

## **How is financial regulation different for micro-finance?**

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## **Abstract**

*What is the role of financial regulation in the field of micro-finance? This paper identifies two features of micro-finance which call for unique treatment in policy considerations as compared to policy thinking in the mainstream body of financial law. These features are credit recovery and the credit risk of the MFI, when credit access is enabled through the structure of the joint liability group. The paper goes on to offer draft law which embeds a regulatory treatment of micro-finance that flows from this analysis.*

## **Keywords:**

micro-finance, micro-credit, joint-liability-groups, india, consumer protection, regulation

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M. Sahoo      Renuka Sane      Susan Thomas\*

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# 1 Introduction

Micro-finance came together as an industry in an environment of benign neglect by the government. This has helped a strong industry to come into place, which is starting to obtain a substantial impact upon credit delivery to the very poor and financially excluded all across the country. That this is a for-profit industry has helped engender myriad process innovations, and has set the foundations for the scale-up that is essential in making a difference to access to credit for the poor in India.

Recent events have brought prominence to the questions faced by public policy in this field. The four key elements of the recent crisis were:

1. In September 2010, the state government of Andhra Pradesh imposed constraints on the process design used by micro-finance institutions (MFIs). This generated a near-comprehensive default by all borrowers in Andhra Pradesh and devastated MFIs operating in Andhra Pradesh.
2. There were fears that other state governments would undertake similar actions. Under such a scenario, lending to MFIs was risky. All Indian banks chose to stop lending to all MFIs.
3. When their major source of funding disappeared, MFIs were forced to sharply cut back on lending. MFIs dropped lending in Andhra Pradesh to near-zero levels (given the near-zero probability of repayment) but also dropped lending nationwide (given the lack of debt financing).
4. Given the weak enforcement capability of the MFI when faced with default by an individual or a group, the repeated game is an important source of performance by the borrower. People repay loans from the MFI because they hope to get another loan in the future. Once MFI credit was cut sharply, there was a greater incentive to default.

These events highlighted three vulnerabilities of the nascent micro-finance industry. The business of lending to the poor is fraught with political risk given the governance problems of India. While the business of MFIs is national, the business is vulnerable to political risk emanating from any one state government. Finally, MFIs are highly exposed to banks and banking regulation, given the predominance of banks amongst lenders to MFIs.

The crisis gave a fresh impetus to efforts to think about ways in which public policy could help address the market failures faced in the micro-finance industry (Sane and Thomas, 2010). The first proposal seeking to regulate

the industry is the *Malegam Committee report* of the RBI (Malegam, 2011). This was released in February 2011, and has since been implemented by the MFIs that are registered as Non-Banking Finance Companies (NBFC). The second proposal is the *Micro Finance Institution (Development & Regulation) Bill, 2011* (henceforth referred to as the “MFI (D&R) Bill”) proposed by the Ministry of Finance in April 2011 (Department of Financial Services, Ministry of Finance, 2011). The draft Bill is being refined, and may be tabled in Parliament in coming sessions.

However, the crisis in Andhra Pradesh was identified to be largely about the credit recovery practices used by MFIs. In the field of financial regulation, there are three possible motivations for government to get involved in crisis resolution: *Consumer Protection*, *Micro-Prudential Regulation* and *Systemic risk*. It is useful to classify the thinking of the two existing policy documents in this three-part structure.

- The Malegam Committee report lays significant emphasis on defining micro-prudential norms for the NBFC MFI. This would address the problem of MFIs having a high failure probability, and is a way to control the systemic risk posed by the MFIs. However, a high probability of failure of the MFI was not the essence of the Andhra Pradesh crisis. MFIs are also too small to present systemic risk. Further, the Malegam report proposes that these norms should become similar to those used by banks, even though the business of micro-finance differs from the business of banks in fundamental ways. Indeed, the key reason why MFIs have succeeded in delivering credit to poor people, to a greater extent than banks in India have, lies in the fact that MFIs operate differently from banks.
- The MFI (D&R) Bill is a more holistic attempt at MFI regulation, applicable to a more diverse set of organisational forms of micro-finance as opposed to banks. However, a basic problem with the Bill is that it treats micro-finance companies as “extended arms of banks and financial services”. Lacking a clear regulatory philosophy, the Bill embeds a diverse array of initiatives, some of which are internally inconsistent with each other. A detailed critique of the MFI (D&R) Bill, 2011, can be found in (Roy *et al.*, 2011).

Thus, while policy makers have tried to find ways to setup a regulatory framework that addresses the root cause of the Andhra Pradesh crisis, the existing policy analysis has limitations.

In this paper, we focus on the problems of credit delivered to the poor as the cause of the crisis. This facility, which we refer to as micro-credit, involve facets that are different compared to the credit processes that the formal

financial sector like the banks are used to. We then apply first principles of financial economics in thinking about how micro-credit involves market failures which, in turn, call for government action. We offer two key ideas where micro-credit requires new approaches: the first in the field of credit recovery, and the second in the field of micro-prudential regulation.

To make the ideas concrete, we propose a draft Micro-Credit (Regulations) Bill in order to address these issues. These new functions need to be housed in some financial regulatory agency. We propose the creation of a new Micro-Credit Authority of India as a new regulatory agency, pending a larger re-organisation of the Indian financial regulatory architecture. However, the conceptual issues – the two key ideas where micro-credit requires a new approach – are orthogonal of the identity of the government agency where the functions may be housed.

The remainder of this paper is organised as follows. Section 2 presents the rationale on why there should be a distinct focus for regulation when lending is facilitated through joint liability groups and some implications it has for customer protection and systemic risk management for this micro-finance industry. Section 3.1 briefly presents the structure of the Micro-Credit (Regulations) Bill, 2012, while the complete Bill is presented in the Appendix. Section 4 concludes.

## 2 Unique policy puzzles of micro-credit

Most legislation in India on the business of credit provision rests in the domain of debt of firms and/or individuals. For instance, in the case of standard credit contracts, legislation constrains the manner in which the lender can collect on the loan, or the process for recovery in the case of default. In the case of companies taking credit, contract enforcement was strengthened by the SARFAESI Act. In the case of loans by individuals, RBI mandates best practices for debt collection and recovery by banks.

In the micro-finance form of credit – henceforth called *micro-credit* – the contract that the MFI signs with an individual involves a two-tier obligation: the first is with the individual. However, the second is with the JLG – without which the individual cannot become a customer of the MFI. This second layer is the central feature that makes micro-credit different from general credit to retail customers, rather than any specific size of the loan.

This two-tier structure strengthens the confidence of the lender when a loan is

made. The second level of the JLG guarantee provides a positive adjustment for the lack of collateral, or certainty of income, that is typical in standard individual credit contracts. The MFI can attribute a lower probability of default of the individual, since the group offers an implicit guarantee to repay the loan even if the individual is not able to do so. Without this intangible group guarantee, the individual would be unable to access the loan. The JLG structure therefore, becomes a mechanism through which individuals, who are not otherwise able to access credit at rates they can afford, are able to obtain loans.

However, there are new and different concerns which are not addressed by the existing legislation when the customer is a borrower with no collateral or guarantee other than the structure of a joint liability group (or JLG). These concerns are best illustrated using two issues pertinent for regulation as described below: the first set of concerns are important when implementing the mandate of consumer protection, and the second lies in the area of systemic risk monitoring and supervision.

## **2.1 Unique problems of credit recovery in micro-credit**

Regulation, and the enforcement of regulation, can be readily visualised when there is a clear demarcation between those who have the rights and those who have the obligations. In standard financial contracts, the customer has the rights while the service provider has the obligations.

In the case of credit, the customer (borrower) has the obligations and the service provider (the lender) has the rights. The world over, legislation in the field of consumer credit is put in place to define the rights of the borrower. Regulation then defines a code of conduct and practices under which debt collection can be undertaken, and how recovery can be done when the borrower defaults.

This becomes more complicated when credit is given through a JLG structure. Here, the code of conduct needs to account for more than just the link between the service provider (the MFI as the lender) and the customer (the borrower who is an individual in a JLG). There are two more links to account for, which are:

1. The link between the member of the JLG and the JLG itself, and
2. The link between the MFI and the other members of the JLG, when one member defaults.



To the extent that the loan is being made based on the strength of the credit quality of the group, there needs to be legal clarity on what are the rights of the lender and the obligations of the JLG when a member of the group defaults. For instance, if other group members have assets, then can those be vulnerable for repossession if a group member defaults? In the case of an individual member default, does the credit information bureau mark down the credit quality of just the member, or also of the members of the JLG through which the loan was obtained?

The other concern for regulation that is unique when the JLG is involved is the link between the member and other members of the JLG. Group leaders or other members of the JLG have far greater access to the borrower member than the MFI does. This is part of the strength of the JLG that enables the comfort about credit performance from the individual. However, this also becomes a concern for customer protection. The group could more efficiently inflict damage in the process of debt collection or debt recovery than the MFI or their employees. The consumer protection mandate of the regulation must, therefore, have provision for grievance redressal for the individual borrower against the MFI as well as the JLG or specific members of the JLG through which they obtained the loan.

Thus, the consumer protection mandate of micro-credit regulation has to explicitly include protection at several levels:

1. The rights of the borrower against the MFI,
2. The rights of the JLG against the MFI, *and*
3. The rights of the individual borrower against the JLG, either individual members like the group leader, or as a whole.

## **2.2 Unique features of the credit risk faced by MFIs**

From the credit business end, MFIs who are able to structure these two-tier credit relationships, become the conduit of credit flow from the formal financial sector to those who are otherwise credit constrained.

The flip side of the argument is that the JLG can also serve to be a source of vulnerability to a lender. This heightened vulnerability can arise in two ways:

- The first relates to correlated defaults associated with homogenous credit quality. It can be argued that there will always be a higher degree of homo-

geneity when lending to different members in a group – whether the members are from the same cultural background, physical location, risk preferences, political preference etc. The commonality of these factors in a group can lead to correlated changes in the level of default, as was seen in the case of wilful defaults among micro-borrowers of the same community in the Kolar district in 2007. These defaults caused a rise simultaneously in all the MFIs that were operating in this district at the time.

Since then, the MFIs have adjusted their business models to account for same factor concentration risk in their credit evaluation of JLGs. However, not all factors of homogeneity can be directly observed. What is needed is to track the history of default performance at the level of groups (as defined by a known set of individuals rather than just one individual). Today, credit information bureaus collect repayment history at the level of individuals, but do not collect these at the level of groups. If there are different groups (perhaps across different MFIs) who share some similar members, it is possible that a default of a member or a set of members can generate default across different groups. This, in turn, may adversely impact the default performance across MFIs, depending upon the contractual implications of member default and JLG default to the MFI.

The regulator will need to understand how the default of one or more of these members may simultaneously affect the credit performance of one or more MFIs together. For this understanding, credit information bureaus will have to track not only the credit history of individual borrowers but also the credit history of the JLG which they are a part of.

- The second path through which the JLG structure of lending could enhance the systemic risk of the MFI industry is because a group could be an easier channel for political action to be effectively deployed. Previous episodes have all shown that the greatest source of vulnerability of the MFI industry is the political risk that is faced by firms working with the poor. In such cases, political action has been known to influence the micro-borrower to default on their contract without fear of action from the lender, the MFI. Just as the JLG can engender better credit behaviour from their members, the structure can be equally effective in encouraging group-level default. This is a core risk that the MFI industry will inevitably face, and needs to be monitored through JLG level tracking by the regulator using data from the credit information bureaus.

Regulation to manage the risks arising from the above two factors will involve very different approaches. As data about JLG borrowing and their members grows, careful analysis can help to understand, predict and manage the risk stemming from the first factor listed above.

However, the second factor of political risk, which is a core risk for the MFI given the political sensitivity of this sector, is more difficult to predict or measure. To some extent, this political risk will decline once the activities are placed under a sound financial regulatory regime with a focus on high quality consumer protection. At the same time, we cannot assume that this will solve all the political concerns.

One dimension that requires special concern is the financing channels for the MFIs. How MFIs finance themselves has important interactions with political risk. As an example, in the recent crisis, one source of hostility against MFIs, on the part of the Andhra Pradesh government and the RBI, was that MFIs were engaged in profit-making businesses while financing themselves using ‘priority sector lending’ (directed credit) resources of banks. Many people in positions of power felt that this was inappropriate; that directed credit should only be connected into non-profits; that serving the poor should not be profitable.

If MFIs start borrowing from households, this will lead to new dimensions of political risk. If MFIs borrowed from low-income households themselves (as is being proposed in the MFI (D&R) Bill 2011 by permitting the MFI to accept fixed deposits from the poor (termed “thrift”). In this case, bankruptcy at an MFI would threaten the savings of large numbers of voters. Thus, if the financing channel of the MFI is opened up to include deposits of low-income households, it would ratchet up the political risk of the micro-finance industry, which in turn would induce an implicit fiscal burden of bailing out such failing MFIs.

### 3 Embedding these ideas in law

These arguments suggest that the regulation of the credit business that is implemented using the joint liability group structure does involve new and different legislative and regulatory considerations. These transverse all the mandates of regulation, from consumer protection to micro-prudential norms of entity level risk to systemic risk of the entire industry.

In order to achieve this clarity of legislation and regulation, we propose the Micro-Credit (Regulations) Bill, 2012. This Bill is proposed to protect the rights of the micro-borrower, who are clients of micro-credit companies that gives a loan to a borrower *only* when they are part of a JLG. This is a feature that is common to all loans originated by MFIs in India today. Since this is a

business feature that is prevalent all across the country, this Bill will have a national scope and will be implemented under the Central Government and a national Micro-Credit Authority of India.

The Bill defines the micro-borrower as either a member of a JLG or the JLG itself, which must have *at least* two individuals who are not related to each other. Once the target audience of the Bill has been thus defined, the role of the Micro-Credit Authority of India, and the regulation it will create for micro-credit services provided by the MFIs, becomes more clear.

From the viewpoint of the three-part mandate of financial sector regulation, this also helps to clarify clear and tangible regulation targeting consumer protection, micro-prudential norms and systemic risk management, and this mandate will be distinct and separate from the regulatory mandate in place for firms and individuals accessing credit from banks and financial markets.

### **3.1 Structure of the Micro-Credit (Regulations) Bill, 2012**

The Micro-Credit (Regulations) Bill, 2012 seeks to legislate these issue explicitly. The Bill follows the standard structure that is in place for a modern financial sector regulation. This is as follows:

1. Chapter I, which contains definitions. (Page 1)
2. Chapter II, which proposes the establishment of the regulator, the Micro-Credit Authority of India (MCAI). This chapter lays out the organisation structure, meetings, appointments, finances, accounts and accounting structure, the powers retained by the Central government. (Pages 2-6)
3. Chapter III, which proposes the creation of a Micro-Credit Advisory Council to the MCAI. (Page 6-7)
4. Chapter IV, which defines the powers of the MCAI, including functions, the power the issue directions and conduct investigations. (Pages 7-8)
5. Chapter V, which details the registration of micro-credit providers or firms, including who can be considered for registration, the certificate of registration and conditions under which registration can be retained. (Pages 8-9)
6. Chapter VI, which outlines the grievance redressal mechanism of putting in place a micro-credit Ombudsman and defining where the Ombudsman can hear grievances. (Page 9)

7. Chapter VII, which outlines what are considered offences in the micro-credit business and by the micro-credit provider, as well as what actions can be undertaken in case of such offences. (Pages 10-11)
8. Chapter VIII, which outlines the appeals process that the micro-credit provider can avail of if the MCAI takes action against them. (Pages 11-12)
9. Chapter IX, which outlines the powers by the MCAI to make rules, regulations, and what other regulations will be superseded by the regulations in this proposed Bill. (Pages 13-14)

The full text of the Bill has been placed in the Appendix.

### **3.2 Which agency must enforce the law?**

The functions described in the previous section need to be placed in a financial regulatory agency. However, these do not rationally fit into any existing agency.

The policy responses to the crisis in the micro-finance industry has involved placing the new functions in the largest financial regulatory agency – the RBI with 24,000 employees. However, this is problematic from a few points of view. The very success of micro-finance has raised questions about the many decades of work at RBI, where distortions were introduced into banking policy in the hope that they would bring more credit to poor people. This raises the danger of a bureaucratic consensus within RBI in favour of stifling the innovations of the micro-finance industry. Further, there is the possibility of RBI being oriented towards banks, and thus forcing MFIs to become more like banks. However, the essence of the MFI industry lies in new and innovative ways to structure the credit process, in ways which differ from those which have been employed by banks. Finally, at present, RBI does not have the organisation structure required to undertake supervisory responsibilities about the interaction between lenders and poor people, given that most lending by banks to individuals is concentrated among affluent borrowers.

It is also important to acknowledge problems that have been raised about financial sector regulation in India while addressing the question of who ought to regulate the micro-credit business. These problems of regulatory architecture in India have been articulated in a series of committee reports of recent years (The High Powered Expert Committee on Making Mumbai an International Financial Centre, 2007; The Internal Working Group on Debt

Management, 2008; Planning Commission Committee on Financial Sector Reforms, 2009; Committee on Investor Awareness and Protection, 2010). A key flaw identified in these reports is the focus of existing financial regulation on the service *provider* rather than the service *provided*. For example, while there are common definitions of what are good principles and practices of fund management, a separation of regulation by industry effectively means that fund managers for mutual funds, insurance and pension funds end up being governed by different regulations. This fragmentation of regulation causes an absence of a level playing field for different providers of a common service, and results in confusion about consumer rights for the customers of different financial products.

One proposal is that the Bill be implemented by a new financial regulatory agency that focuses on the business of consumer credit. In the future, this agency would be merged into the new structures which would emerge out of the ongoing process of achieving fundamental change in the Indian financial regulatory architecture.

## 4 Conclusion

Since the start of the December 2010 crisis in the MFI industry, policy makers have been unanimous in their attempt to put into place a regulatory framework that would serve to resolve the crisis. However, the crisis still continues with the MFI industry still facing severe paucity of funding, suggesting that neither of the two proposed solutions have succeeded in crisis resolution.

The main continuing concerns could be identified as (a) the lack of clarity on regulation that is uniform across all forms of micro-credit organisation forms, (b) the lack of clarity on a single regulator to regulate, monitor and supervise, and enforce regulations in the area of micro-credit business, and (c) the lack of clarity on how the new proposed regulations are distinct and different from existing regulations targeting credit given to firms and other individuals.

A well known distinction between the micro-credit business conducted by MFIs in India and every other business built on providing credit is that micro-credit is given to individuals based on their being part of a joint liability group. This enables a new business model of delivery credit while also bringing with it a new set of concerns of customer protection, risks in the business of delivering credit, and risks that an industry based on delivering

credit through groups could pose to the entire financial system.

This paper proposes a legislative framework, for credit that is delivered based on the joint liability group structure, called the Micro-Credit (Regulations) Bill, 2012. The Bill proposes the creation of a Micro-Credit Authority of India which will create regulations for any business that lends to individuals based on the strength of their presence in a joint liability group which has to have at least two members, not related to each other. The Micro-Credit Authority of India would put in place regulations concerning the nature of the micro-credit business; eligibility criteria for who can conduct this business; minimum standards of disclosure to customers; best practices for debt collection and debt recovery; redressal mechanisms for customers who avail of this service either as individual members of the group seeking redressal against the MFI, or their own group members, or the group seeking redressal against the MFI; micro-prudential norms on risk taken by the MFI, transparency and disclosure norms; minimum standards on customer and group-level credit information disclosed to credit information bureaus; enforcement against malpractice by micro-credit providers and redressal available to these.

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## A Draft law

# THE MICRO CREDIT (REGULATIONS) BILL, 2012

## A BILL

to provide for the establishment of an Authority to protect the interests of clients of micro credit and to regulate the micro credit industry and for matters connected therewith and incidental thereto.

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

### CHAPTER I PRELIMINARY

#### **Short title, extent and commencement.**

1. (1) This Act may be called the Micro Credit (Regulations) Act, 2011.
- (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 in this behalf.
- (4) It shall cease to be in force on 31<sup>st</sup> March of every fifth year from the day of its coming into force, unless it is extended by a Reauthorization Act after an evaluation, in the manner prescribed, of its working in the preceding five years.

#### **Definitions.**

2. In this Act, unless the context otherwise requires, -
  - a) "Act" means the Micro Credit (Regulations) Act, 2012;
  - b) "Authority" means Micro Credit Authority of India established under section 3;
  - c) "certificate" means certificate of registration granted by the Authority under sub-section (3) of section 24;
  - d) "Chairperson" means Chairperson of the Authority;
  - e) "client" means a joint liability group or a member of a joint liability group, as the case may be;
  - f) "Council" means Micro Credit Advisory Council established under section 19;
  - g) "credit information company" means a company which has been granted a certificate of registration under sub-section (2) of Section 5 of the Credit Information Companies (Regulation) Act, 2005 (30 of 2005);
  - h) "Director" means a Director of the Authority and includes the Chairperson;
  - i) "Fund" means the Micro Credit Authority General Fund constituted under sub-section (2) of section 12;
  - j) "joint liability group" is a group of at least two individuals, who are not relatives of one another, as members who have jointly and severally agreed to guarantee the repayment of micro credits extended to its members by a micro credit provider;
  - k) "relative" means 'relative' within the meaning under section 6 of the Companies Act, 1956;
  - l) "micro credit" means loan, advance, guarantee or any other form of credit not exceeding an amount, as may be prescribed in consultation with the Authority, to members of joint liability groups based on the guarantee of the joint liability group and without any security or margin from the client;
  - m) "Micro credit provider" is an entity registered as such with the Authority;
  - n) "notification" means a notification published in the Official Gazette;
  - o) "prescribed" means prescribed by rules made under this Act;

- p) "Ombudsman" means ombudsman appointed under section 27 having jurisdiction over the client;
  - q) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934;
  - r) "specified" means specified by regulations made under this Act.
- (2) Words and expressions used herein and not defined in this Act but defined in the Reserve Bank of India Act, 1934 (2 of 1934), and the Banking Regulation Act, 1949 (10 of 1949) shall have the same meanings respectively assigned to them in those Acts.

## CHAPTER II

### **ESTABLISHMENT OF THE MICRO CREDIT AUTHORITY OF INDIA**

#### **Establishment of Authority.**

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, an Authority by the name of the Micro Credit Authority of India.
- (2) Subject to sub-section (4) of section (1), the Authority shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of property, movable or immovable, and to contract, and shall, by its name, sue or be sued.
- (3) In the event of this Act not being extended under sub-section (4) of section (1), the Authority shall be wound up and all property and legal rights and liabilities of the Authority on the date of winding up shall vest in the Central Government.
- (4) The head office of the Authority shall be at Bhopal.
- (5) The Authority may establish offices at other places in India.

#### **Composition of Authority.**

4. (1) The Authority shall consist of the following Directors, namely:-
- (a) a Chairperson;
  - (b) not more than five Directors of whom at least three shall be Whole-time Directors;
  - (c) one Director from amongst the officials of the Ministry of Finance;
  - (d) one Director from amongst the officials of the Reserve Bank,
- to be appointed by the Central Government.
- (2) The Chairperson and the Directors referred to in clause (b) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to micro credit industry or have special knowledge or experience of finance, economics, law, accountancy, administration or any other discipline which, in the opinion of the Central Government, shall be useful to the Authority.

#### **Tenure of office of Directors.**

- 5.(1) The Chairperson and the Directors referred to in clause (b) of sub-section (1) of section 4 shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:
- Provided that no individual hold office as Chairperson or a Whole-time Director after he has attained the age of sixty-five years.
- (2) The Directors appointed under clauses (c) and (d) of sub-section (1) of section 4 shall hold office during the pleasure of Ministry of Finance or the Reserve Bank, as the case may be.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), a Director-

- (a) may relinquish his office by giving in writing to the Central Government a notice of not less than three months; or
- (b) may be removed from his office in accordance with the provisions of section 6.
- (c) shall cease to hold the office in the event of winding up of the Authority under sub-section (3) of section 3.

#### **Removal from office.**

6. (1) The Central Government may remove from office, by notification and for reasons to be stated therein, any Director who-

- (a) is, or at any time has been, adjudged as an insolvent; or
- (b) is of unsound mind and stands so declared by a competent court; or
- (c) has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Director; or
- (e) has so abused his position as to render his continuation in office detrimental to the public interest.

(2) No Director shall be removed under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

#### **Salary and allowances of Directors**

7.(1) The salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the Directors referred to in clause (b) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) The salary, allowances and other conditions of service of a Director shall not be varied to his disadvantage after his appointment.

#### **Administrative powers of Chairperson**

8. The Chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

#### **Meetings of Authority.**

9. (1) The Authority shall meet at such time and places, and shall observe such practices and procedures in regard to transaction of business at its meetings, including quorum at such meetings, as may be specified by the regulations.

(2) The Chairperson, or if for any reason he is unable to attend a meeting of the Authority, any other Director chosen by the Directors present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Directors present and voting, and in the event of an equality of votes, the Chairperson, or in his absence, the person presiding shall have a second or casting vote.

(4) Any Director, who has any direct or indirect personal interest in a matter coming up for consideration at a meeting of the Authority, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority and the Director shall not take part in any deliberation or decision of the Authority with respect to that matter.

### **Vacancies, etc. not to invalidate proceedings of the Authority.**

10. No act or proceeding of the Authority shall be invalid merely by reason of-
- (a) any vacancy in, or any defect in the constitution of, the Authority; or
  - (b) any defect in the appointment of a person acting as a Director of the Authority; or
  - (c) any irregularity in the procedure of the Authority not affecting the merits of the case.

### **Officers and employees of the Authority.**

11. (1) The Authority may appoint officers and such other employees as it considers necessary for the efficient discharge of its functions under this Act.
- (2) The terms and other conditions of service of officers and other employees of the Authority appointed under sub-section (1) shall be as specified by the regulations made under this Act.
- (3) All Directors of the Authority, and officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or rules and regulations made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).
- (4) No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of the Central Government or any Director, officer or other employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder:
- Provided that nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

### **Finances of the Authority.**

12. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as it may think fit for being utilised for the purposes of this Act.
- (2) There shall be established a fund to be called "The Micro Credit Authority General Fund" under the management and control of the Authority.
- (3) The Fund shall be credited by –
- (a) all grants, fees and charges received by the Authority under this Act;
  - (b) all sums received by the Authority from such other source as may be decided upon by the Central Government;
  - (c) all borrowings, secured or unsecured.
- (4) The Fund shall be applied for meeting-
- (a) the salaries, allowances and other remuneration of the Directors, officers and other employees of the Authority;
  - (b) the other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Act;
  - (c) the repayment of loans.
- (5) The Authority may invest any money for the time being standing to the credit of the Fund in any government security or in any other security approved by the Authority.

### **Accounts and audit.**

13. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.
- (2) The Authority shall prepare in the manner prescribed and approve, prior to the start of the financial year, an annual budget indicating all its anticipated revenues as well as all

proposed expenditures for the forthcoming year.

(3) The annual accounts of the Authority shall be audited by the Comptroller and Auditor General of India at such intervals as may be required by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor General of India.

(4) The Comptroller and Auditor General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books of account, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(5) The accounts of the Authority as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

#### **Returns and reports.**

14. (1) The Authority shall furnish to the Central Government at such time and in such form and manner such returns and statements as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Authority shall, within 90 days after the end of each financial year, submit to the Central Government an annual report, in the prescribed format, giving a true and full account of its policies, activities and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

#### **Power of Central Government to issue directions.**

15. (1) The Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

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

#### **Power of Central Government to supersede the Authority.**

16. (1) If, at any time the Central Government is of the opinion that,-

(a) on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) the circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification and for reasons to be stated therein, supersede the Authority for such period, not exceeding six months, as may be stated in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,-

(a) the Chairperson and other Directors shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other Directors and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

#### **Delegation.**

17. The Authority may, by notification, delegate to the Chairperson or any other Director or a Committee of Directors or an officer or a committee of officers of the Authority subject to such conditions, if any, as may be specified in the notification, such of its powers and functions under this Act (except the powers to make regulations under section 39) as it may deem necessary.

#### **Exemption from income tax, etc.**

18. Notwithstanding anything contained in any law for the time being in force, the Authority shall not be liable to tax on its wealth, income, expenditure, gift, profits or gains.

### ***CHAPTER III***

#### **MICRO CREDIT ADVISORY COUNCIL**

##### **Micro Credit Advisory Council.**

19. (1) The Central Government shall, by notification, establish a Council to be known as Micro Credit Advisory Council within six months from the date of this Act coming into force.

(2) The Council shall be reconstituted every three years.

(3) The Council shall consist of not more than-

(a) one representative of Government of India;

(b) one representative of the Reserve Bank;

(c) one representative of the Authority;

(d) one representative of each of the States and Union Territories of India; and

(e) five persons of expertise in the domain of micro credit.

(4) The Council shall be chaired by Secretary of the Ministry of the Central Government dealing with financial services.

- (5) The Council shall advise Central Government and the Authority on policies to be adopted for orderly development of the micro credit industry.
- (6) A representative on the Council shall be paid such fees and allowances as may be prescribed.
- (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, as may be prescribed.

## ***CHAPTER IV***

### **FUNCTIONS AND POWERS OF THE AUTHORITY**

#### **Functions of the Authority.**

20. (1) It shall be the duty of the Authority to protect the interests of clients and to regulate the micro credit industry by such measures as it thinks fit.
- (2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for -
- (a) registering and regulating the micro credit providers;
  - (b) promoting and regulating joint liability groups;
  - (c) promoting education and awareness of clients;
  - (d) specifying the relationship between a micro credit provider and a client;
  - (e) specifying the manner of preparation and disclosure of accounts by micro credit providers;
  - (f) specifying the manner of preparation and filing of returns of activities by micro credit providers;
  - (g) calling for information and records from, undertaking inspection, conducting inquiries and audits of micro credit providers;
  - (h) capacity building in the micro credit industry;
  - (i) promoting industry related education and research, including databases;
  - (j) promoting best practices in micro credit industry;
  - (k) approving credit information companies to maintain credit history of clients;
  - (l) requiring micro credit providers to provide credit performance of clients to credit information companies;
  - (m) requiring credit information companies to share credit history of clients with micro-credit provider(s);
  - (n) approving mergers and amalgamations or any other kind of restructuring of one or more than one micro credit providers;
  - (o) levying fees or other charges for carrying out the purposes of this section; and
  - (p) performing such other functions as may be prescribed.
- (3) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under clause (g) of sub-section (2), the Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:-
- (i) the discovery and production of records and documents at such place and such time as may be required by the Authority;
  - (ii) summoning and enforcing attendance of persons and examining them on oath;
  - (iii) inspection of any record or document of a micro credit provider or credit information company; and
  - (iv) issuing commissions for the examination of witnesses or documents.

#### **Power to issue directions.**



21. If after making or causing to be made an enquiry, the Authority is satisfied that it is necessary,-

- (i) in the interest of clients or micro credit industry; or
- (ii) to prevent the affairs of a micro credit provider being conducted in a manner detrimental to the interest of clients or micro credit industry;
- (iii) to secure the proper management of a micro credit provider;

it may issue such directions as may be appropriate to micro credit providers, credit information companies and clients.

#### **Investigation.**

22. (1) Where the Authority has reasonable ground to believe that a micro credit provider is providing micro credits detrimental to the client(s) or micro credit industry, or has violated any provisions of this Act or the rules or the regulations made thereunder or directions issued by the Authority, it may direct, by order in writing, an officer of the Authority to investigate the affairs of such micro credit provider and to report thereon to the Authority.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956(1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the micro credit provider and every micro credit provider or every person associated with the micro credit industry to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the micro credit provider or such person, which are in their custody or power.

### CHAPTER V

#### **REGISTRATION OF MICRO CREDIT PROVIDERS**

##### **Registration.**

23. (1) On and from the commencement of this Act, no person shall engage in providing micro credit except under, and in accordance with, the conditions of a certificate of registration obtained from the Authority in accordance with the regulations made under this Act:

Provided a person providing micro credit before the establishment of the Authority may continue to do so for a period of six months from such establishment or, if it has made an application for registration within the said period of six months, till disposal of such application.

(2) Every application for registration shall be in such manner and on payment of such fees as may be specified by regulations.

(3) The Authority may, by order, suspend or cancel a certificate of registration in such manner as may be specified by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

##### **Application for registration.**

24. (1) A person eligible under this Act and the regulations and desirous of providing micro credit shall apply to the Authority in the specified format seeking a certificate of registration.

(2) The Authority may require the applicant to furnish such further information or clarification as may be necessary for considering the application for grant of certificate.

(3) The Authority, on being satisfied that the applicant is eligible, shall grant a certificate in the specified format.

(4) Where the Authority is of the prima facie opinion that a certificate ought not be granted to an applicant, it shall afford an opportunity of hearing to the applicant before taking a final decision.

(5) Where an application for a certificate is rejected by the Authority, the order of rejection shall be communicated to the applicant within fifteen days from the date of hearing.

(6) A person aggrieved by the order of the Authority under sub-section (5) may prefer an appeal before the Securities Appellate Tribunal.

#### **Conditions of registration.**

25. A registration granted under sub-section of section 24 shall be subject to the conditions that the micro credit provider: -

- (a) remains eligible as per the criteria specified in the regulations;
- (b) pays prescribed fees in time;
- (c) complies with the specified capital adequacy norms;
- (d) continues to be a fit and proper person;
- (e) takes adequate steps for the redressal of grievances of clients;
- (f) prepares and discloses its accounts in the manner specified,
- (g) prepares and files with the authority returns of its activities in the manner specified;
- (h) carries on distribution of financial products subject to such conditions as may be specified and in compliance with the laws relating to distribution of those products;
- (i) abides by the provisions of this Act and the rules and regulations made thereunder; and
- (j) complies with any other conditions as may be specified by the regulations.

#### **General obligations.**

26. (1) A micro credit provider shall-

- (a) always act in the best interest of its clients;
- (b) comply with the conditions of registration; and
- (c) comply with the provisions of this Act, and the rules, the regulations made and directions issued thereunder.

(2) A micro credit provider shall not-

- (a) employ any device, scheme, or artifice to defraud any client;
- (b) engage in any transaction, practice, or course of business which operates as fraud or deceit upon any client;
- (c) engage in any act, practice or course of business which is fraudulent, deceptive or manipulative; or
- (d) adopt any coercive measure for recovery of micro credit from clients.

## ***CHAPTER VI*** **GRIEVANCE REDRESSAL**

#### **Redressal of grievances.**

27. (1) Without prejudice to provisions of the Chapter VII or of section 20, the Authority shall appoint as many micro credit Ombudsmen with earmarked geographical jurisdictions as it may deem fit, for the purpose of redressal of grievances among the members of a joint liability group, between a member of joint liability group and the joint liability group and between a client(s) and a micro credit provider.

(2) The expenses on establishment and maintenance of the office of ombudsmen shall be borne by the Authority.

- (3) The manner of appointment, terms of office, conditions of service, location of office of the Ombudsmen shall be as may be specified.
- (4) The nature of grievances and complaints that may be entertained by Ombudsmen and the procedures for redressal of grievances and complaints shall be as may be specified.
- (5) Any party aggrieved by an order of Ombudsman may prefer an appeal before the Authority.
- (6) The order of the Authority from an appeal under sub-section (5) shall be final and binding on the parties.

## CHAPTER VII

### **PROCEDURE FOR ACTION IN CASE OF DEFAULT**

#### **Interim orders.**

28. The Authority may, by an interim order, for reasons to be recorded in writing, in the interest of clients or micro credit industry, pending investigation, suspend the certificate of a micro credit provider for a period not exceeding three months.

#### **Final orders.**

29. (1) Based on discovery of facts under section 20(2)(g), the findings of investigation undertaken under section 22(1) or non-redressal of grievances, if the Authority forms a prima facie opinion that a micro credit provider or a credit information company is guilty of professional misconduct or of contraventions of the provisions of this Act or rules or regulations made or direction issued thereunder, it shall institute an enquiry.

(2) The enquiry shall be completed in the manner specified.

(3) On conclusion of the enquiry proceeding, the Authority may, by an order, in the interest of clients or micro credit industry, award any of the following penalties, namely-

- (a) reprimand a micro credit provider or a credit information company;
- (b) direct a micro credit provider or a credit information company to cease and desist from a particular practice;
- (c) suspend the certificate of registration of a micro credit provider for a period not exceeding six months;
- (d) cancel the certificate of a micro credit provider;
- (e) debar a credit information company from providing service to micro credit industry;
- (f) impose a monetary penalty not exceeding one crore rupees on a micro credit provider, credit information company, any of their officers and employees, or any other person associated with the micro credit industry; or
- (g) debar any person from being associated with micro credit industry.

(4) Any monetary penalty imposed by the Authority under this section shall be payable within a period of thirty days from the date on which the notice by the Authority demanding payment of the amount is served on the micro credit provider to pay the amount.

(5) Every orders of the Authority, as may be modified, if any, by the Securities Appellate Tribunal or the Supreme Court, shall be enforceable in the same manner as if it were a decree made by the civil court in a civil suit.

(5) All sums realized by way of monetary penalties under this Act shall be credited to the Consolidated Fund of India.

#### **Offences.**

30. (1) Without prejudice to any award of penalty by the Authority under this Act, if any person contravenes, or attempts to contravene, or abets the contravention of the provisions

of this Act, rules or regulations made thereunder, or orders or directions of the Authority, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one crore rupees, or with both.

(2) 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 one year, or with fine which may extend to five lakh rupees or with both.

(3) If a person fails to pay the monetary penalty imposed by the Authority or fails to comply with any of its orders or directions, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to rupees one crore, or with both.

(4) No court shall take cognizance of any offence punishable under this Act, rules or regulations made thereunder, save on a complaint made by the Authority.

(5) No court inferior to that of a Court of Session shall try any offence punishable under this Act.

(6) 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 Authority 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.

#### **Offences by companies.**

31. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-- For the purposes of this section,-- (a) "company" means anybody corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.

### **CHAPTER VIII** **APPEALS**

#### **Appeal to Securities Appellate Tribunal.**

32. (1) Any person aggrieved, by an order or decision of the Authority, may prefer an appeal before the Securities Appellate Tribunal in the manner prescribed.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from

the date on which a copy of the order or decision is received by the appellant.

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the Authority.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

### **Procedure and powers of Securities Appellate Tribunal.**

33. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, it shall have powers to regulate its own procedure including the places at which it shall have its sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it ex parte;
- (g) setting aside any order of dismissal of any application for default or any order passed by it ex parte.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

### **Right to legal representation.**

34. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

### **Limitation.**

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

### **Civil court not to have jurisdiction.**

36. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of

any action taken or to be taken in pursuance of any power conferred by or under this Act.

### **Appeal to Supreme Court.**

37. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

## ***Chapter IX*** **Miscellaneous**

### **Power to make rules.**

38. (1) The Central Government may, by notification, make rules for carrying out the purposes 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 manner of evaluation of the working of this Act;
- (b) the salary and allowances payable to, and other terms and conditions of service of, the Directors referred to in clause (b) of sub-section (1) of section 4;
- (c) the manner of preparation and maintenance of accounts of the Authority;
- (d) the format of annual report to be submitted by the Authority under section ...;
- (e) the time and places of meetings of the Council and the procedure to be followed at such meetings including the quorum necessary for the transaction of business under ...;
- (f) the manner of filing of appeal under sub-section ... of section ..;
- (g) other activities that a micro credit provider may engage in and the conditions thereof;
- (h) the ceiling on the amount of micro credit;
- (i) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

(3) The rules providing for (g) and (h) of sub-section (2) shall be made in consultation with the Authority.

### **Power to make regulations.**

39. (1) The Authority may, by notification, make regulations consistent 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:-

- a) the time and places of meetings of the Authority and the procedure to be followed at such meetings including the quorum necessary for the transaction of business under section 9(1);
- b) the terms and other conditions of service of officers and other employees of the Authority under sub-section 11(2);
- c) the powers and functions which may be delegated to Chairperson, other Directors or Committee of Directors, or Officers under section 17;
- d) the manner of seeking certificate of registration under section 24;
- e) the condition for grant of a certificate of registration under section 25(j);
- f) the manner of suspension or cancellation of registration;

- g) the manner of inspection, inquiries and audit of micro credit providers and credit information companies;
- h) the manner of enquiry under section 29(2);
- i) the manner of preparation and disclosure of accounts by micro credit providers;
- j) the manner of preparation and filing of returns of activities by micro credit providers;
- k) the relationship between a micro credit provider and a client;
- l) the terms and conditions of grant and recovery of micro credit;
- m) the margin cap and the interest cap on micro credits granted to clients;
- n) the formation of joint liability groups;
- o) the manner of approval of credit information companies and their obligations;
- p) matter relating to ombudsmen covered under sub-sections 3 and 4 of section 27; and
- q) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

#### **Rules and regulations to be laid before Parliament.**

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

#### **Application of other laws not barred.**

41. 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.

#### **Power to remove difficulties.**

42. (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 be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the appointed day.

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

#### **Repeal and savings.**

43. (1) The following Acts are hereby repealed:

- a. Andhra Pradesh Micro Finance institutions (Regulation of Money Lending) Act, 2010;
- b. ...
- c. ...

(2) Notwithstanding such repeal, anything disciplinary action taken under the said Acts shall be completed under those Acts.