarantee given or any other credit facility extended in cash or kind with or without security or guarantee;	
	<i>(e) "margin" means the difference between the annual percentage rate collected by the micro finance institution for any financial assistance granted to clients and the cost of funds raised and other operational costs incurred by the micro finance institution for grant of and servicing such financial assistance.</i>	

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	<i>(f) “micro finance institution” means an entity (irrespective of its organisational form), which provides micro finance services in the form and manner as may be prescribed but does not include: -</i>	
	<i>(i) a banking company, State Bank of India, a Subsidiary Bank, a corresponding new bank, a cooperative bank, EXIM Bank, Reconstruction Bank, National Housing Bank, National Bank, a Regional Rural Bank and Small Industries Bank;</i>	10 of 1949
	<i>(ii) a co-operative society engaged primarily in agricultural operations or industrial activity or purchase or sale of any goods and such other activities;</i>	
	<i>(iii) a cooperative society not accepting deposits from anybody except from its members having voting rights or from those members who will acquire voting rights after a stipulated period of their making deposits as per the law applicable to such cooperative society.</i>	
	<p>(g) “Micro finance services” means one or more of the following financial services involving small amounts to :</p> <p style="padding-left: 40px;">individuals or groups:</p> <p style="padding-left: 40px;">(i) providing micro credit;</p> <p style="padding-left: 40px;">(ii) collection of thrift;</p> <p style="padding-left: 40px;">(iii) remittance of funds;</p> <p style="padding-left: 40px;">(iv) providing pension or insurance services;</p> <p style="padding-left: 40px;">(v) any other services as may be specified.</p> <p>in such form and manner as may be prescribed.</p>	
	(h) “National Bank” means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;	61 of 1981.

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	(i) "notification" means a notification published in the Official Gazette;	
	(j) "prescribed" means prescribed by rules made under this Act;	
	(k) "Regional Rural Bank" means a Regional Rural Bank established by the Central Government by issue of a notification under sub-section(1) of section 3 of the Regional Rural Banks Act, 1976;	
	(l) "regulations" means regulations made by the Reserve Bank;	
2 of 1934	(m) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;	
	(n) State Advisory Council means the State Advisory Councils established by the Central Government under section 8 of this Act.	
	<i>(o) "Systemically important micro finance institution" means a micro finance deploying such amount of funds for providing micro credit to such minimum number of clients as may be specified by the Reserve Bank by regulations framed under this Act.</i>	
	(p) "thrift" means any money collected other than in the form of current account or demand deposits, by a micro finance institution from members of self-help groups or any other group of individuals by whatever name called, who are availing financial services provided by such micro finance institution;	
2 of 1934. 10 of 1949. 61 of 1981	(2) words and expressions used herein and not defined but defined in the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949 and the National Bank for Agriculture and Rural Development Act, 1981 shall have the same meanings respectively assigned to them in those Acts.	
	CHAPTER II MICRO FINANCE DEVELOPMENT COUNCIL	

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	3. The Central Government may, by notification, constitute a Council to be known as the Micro Finance Development Council, to advise the Central Government, on formulation of policies, schemes and other measures required in the interest of orderly growth and development of the micro finance sector and micro finance institutions, to promote financial inclusion.	Constitution of Micro Finance Development Council.
	4. The Council shall consist of the following members, nominated by the Central Government namely : -	Composition of Council.
	(a) a person of eminence, with experience in banking, rural credit and micro finance, - Chairperson;	
	(b) two officers, not below the rank of Joint Secretary to the Government of India, one each from the Ministry of Finance and the Ministry of Rural Development – Members;	
	(c) an officer, not below the rank of an Executive Director of the Reserve Bank - Member;	
39 of 1989.	(d) an officer, not below the rank of an Executive Director of the Small Industries Development Bank of India established under the Small Industries Development Bank of India Act, 1989 - Member;	
	(e) an officer, not below the rank of an Executive Director of the National Bank dealing with micro finance, - Member;	
	(f) an officer, not below the rank of an Executive Director of the National Housing Bank established under the National Housing Bank Act, 1987– Member;	53 of 1987
	(g) not more than six persons, of whom at least two shall be women, to be nominated in consultation with the Reserve Bank from amongst persons with experience in banking, rural credit and micro finance or the representatives of micro finance institutions or scheduled banks or any other institution providing micro finance services - Members.	

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Functions of Council	5. The Council shall advise the Central Government on formulation of policies and measures including; .	
	(i) adoption of any innovations and use of technology in providing micro finance services;	
	(ii) establishing credit information bureaus for creation of data-base of clients availing micro finance services from various agencies;	
	(iii) the working of grievance redressal mechanisms and suggest modifications of the systems to protect the interest of clients of micro finance services; or	
	(iv) any other matter which may be referred to the Council by the Central Government in the interest of promotion of financial inclusion and protecting the interest of clients availing micro finance services	
Terms of office and allowances of members of Council.	6. A member of the Council shall hold office for such term not exceeding three years as the Central Government may fix, and, receive such fees and allowances <u>as may be prescribed.</u>	
Meetings of Council.	7. The Council shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings, <u>as may be prescribed.</u>	
	CHAPTER III STATE ADVISORY COUNCILS	
	8. (1) The Central Government may by issue of a notification establish State Advisory Councils for Micro Finance at the State level and considering the extent of micro finance activities in the States, such Advisory Councils may be set up with jurisdiction over more than one State.	

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	<p>(2) The constitution of such State Advisory Councils shall be as under:</p> <p>(a) two Nominees of the concerned State or States including a Chairperson of the Advisory Council;</p> <p>(b) Convener Bank of the State Level Bankers' Committee for any State or States;</p> <p>(c) one member representing the micro finance sector operating in the State nominated by the Central Government; and</p> <p>(d) one member nominated by the Reserve Bank.</p>	
	<p>(3) The State Advisory Councils shall advise the Central Government the progress achieved in implementation of the Policy initiatives undertaken for promotion and development of the micro finance sector in the State including the following matters:</p>	
	<p>(a) whether lending activities undertaken by micro finance institutions is resulting in over-indebtedness and consequent large scale defaults;</p>	
	<p>(b) whether recovery practices adopted by micro finance institutions are fair and reasonable;</p>	
	<p>(c) whether the grievance re-dressal mechanism is working satisfactorily;</p>	
	<p>(d) overall assessment of the impact of measures for financial literacy and inclusion on an annual basis;</p>	
	<p>(e) any other matter which the State Advisory Council deems necessary to bring to the notice of Central Government.</p>	
	<p>(4) The Central Government may entrust such other functions of the Micro Finance Development Council to any State Advisory Council by issue of notification subject to such terms and conditions as deemed fit.</p>	
	<p>9. A member of the Council shall hold office for such term not exceeding three years and receive such fees and allowances may be prescribed.</p>	
	<p>CHAPTER IV REGISTRATION OF MICRO FINANCE INSTITUTIONS</p>	

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Registration.	10. Notwithstanding anything contained in the Reserve Bank of India Act, 1934 and the Banking Regulation Act, 1949 and save as otherwise provided in this Act, no micro finance institution shall commence or carry on the activity of providing micro finance services without obtaining a certificate of registration from the Reserve Bank under this Act.	2 of 1934. 10 of 1949.
Application for registration.	11. (1) A micro finance institution which intends to commence the business of providing micro finance services shall make an application for registration to the Reserve Bank in such form and manner along with such fee as may be specified by regulations.	
	(2) Any micro finance institution, in existence at the commencement of this Act engaged in providing micro finance services shall, before the expiry of three months from such commencement, apply in writing to the Reserve Bank for a certificate of registration under this Act.	
	(3) Any company registered as a non-banking finance company with the Reserve Bank of India under the provisions of chapter III-B of the Reserve Bank of India, 1934, and engaged in the activity of extending micro finance services shall also apply for registration as a micro finance institution under this Act.	
	(4) Any such non-banking finance company registered as micro finance institution under this Act, shall continue to comply with the terms and conditions of its registration and any rules, regulations, directives and guidelines issued by the Reserve Bank to the non-banking finance companies, from time to time and such other rules, regulations, directives and guidelines of the Reserve Bank as may be issued by the Reserve Bank for the micro finance institutions, under this Act.	
	12. (1) The Reserve Bank may, for the purpose of grant of certificate of registration, satisfy itself that the following conditions are fulfilled by the applicant micro finance institution, namely:—	Grant of certificate.

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	(a) the general character and management of the applicant shall not be prejudicial to the interest of the clients availing micro finance services.;	
	(b) the applicant is engaged in the promotion and development of financial inclusion by providing <i>micro finance services</i> ;	
	(c) the applicant has a net owned fund, created out of contributions to capital, reserves or grants or donations received by it, of at least five lakh rupees or such other amounts specified by regulations;	
	(d) any other condition as may be specified by regulations .	
	(2) The Reserve Bank may, on being satisfied that the conditions referred to in sub-section (1) are fulfilled, grant a certificate of registration to the applicant micro finance institution to commence or carry on the business of providing <i>micro finance services</i> subject to such conditions as it may consider necessary to impose:	
	Provided that no application for registration shall be rejected unless the applicant has been given an opportunity of being heard.	
	13. Cease and desist order	
	(1) If on inspection or perusal of annual accounts or any returns submitted by any micro finance institution, the Reserve Bank is satisfied that activities of any micro finance institution are being conducted in a manner prejudicial to the interest of its clients or depositors or the micro finance institution itself the Reserve Bank may pass an order directing such micro finance institution to cease and desist from continuing the micro finance activities subject to such terms and conditions as may be specified in such order.	

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	(2) The Reserve Bank may, subject to such conditions as may be prescribed, grant time to such Micro Finance Institution for taking necessary steps to comply with such directives or conditions within the time granted by the Reserve Bank.	
	(3) The Reserve Bank may withdraw the Cease and Desist Order issued under sub-section (1) if the Reserve Bank is satisfied that Micro Finance Institution has complied with the directives and other terms of the Order.	
	(4) The Reserve Bank may initiate proceedings for cancellation of the registration granted to the micro finance institution if it fails to comply with, and implement the directives or conditions stipulated by Reserve Bank in the Cease and desist Order.	
	14.(1) The <i>Reserve</i> Bank may cancel the certificate of registration granted to a micro finance institution under section 12, if such micro finance institution,—	Power of Reserve Bank to cancel certificate of registration.
	(i) fails to comply with directives or condition stipulated with Cease and desist Order passed under section 13 by the Reserve Bank;	
	(ii) ceases to carry on the business of providing <i>micro finance services</i> or	
	(iii) has failed to comply with any of the conditions including conditions relating to maintenance of the levels of assets deployed and observance of other norms subject to which the certificate of registration has been granted to it; or	
	(iv) fails to comply with any direction issued by the <i>Reserve</i> Bank under the provisions of this Act; or	
	(iv) fails to submit or offer for inspection its books of accounts and other relevant documents under sub-section (2) of section 26.	

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	(2) Before cancelling the certificate of registration under this section, the Reserve Bank shall provide an opportunity to such a micro finance institution to show cause why the certificate or registration granted to it should not be cancelled.	
	(3) Any such representation made by the Micro Finance Institution shall be considered by the Reserve Bank and an order recording the reasons either for withdrawal of the cancellation or confirming the cancellation shall be passed by the Reserve Bank within 60 days of the representation.	
		Collection of thrift
1 of 1956	15 (1) Any micro finance institution which is not a company registered under the Companies Act, 1956 and which becomes systemically important micro finance institution shall convert its institution into a company registered under the Companies Act, 1956 with or without a licence under section 25 of the Companies Act, 1956, within six months from the date of the Balance Sheet which shows that it has become systematically important micro finance institution in terms of the rules prescribed by the Central Government.	Systemically important institutions

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	<i>(2) A micro finance institution which becomes systemically important shall submit to the Reserve Bank a certificate from the Statutory Auditor indicating the Assets pattern and total number of clients availing micro finance services making it eligible to be classified as systemically important micro finance institution, within one month from the date of finalisation of the balance sheet.</i>	
	<i>(3) On becoming systemically important micro finance institution it shall comply with any directives issued by the Reserve Bank, from time to time to systemically important micro finance institutions.</i>	
Appeal against certain cases.	16 (1) A micro finance institution aggrieved by an order of rejection of an application for grant of certificate of registration under section 12, or cancellation of certificate of registration under section 14, or any action taken by the Reserve Bank under sub-section (4) of section 26, may prefer an appeal to the Central Government or such other authority as the Central Government may, by notification specify, within a period of sixty days from the date on which such order is communicated to the micro finance institution.	
	(2) The appeal shall be filed and disposed of in such form and in such manner, as may be <u>prescribed</u> by the Central Government.	
	(3) The decision of the Central Government or the authority, where an appeal has been preferred to it under sub-section (1), shall be final.	
	CHAPTER IV RESERVE, ACCOUNTS, AUDIT AND RETURNS	

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	<p>17. (1) Every micro finance institution registered with the Reserve Bank under this Act shall create a reserve fund and transfer therein a sum, representing such percentage, as may be specified by the Reserve Bank, of its net profit or surplus realized by providing micro finance services every year as disclosed in the profit and loss account or income and expenditure account before any dividend is declared or surplus is utilized for any other purpose.</p>	Obligation to create reserve fund.
	<p>(2) No appropriation of any sum from the reserve fund shall be made by the micro finance institution except for the purpose, as may be specified by the Reserve Bank from time to time, and every such appropriation shall be reported to the Reserve Bank within twenty-one days from the date of such appropriation.</p>	
	<p>(3) The Reserve Bank may, in the public interest or in the interest of clients of any micro finance institution direct any micro finance institution or any class of micro finance institutions to invest the whole or part of such reserve fund in such unencumbered securities, as it may, by regulations specify.</p>	
	<p>18. At the close of each financial year, every micro finance institution shall prepare with reference to that year, in respect of all services transacted by it, a balance sheet, profit and loss account or an income and expenditure account as on the last working day of the financial year, in such forms as may be specified by regulations.</p>	Accounts and balance sheet.

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1 of 1956.	19. The balance sheet, profit and loss account or an income and expenditure account prepared in accordance with section 18 shall be audited by a person duly qualified under any law for the time being in force to be an auditor of companies formed and registered under the Companies Act, 1956 or an auditor from the list of Chartered Accountants or other qualified persons approved by the Reserve Bank	Audit.
	Explanation.—For the purposes of this section “person duly qualified” means a person having qualification and experience as may be specified by regulations.	
Special audit.	20. Without prejudice to anything contained in the Companies Act, 1956 or any other law for the time being in force, where the Reserve Bank is of the opinion that it is necessary in the public interest or in the interest of its clients or for the purpose of proper assessment of the records and books of account of the micro finance institution, so to do, it may by order direct –	1 of 1956.
	(a) the auditor of micro finance institution to audit the accounts of the micro finance institution in relation to any transaction or class of transactions, or for such period or periods as may be specified in the order, and the auditor shall comply with such directions and make a report of the audit with such information as it may be asked to report by the Reserve Bank to it and forward a copy thereof to the micro finance institution;	
	(b) such micro finance institution to appoint auditors, with the prior approval of the Reserve Bank, for such period and subject to such conditions as the Reserve Bank may specify from time to time.	

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Powers of auditors.	21. (1) The auditor appointed for audit under section 19 or for special audit under section 20 shall have the powers to exercise the functions vested in, discharge the duties and be subject to the liabilities and penalties imposed on the auditors of companies under section 227 of the Companies Act, 1956 and the auditors if any, appointed under any law establishing, constituting or forming the micro finance institution concerned.	1 of 1956
	(2) Without prejudice to the provisions contained in sub- section(1), the auditor shall report –	
	(a) whether or not, the information and explanations required have been found to be satisfactory;	
	(b) whether the profit and loss account shows the true balance of profit or loss for the period covered by such account;	
	(c) any other matter including defaults in re-payment of thrift or interest thereon which the auditor considers necessary to be brought to the notice of eligible clients and the Reserve Bank to ensure good governance and transparency in the business of the micro finance institution concerned.	
	(3) The expenses of, or incidental to, the audit specified in the order made by the Reserve Bank under Clause (a) of section 20 shall be borne by the micro finance institution concerned.	
	22. Save as otherwise provided in this Act, every micro finance institution, whether engaged in providing thrift services or not at the commencement of this Act shall, within ninety days from the date of commencement of this Act, file with the Reserve Bank a return containing particulars of its activities in such form and manner and thereafter at such intervals as may be specified by regulations.	Returns to be filed by micro finance institutions
	CHAPTER V FUNCTIONS AND POWERS OF RESERVE BANK	

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61 of 1981.	23. (1) It shall be the duty of the Reserve Bank to promote and ensure orderly growth of the micro finance Sector in accordance with such measures as it deems fit, for the purpose of promoting financial inclusion.	Functions and powers of Reserve Bank.
	(2) Without prejudice to the generality of the foregoing provisions contained in sub-section (1), the measures may provide for-	
	(a) formulating and facilitating appropriate policy for the orderly growth of the micro finance services provided by micro finance institutions so as to ensure greater transparency, effective management, good governance and to facilitate the flow of micro finance services in an efficient manner;	
	(b) setting or facilitating the sector related benchmarks and performance standards pertaining to methods of operation, methods of recovery, management and governance including model codes for conduct of business of micro finance institutions;	
	(c) facilitating the development of credit rating norms or rating norms for other purposes for micro finance institutions;	
	(d) specifying the form and manner of books of account to be maintained by micro finance institutions;	
	(e) specifying the form and manner of accounting of business operations of micro finance institutions and auditing standards relating thereto;	
	(f) calling for information and data from micro finance institutions for maintaining an appropriate data base in the public domain relating to micro finance services and disseminating the same through a national dissemination network;	
	(g) facilitating institutional development of all entities, including groups, engaged in micro finance services through training and capacity building measures;	

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	(h) promoting customer education of all entities engaged in thrift services and micro finance for greater awareness and for economic empowerment of micro finance clients;	
	(i) supporting sector related research, field research, documentation and dissemination thereof;	
	(j) co-ordinating with other agencies for orderly growth and development of entities engaged in the micro finance services;	
	(k) documenting and disseminating information relating to fair practices with a view to ensuring provision of thrift services and micro finance services at an affordable cost to eligible clients;	
	(l) perform such other functions as may be prescribed.	
Power to issue directions to micro finance institutions	24. (1) <i>If the Reserve Bank is satisfied that, in the public interest or to prevent the affairs of any micro finance institution being conducted in a manner detrimental to the interest of the clients availing micro finance services or in a manner prejudicial to the interest of the micro finance institution, it is necessary or expedient so to do, it may give directions to a class or classes or all micro finance institutions relating to income recognition, accounting standards, making of proper provision for bad and doubtful debts, capital adequacy based on risk weights for assets and credit conversion factors for off-balance-sheet items and also relating to deployment of funds by a micro finance institution or a class of micro finance institutions or micro finance institutions generally, as the case may be, and such micro finance institutions shall be bound to follow the policy so determined and the directions so issued.</i>	

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	<i>(2) In particular and without prejudice to the generality of the foregoing powers, such directions may provide for all or any of the following matters, namely: -</i>	
	<i>(a) extent of deployment of assets for providing micro finance services and proportion of clients availing such services , necessary to classify any institution as Micro finance institution;</i>	
	<i>(b) ceiling on amount of financial assistance and the number of individual clients to whom such financial assistance may be provided by any micro finance institution;</i>	
	<i>(c) tenure of financial assistance given to clients and other terms such as purpose for which financial assistance can be given, margin caps and periodicity of repayment schedules;</i>	
	<i>(d) levy of processing fees, interest, life insurance premium and other terms relating to financial assistance and the percentage of margin to be maintained by a micro finance institution.</i>	
	<i>(e) specify the maximum Annual Percentage Rate that can be charged by a micro finance institution on the financial assistance granted to any client.</i>	
	<i>(f) specify the locations where financial assistance may be sanctioned and disbursed by micro finance institutions;</i>	
	<i>(g) require micro finance institutions to become members of Credit Information Bureaus that may be set up for the Micro Finance Sector;</i>	
	<i>(h) observe Code of Conduct formulated by any Self-Regulatory Organisation of micro finance institutions recognized by the Reserve Bank and set up grievance redressal mechanism for their clients as required by the self-regulatory organisation;</i>	

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	<i>(i) provide a Client Protection Code and direct its acceptance and observance by micro finance institutions ;</i>	
	<i>(j) advise micro finance institutions to achieve better control , simplification of procedures and reduction of costs by use of information technology;</i>	
	<i>(k) specify the minimum net-worth of micro finance institutions considering their size of operations and other relevant parameters;</i>	
	<i>(l) specify norms for corporate governance to be observed by micro finance institutions;</i>	
	<i>(m) specify prudential norms relating to income recognition, accounting standards, provisioning for bad and doubtful debts, capital adequacy based on risk weights for assets and deployment of funds;</i>	
	<i>(n) require disclosure of assignments or securitisation of assets as also assets assigned with recourse or with arrangement as agent for collection of loan installments;</i>	
	<i>(o) raising of preference share capital or other capital by micro finance institution;</i>	
	<i>(p) grant recognition to any self Regulatory Organisation of micro finance institutions;</i>	
	<i>(q) generally for efficient conduct of the business of micro finance institution.</i>	
Margins to be maintained	25. (1) A micro finance institution engaged in the activity of granting financial assistance to eligible clients shall maintain the percentage of margin as may be specified by the Reserve Bank by regulations from time to time.	
	Explanation: The Reserve Bank may specify margin under sub-section (1) for micro finance institutions generally or for a class of micro finance institutions or for any micro finance institution in particular, considering the size of their operations and other relevant parameters.	

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	<p><i>(2) A micro finance institution engaged in the activity referred in sub-section (1) shall convey to every borrower the annual percentage rate comprising of the annual interest rate, processing fees or any other charges or fees levied by the micro finance institution and incorporate the same distinctly and prominently in the loan document obtained from the borrower as also in the sanction letter given to the borrower.</i></p>	
	<p><i>(3) A micro finance institution shall also obtain from the Statutory Auditors a certificate that the margin available to and realised by the micro finance institution does not exceed the percentage of margin specified by the Reserve Bank computed on the basis of the annual percentage rate fixed by the micro finance institution and that the micro finance institution has complied with the requirements of sub-sections (1) and (2)</i></p>	
Inspection.	<p>26. (1) The Reserve Bank may, at any time, cause inspection to be made of books of account or any other record of any micro finance institution, by an inspecting authority approved by it in such manner and on such terms and conditions as may be specified by it and such inspecting authority shall submit a report to the Reserve Bank in respect of inspection made by it.</p>	
	<p>(2) It shall be duty of every person who is a director, trustee or a member of Managing Committee, manager, secretary or other officer or employee of the micro finance institution to produce before the inspecting authority, all such books of account, records and other documents in custody or power of the person to furnish any statement or information relating to affairs of the micro finance institution, as the inspecting authority may require within such time, as may be specified.</p>	

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	(3) A copy of the report under sub-section (1) shall be furnished to the micro finance institution, if:	
	(a) the micro finance institution makes a request for the same; or	
	(b) any action is contemplated against the micro finance organization on the basis of such report.	
	(4) If the Reserve Bank, after considering the report, is of the view that the affairs of any micro finance institution are being conducted to the detriment of its clients, it may after giving such opportunity to the micro finance institution to make representation in connection with the report, take such action as it deems appropriate including removal of any officer, office bearer or managing committee of the micro finance institution or prohibiting the micro finance institution from providing micro finance services for such period as the Reserve Bank may deems fit, in accordance with the procedure specified in the regulations.	
	27. No micro finance institution providing micro finance services or other services, shall close or wind up its business, or amalgamate with other institutions, or take over any other business or its shareholding or de-merge or divide, or restructure, or otherwise transfer the ownership or control of its business without prior approval of the Reserve Bank.	Restructuring of Business.

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	<p>28. Power of Reserve Bank to file winding up petition</p> <p>(1) The Reserve Bank, on being satisfied that a micro finance institution</p> <p>(a) is unable to pay its debt; or</p> <p>(b) by virtue of provisions of this Act become disqualified to carry on the activity of micro finance institution; or</p> <p>(c) has failed to comply with any directives or orders issued by the Reserve Bank along with the Cease and Desist Order or otherwise; or</p> <p>(d) the continuance of the micro finance institution is detrimental to public interest or to the interest of the clients of the institution;</p> <p>may file an application for winding up or any other application by whatever name called, before the appropriate authority or Court empowered to wind up the business or activity of the micro finance institution under the law applicable to such micro finance institution.</p> <p>Explanation: If the micro finance institution against whom application for winding up is to be filed is also engaged in any other activity, the concerned micro finance institution may be permitted to continue such activity and restrict the winding up or closure of the business only to the activity of providing micro finance services with the approval of the concerned authority or Court.</p>	<p>depositors shall have first</p>
	<p>(2) A micro finance institution shall be deemed to be unable to pay its debts if it has refused or has failed to meet within five working days any lawful demand made at any of its officers or branches and the Reserve Bank certifies in writing that such company is unable to pay its debt.</p>	

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CHAPTER VI CONSTITUTION OF MICRO FINANCE DEVELOPMENT FUND		
	29. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Reserve Bank, National Bank or any other authority s may be prescribed, grant such sums of money as that Government may think fit for being utilised for the purposes of this Act.	Grants by Central Government.
	30. (1) The Reserve Bank shall constitute a fund to be called the Micro Finance Development Fund (hereafter called 'the Fund') and there shall be credited thereto -	Fund.
	(a) all Government grants received and fees payable under this Act;	
	(b) all sums that may be raised by the Reserve Bank from donors, Governments, institutions, other entities and public for the purpose of this Act;	
	(c) any interest or other income received out of investments made from the Fund under clause (c) of sub-section (3);	
	(d) the balance outstanding in the Micro Finance Development and Equity Fund maintained by the Reserve Bank, before the commencement of this Act.	
	(2) The Fund shall be managed by the Reserve Bank in the in accordance with regulations duly approved by the Central Board of Directors of the Reserve Bank.	
	(3) The Fund shall be applied-	
	(a) to provide loans, refinance, grant, seed capital or any other financial assistance to any micro finance institution or any other agency which the Reserve Bank may by regulations specify;	

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	(b) to give grants or loans for training and capacity building of institutions engaged in micro finance services and personnel engaged in promoting and providing micro finance services and meeting other expenditure related to such training and capacity building on such terms and conditions as may be specified by regulations;	
	(c) to invest in equity or any other form of capital or quasi-equity of a micro finance institution or any other agency on such terms and conditions as may be specified by regulations;	
	(d) to meet the expenses in relation to collection, analysis, dissemination of information relating to micro finance, conduct of such research, experiments or studies as may be necessary, and to design, promote, and propagate such practices as may be considered conducive to the growth of micro finance services;	
	(e) to meet any other expenses as may be required for the promotion of micro finance services as the Reserve Bank by regulations specify;	
	(f) to meet any other expenses (except salaries, allowances and other remuneration of officers and other employees) of the Reserve Bank in connection with discharge of its functions as may be specified by the regulations.	
	CHAPTER VII REDRESSAL MECHANISM	

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Redressal of Grievances against micro finance institutions	<p>31. (1) The Reserve Bank may, in consultation with the Micro Finance Development Council and the State Advisory Councils , if deemed necessary, appoint as many Micro Finance Ombudsmen as it may deem fit in accordance with a scheme framed under this section, for the purpose of redressal of grievances between clients of micro finance institutions and micro finance institutions with powers to issue directions to micro finance institutions.</p>	
	(2) Any such scheme of Micro Finance Ombudsman may provide for the following:-	
	(a) appointment, terms of office, conditions of service and location of office of the Ombudsman;	
	(b) nature of grievances and complaints that may be entertained by the Ombudsman and the procedures for redressal of grievances and complaints;	
	(c) any other matter that may be necessary for effective functioning of Micro Finance Ombudsman.	
	CHAPTER VIII OFFENCES AND PENALTIES	
	<p>32. (1) If any provision of this Act is contravened or if any default is made in complying with any other requirement of this Act or of any rules, regulations or orders or directions given or notification issued or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to five lakh rupees and where, a contravention or default is a continuing one, with further fine, which may extend to ten thousand rupees for everyday after the first, during which the contravention or default continues or with imprisonment for a term not exceeding two years or with both.</p>	. Contravention of provisions of Act, orders and directions

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	(2) Whoever knowingly fails to comply with the provisions of section 12 or any orders made by the Central Government or other specified authority under section 13 or the directions issued by the Micro Finance Ombudsman shall be punishable with fine which may extend to five lakh rupees and where, a contravention or default is a continuing one, with a further fine, which may extend to ten thousand rupees for every day after the first, during which the contravention or default continues, or with imprisonment for a term not exceeding two years or with both.	
2 of 1974.	(3) Every offence connected with or arising out of acceptance of thrift or repayment thereof, shall be a cognizable offence under the Code of Criminal Procedure, 1973.	?
.	33. Whoever, in any application, declaration, return, statement, information or particulars made, required or furnished by or under or for the purposes of any provision of this Act, or any rule, regulation or order or direction made or given there under, willfully makes a statement which is false in any material particulars knowing it to be false or willfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine which may extend to five lakh rupees and where, a contravention or default is a continuing one, with further fine, which may extend to ten thousand rupees for everyday after the first, during which the contravention or default continues or with imprisonment for a term not exceeding two years or with both.	Giving false information
	34. (1) Notwithstanding anything to the contrary contained in sections 27 and 28, the Reserve Bank may impose penalty,—	Powers of Reserve Bank to impose Penalty

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	(a) which may extend upto five lakhs rupees where the contravention is of the nature referred to in sections 26 and 27;	
	(b) which may not be less than ten thousand rupees for every day during which non compliance of the orders and directions, referred to in sections 28 and 29 continues.	
	(2) For the purpose of imposing penalty under sections 29 and 30, the Reserve Bank shall serve notice on the micro finance institution requiring it to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such micro finance institution.	
	(3) Any penalty imposed by the Reserve Bank under this section shall be payable within a period of thirty days from the date on which the notice by the Reserve Bank demanding payment of the amount is served on the micro finance institution to pay the amount and the orders of the Reserve Bank shall be enforceable in the same manner as if it were a decree made by the civil court in a civil suit.	
Bar of civil jurisdiction	35. No civil court shall have jurisdiction against any micro finance institution in respect of any contravention or default for which any penalty has been imposed by the Reserve Bank or payment of such penalty imposed by the Reserve Bank.	.
Offences by micro finance institutions	36. (1) Where an offence under this Act is committed, the person who was in charge of, and was responsible to, the micro finance institution for the conduct of business of the micro finance institution, as well as the micro finance institution itself, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:	.

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	<p>Provided that nothing contained in this subsection shall render any such person liable to punishment if he proves that the contravention or default was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.</p>	
	<p>(2) Notwithstanding anything contained in subsection (1), where an offence under this Act has been committed by a micro finance institution and it is proved that the same was committed with the consent or connivance of, or is attributable to any neglect on the part of, any person who is or was a director, trustee, member of the managing committee, manager, secretary or other officer or employee of the micro finance institution when the offence is or was committed, such person shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.</p>	
	<p>Explanation— For the purposes of this section, any offence punishable under this Act shall be deemed to have been committed at the place where the registered office or principal office of the micro finance institution, is situated.</p>	
.	<p>37. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made there under, save on a complaint made by an officer or other person authorised by the Reserve Bank.</p>	Cognizance of offences
	<p>Provided that no such officer or other person shall be competent to file the complaint unless he is generally or specially authorized in writing by the Reserve Bank.</p>	
	<p>(2) No court inferior to that of Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.</p>	

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2 of 1974.	(3) Notwithstanding anything to contrary contained in the Code of Criminal Procedure, 1973, a court, if it considers fit to do so, may dispense with the attendance of the officer of the Reserve Bank or other person filing the complaint on its behalf, but the court in its discretion at any stage of the proceeding, may direct personal attendance of such officer or the person.	
	(4) The court imposing any fine under this Act, may direct that the whole or any part thereof shall be applied for, or towards payment of the cost of the proceeding.	
	CHAPTER IX DELEGATION OF POWERS	
	38. (1) The Reserve Bank may with the previous approval of the Central Government delegate any of its powers conferred under this Act to the National Bank in respect of any micro finance institution or a class of micro finance institutions generally, by issue of a notification in the Official Gazette.	
	(2) Any notification issued under sub-section (1) shall specify the following particulars:	
	(a) specific micro finance institution or class of micro finance institutions such as companies providing micro finance services for profit or companies licensed under section 25 of the Companies Act, 1956; or other non-corporate organizations engaged in the activity of providing micro finance services or any other category of organizations, to which the delegation of powers shall apply;	1 of 1956
	(b) the specific powers under various provisions of this Act which are delegated to the National Bank;	

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	<i>(c) the powers which are retained by the Reserve Bank</i>	
	<i>(3) The National Bank shall exercise the powers delegated by the Reserve Bank subject to such conditions as may be specified in the Notification under sub-section (1) and such directives and guidelines that may be issued by the Reserve Bank from time to time.</i>	
	<i>(4) Any action taken by the National Bank pursuant to the delegation by the Reserve Bank shall be deemed to be the action of the Reserve Bank and provisions contained in section 17 for appeal against the orders referred in the said section shall lie to the Central Government.</i>	
	CHAPTER X MISCELLANEOUS	
	39. In the event of a micro finance institution making any default in repayment of thrift to any of its members or eligible clients who had made a contribution to thrift, all members or eligible clients of such micro finance institution shall have a first charge over the specified unencumbered securities referred to in sub-section (3) of section 18.	First charge over assets in favour of members.
	40. The Central Government may, in consultation with the Reserve Bank from time to time, require the furnishing of such returns, statements and such other particulars in regard to micro finance institutions in such form and in such manner as may be prescribed, and the micro finance institution shall furnish to the Central Government such returns, statements and particulars.	Power of Central Government to call for information.

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Power to exempt.	41The Central Government may, on being satisfied that in the public interest, or in the interest of the micro finance institution, it is necessary so to do, by an order published in the Official Gazette, declare that any or all of the provisions of this Act shall not apply to a micro finance institution or a class of micro finance institutions, either generally or for such period as may be specified in the order, subject to such conditions, limitations or restrictions as it may deem fit to impose.	
Provisions of this Act to override other laws.	<p>42. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.</p> <p><i>Explanation : For removal of doubts it is declared that micro finance services extended by any micro finance institution registered with the Reserve Bank shall not be treated as money-lender for the purpose of any State enactments relating to money-lenders and usurious loans</i></p>	
Protection of action taken under the Act	43. No suit or other legal proceedings shall lie against the Reserve Bank, or any director, or any officer, or other employee of the Reserve Bank, or any other person authorized by the Reserve Bank to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or of any other law or provision having the force of law.	
Power to make rules.	44. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.	
	(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -	

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	<p>(a) the form and manner of providing micro finance services under clause (g) of section 2 including the following:</p> <ul style="list-style-type: none"> (i) the purposes for which financial assistance can be granted (ii) fix the quantum of financial assistance or other services which will be treated as micro financial services for the purposes of this Act (iii) declare various categories of clients, households and self-help or joint liability groups who can be provided micro finance services; (iv) the nature and extent of pension or insurance services that can be provided and the regulatory directives that need to be complied with and observed while providing such services, as may be stipulated by the Pension Regulatory Authority or the Insurance regulatory and Development Authority from time to time; (v) the maximum amount of thrift that can be collected from each individual client, creation of free reserves in unencumbered securities and any other measures for protecting the interest of the clients keeping thrift with the micro finance institutions; (vi) various categories of institutions that can provide micro finance services and minimum amount of capital, free reserves or net owned funds any or all or any class or classes of micro finance institutions is required to hold; 	
	<p>(b) fees and allowances payable to members of the Micro Finance Development Council under section 6;</p>	
	<p>(c) rules and procedure for transaction of business at the meetings, periodicity and place of meetings of the Micro Finance Development Council, under section 7;</p>	
	<p>(d) the form and manner of collection of thrift by micro finance institutions under clause (p) of section 2;</p>	

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	(e) the amount and the terms and conditions under clause (n) of section 2 for classification of micro finance institutions as systemically important ;	
	(f) the form and the manner of filing of appeal under sub-section (2) of section 16;	
	(g) such other functions to be performed by the Reserve Bank under clause (l) of sub-section (2) section 23;	
	(h) the form and manner of furnishing of returns, statements and other particulars under section 40;	
	(i) any other matter which is required to be, or may be, prescribed.	
	(3) Notwithstanding anything contained in section 45-S of the Reserve Bank of India Act, 1934 the Rules prescribed under clause (d) of sub-section (2) of section 44 may permit acceptance of thrift by micro finance institutions subject to such terms and conditions as may be prescribed.	
Power to make regulations.	45. (1) The Reserve Bank, with the previous approval of the Central Government may, by notification in the Official Gazette, make regulations not inconsistent with this Act and the 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:-	Section Nos. to be corrected
	(a) the form and manner in which a micro finance institution shall make an application for registration and the fee payable to the Reserve Bank under sub-section (1) of section 11;	
	(b) amounts of net owned funds under clause (c) of sub-section (1) of section 12;	

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	(c) any other condition for grant of a certificate of registration under clause (d) of sub-section (1) of section 12;	
	(d) the unencumbered securities for the purpose of investment under sub-section (3) of section 17;	
	(e) the form in which the balance sheet, profit and loss account or an income and expenditure account shall be prepared under section 18;	
	(f) qualifications and experience of a person duly qualified under section 19;	
	(g) the form and the manner of filing return under section 22;	
	(h) the procedure for removal of any officer, office bearer or managing committee of the micro finance institution or for prohibiting the micro finance institution from providing micro finance services for such period as the Reserve Bank may deems fit under sub-section (4) of section 26;	
	(i) the manner of management of Fund by the Reserve Bank under sub-section (2) of section 30;	
	(j) providing loans, refinance, grants, seed capital or any other financial assistance to any micro finance institution or any other agency under clause (a) of sub-section (3) of section 30;	
	(j) the terms and conditions subject to which grants or loans shall be given by the Reserve Bank under clause (b) of sub-section (3) of section 30;	
	(k) the terms and conditions subject to which the investment in equity or any other form of capital or quasi-equity of a micro finance institution shall be made under clause (c) of sub-section (3) of section 30;	
	(l) any other expenses as may be required for the promotion of micro finance services under clause (e) of sub-section (3) of section 30;	

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	(m) the other expenses (except salaries, allowances and other remuneration of officers and other employees) of the Reserve Bank under clause (f) of sub-section (3) of section 30;	
	(3) Such other matters for which the Reserve Bank may consider it expedient or necessary to provide for by way of regulations.	
Rules, orders, regulations and scheme to be laid before Parliament	46. Every rule or order made by the Central Government and every regulation made by the Reserve Bank and any order of exemption made under section 41 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 rule, regulation, scheme or order or both Houses agree that the rule, regulation, scheme or order should not be made, the rule, regulation or order 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 rule, regulation, scheme or order.	
Power to remove difficulties	47. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient, for removing the difficulty:	
	Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.	
	(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.	

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