

F. No. 7/93/2024-BOA-I
Government of India
Ministry of Finance
Department of Financial Services

Jeevan Deep Building, 3rd floor
Parliament Street, New Delhi - 110 001

Dated: 13th December 2024

To:

1. All the Chief Secretaries of States and Union Territories (as per list enclosed)
2. All the Advisors to the Lieutenant Governor/Administrator of Union Territories (as per list enclosed)
3. The Ministries/ Department. of Government of India (as per list enclosed)
4. The Governor of Reserve Bank of India (RBI)
5. Chairman of Securities and Exchange Board of India (SEBI), Pension Fund Regulatory and Development Authority (PFRDA), National Bank for Agriculture and Rural Development (NABARD) and Small Industries Development Bank of India (SIDBI)
6. Chief Executives/ Heads of Indian Banks' Association (IBA), Fintech Association for Consumer Empowerment (FACE)(fintech SRO), Microfinance Institutions Network (MFIN)(Association for NBFC-MFIs), Finance Industry Development Council (FIDC), Sa-Dhan (SRO-MFI)

Subject: Stakeholder consultation on draft bill to curb unregulated lending activities-reg

Madam / Sir,

With a view of curb unregulated lending activities and to protect the interest of consumers, RBI had constituted a Working Group on Digital Lending (WGDL). The WGDL submitted its report in November 2021 and suggested a set of measures, including introducing legislation for banning of unregulated lending.

2. Accordingly, a Bill titled as 'Banning of Unregulated Lending Activities (BULA)' has been drafted and the same is enclosed as Annexure. The proposed Bill envisages to ban all persons/entities not authorised by RBI/other Regulators and not registered under any other law from undertaking public lending business activity.
3. In view of the above, it is requested to furnish the comments/ suggestions/ remarks on the enclosed draft bill, taking into consideration the extant regulations and guidelines.
4. The comments/ suggestions/ remarks may be sent to this Department by 13.02.2025, positively.

Enc.: as above

Yours sincerely,

(Jnanatosh Roy)

Under Secretary to the Government of India

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Chief Secretaries of following States & Union Territories

1. Andhra Pradesh
2. Arunachal Pradesh
3. Assam
4. Bihar
5. Chhattisgarh
6. Goa
7. Gujarat
8. Haryana
9. Himachal Pradesh
10. Jharkhand
11. Karnataka
12. Kerala
13. Madhya Pradesh
14. Maharashtra
15. Manipur
16. Meghalaya
17. Mizoram
18. Nagaland
19. Odisha
20. Punjab
21. Rajasthan
22. Sikkim
23. Tamil Nadu
24. Tripura
25. Uttar Pradesh
26. Uttarakhand
27. West Bengal
28. Telangana
29. Andaman & Nicobar Islands
30. Delhi
31. Jammu & Kashmir
32. Puducherry

Advisors to the Administrator of following Union Territories

- 1.. Chandigarh
2. Dadar & Nagar Haveli and Daman & Diu
3. Ladakh (Leh)
4. Lakshadweep

List of Ministries/Departments of Government of India

1. Ministry of Home Affairs
2. Ministry of Corporate Affairs
3. Department of Commerce, Ministry of Commerce & Industry
4. Department of Legal Affairs, Ministry of Law & Justice
5. Legislative Department, Ministry of Law & Justice
6. Ministry of Cooperation
7. Department of Economic Affairs, Ministry of Finance
8. Department of Revenue, Ministry of Finance
9. Department of Expenditure, Ministry of Finance
10. Ministry of Electronics & Information Technology

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THE BANNING OF UNREGULATED LENDING ACTIVITIES (DRAFT) BILL, 20--

An Act to provide for a comprehensive mechanism to ban the unregulated lending activities other than lending to relative(s) and to protect the interest of borrowers and for matters connected therewith or incidental thereto.

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement. — (1) This Act may be called the Banning of Unregulated Lending Activities Act, 20--.

(2) It extends to the whole of India.

(3) 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 any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions—In this Act, unless the context otherwise requires,—

(1) “appropriate Government” means in respect of matters relating to, —

- (i) the Union territory without legislature, the Central Government;
- (ii) the Union territory of Puducherry, the Government of that Union territory;
- (iii) the Union territory of Delhi, the Government of that Union territory; and;
- (iv) the State, the State Government;

(2) “Client” means a person who is engaged in a financial transaction or activity with a reporting entity and includes a person on whose behalf the person who engaged in the transaction or activity, is acting.

(3) “company” shall have the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013);

(4) “Competent Authority” means an Authority appointed by the appropriate Government under section 6;

(5) “Designated Court” means a Designated Court constituted by the appropriate Government under section 7;

(6) “Digital Lending” means a remote and automated public lending activity, largely by use of digital technologies for customer acquisition, credit assessment, loan approval, disbursement, recovery, and associated customer service.

(7) “Lender” means any person, who undertakes lending activities.

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(8) “Public lending activity” means business of financing by any person whether by way of making loans or advances or otherwise of any activity other than its own at an interest, in cash or kind but does not include loans and advances given to relative(s).

Explanation: (i) For the purposes of this clause, the expression “relative” shall have the same meaning as assigned to it in the Companies Act, 2013 (18 of 2013);

(ii) For the purpose of this clause, the expression “business” means an organised activity undertaken by a person with the purpose of making gains or profits, in cash or kind.

(9) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;

(10) “person” includes—

(i) an individual;

(ii) a Hindu Undivided Family;

(iii) a company;

(iv) a trust;

(v) a partnership firm;

(vi) a limited liability partnership;

(vii) an association of persons;

(viii) a co-operative society registered under any law for the time being in force relating to co-operative societies; or

(ix) every artificial juridical person, not falling within any of the preceding sub-clauses;

(11) “prescribed” means prescribed by the Rules made by the Central Government or, as the case may be, the State Government under this Act;

(12) “Principal Officer” means an officer of a Regulated Entity at the management level nominated by that the Regulated Entity responsible for furnishing information to the Competent Authority;

(13) “property” means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located;

(14) “Regulated lending activities” means the lending activities specified under the laws listed in the First Schedule;

(15) “Regulator” means Regulator administering the Acts mentioned in the First Schedule.

(16) “Reserve Bank of India” means Reserve Bank of India as defined in section 3 of the Reserve Bank of India Act, 1934

(17) “Schedule” means the Schedule Appended to this Act;

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(18) “Unregulated lending activities” means lending activities which are not covered under Regulated lending activities as defined in sub-clause (13) above, carried by any person whether through digital lending or otherwise which are not regulated under any other law for time being in force.

(19) all other words and expressions used herein but not defined but are defined in Companies Act, 2013, shall have the meaning assigned to them in that Act.

CHAPTER II

BANNING OF UNREGULATED LENDING ACTIVITIES

3. Banning of Unregulated lending activities — On and from the date of commencement of this Act,—

(a) the Unregulated lending activities (including digital lending) shall be banned; and

(b) no lender shall, directly or indirectly, promote, operate, issue any advertisement in pursuance of an Unregulated lending activity.

4. Wrongful inducement in relation to Unregulated lending activities. — No person by whatever name called shall knowingly make any statement, promise or forecast which is false, deceptive or misleading in material facts or deliberately conceal any material facts, digitally or otherwise to induce another person to apply or take loan from lenders involved in unregulated lending activity.

5. Certain activities to be Unregulated lending activities. — The Appropriate Government, in consultation with the concerned Regulator(s), may notify certain activities to be banned under this Act by classifying it as an unregulated lending activity, for the purposes of this Act.

CHAPTER III

AUTHORITIES

6. Competent Authority. — (1) The appropriate Government shall, by notification, appoint one or more officers not below the rank of Secretary to that Government, as the Competent Authority for the purposes of this Act.

(2) The appropriate Government may, by notification, appoint such other officer or officers as it thinks fit, to assist the Competent Authority in discharging its functions under this Act.

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(3) Where the Competent Authority or officers appointed under sub-section (2), for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of such information and particulars as may be prescribed, that any lender is lending money, whether digitally or otherwise in contravention of section 3, he may, by an order in writing, provisionally attach the accounts held by the lender and the money or other property acquired either in the name of the lender or in the name of any other person on behalf of the lender from the date of the order, in such manner as may be prescribed.

(4) The Competent Authority shall, for the purposes of sub-section (3), have the same powers as vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while conducting investigation or inquiry in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a reporting entity and examining him on oath;
- (c) compelling the production of records;
- (d) receiving evidence on affidavits;
- (e) issuing commissions for examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

(5) The Competent Authority shall have power to summon any person whose attendance he considers necessary whether to give evidence or to produce any records during the course of any investigation or proceeding under this section.

(6) All the persons so summoned shall be bound to attend in person or through authorised agents, as such officer may direct, and shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents as may be required.

(7) Every proceeding under sub-sections (4) and (5) shall be deemed to be a judicial proceeding within the meaning of Section 227 and section 265 of the Bharatiya Nyaya Sanhita 2023.

(8) Subject to any rules made in this behalf by the Central Government, any officer referred to in sub-section (2) may impound and retain in his custody for such period, as he thinks fit, any records produced before him in any proceedings under this Act:

Provided that the officer or officers referred to in sub-section (2) shall not—

- (a) impound any records without recording his reasons for so doing; or
- (b) retain in his custody any such records for a period exceeding three months, without obtaining the previous approval of the Competent Authority.

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7. Designated Court. — (1) The appropriate Government shall, with the concurrence of the Chief Justice of the concerned High Court, by notification, constitute one or more Courts known as the Designated Courts for such area or areas or such case or cases as may be specified in such notification, which shall be presided over by a Judge not below the rank of a District and Sessions Judge or Additional District and Sessions Judge.

(2) No Court other than the Designated Court shall have jurisdiction in respect of any matter to which the provisions of this Act apply.

(3) When trying an offence under this Act, the Designated Court may also try an offence, other than an offence under this Act, with which the accused may, under the Bharatiya Nagarik Suraksha Sanhita, 2023 be charged at the same trial.

CHAPTER IV

INFORMATION ON LENDERS

8. Central database. — (1) The Central Government may designate an Authority, whether existing or to be constituted, which shall create, maintain and operate an online database for information on lenders operating in India and which shall have the facility for public to search information about lenders undertaking regulated lending activities and shall also facilitate reporting of illegal lenders or cloned lenders.

(2) The authority designated under sub-section (1) may require any Regulator or the Competent Authority to share such information on lenders, as may be prescribed.

9. Information of business by lender (1) Every lender which commences or carries on its business as such on or after the commencement of this Act shall intimate the Authority referred to in sub-section (1) of section 8 about its business in such form and manner and within such time, as may be prescribed.

(2) The Competent Authority may, if it has reason to believe that any loan is being offered or granted pursuant to an activity which is unregulated lending activity, direct any lender to furnish such statements, information or particulars, as it considers necessary, relating to or connected with the loans given by such lender.

10. Information to be shared. — (1) The Competent Authority shall share all information received under section 18 with the Central Bureau of Investigation and/or State Police and with the Authority which may be designated by the Central Government under section 8.

(2) The appropriate Government, any Regulator, income-tax authorities or any other investigation agency, having any information or documents in respect of the offence investigated

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under this Act by the police or the Central Bureau of Investigation, shall share all such information or documents with the police or the Central Bureau of Investigation.

(3) Where the principal officer of any banking company, a corresponding new bank, the State Bank of India, a regional rural bank, a co-operative bank or a multi-State co-operative bank, a Non-Banking Financial Company (NBFC), Factors, Asset Reconstruction Company has reason to believe that any client is a lender and is acting in contravention to the provisions of this Act, he shall forthwith inform the same to the Competent Authority.

CHAPTER V

OFFENCES AND PUNISHMENTS

11. Punishment for contravention of section 3. — (1) Any lender who lends money, whether digitally or otherwise in contravention of section 3 shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine which shall not be less than two lakh rupees but which may extend to one crore rupees.

(2) Any lender who lends money whether digitally or otherwise in contravention of section 3 and uses unlawful means to harass and recover the loan, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to ten years and with fine which shall not be less than five lakh rupees but which may extend to twice the amount of loan.

12. Punishment for contravention of section 4. — Any person who contravenes the provisions of section 4 shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which may extend to ten lakh rupees.

13. Punishment for repeat offenders. — Whoever having been previously convicted of an offence punishable under this Chapter, except the offence under section 15, is subsequently convicted of an offence shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to ten years and with fine which shall not be less than ten lakh rupees but which may extend to fifty crore rupees.

14. Offences by lenders other than individuals. — (1) Where an offence under this Act has been committed by a lender other than an individual, every person who, at the time the offence was committed, was in charge of, and was responsible to, the lender for the conduct of its business, as well as the lender, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

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(2) Nothing contained in sub-section (1) 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.

(3) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a lender other than an individual, and it is proved that the offence—

(a) has been committed with the consent or connivance of; or

(b) is attributable to any neglect on the part of any director, manager, secretary, promoter, partner, employee or other officer of the lender, such person shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

15. Punishment for contravention of section 9. — Whoever fails to give the intimation required under sub-section (1) of section 9 or fails to furnish any such statements, information or particulars as required under sub-section (2) of that section, shall be punishable with fine which may extend to five lakh rupees.

16. Cognizance of offences.— Notwithstanding anything contained in section 4, no Designated Court shall take cognizance of an offence punishable under that section except upon a complaint made by the Competent Authority

CHAPTER VI

INVESTIGATION, SEARCH AND SEIZURE

17. Offences to be cognizable and non-bailable. —Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, every offence punishable under this Act, except the offence under section 15, shall be cognizable and non-bailable.

18. Competent Authority to be informed of offences. — The police officer shall, on recording information about the commission of an offence under this Act, inform the same to the Competent Authority.

19. Investigation of offences by Central Bureau of Investigation. — (1) On receipt of information under section 18 or otherwise, if the Competent Authority has reason to believe that the offence relates to unregulated lending activities in which—

(a) the lenders, borrower or properties involved are located in more than one State or Union territory in India or outside India; and

(b) the total value of the amount involved is of such magnitude as to significantly affect the public interest,

the Competent Authority shall refer the matter to the Central Government for investigation by the Central Bureau of Investigation.

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(2) The reference made by the Competent Authority under sub-section (1) shall be deemed to be with the consent of the State Government under section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946).

(3) On receipt of the reference under sub-section (1), the Central Government may transfer the investigation of the offence to the Central Bureau of Investigation under section 5 of the Delhi Special Police Establishment Act, 1946 (25 of 1946).

20. Power to enter, search and seize without warrant. — (1) Whenever any police officer, not below the rank of an officer in-charge of a police station, has reason to believe that anything necessary for the purpose of an investigation into any offence under this Act may be found in any place within the limits of the police station of which he is in-charge, or to which he is attached, such officer may, with the written authorisation of an officer not below the rank of Superintendent of Police, and after recording in writing so far as possible, the thing for which the search is to be made and subject to the rules made in this behalf, authorise any officer subordinate to him,—

(a) to enter and search any building, conveyance or place, between sunrise and sunset, which he has reason to suspect is being used for purposes connected with the promotion or conduct of any lending activities digitally or otherwise in contravention of the provisions of this Act;

(b) in case of resistance, to break open any door and remove any obstacle to such entry, if necessary by force, with such assistance as he considers necessary, for exercising the powers conferred by clause (a);

(c) to seize any record or property found as a result of the search in the said building, conveyance or place, which are intended to be used, or reasonably suspected to have been used, in connection with any such lending activities in contravention of the provisions of this Act; and

(d) to detain and search, and if he thinks proper, take into custody and produce before any Designated Court any such person whom he has reason to believe to have committed any offence punishable under this Act:

Provided that if such officer has reason to believe that the said written authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may, without the said written authorisation, enter and search such building, conveyance or place, at any time between sunset and sunrise after recording the grounds in writing.

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(2) Where it is not practicable to seize the record or property, the officer authorised under sub-section (1), may make an order in writing to freeze such property, account, deposits or valuable securities maintained by any lender about which a complaint has been made or credible information has been received or a reasonable suspicion exists of their having been connected with the promotion or conduct of any unregulated lending activities in contravention of the provisions of this Act and it shall be binding on the concerned bank or financial or market establishment to comply with the said order:

Provided that no bank or financial or market establishment shall freeze such account, deposit or valuable securities, for a period beyond thirty days unless the same is authorised by the order of the Designated Court:

Provided further that, if at any time, it becomes practicable to seize the frozen property, the officer authorised under sub-section (1) may seize such property.

Explanation.— For the purposes of this section, the expressions,—

(i) “freezing of account” shall mean that no transaction, whether deposit or withdrawal shall be allowed in the said account; and

(ii) “freezing of property” shall mean that no transfer, conversion, disposition or movement of property shall be allowed.

(3) Where an officer takes down any information in writing or records grounds for his belief or makes an order in writing under sub-section (1) or sub-section (2), he shall, within a time of seventy-two hours send a copy thereof to the Designated Court in a sealed envelope and the owner or occupier of the building, conveyance or place shall, on application, be furnished, free of cost, with a copy of the same by the Designated Court.

(4) All searches, seizures and arrests under this section shall be made in accordance with the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 .

21. Application of Bharatiya Nagarik Suraksha Sanhita, 2023 to proceedings before Designated Court. — (1) The Designated Court may take cognizance of offences under this Act without the accused being committed to it for trial.

(2) Save as otherwise provided in section 31, the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall apply—

(a) to all arrests, searches and seizures made under this Act;

(b) to the proceedings under this Act and for the purposes of the said provisions, the Designated Court shall be deemed to be a Court of Session and the persons conducting the prosecution before the Designated Court, shall be deemed to be Public Prosecutors.

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CHAPTER VII MISCELLANEOUS

22. Publication of advertisement of Unregulated lending offers. — Where any newspaper or other publication of any nature, contains any statement, information or advertisement promoting, or inducing any person to apply for any loan from any lender involved in unregulated lending activity, the appropriate Government may direct such newspaper or publication to publish a full and fair retraction, free of cost, in the same manner and in the same position in such newspaper or publication as may be prescribed.

23. Act to have overriding effect.— Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force, including any law made by any State or Union territory.

24. 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.

25. Protection of action taken in good faith. — No suit, prosecution or other legal proceedings shall lie against the appropriate Government or the Competent Authority or any officer of the appropriate Government or any Regulator or any of its officer for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

26. Power of Central Government to make rules. — (1) The Central Government may in consultation with the concerned Regulator (s), by notification, 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:—

(a) the information and other particulars to be taken into consideration before issuing an order, and the manner of attachment, under sub-section (3) of section 6;

(b) the information to be shared under sub-section (2) of section 8;

(c) the form and manner in which and the time within which the intimation shall be given under sub-section (1) of section 9;

(d) any other matter which is required to be, or may be, prescribed.

27. Power of State Government, etc., to make rules. — (1) The State Government or Union territory Government, as the case may be, in consultation with the Central Government, by notification, may 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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28. Laying of rules. — (1) Every rule made by the Central Government 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 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 anything previously done under that rule.

(2) Every rule made by a State Government or the Union territory Government, as the case may be, shall be laid, as soon as may be after it is made, before each House of the State Legislature or the Union territory Legislature, as the case may be, where it consists of two Houses, or where such Legislature consists of one House, before that House.

29. Power to amend First Schedule. — (1) The Central Government may, in consultation with concerned Regulator(s), having regard to the objects of this Act, and if it considers necessary or expedient so to do, by notification, add to, or as the case may be, omit from the First Schedule, and on such addition, or omission, such lending activities or arrangement shall become, or cease to be, a Regulated lending activities, as the case may be.

(2) A copy of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament.

30. Act not to apply to certain lending activities. — The provisions of this Act shall not apply to lending activities which are exempted under any other law for the time being in force.’

31. Power to remove difficulties. — (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 may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

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THE FIRST SCHEDULE

[See section 2 (12)]

REGULATED LENDING ACTIVITIES

The Regulated lending activities refers to the lending activities regulated under the provisions of the Acts listed in the following Table or exempted thereunder, namely:—

TABLE

1. Reserve Bank of India Act, 1934
2. Banking Regulation Act, 1949
3. State Bank of India (SBI) Act, 1955
4. The Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970/80 –
5. Regional Rural Banks (RRB) Act, 1976
6. Export Import Bank of India (EXIM) Act, 1981 undertaken by EXIM Bank
7. Multi State Co-operative Societies Act, 2002
8. National Housing Bank (NHB) Act, 1987
9. National Bank of Agriculture and Rural Development (NABARD) Act, 1981
10. National Bank for Financing Infrastructure and Development (NaBFID) Act, 2021
11. Small Industries Development Bank of India (SIDBI) Act, 1989
12. Life Insurance Corporation of India (LIC) Act, 1956
13. Companies Act, 2013
14. Chit Funds Act, 1982
15. Limited Liability Partnership Act, 2008
16. Co-operative Societies Acts of various States/UTs
17. The State Financial Corporations Act, 1951
18. State Money Lenders Acts
19. The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
20. The Factoring Regulation Act, 2011
21. Any other Act for the time being in force in India providing for regulated lending activity.