

**International Financial Standards and Codes: A Synthesis (Annexures)**  
**Annexure-I**

**GOVERNOR**

**Reserve Bank of India**  
**Central Office**  
**Shaheed Bhagatsingh Road**  
**Mumbai –400 001**

**OFFICE MEMORANDUM**

Recent developments in the international financial scene and discussions on International Financial Architecture have centered on the need for evolving sound standards based on recognised best practices in fiscal, financial and accounting areas, and for adopting transparency while adhering to the Codes. In order to monitor development in this regard and to consider various aspects relevant to India, in consultation with Government of India, Reserve Bank has decided to constitute a “Standing Committee on International Financial Standards and Codes”.

The Committee will have the following terms of reference:

- (a) To identify and monitor developments in global standards and codes being evolved especially in the context of the international developments and discussions as part of the efforts to create a sound International Financial Architecture.
- (b) To consider all aspects of applicability of these standards and Codes to Indian financial system, and as necessary and desirable, chalk out a road map for aligning India’s standards and practices in the light of the evolving international practices.
- (c) To periodically review the status and progress in regard to the Codes and practices; and
- (d) To make available its reports on the above to all concerned organisations in public or private sector.

The Committee will be chaired by Dr.Y.V.Reddy, Deputy Governor, Reserve Bank of India, with Dr. E.A.S. Sarma, Secretary (Economic Affairs) as Alternate Chairman. Shri V. Govindarajan, Additional Secretary, GOI, Dr. Arvind Virmani, Sr. Economic Adviser, Ministry of Finance, Government of India and Dr. A. Vasudevan, Executive Director (RBI) will be members. Shri K. Kanagasabapathy, Adviser-in-Charge, Monetary Policy Department, Reserve Bank of India and Dr. R. Kannan, Adviser, Department of Economic Analysis and Policy will be Secretaries to the Committee.

The Committee could co-opt members depending on the subject under consideration, and may constitute technical groups to report on specific code or practices.

The Standing Committee will review its own status after one year and report to Government/RBI.

Sd/  
December 8, 1999  
(Bimal Jalan)

**Constitution of Advisory Groups**

**1. Advisory Group on “Transparency of Monetary & Financial Policies”**

**Chairman**

Shri M. Narasimham,  
Chairman, Administrative Staff College of India, Hyderabad.

**Member**

Shri S.S.Tarapore,  
Former Dy. Governor, Reserve Bank of India.

The Group held extensive discussions with officials of operational and policy departments of the Reserve Bank of India to elicit views on various issues.

The officials who participated in the deliberations of the meetings of the Group are Smt. Usha Thorat, CGM-In-Charge, Internal Debt Management Cell (IDMC), Smt. S.Gopinath, CGM, Department of External Investment and Operations (DEIO), Smt.K.J.Udeshi,CGM, Exchange Control Department, Shri D.Anjaneyulu, O-in-C, Department of Economic Analysis and Policy (DEAP), Shri B. Ramani Raj, CGM, Department of Government and Bank Accounts (DGBA), Shri A.L.Narasimham, CGM, Department of Banking Operations and Development (DBOD), Shri K.C.Bandyopadhyay, CGM, Financial Institutions Division, Shri O.P.Agarwal, CGM, Department of Non Banking Supervision (DNBS), Shri Anand Sinha, Regional Director, Bhubaneswar, Shri S. Gangadharan, DGM, DBOD, Shri K.D.Zacharias, Jt. Legal Adviser, and Shri Mohinder Kumar, AGM, DNBS, RBI.

Dr. Himanshu Joshi, Director and Dr. Kaushik Bhattacharaya, Assistant Adviser of Monetary Policy Department, RBI assisted the Group in collection of background material and preparation of some part of the Report of the Advisory Group.

**2. Advisory Group on “Payment and Settlement System”**

**Chairman**

Shri M. G. Bhide,  
Chairman, National Institute of Bank Management, Pune

**Members**

Dr. R. H. Patil,  
Former Managing Director, National Stock Exchange, Mumbai

Dr. Ajay Shah,  
Professor, Indira Gandhi Institute of Development Research, Mumbai

Shri Vishnu Deuskar,  
Managing Director, ABN Amro Securities Pvt. Ltd., Mumbai.

Shri Rajendra P. Chitale,  
Chartered Accountant, C/o of M.P.Chitale & Company, Mumbai

Shri P. K. Bindlish,  
Division Chief, Securities Exchange Board of India, Mumbai

Shri Deepak Sanchety,  
Division Chief, Securities Exchange Board of India, Mumbai

---

The Group was benefited from interactions with Dr. Y.V. Reddy Dy. Governor, and Dr.A.Vasudevan, former Executive Director, RBI, Sarvashri, N.V.Deshpande, Principal Legal Adviser, G.M.Devasahayam, General Manager, Banking Department, R.Gandhi, General Manger, DEIO, P.K.K.Krishnan, DGM, Department of Banking Supervision and Smt. Usha Thorat, CGM-in- Charge, IDMC, RBI by participating in the deliberations of the Group's meetings.

Shri S.R.Mittal, CGM, Shri G.Srinivas, Dy.General Manager, Shri S. Ganesh Kumar, Deputy General Manager and Smt. Nilima Ramteke, Assistant Adviser of DIT, Shri A.P. Gaur, Director of IDMC, Shri P.K. Jena, Deputy General Manager of ECD, and Shri Amitava Sardar, Director of MPD, RBI helped the Group in preparing the background papers and the draft Report for the Group.

### **3. Advisory Group on “Corporate Governance”**

#### **Chairman**

Dr. R. H. Patil,  
Former Managing Director, National Stock Exchange, Mumbai

#### **Members**

Shri Rajendra P. Chitale,  
Chartered Accountant, C/o of M.P.Chitale & Company, Mumbai

Shri Deepak M. Satwalekar  
Managing Director, Housing Development Finance Corporation, Mumbai

Shri Nandan M. Nilenkani  
Managing Director, Infosys Technologies Limited, Hyderabad.

Shri M. G. Bhide,  
Chairman, National Institute of Bank Management, Pune

Dr. V.V. Desai,  
Adviser, ICICI Ltd., Mumbai.

---

The Group was assisted by valuable inputs from Dr. Y.V.Reddy, Dy. Governor, Shri Pratip Kar, Senior Executive Director, Securities Exchange Board of India, Shri P.V. Subba Rao, Chief General Manager and Dr. K.V. Rajan, General Manager of DBOD and Dr. N. Nagarajan, Adviser, DEAP.

Late Shri Anamitra Saha, Research Officer, DEAP, Shri S. K.Yadav, Manager, DBOD and Shri S. Arunachalaramanan, Director, MPD, RBI assisted the Group by participating in the Group's meetings and preparation of the draft Report.

#### **4. Advisory Group on "Data Dissemination"**

##### **Chairman**

Dr. A. Vaidyanathan,  
Emeritus Professor, Madras Institute of Development Studies, Chennai  
(Vice Late Prof. Pravin M. Visaria,  
Director, Institute of Economic Growth, New Delhi)

##### **Members**

Dr. S. L. Shetty,  
Director, EPW Research Foundation, Mumbai

Dr. Ajay Shah,  
Professor, Indira Gandhi Institute Development Research, Mumbai

---

The Group was assisted by Dr. Y.V.Reddy, Dy. Governor and Dr. A.Vasudevan, former Executive Director, Reserve Bank of India for their valuable guidance and inputs.

Dr. A.C.Kulshreshtha, Dy. Director General, Central Statistical Organisation, Shri M.R.Nair, O-in-C, DEAP, Smt. S.Gopinath, CGM, Shri R.Gandhi, General Manger, and Shri R.C.Misra, Deputy General Manger of Department of External Investments and Operations, RBI assisted the Group by participating in the deliberations of the Group's meetings.

Dr. Himanshu Joshi, Director, Dr. Kaushik Bhattacharya, Assistant Adviser of Monetary Policy Department, Shri S.Sahoo. Research Officer, DEAP and

Dr. Pradip Bhuyan Assistant Adviser, Department of Statistical Analysis and Computer Services, RBI helped the Group in preparing the background papers and the draft Report of the Group.

## **5. Advisory Group on "Bankruptcy Laws"**

### **Chairman**

Dr. N. L. Mitra,  
Director, Centre for Business Law Studies, Bangalore-560 072

### **Members**

Shri Bimal Kumar Chatterjee,  
Bar-at-Law, Calcutta

Shri Cyril Shroff,  
Amarchand & Mangaldas & Suresh A. Shroff & Co., Mumbai

Dr T.C.A. Anant,  
Professor, Delhi School of Economics, University of Delhi.  
Shri S. Krishnaswamy,  
Former Chairman of the Institute of Chartered Accountants, Bangalore.

Shri H. Banerjee,  
Joint Director (Legal), Government of India,  
Ministry of Law, Justice & Company Affairs, New Delhi

Dr. Shubhashis Gangopadhyay,  
Professor, Indian Statistical Institute, New Delhi

---

The Group was assisted by valuable interactions/inputs from Shri S.H. .Bhojani, former Dy. Managing Director, ICICI, Shri M.S.Verma, Chairman, TRAI, Dr. R.H.Patil, Chairman, Clearing Corporation of India Shri J. Ravichandran, Company Secretary and Senior Vice-President, National Stock Exchange, Mumbai and Shri N.V.Deshpande, Principal Legal Adviser, Reserve Bank of India who took extensive part in the deliberations of the Group's meetings. Shri Feroz Ali, Research Associate Centre for Business Law Studies also provided useful inputs.

Shri.S. Arunachalaramanan, Director, Monetary Policy Department and Shri N.Sunil Kumar, Legal Officer, Legal Department, Reserve Bank of India provided the secretarial assistance and also assisted the Group in collecting the background material and preparing the draft Report.

## **6. Advisory Group on "Insurance Regulation"**

### **Chairman**

Shri R. Ramakrishnan,  
Retd. Executive Director, Life Insurance Corporation of India.

### **Members**

Shri L. P. Venkataraman,  
Retd. Executive Director, Life Insurance Corporation of India.

Shri R. C. Rao,  
Retd. Secy. (Investments), Life Insurance Corporation of India.

Shri T. G. Menon,  
Retd. General Manager, United India Insurance Co.,  
Shri Naresh Chander Gupta,  
Retd. General Manager, Oriental Insurance Co.,

---

The Group was assisted by Shri Indranil Sen Gupta, Assistant Adviser, DEAP, RBI in co-ordinating the affairs, collecting the background material and in preparation of the draft Report of the Group.

### **7. Advisory Group on “Banking Supervision”**

#### **Chairman**

Shri M.S. Verma,  
Chairman, Telecom Regulatory Authority of India, New Delhi  
Former Chairman of State Bank of India

#### **Members**

Shri Janki Ballabh,  
Chairman, State Bank of India,

Shri K. R. Ramamoorthy,  
Chairman, The Vyasa Bank Ltd.,

Shri H. N. Sinor,  
Managing Director and CEO, ICICI Bank Ltd.,

---

Sarvashri B. Mahapatra, General Manager, DBOD, M. Sebastian, General Manager and G. Sreekumar, Dy. General Manager from Department of Banking Supervision, RBI assisted the Group in collecting and preparing the background material as well as draft Report for the Group.

Ms. S. Bhattacharjee, Research Officer, DEAP, Reserve Bank of India provided the secretarial assistance in co-ordinating the affairs of the Group and in collecting and preparing the background material for the Group.

## **8. Advisory Group on “Securities Market Regulation”**

### **Chairman**

Shri Deepak Parekh,  
Chairman, Housing Development Finance Corporation.

### **Members**

Shri Shitin Desai,  
Vice Chairman & Managing Director, DSP Merrill Lynch Securities Ltd.

Shri I. C. Jain,  
Chairman, KJMC Financial Services Ltd.

Shri Nimesh Kampani,  
Chairman, J. M. Morgan Stanley Ltd.

Shri Anand Rathi,  
President, The Stock Exchange, Mumbai (since resigned)

Shri Uday S. Kotak,  
Vice-Chairman, Kotak Mahindra Finance Ltd.

Shri Ravi Narain,  
Managing Director, National Stock Exchange.

---

Dr. Urjit Patel, Executive Vice-President and Shri Nirmal Mohanty, Vice-President, of IDFC, Shri Pratip Kar, Executive Director, Securities and Exchange Board of India and Smt. Usha Thorat, CGM-in-Charge, IDMC, RBI provided valuable inputs and assisted the Group by participating in the deliberations of the Group's meetings.

Shri A.K.Mitra, Assistant Adviser, DEAP assisted the Group in co-ordinating the affairs of the Group and in collecting/preparing background material as well as in preparation of draft Report for the Group.

## **9. Advisory Group on Fiscal Transparency**

### **Chairman**

Dr. Montek Singh Ahluwalia,  
Member, Planning Commission, New Delhi

### **Members**

Dr. Parthasarathy Shome,  
RBI Chair Professor, ICRIER. New Delhi

Shri C. S. Rao,  
Additional Secretary & FA, Ministry of Food and Consumer Affairs,  
Government of India, New Delhi

Shri A.C. Tiwari,  
Former Dy. Comptroller and Auditor General of India.

Shri D. Swaroop,  
Additional Secretary (Budget), Department of Economic Affairs,  
Ministry of Finance, Government of India.

Shri J. L. Bajaj,  
Chairman, UP Electricity Regulatory Commission, Lucknow.

---

The Group benefited immensely from valuable interactions/inputs from Dr.Y.V.Reddy, Deputy Governor and Shri S.S.Tarapore, Former Deputy Governor, Reserve Bank of India, Dr.N.J.Kurian, Adviser, Planning Commission, Shri S.C.Pandey, Director(Budget), Government of India, New Delhi, Shri A. Premchand, Fellow, National Institute of Fushie Finance and Policy, New Delhi as well as officials of the Comptroller And Auditor General of India.

Mrs. Abha Prasad, Director, DEAP, RBI provided the secretarial assistance and assisted the group in co-ordinating the affairs of the Group, collecting and preparing the background material as well as draft Report for the Group.

### **10. Advisory Group on “Accounting & Auditing”**

#### **Chairman**

Shri Y. H. Malegam,  
Chartered Accountant, M/s. S.B. Billimorlia & Company.

#### **Members**

Shri N. P. Sarda,  
Chartered Accountants, Chokshi & Company, Mumbai

Shri Mohindar M. Khanna,  
Chairman, Accounting Standards Board, Institute of Chartered Accountants, New Delhi

Shri T. V. Mohandas Pai,  
Senior Vice President,  
Infosys Technologies Limited,

---

Shri Dhirtidyuti Bose, Assistant Adviser, Department of Economic Analysis and Policy, Reserve Bank of India and Shri Sumanth Cidambi, Infosys Technologies Ltd., assisted the Group in the compilation of data, preparation of background study paper and draft Report for the Group. Shri Cidambi had compiled a background study on comparison of Indian accounting and auditing standards with the corresponding standards for the United States of America.

## **11. Technical Group on Market Integrity**

### **Members**

1. Shri C.R. Murlidharan,  
Chief General Manager, Department of Banking Operations and Development, RBI, Mumbai.
2. Smt. Indrani Banerjee,  
Dy. General Manager, Department of Banking Operations and Development, RBI, Mumbai.
3. Dr. Himanshu Joshi  
Director, Department of Economic Analysis and Policy, RBI, Mumbai.

**List of Changes in Acts and Laws Proposed by Advisory Groups****I. RBI ACT**

<b>Sr. No.</b>	<b>Legal issue</b>	<b>Required Legislative changes</b>
<b><u>A. Advisory Group on Monetary and Financial Policies Transparency</u></b>		
1.	Transparent framework for setting monetary policy objectives.	The RBI Act can be amended to provide for this, alternatively, a monetary policy statement can be mandated in the Annual Financial Statement of the Government.
2.	Greater autonomy to RBI.	Either through amending the RBI Act or ideally through a Constitutional Amendment.
3.	Greater operational flexibility to implement the policy.	A number of these are addressed in the RBI (Amendment) Bill 2000.
4.	(i) Determination of interest rates should be exclusively a monetary policy function and there should be legislative measures to separate debt management and monetary policy functions. (ii) Government should set up its own independent debt management office to take over the present functions discharged by RBI.	Sections 21 (2) and 17(11) (e) of the RBI Act will need to be amended. In addition, appropriate changes will need to be made in the proposed Government Securities Act.
5.	Disclosure of adverse supervisory action.	Section 47 (A) of BR Act and 58B of the RBI Act could be amended to enable the publication. Alternatively, amendment of Section 28 of BR Act and 45E of RBI Act could also ensure such publication.
6.	Reasonable security of tenure to the top management of RBI.	Sections 8 to 11 of RBI Act may be suitably amended.
<b><u>B. Advisory Group on Payment and Settlement System (Parts I, II and III)</u></b>		
1.	Section 17 (6) of the RBI Act needs to be amended to empower RBI for establishment and regulation of multiple payment system.	Proposal to insert Sub Section (6A) of Section 17 of the RBI Act is under consideration of the Government.
<b><u>C. Advisory Group on Fiscal Transparency</u></b>		
1.	One of the quasi-fiscal activities undertaken	The FRBMB seeks to prohibit RBI

	by the Reserve Bank is intervening in the primary issue of government securities which should be avoided.	support of government securities in the primary market after three years [Clause 5(3)]. This should be accompanied by the Government taking over debt management function from RBI as recommended by the Advisory Group on Monetary and Financial Transparency. Section 21(2) of the RBI Act may be amended accordingly.
--	---	--

## **II. SEBI ACT**

<b><u>A. Advisory Group on Securities Market Regulation</u></b>		
1.	Allowing SEBI enhanced authority and powers to impose penalty commensurate with the gravity of the violation (i.e. disgorgement powers).	By amending SEBI Act, the listed companies can be brought under its purview. The penal powers under the statute can also be enhanced.
2.	SEBI to be given powers to enter into agreements with Foreign Regulatory Authorities.	SEBI Act can be amended to specifically enable it to enter into agreement with foreign authority as regards the coordination among the Regulators in a transnationals context.
3.	UTI and its schemes should be brought under the regulatory powers of SEBI.	SEBI Act and UTI Act may be amended to bring UTI under the regulatory regime of SEBI.
4.	Focus of regulation should be shifted from institution specificity to market specificity and consolidation of the SCR Act and the SEBI Act in line with Dhanuka Committee.	SCR Act, RBI Act and SEBI Act could be amended to give the regulatory control, based on the market specificity and greater consolidation.

### **B. Advisory Group on Insurance Regulation**

1.	Co-ordination between the regulators for an efficient unit-linked insurance business.	If regulation of unit-linked insurance is vested with SEBI both SEBI Act and IRDA Act could require a provision to ensure the co-ordination of regulators.
----	---	--

### **III. Banking Regulation Act**

#### **A. Advisory Group on Transparency in Monetary and Financial Policies**

1.	Disclosure of adverse supervisory action.	Section 47 (A) of BR Act and 58B of the RBI Act could be amended to enable the publication. Alternatively, amendment of Section 28 of BR Act and 45E of RBI Act could also ensure such publication.
2.	Banks and other financial institutions should provide information on performance to the depositors.	Banking Regulation Act, (State Bank of India Act, Nationalisation Act, etc.) could make provisions ensuring the publication of performance Report.

#### **B. Advisory Group on Banking Supervision**

1.	Powers to RBI to decide on capital requirements on a case by case basis needs to be clearly defined by law.	Included in proposed amendment to Section 11 of B.R. Act.
2.	'Substantial interest' as defined in Section 5(ne) of BR Act is too low. Needs to be revised upwards.	Amendment to Section 5 (ne) of BR Act has been proposed to revise the ceiling upward to Rs1crore.
3.	Prior supervisory approval should be made mandatory for change of ownership or voting rights above a threshold.  RBI should be empowered to conduct 'fit and proper' tests on shareholders holding in excess of a threshold level.	Restrictions on voting rights present vide Section 12 (2) and 16 (1A) of BR Act. Amendment has been proposed to restrict limit by 5 per cent of holding in capital and enhanced power for RBI to monitor.
4.	'Closely related group' needs to be explicitly defined and the supervisor should have the discretion, prescribed in law, in interpreting the definition on a case by case basis.	Proposed amendment to Section 20 of BR Act provides definition and empowers RBI to modify the definitions by notification.

5.	The definition of connected lending needs to be made more broad-based to include all types of counter parties irrespective of whether they are in the public or private sector.  Prohibition of loans and advances to large shareholders.	Required amendment proposed in Section 20 of BR Act.  Amendment will be required in Section 20 of BR Act.
6.	Preparation and reporting of consolidated accounts by banks should be introduced.	The required change has been proposed vide addition of Section 29A (1) to the BR Act.
7.	It is desirable to provide RBI with powers to impose conservatorship on banks in temporary trouble.	New section will be required to be added to BR Act or Section 36 will be required to be amended.
8.	Suitable legal provision obliging statutory auditors of banks to report on matters of material significance to regulators.	Amendment to section 30 of BR Act has already been proposed.
9.	Present legal provisions in India do not provided for sufficient confidentiality of information. Clearly defined laws needed for this purpose.	Section 34 A of BR Act will require amendment in this respect.
10.	Clear accountability needs to be fixed on the board of directors and individual directors for non-performance and negligence.	Amendment required in Section 46 of the BR Act to include directors. Also changes may be considered in Section 46 of SBI Act and Section 16 of the Banking Companies (Acquisition and Transfer of Undertakings) Acts, 1970 and 1980.
11.	RBI should apply stricter norms for the fit and proper test while evaluating directors and the quality of the board.	Changes have been proposed in Section 10A (2) of the BR Act to the end that at least one of the directors of the bank should have knowledge of science and technology.
12.	RBI should practice consolidated supervision over internationally active organisations and get into formal relationships with host country supervisors.	A new provision in the BR Act would empower RBI to do this. At present such supervision is based on customary practices.
<b><u>Technical Group on Market Integrity</u></b>		
1.	Provide for freezing of domestic accounts of listed terrorists in public interest.	Suitable amendment in BR Act will be required.

#### **IV. Securities Contract Regulation Act**

<b><u>A. Advisory Group on Securities Market Regulation</u></b>		
1.	Elimination of conflict of interest through demutualisation, which implies separation of ownership of stock exchange from the right to trade on it.	The provisions of the Securities Contracts (Regulation) Act, 1956 (SCR Act) need amendments to separate the brokers/players right to trade and the ownership.
2.	Creation of one or two clearing corporations for all the stock exchanges as against the present practice of individual clearing house.	Constitution, role and functions of clearing corporations can be incorporated in the SCR Act to grant statutory recognition for such clearing corporation.
3.	SEBI should assist Association of Mutual Funds of India to develop into a full-fledged Self-Regulatory Organisation (SRO).	These types of Associations should be given specific statutory recognition and be vested with legal character under the SCR Act also.
4.	RBI should facilitate FIMMDA and PDAI to develop into full-fledged SROs.	These associations should be given specific statutory recognition and be vested with legal character under SCR Act besides RBI Act.

#### **V. Companies Act**

<b><u>A. Advisory Group on Corporate Governance</u></b>		
1.	SEBI has directed all stock exchanges to amend their listing agreements to incorporate new clauses to make it binding on the listed companies to improve their governance practices. The listing agreements signed between the company and the stock exchange should be strengthened with a penal provision for erring companies for their violation in respect of corporate governance norms. However, it is desirable that effective penal provisions are added in the Companies Act for violation of corporate governance norms.	A substantive provision empowering the Government to set the norms of corporate governance will need to be incorporated in the Companies Act, 1956. Once such a provision is incorporated that Government can make rules regulating the same under Section 642 of the Companies Act. This rule can also contain enhanced penal provision.
2.	SEBI has mandated disclosure of summary results by listed companies on quarterly basis and others on half-yearly basis. Although, companies present their annual accounts covering 12 months period, they take	Companies should be mandated to circulate among the shareholders the annual accounts on 12 monthly basis even during the years when they decide to change their accounting year for tax

	<p>advantage of flexible legal provision and choose to present accounts for a period from 6 to 18 months to take advantage of tax benefits.</p>	<p>purposes which should be included in the Companies Act.</p>
3.	<p>For effective corporate governance practices, the definition of the concept of 'independent directors' has to be made clear in the Companies Act.</p>	<p>Suitable amendments to Section 252 of Companies will be needed for defining the concept of independent directors and making it mandatory for specified companies to have independent directors on the board. SEBI has as part of its listing agreements specified a definition of independent directors.</p>
4.	<p>Some companies hold only 4 meetings in a year (the minimum indicator under Section 285 of the Companies Act) as required under the law. In fact the companies which are having diversified activities should be holding at least 6 board meetings in a year.</p>	<p>Companies Act should be amended to provide a minimum of 6 meetings in a year. Also the possibility of holding meetings through video conference, etc. be enabled.</p>
5.	<p>The recent amendments to the Companies Act have made non-executive directors of companies accountable just like full time directors. This is working against competent persons joining corporates as they have to take risks without being fully familiar with the intricacies of the business and not participated in the decision-making process concerning all the important matters.</p>	<p>We may wish to re-examine liability of non-executive directors.</p>
6.	<p>In respect of major developments of companies, the non-executive directors some times come to know about the developments through press reports as the necessary papers are not sent for long-time i.e., no periodical briefing of developments.</p>	<p>There should be a mandatory reporting provisions in the Companies Act.</p>
7.	<p>The term limits of independent directors are too small for efficient functioning.</p>	<p>The term limits of independent directors of companies/banks/public sector companies should be made preferably up to 10 years on a continuous basis by making amendments to Companies Act.</p>
8.	<p>The voting rights of small shareholders should be strengthened by introducing a</p>	<p>Amendment to the Companies Act is required.</p>

	provision for compounding of voting rights for small shareholders so that they are able to get their representations elected to the Board.	
9.	Nomination committee to identify new directors and remuneration committee to decide on senior management/directors' remuneration should be set up.	Suitable amendments will need to be made in the Companies Act.

### **B. Advisory Group on Accounting and Auditing**

1.	In respect of convergence of corporate and tax laws with accounting standards, many differences arise between Indian standards and international standards due to differences in corporate and tax laws. The provisions of the Companies Act need to be examined to determine whether the relevant provisions of the Act are necessary and whether these provisions can be suitably amended.	Sections 78, 211 and 212 and Schedule VI of the Companies Act need to be re-examined in the light of the International Standards on Accounting.
2.	While the Companies Act now requires disclosure details regarding departures from Accounting Standards to be made by the company in addition to being reported by the Auditor, for policing of complain there is a need to establish a Panel to which auditors would report all cases of violations. ICAI should also be vested with the powers to investigate and punish.	Suitable amendments may be carried out to Companies Act and Chartered Accountants Act, 1949 to enable the same.

## **VI. Negotiable Instruments Act**

### **A. Advisory Group on Payment and Settlement System (Parts I, II and III)**

1.	NI Act needs to be amended for cheque truncation.	The recommendations of the Working Group on the amendments to the NI Act (Chairman: Shri N.V. Deshpande, PLA RBI) detail the amendments required for cheque truncation and electronic signature. These have been
----	---	--

		<p>incorporated in the report of the Parliamentary Standing Committee on Finance. Once this is accepted and passed by the Government, the requisite legal base for cheque truncation would be provided for. The amendments to NI Act for bouncing of cheques have already been submitted to the Parliament. Both the amendments are under consideration.</p>
--	--	--

**VII. Payment and Settlement System related Acts**

**A. Advisory Group on Payment and Settlement System**

<p>1.</p>	<p>At present in India paper-based and electronic payment and settlement systems are governed by the contracts between the participants. A well-founded legal framework needs to be put in place to regulate paper-based and electronic payment and settlement system in India.</p>	<p>Although there is no separate legislation as of now for the operations of the Clearing Houses, these are nevertheless governed by the Uniform Regulations and Rules for Bankers' Clearing Houses (URR), which is a contractual agreement between the Manager of the Clearing House and the members of the Clearing House.</p> <p>The Reserve Bank has already initiated the drafting of a combined Payment Systems Regulations Act (Electronic Fund Transfer Act, Payment System Regulation Act and Payment Obligations Act - Netting, Clearing and Settlement) with the assistance of international and Indian Consultant and the work is at an advanced stage of completion.</p> <p>A separate legislation is being proposed for the RTGS system and there also, it is proposed to have an international consultant and Indian draftsmen.</p>
-----------	---	--

2.	<p>To provide necessary legal support to any electronic message-based payment and settlement system, amendments to a host of Acts required i.e. Indian Penal Code Act 1860, Indian Evidence Act 1862, Bankers' Books Act 1891 and Section 58 of the RBI Act 1934. Besides, other legislation namely Negotiable Instrument Act, 1881, Indian Stamp Duty Act, Insolvency Law, etc. also need to be amended.</p>	<p>The IT Act, 2000 provides legal basis for electronic records etc., but does not apply to the Negotiable Instruments as per the NI Act, 1881. In view of this, work on drafting separate Payment Systems Act – encompassing EFT - has been taken up by the RBI. Once the draft is ready, this would be deliberated upon, finalized and forwarded to the Law Ministry for being passed as an Act.</p> <p>Further, the Information Technology Act 2000 has already amended certain provisions of the IPC, Evidence Act, Bankers' Book Evidence Act, and RBI Act to provide for legal status for electronic transactions, record, security and authentication.</p> <p>As far as the RBI EFT scheme is concerned, the RBI EFT Regulations have been approved by the Ministry of Finance and the same would be notified in the Gazette of India on receipt of the approval from the Central Board of Directors of the Reserve Bank of India.</p>
3.	<p>The rights and obligations of customers in the electronic environment need to be addressed in well-defined rules.</p>	<p>The Payment obligations (Netting, Clearing and Settlement) Act being drafted at the instance of RBI would be considering this issue.</p>
4.	<p>Netting system should have well-founded legal basis under all relevant jurisdiction.</p>	<p>As indicated under Sr. 1 above, the combined Payment Systems Regulations Act will take care of the netting system. The concept of netting is recognised by Section 62 of the Indian Contract Act by way of novation. However, the rules regarding the management of credit and</p>

		liquidity risks need to be addressed in the relevant regulation.
--	--	--

**VIII. Income Tax Act**  
**Advisory Group on Accounting and Auditing**

1.	Section 145 of the Income Tax Act 1961 provides that 'profits and gains of business or profession' or 'income from other sources' has to be computed in accordance with the cash or mercantile system of accounting regularly employed by the assessee. But Section 145A regarding treatment of Modvat, provides for accounting treatment which is not consonance with ICAI and IAS.	Sections 145 and 145A of Income-Tax Act may be re-examined so as to provide for minimum divergence between taxable and accounting income and ensure the compliance of the standards set by the ICAI.
----	--	--

**Advisory Group on Insurance Regulation**

1.	The taxation of shareholders' share of surplus could be at the corporate rate and the balance below the current rate.	May be addressed in the Union Budget through the Finance Bill with corresponding amendment in First Schedule of Income-tax Act 1961.
----	---	--

**IX. Insurance Act 1938 and IRDA Act -**  
**Advisory Group on Insurance Regulation**

1.	The legal form of insurance companies in India is the of joint stock company route. With a view to spreading insurance business in rural areas, the role of co-operatives may not be ruled out in future.	The amendment to the Sec. 2 (7A) and 2C of the Insurance Act by the IRDA Act restricts the legal form of insurers to companies under the Companies Act 1956 although earlier, societies registered under the Co-operative Societies Act 1912, <i>inter alia</i> , were allowed to carry on insurance business. The Insurance Amendment Bill 2001 proposes to permit co-operatives in insurance business.
2.	The superannuation business handled by funds needs to be brought under regulatory arrangements. (The regulatory mechanism can also be one similar to the Occupational Pension Board of UK.)	Superannuation funds can be regulated <i>inter alia</i> by IRDA, for example, by suitably modifying Section 14 of IRDA and Section 114 A of Insurance Act or in the alternative, by constituting a separate regulator. The IRDA has submitted a report to the Government in this regard.

3.	With a view to conform to international practice, the Insurance Act 1938 needs to be amended so as to enable insurance companies to provide allied services to their customers.	Section 2 (7AC) of the Insurance Act 1938 may be widened on the lines of Section 6 (2) (h) of the LIC Act to permit insurance companies to provide similar allied services to their customers.
4.	Introduction of elaborate classification of life and non-life business.	Section 10 (2A) of Insurance Act 1938 may be suitably amended by introducing a new provision as also a Schedule which classifies the type of business.
5.	The minimum capital levels may be fixed for each of business on a scientific and transparent basis.	Section 6 of the Insurance Act could be suitably amended. The above suggested Schedule can contain the minimum capital requirement of each class of business with a corresponding provision empowering IRDA to revise the amount by notification. For the purpose of only detailed accounting, statutory changes would not be necessary.
6.	Co-ordination between the regulators for an efficient unit-linked insurance business.	If regulation of unit-linked insurance is vested with SEBI both SEBI Act and IRDA Act could require a provision to ensure the co-ordination of regulators.

**X. Chartered Accountants Act  
Advisory Group on Accounting and Auditing**

1.	To adopt international standards effectively: Restructure the Accounting Standards Board (ASB) as an autonomous and independent body with two tier structure having a Standard Setting Committee added with adequate representation of the regulators, <i>i.e.</i> , Department of Company Affairs, Central Board of Direct Taxes, SEBI and RBI. The standards setting procedure may also be rationalised.	The Accounting Standards Board (ASB) may be given statutory recognition under the Chartered Accountants Act, 1949 (CA Act), clearly setting the constitution and functions. The ICAI may be given the power to set the accounting standards by Statutory Regulation by amending Section 30 of the CA Act.
2.	For violations of accounting standards, the system of an obligation for auditors to report directly to a Panel, set by ICAI, all cases of violation needs to be provided. ICAI should also be vested with the powers to investigate and punish.	Suitable amendments may be carried out to Companies Act and Chartered Accountants Act, 1949 to enable the same.

XI. Fiscal Responsibility and Budget Management Bill  
Advisory Group on Fiscal Transparency

1.	According to IMF Manual, there should be a budget system law which should have constitutional status. There is no budget system law in India.	Although, there are clearly established rules (General Financial Rules, Treasury Rules, etc.) governing each aspect of budget preparation, they fall short of the discipline that would be covered by legislation. The Government could consider amplifying the scope of the FRBMB to include elements of a Budget Law.
2.	There is no obligation presently to report to the Parliament if the revenue out-turns deviates significantly from the levels anticipated in the Budget.	Clause 4 of Fiscal Responsibility and Budget Management Bill, 2000 (FRBMB) recently introduced in Parliament sets out certain fiscal management principles to be followed by the Central Government in reducing the revenue and fiscal deficit over a period prescribed therein. Under Clause 7, the Minister in Charge of the Ministry of Finance shall make a statement in the Parliament explaining any deviation in meeting the obligation cast on the Government under the Act. The proposed FRBMB, therefore, takes care of the suggestion.
3.	Publication of fiscal information should be based on legal obligation arising out of a Budget Law and not on convention.	The newly introduced FRBMB, if enacted, should create a legal commitment to provide certain information to be included in the Medium-Term Fiscal Policy Statement, Fiscal Policy Strategy Statement and Micro-Economic Framework Statement by the Central Government before the Parliament, along with the annual budget.
4.	There are also a number of central government units which have their own	Under the proposed FRBMB Central Government is empowered to make the

	budgets outside the central government budget but which perform a non-market non-profit function, e.g. central universities, the IITs, central research institutions, etc.	rules. Therefore, the Central Government can prescribe the rules regarding the contents of the Budget including the expenditure on educational services and other such services.
5.	In the Central Budget, there are no forward projections or forecast. The best practise is the forecast or aggregate fiscal projections should be for a period of 5-10 years but the beginning should be made by giving a forward projection for 2 years ahead of the Budget.	The proposed FRBMB makes it mandatory to make the projection by way of fiscal policy statement suggested in Clause 3.
6.	The public policy purposes of each provision which give rise to a central government contingent liability, its duration and intended beneficiaries should be clearly stated.	Clause 3 of the proposed FRBMB requires the Fiscal Policy Strategy Statement of the Central Government to contain the policy relating to underwriting and guarantee which have potential budgetary implication. However, the contingent liability, yet to be included in the statement, suitable modifications is required.
7.	Systematic reporting of revenue loss from major existing and new tax concession and incentives, should be initiated. Initially, these details may form part of <i>Economic Survey</i> but in due course it should be subject to Parliamentary and budgetary scrutiny.	The proposed FRBMB requires insertion of a new provision requiring the Central Government to cast the <i>Economic Survey</i> presented in the Parliament with the contents prescribed by rules.
8.	Given the scale of fiscal activity at the State Government level and the size of State level fiscal imbalances, the consolidated fiscal position of general Government should be highlighted at the time of discussion of the Budget in the legislature. The <i>Economic Survey</i> should incorporate a fuller discussion of recent trends in the consolidated position of Central and State Governments especially regarding trends in capital expenditures and in the basic fiscal balance measures (fiscal deficit, revenue deficit, primary deficit, etc.).	The rules prescribed in contents of the <i>Economic Survey</i> should address these issues.
9.	While recognising the need for quality of	The proposed FRBMB will need to be

	fiscal deficit reduction, the medium-term targets should be applied to the structural deficit.	modified to deal with this issue.
10.	It is recommended that the budget document should provide the indication of how the annual budget fits with the Government's long-term deficit and debt target including the macro-economic assumptions underlined in the budget, quantification of fiscal risk and the overall public sector balance followed by quarterly reporting to the Parliament on the aggregate Budget out-turn.	The proposed FRBMB will need to be modified to deal with this issue.
11.	The Budget forecast should contain indication of the methods used for forecasting with a view to improve fiscal marksmanship. For ensuring integrity, independent experts should be invited to assess fiscal forecast.	The proposed FRBMB will need to be modified to deal with this issue.
12.	One of the quasi-fiscal activities undertaken by the Reserve Bank is intervening in the primary issue of government securities which should be avoided.	The FRBMB seeks to prohibit RBI support of government securities in the primary market after three years [Clause 5(3)]. This should be accompanied by the Government taking over debt management function from RBI as recommended by the Advisory Group on Monetary and Financial Transparency. Section 21(2) of the RBI Act may be amended accordingly.
13.	Supplementary budgets impart significant non-transparency because the impact on the overall fiscal situation as a result of these demands is usually not reviewed at the stage of consideration by the legislature.	The proposed FRBMB in Clause 7 prescribes the measures to be imposed for the compliance of the annual financial statement.
14.	(i) The quasi-fiscal activities, now being carried out by public financial institutions, including commercial banks involve directed lending to the priority sector. This is an implicit subsidy.  (ii) Similarly, the non-financial public enterprises perform certain quasi-fiscal activities which are not transparent in the Budget of the Government. For example,	The proposed FRBMB requires the Government to include in its Fiscal Policy Strategy Statement the key fiscal measures and rationale for any major deviation in fiscal measures pertaining to subsidy, taxation, expenditure, administered pricing etc. The Clause 3 (4) (c) can be modified so as to include any quasi-financial activities. The corresponding

	<p>the implicit subsidy given to FCI is not distinguished if FCI carries stock in excess of buffer stock requirements, as it becomes producer subsidy; substantial degree of cross-subsidisation of passenger traffic by freight engaged by railways; Oil Pool Account operated by Oil Co-ordination Committee (OCC).</p>	<p>provisions, like Section 29 of BR Act, relating to banks and public sector enterprises pertaining to the profit and loss account can be amended in respective statutes to address this issue.</p>
15.	<p>In order to avoid unnecessary contact between tax payer and tax administrator (which leads to non-transparency, discretion and the potential for harassment and corruption) the use of information technology and electronic filing has been recommended for implementation over a period of three to four years.</p>	<p>There should be a concerted effort to restructure and simplify Tax Law both legislatively and administratively. Since the Information Technology Act, 2000 reserves the right of the Government not to accept the documents in electronic form suitable amendment to Section 139 of the Income Tax Act, 1961 may be required to enable the assessee to file the return even in electronic form.</p>
16.	<p>A statement of Fiscal Policy objectives and an assessment of fiscal sustainability should provide the framework for the annual budget.</p>	<p>The newly introduced FRBMB, if enacted, would create a legal commitment to provide certain information to be included in the Medium-Term Fiscal Policy Statement, Fiscal Policy Strategy Statement and Macro-Economic Framework Statement by the Central Government before the Parliament, along with the annual budget.</p>

## XII. Prevention of Money Laundering Bill

<u>Technical Group on Market Integrity</u>		
1.	Preventing laundering of proceeds derived from offences stated in the 1988 Vienna Convention	Proposed in the Prevention of Money Laundering Bill(PMLB), 1999
2.	Conceiving financial institutions secrecy laws such that they do not inhibit the implementation of FATF recommendations.	Proposed in the PMLB, 1999
3.	Enforcement of money laundering programmes that include increased multilateral co-operation and mutual legal assistance in investigations, prosecution and extradition.	Proposed in the PMLB, 1999
4.	Criminalising money laundering as set forth in the Vienna Convention, and to classifying drug money laundering as a serious offence together with determining which serious crimes would be designated as money laundering predicate offences.	Proposed in the PMLB, 1999
5.	Corporations, wherever possible, and not their employees would be subject to criminal liability.	Proposed in the PMLB, 1999
6.	Enable competent authorities to confiscate property laundered, proceeds from, instrumentalities used or intended for the use of commission of any money laundering offence.	Proposed in the PMLB, 1999
7.	Ensure that financial institutions pay special attention to all complex and unusual large transactions with no apparent or visible lawful purpose and for examination and reporting of findings to supervisors, auditors and law enforcement authorities.	Proposed in the PMLB, 1999
8.	Legally protect directors, officers and employees of financial institutions from	Proposed in the PMLB, 1999

	criminal or civil liability for breach of any restriction or disclosure of information imposed by relevant legislative, regulatory or administrative provisions or contracts.	
9.	Enable financial institutions reporting of suspicions to comply with the instructions from competent authorities	Proposed in the PMLB, 1999
10.	Establish procedures for mutual assistance in criminal matters through compulsory provisions for production of records of financial institutions, search of persons and premises, seizure and obtaining of evidence for use in money laundering investigations and prosecutions and related actions in foreign jurisdictions.	Proposed in the PMLB, 1999
11.	Enable authorities to take expeditions action to foreign country requests to identify, freeze, seize, and confiscate proceeds or other property based on money laundering crimes.	Proposed in the PMLB, 1999
12.	Devise and apply enable mechanisms for determining suitable venue for prosecution in the interests of justice and in cases involving more than one country.	Proposed in the PMLB, 1999
13.	Recognize money laundering as an extraditable offence subject to legal frameworks.	Proposed in the PMLB, 1999
14.	Enable full implementation of the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism, United Nation Security Council Resolution 1373 and other related such resolutions.	Proposed in the POTO, 1999.

### **XIII Legislative changes proposed in other Miscellaneous Acts**

#### **A. Advisory Group on Securities Market Regulation**

1.	There is a need to streamline the procedures to detect the frauds and take appropriate remedial measures. The due process relating to procedures may also to be streamlined.	The Expert Committee on Legal Aspects of Bank Frauds in its report dated August 31, 2001 made various recommendations for the procedures to be followed in cases
----	--	--

		of bank fraud/financial fraud. The Committee has also outlined an illustrative draft legislation by name Financial Fraud (Investigation, Prosecution, Recovery and Restoration of Property) Bill, 2001. This requires a new legislation as also amendments to Indian Penal Code, Code of Criminal Procedure, etc.
2.	High level group on capital markets be given legal status and its functioning should be transparent.	Suitable legislation would need to be provided.
<b><u>B. Advisory Group on Transparency in Monetary and Financial Policies</u></b>		
1.	Banks and other financial institutions should provide information on performance to the depositors.	Banking Regulation Act, State Bank of India Act, Banks Nationalisation Act, etc., could make provisions ensuring the publication of performance Report.
<b><u>C. Advisory Group on Banking Supervision</u></b>		
1.	The overlap of the role of RBI as owner/owners' representative and regulator should be corrected.	This will require amendment in the Acts governing SBI, NHB and NABARD.
2.	Government ownership is not conducive to any serious and urgent corrective action by the regulator.	The Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Bill, 2000 proposed to reduce government holding in nationalised banks to 33 per cent.
<b><u>D. Advisory Group on Fiscal Transparency</u></b>		
1.	As per the best international practice, publication of the Government balance sheet as a part of budget document covering financial liabilities and assets and also non-financial assets is suggested. At least, a beginning should be made with the publication of more comprehensive list of	The rules setting up the norms of <i>Economic Survey</i> can indicate the information relating to Public Enterprises Survey on government equity and loans also.

	financial liability and assets of the Government. Information about Public Enterprises Survey on Government equity and loans to Public Sector Enterprises could be indicated in the <i>Economic Survey</i> .	
<b><u>E. Advisory Group on Corporate Governance</u></b>		
1.	In recent past, several companies have vanished after raising capital from the public. The investors in these companies are not able to trace the companies to resolve their grievances. Even companies which are traceable, there is no effective resolution clauses for investors in law.	The activity of the promoters/directors would fall within the ambit of financial fraud as defined in the illustrative draft legislation of Financial Fraud (Investigation, Prosecution, Recovery and Restoration of Property) Bill 2001, suggested by the expert committee on Legal Aspects of Bank Frauds. The recommendations of the Committee are under consideration of RBI.
2.	There are some restrictive provisions relating to voting rights of shareholder in public sector banks (1 per cent irrespective of the size holdings); In respect of private sector banks the limit is fixed at 10 per cent.	For the purpose of increasing corporate governance, shareholder should have right to discuss, vote and approve the profit and loss account and the balance sheet at the AGM of the banks. The relevant provision of Banks Nationalisation Act which do not provide for voting and approving the accounts by share holders should be amended.
3.	The functioning of banks and financial institutions are coming under Multiple Acts. For example, banks and financial institutions are covered and their several acts of Parliament like 1) SBI Act, 2) Bank Nationalisation Act, 3) IDBI Act, 4) Banking Regulation Act, 5) RBI Act, and Companies Act. Such multiple Acts affect the functioning of banks particularly public sector banks.	The Reserve Bank is examining the possibilities of an omnibus Legislation covering all these areas.
<b><u>F. Advisory Group on Payment and Settlement System (Parts I, II and III)</u></b>		
1.	Allocation of responsibilities for risk management and risk containment.	The regulation proposed to be framed by RBI needs to address this issue.

**Annexure –IV****Advisory Group-wise Legislative Changes Proposed**

<b>Sr. No.</b>	<b>Legal Issue</b>	<b>Required Legislative Changes</b>
<b><u>A. Advisory Group on Monetary and Financial Policies Transparency</u></b>		
1.	Transparent framework for setting monetary policy objectives.	The RBI Act can be amended to provide for this, alternatively a monetary policy statement can be mandated in the Annual Financial Statement of the Government.
2.	Greater autonomy to RBI.	Either through amending the RBI Act or ideally through a Constitutional Amendment.
3.	Greater operational flexibility to implement the policy.	A number of these are addressed in the RBI (Amendment) Bill 2000.
4.	(i) Determination of interest rates should be exclusively a monetary policy function and there should be legislative measures to separate debt management and monetary policy functions. (ii) Government should set up its own independent debt management office to take over the present functions discharged by RBI.	Sections 21 (2) and 17(11) (e) of the RBI Act will need to be amended. In addition, appropriate changes will need to be made in the proposed Government Securities Act.
5.	Disclosure of adverse supervisory action.	Section 47 (A) of BR Act and 58B of the RBI Act could be amended to enable the publication. Alternatively, amendment of Section 28 of BR Act and 45E of RBI Act could also ensure such publication.
6.	Reasonable security of tenure to the top management of RBI.	Sections 8 to 11 of RBI Act may be suitably amended.
7.	Banks and other financial institutions should provide information on performance to the depositors.	Banking Regulation Act, (State Bank of India Act, Nationalisation Act, etc.) could make provisions ensuring the publication of performance Report.

**B. Advisory Group on Payment and Settlement System (Parts I, II and III)**

1.	Section 17 (6) of the RBI Act needs to be amended to empower RBI for establishment and regulation of multiple payment system.	Proposal to insert Sub Section (6A) of Section 17 of the RBI Act is under consideration of the Government.
----	---	--

2.	NI Act needs to be amended for cheque truncation.	<p>The recommendations of the Working Group on the amendments to the NI Act (Chairman: Shri N.V. Deshpande, PLA RBI) detail the amendments required for cheque truncation and electronic signature. These have been incorporated in the report of the Parliamentary Standing Committee on Finance. Once this is accepted and passed by the Government, the requisite legal base for cheque truncation would be provided for. The amendments to NI Act for bouncing of cheques have already been submitted to the Parliament. Both the amendments are under consideration.</p>
3.	At present in India paper-based and electronic payment and settlement systems are governed by the contracts between the participants. A well-founded legal framework needs to be put in place to regulate paper-based and electronic payment and settlement system in India.	<p>Although there is no separate legislation as of now for the operations of the Clearing Houses, these are nevertheless governed by the Uniform Regulations and Rules for Bankers' Clearing Houses (URR), which is a contractual agreement between the Manager of the Clearing House and the members of the Clearing House.</p> <p>The Reserve Bank has already initiated the drafting of a combined Payment Systems Regulations Act (Electronic Fund Transfer Act, Payment System Regulation Act and Payment Obligations Act - Netting, Clearing and Settlement) with the assistance of international and Indian Consultant and the work is at an advanced stage of completion.</p> <p>A separate legislation is being proposed for the RTGS system and there also, it is proposed to have an international consultant and Indian draftsmen.</p>

4.	To provide necessary legal support to any electronic message-based payment and settlement system, amendments to a host of Acts required i.e. Indian Penal Code Act 1860, Indian Evidence Act 1862, Bankers' Books Act 1891 and Section 58 of the RBI Act 1934. Besides, other legislation namely Negotiable Instrument Act, 1881, Indian Stamp Duty Act, Insolvency Law, etc. also need to be amended.	<p>The IT Act, 2000 provides legal basis for electronic records etc., but does not apply to the Negotiable Instruments as per the NI Act, 1881. In view of this, work on drafting separate Payment Systems Act – encompassing EFT - has been taken up by the RBI. Once the draft is ready, this would be deliberated upon, finalized and forwarded to the Law Ministry for being passed as an Act.</p> <p>Further, the Information Technology Act 2000 has already amended certain provisions of the IPC, Evidence Act, Bankers' Book Evidence Act, and RBI Act to provide for legal status for electronic transactions, record, security and authentication.</p> <p>As far as the RBI EFT scheme is concerned, the RBI EFT Regulations have been approved by the Ministry of Finance and the same would be notified in the Gazette of India on receipt of the approval from the Central Board of Directors of the Reserve Bank of India.</p>
5.	The rights and obligations of customers in the electronic environment need to be addressed in well-defined rules.	The Payment obligations (Netting, Clearing and Settlement) Act being drafted at the instance of RBI would be considering this issue.
6.	Netting system should have well-founded legal basis under all relevant jurisdiction.	As indicated under Sr. 3 above, the combined Payment Systems Regulations Act will take care of the netting system. The concept of netting is recognised by Section 62 of the Indian Contract Act by way of novation. However, the rules regarding the management of credit and liquidity risks need to be addressed in the relevant regulation.
7.	Allocation of responsibilities for risk management	The regulation proposed to be framed by

	and risk containment.	RBI needs to address this issue.
--	-----------------------	----------------------------------

### **C. Advisory Group on Fiscal Transparency**

1.	One of the quasi-fiscal activities undertaken by the Reserve Bank is intervening in the primary issue of government securities, which should be avoided.	The FRBMB seeks to prohibit RBI support of government securities in the primary market after three years [Clause 5(3)]. This should be accompanied by the Government taking over debt management function from RBI as recommended by the Advisory Group on Monetary and Financial Transparency. Section 21(2) of the RBI Act may be amended accordingly.
2.	As per the best international practice, publication of the Government balance sheet as a part of budget document covering financial liabilities and assets and also non- financial assets is suggested. At least, a beginning should be made with the publication of more comprehensive list of financial liability and assets of the Government. Information about Public Enterprises Survey on Government equity and loans to Public Sector Enterprises could be indicated in the Economic Survey.	The rules setting up the norms of Economic Survey can indicate the information relating to Public Enterprises Survey on government equity and loans also.
3.	According to IMF Manual, there should be a budget system law which should have constitutional status. There is no budget system law in India.	Although, there are clearly established rules (General Financial Rules, Treasury Rules, etc.) governing each aspect of budget preparation, they fall short of the discipline that would be covered by legislation. The Government could consider amplifying the scope of the FRBMB to include elements of a Budget Law.
4.	There is no obligation presently to report to the Parliament if the revenue out-turns deviates significantly from the levels anticipated in the Budget.	Clause 4 of Fiscal Responsibility and Budget Management Bill, 2000 (FRBMB) recently introduced in Parliament sets out certain fiscal management principles to be followed by the Central Government in reducing the revenue and fiscal deficit over a

		<p>period prescribed therein. Under Clause 7, the Minister in Charge of the Ministry of Finance shall make a statement in the Parliament explaining any deviation in meeting the obligation cast on the Government under the Act. The proposed FRBMB, therefore, takes care of the suggestion.</p>
5.	<p>Publication of fiscal information should be based on legal obligation arising out of a Budget Law and not on convention.</p>	<p>The newly introduced FRBMB, if enacted, should create a legal commitment to provide certain information to be included in the Medium-Term Fiscal Policy Statement, Fiscal Policy Strategy Statement and Micro-Economic Framework Statement by the Central Government before the Parliament, along with the annual budget.</p>
6.	<p>There are also a number of central government units which have their own budgets outside the central government budget but which perform a non-market non-profit function, e.g. central universities, the IITs, central research institutions, etc.</p>	<p>Under the proposed FRBMB Central Government is empowered to make the rules. Therefore, the Central Government can prescribe the rules regarding the contents of the Budget including the expenditure on educational services and other such services.</p>
7.	<p>In the Central Budget, there are no forward projections or forecast. The best practise is the forecast or aggregate fiscal projections should be for a period of 5-10 years but the beginning should be made by giving a forward projection for 2 years ahead of the Budget.</p>	<p>The proposed FRBMB makes it mandatory to make the projection by way of fiscal policy statement suggested in Clause 3.</p>
8.	<p>The public policy purposes of each provision which give rise to a central government contingent liability, its duration and intended beneficiaries should be clearly stated.</p>	<p>Clause 3 of the proposed FRBMB requires the Fiscal Policy Strategy Statement of the Central Government to contain the policy relating to underwriting and guarantee which have potential budgetary implication. However, for contingent liability, yet to be included in the statement, suitable modifications are required.</p>
9.	<p>Systematic reporting of revenue loss from major</p>	<p>The proposed FRBMB requires</p>

	existing and new tax concession and incentives, should be initiated. Initially, these details may form part of <i>Economic Survey</i> but in due course it should be subject to Parliamentary and budgetary scrutiny.	insertion of a new provision requiring the Central Government to cast the <i>Economic Survey</i> presented in the Parliament with the contents prescribed by rules.
10.	Given the scale of fiscal activity at the State Government level and the size of State level fiscal imbalances, the consolidated fiscal position of general Government should be highlighted at the time of discussion of the Budget in the legislature. The <i>Economic Survey</i> should incorporate a fuller discussion of recent trends in the consolidated position of Central and State Governments especially regarding trends in capital expenditures and in the basic fiscal balance measures (fiscal deficit, revenue deficit, primary deficit, etc.).	The rules prescribed in contents of the <i>Economic Survey</i> should address these issues.
11.	While recognising the need for quality of fiscal deficit reduction, the medium-term targets should be applied to the structural deficit.	The proposed FRBMB will need to be modified to deal with this issue.
12.	It is recommended that the budget document should provide the indication of how the annual budget fits with the Government's long-term deficit and debt target including the macro-economic assumptions underlined in the budget, quantification of fiscal risk and the overall public sector balance followed by quarterly reporting to the Parliament on the aggregate Budget out-turn.	The proposed FRBMB will need to be modified to deal with this issue.
13.	The Budget forecast should contain indication of the methods used for forecasting with a view to improve fiscal marksmanship. For ensuring integrity, independent experts should be invited to assess fiscal forecast.	The proposed FRBMB will need to be modified to deal with this issue.
14.	Supplementary budgets impart significant non-transparency because the impact on the overall fiscal situation as a result of these demands is usually not reviewed at the stage of consideration by the legislature.	The proposed FRBMB in Clause 7 prescribes the measures to be imposed for the compliance of the annual financial statement.
15.	(i) The quasi-fiscal activities, now being carried out by public financial institutions, including commercial banks involve directed lending to the priority sector. This is an implicit subsidy.	The proposed FRBMB requires the Government to include in its Fiscal Policy Strategy Statement the key fiscal measures and rationale for any major deviation in fiscal measures pertaining

	(ii) Similarly, the non-financial public enterprises perform certain quasi-fiscal activities which are not transparent in the Budget of the Government. For example, the implicit subsidy given to FCI is not distinguished if FCI carries stock in excess of buffer stock requirements, as it becomes producer subsidy; substantial degree of cross-subsidisation of passenger traffic by freight engaged by railways; Oil Pool Account operated by Oil Co-ordination Committee (OCC).	to subsidy, taxation, expenditure, administered pricing etc. The Clause 3 (4) (c) can be modified so as to include any quasi-financial activities. The corresponding provisions, like Section 29 of BR Act, relating to banks and public sector enterprises pertaining to the profit and loss account can be amended in respective statutes to address this issue.
16.	In order to avoid unnecessary contact between tax payer and tax administrator (which leads to non-transparency, discretion and the potential for harassment and corruption) the use of information technology and electronic filing has been recommended for implementation over a period of three to four years.	There should be a concerted effort to restructure and simplify Tax Law both legislatively and administratively. Since the Information Technology Act, 2000 reserves the right of the Government not to accept the documents in electronic form suitable amendment to Section 139 of the Income Tax Act, 1961 may be required to enable the assessee to file the return even in electronic form.
17.	A statement of Fiscal Policy objectives and an assessment of fiscal sustainability should provide the framework for the annual budget.	The newly introduced FRBMB, if enacted, would create a legal commitment to provide certain information to be included in the Medium-Term Fiscal Policy Statement, Fiscal Policy Strategy Statement and Macro-Economic Framework Statement by the Central Government before the Parliament, along with the annual budget.

#### **D. Advisory Group on Securities Market Regulation**

1.	Allowing SEBI enhanced authority and powers to impose penalty commensurate with the gravity of the violation (i.e. disgorgement powers).	By amending SEBI Act, the listed companies can be brought under its purview. The penal powers under the statute can also be enhanced.
2.	SEBI to be given powers to enter into agreements with Foreign Regulatory Authorities.	SEBI Act can be amended to specifically enable it to enter into agreement with foreign authority as regards the coordination among the Regulators in a transnationals context.
3.	UTI and its schemes should be brought under the	SEBI Act and UTI Act may be

	regulatory powers of SEBI.	amended to bring UTI under the regulatory regime of SEBI.
4.	Focus of regulation should be shifted from institution specificity to market specificity and consolidation of the SCR Act and the SEBI Act in line with Dhanuka Committee.	SCR Act, RBI Act and SEBI Act could be amended to give the regulatory control, based on the market specificity and greater consolidation.
5.	There is a need to streamline the procedures to detect the frauds and take appropriate remedial measures. The due process relating to procedures may also to be streamlined.	The Expert Committee on Legal Aspects of Bank Frauds in its report dated August 31, 2001 made various recommendations for the procedures to be followed in cases of bank fraud/financial fraud. The Committee has also outlined an illustrative draft legislation by name Financial Fraud (Investigation, Prosecution, Recovery and Restoration of Property) Bill, 2001. This requires a new legislation as also amendments to Indian Penal Code, Code of Criminal Procedure, etc.
6.	High level group on capital markets be given legal status and its functioning should be transparent.	Suitable legislation would need to be provided.
7.	Elimination of conflict of interest through demutualisation, which implies separation of ownership of stock exchange from the right to trade on it.	The provisions of the Securities Contracts (Regulation) Act, 1956 (SCR Act) need amendments to separate the brokers/players right to trade and the ownership.
8.	Creation of one or two clearing corporations for all the stock exchanges as against the present practice of individual clearing house.	Constitution, role and functions of clearing corporations can be incorporated in the SCR Act to grant statutory recognition for such clearing corporation.
9.	SEBI should assist Association of Mutual Funds of India to develop into a full-fledged Self-Regulatory Organisation (SRO).	These types of Associations should be given specific statutory recognition and be vested with legal character under the SCR Act also.

10.	RBI should facilitate FIMMDA and PDAI to develop into full-fledged SROs.	These associations should be given specific statutory recognition and be vested with legal character under SCR Act besides RBI Act.
-----	--	---

### **E. Advisory Group on Banking Supervision**

1.	Powers to RBI to decide on capital requirements on a case by case basis needs to be clearly defined by law.	Included in proposed amendment to Section 11 of B.R. Act.
2.	'Substantial interest' as defined in Section 5(ne) of BR Act is too low. Needs to be revised upwards.	Amendment to Section 5 (ne) of BR Act has been proposed to revise the ceiling upward to Rs1crore.
3.	Prior supervisory approval should be made mandatory for change of ownership or voting rights above a threshold.  RBI should be empowered to conduct 'fit and proper' tests on shareholders holding in excess of a threshold level.	Restrictions on voting rights present vide Section 12 (2) and 16 (1A) of BR Act. Amendment has been proposed to restrict limit by 5 per cent of holding in capital and enhanced power for RBI to monitor.
4.	'Closely related group' needs to be explicitly defined and the supervisor should have the discretion, prescribed in law, in interpreting the definition on a case by case basis.	Proposed amendment to Section 20 of BR Act provides definition and empowers RBI to modify the definitions by notification.
5.	The definition of connected lending needs to be made more broad-based to include all types of counterparties irrespective of whether they are in the public or private sector.  Prohibition of loans and advances to large shareholders.	Required amendment proposed in Section 20 of BR Act.  Amendment will be required in Section 20 of BR Act.
6.	Preparation and reporting of consolidated accounts by banks should be introduced.	The required change has been proposed vide addition of Section 29A (1) to the BR Act.
7.	It is desirable to provide RBI with powers to impose conservatorship on banks in temporary trouble.	New section will be required to be added to BR Act or Section 36 will be required to be amended.
8.	Suitable legal provision obliging statutory auditors of banks to report on matters of material significance to regulators.	Amendment to section 30 of BR Act has already been proposed.
9.	Present legal provisions in India do not provided	Section 34 A of BR Act will require

	for sufficient confidentiality of information. Clearly defined laws needed for this purpose.	amendment in this respect.
10.	Clear accountability needs to be fixed on the board of directors and individual directors for non-performance and negligence.	Amendment required in Section 46 of the BR Act to include directors. Also changes may be considered in Section 46 of SBI Act and Section 16 of the Banking Companies (Acquisition and Transfer of Undertakings) Acts, 1970 and 1980.
11.	RBI should apply stricter norms for the fit and proper test while evaluating directors and the quality of the board.	Changes have been proposed in Section 10A (2) of the BR Act to the end that at least one of the directors of the bank should have knowledge of science and technology.
12.	RBI should practice consolidated supervision over internationally active organisations and get into formal relationships with host country supervisors.	A new provision in the BR Act would empower RBI to do this. At present such supervision is based on customary practices.
13.	The overlap of the role of RBI as owner/owners' representative and regulator should be corrected.	This will require amendment in the Acts governing SBI, NHB and NABARD.
14.	Government ownership is not conducive to any serious and urgent corrective action by the regulator.	The Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Bill, 2000 proposed to reduce government holding in nationalised banks to 33 per cent.

#### **F. Advisory Group on Corporate Governance**

1.	SEBI has directed all stock exchanges to amend their listing agreements to incorporate new clauses to make it binding on the listed companies to improve their governance practices. The listing agreements signed between the company and the stock exchange should be strengthened with a penal provision for erring companies for their violation in respect of corporate governance norms. However, it is desirable that effective penal provisions are added in the Companies Act for violation of corporate governance norms.	A substantive provision empowering the Government to set the norms of corporate governance will need to be incorporated in the Companies Act, 1956. Once such a provision is incorporated that Government can make rules regulating the same under Section 642 of the Companies Act. This rule can also contain enhanced penal provision.
----	---	---

2.	SEBI has mandated disclosure of summary results by listed companies on quarterly basis and others on half-yearly basis. Although, companies present their annual accounts covering 12 months period, they take advantage of flexible legal provision and choose to present accounts for a period from 6 to 18 months to take advantage of tax benefits.	Companies should be mandated to circulate among the shareholders the annual accounts on 12 monthly basis even during the years when they decide to change their accounting year for tax purposes which should be included in the Companies Act.
3.	For effective corporate governance practices, the definition of the concept of 'independent directors' has to be made clear in the Companies Act.	Suitable amendments to Section 252 of Companies will be needed for defining the concept of independent directors and making it mandatory for specified companies to have independent directors on the board. SEBI has as part of its listing agreements specified a definition of independent directors.
4.	Some companies hold only 4 meetings in a year (the minimum indicator under Section 285 of the Companies Act) as required under the law. In fact the companies which are having diversified activities should be holding more than 4 meetings (at least 6 board meetings) in a year.	Companies Act should be amended to provide a minimum of 6 meetings in a year. Also the possibility of holding meetings through video conference, etc. be enabled.
5.	The recent amendments to the Companies Act have made non-executive directors of companies accountable just like full time directors. This is working against competent persons joining corporates as they have to take risks without being fully familiar with the intricacies of the business and not participated in the decision-making process concerning all the important matters.	We may wish to re-examine liability of non-executive directors.
6.	In respect of major developments of companies, the non-executive directors some times come to know about the developments through press reports as the necessary papers are not sent for long-time i.e., no periodical briefing of developments.	There should be a mandatory reporting provisions in the Companies Act .
7.	The term limits of independent directors are too small for efficient functioning.	The term limits of independent directors of companies/banks/public sector companies should be made preferably up to 10 years on a continuous basis by making amendments to Companies Act.
8.	The voting rights of small shareholders should be strengthened by introducing a provision for	Amendment to the Companies Act is required.

	compounding of voting rights for small shareholders so that they are able to get their representatives elected to the Board.	
9.	Nomination committee to identify new directors and remuneration committee to decide on senior management/directors' remuneration should be set up.	Suitable amendments will need to be made in the Companies Act.
10.	In recent past, several companies have vanished after raising capital from the public. The investors in these companies are not able to trace the companies to resolve their grievances. Even companies which are traceable, there is no effective resolution clauses for investors in law.	The activity of the promoters/directors would fall within the ambit of financial fraud as defined in the illustrative draft legislation of Financial Fraud (Investigation, Prosecution, Recovery and Restoration of Property) Bill 2001, suggested by the expert committee on Legal Aspects of Bank Frauds. The recommendations of the Committee are under consideration of RBI.
11.	There are some restrictive provisions relating to voting rights of shareholder in public sector banks (1 per cent irrespective of the size holdings); In respect of private sector banks the limit is fixed at 10 per cent.	For the purpose of increasing corporate governance, shareholder should have right to discuss, vote and approve the profit and loss account and the balance sheet at the AGM of the banks. The relevant provision of Banks Nationalisation Act which do not provide for voting and approving the accounts by share holders should be amended.
12.	The functioning of banks and financial institutions are coming under Multiple Acts. For example, banks and financial institutions are covered and their several acts of Parliament like 1) SBI Act, 2) Bank Nationalisation Act, 3) IDBI Act, 4) Banking Regulation Act, 5) RBI Act, and Companies Act. Such multiple Acts affect the functioning of banks particularly public sector banks.	The Reserve Bank is examining the possibilities of an omnibus Legislation covering all these areas.

### **G. Advisory Group on Accounting and Auditing**

1.	Section 145 of the Income Tax Act 1961 provides that 'profits and gains of business or	Sections 145 and 145A of Income-Tax Act may be re-examined so as to provide
----	--	---

	profession' or 'income from other sources' has to be computed in accordance with the cash or mercantile system of accounting regularly employed by the assesses. But Section 145A regarding treatment of Modvat, provides for accounting treatment which is not consonance with ICAI and IAS.	for minimum divergence between taxable and accounting income and ensure the compliance of the standards set by the ICAI.
2.	In respect of convergence of corporate and tax laws with accounting standards, many differences arise between Indian standards and international standards due to differences in corporate and tax laws. The provisions of the Companies Act need to be examined to determine whether the relevant provisions of the Act are necessary and whether these provisions can be suitably amended.	Sections 78, 211 and 212 and Schedule VI of the Companies Act need to be re-examined in the light of the International Standards on Accounting.
3.	While the Companies Act now requires disclosure details regarding departures from Accounting Standards to be made by the company in addition to being reported by the Auditor, for policing of complain there is a need to establish a Panel to which auditors would report all cases of violations. ICAI should also be vested with the powers to investigate and punish.	Suitable amendments may be carried out to Companies Act and Chartered Accountants Act, 1949 to enable the same.
4.	To adopt international standards effectively: Restructure the Accounting Standards Board (ASB) as an autonomous and independent body with two tier structure having a Standard Setting Committee added with adequate representation of the regulators, i.e., Department of Company Affairs, Central Board of Direct Taxes, SEBI and RBI. The standards setting procedure may also be rationalised.	The Accounting Standards Board (ASB) may be given statutory recognition under the Chartered Accountants Act, 1949 (CA Act), clearly setting the constitution and functions. The ICAI may be given the power to set the accounting standards by Statutory Regulation by amending Section 30 of the CA Act.
5.	For violations of accounting standards, the system of an obligation for auditors to report directly to a Panel, set by ICAI, all cases of violation needs to be provided. ICAI should also be vested with the powers to investigate and punish.	Suitable amendments may be carried out to Companies Act and Chartered Accountants Act, 1949 to enable the same.

## H. Advisory Group on Insurance Regulation

1.	The legal form of insurance companies in India is that of joint stock company. With a view to spreading insurance business in rural areas, the role of co-operatives may be considered.	The amendment to the Sec. 2 (7A) and 2C of the Insurance Act by the IRDA Act restricts the legal form of insurers to companies under the Companies Act 1956 although earlier, societies registered under the Co-operative Societies Act 1912, <i>inter alia</i> , were allowed to carry on insurance business. The Insurance Amendment Bill 2001 proposes to permit co-operatives in insurance business.
2.	The superannuation business handled by funds needs to be brought under regulatory arrangements. The regulatory mechanism can also be one similar to the Occupational Pension Board of UK.	Superannuation funds can be regulated <i>inter alia</i> by IRDA, for example, by suitably modifying Section 14 of IRDA and Section 114 A of Insurance Act or in the alternative, by constituting a separate regulator. The IRDA has submitted a report to the Government in this regard.
3.	With a view to conform to international practice, the Insurance Act 1938 needs to be amended so as to enable insurance companies to provide allied services to their customers.	Section 2 (7A) of the Insurance Act 1938 may be widened on the lines of Section 6 (2) (h) of LIC Act to permit insurance companies to provide similar allied services to their customers.
4.	Introduction of elaborate classification of life and non-life business.	Section 10 (2A) of Insurance Act 1938 may be suitably amended by introducing a new provision as also a Schedule which classifies the type of business.
5.	The minimum capital levels may be fixed for each of business on a scientific and transparent basis.	Section 6 of the Insurance Act could be suitably amended. The above suggested Schedule can contain the minimum capital requirement of each class of business with a corresponding provision empowering IRDA to revise the amount by notification. For the purpose of only detailed accounting, statutory changes would not be necessary.

6.	Co-ordination between the regulators for an efficient unit-linked insurance business.	If regulation of unit-linked insurance is vested with SEBI both SEBI Act and IRDA Act could require a provision to ensure the co-ordination of regulators.
7.	In order to bring about level playing field between insurance companies and mutual funds for ensuring uniformity in the design of products, terms and conditions and marketability, there has to be co-ordination among regulators.	IRDA has been co-opted into the HLCC.
8.	The supervisory authority should protect the interest of both policy holders and shareholders by delinking investment of assets of shareholders' funds from restriction.	Section 27 of Insurance Act and IRDA (Investment) Regulations need a review to ease out the restriction on investment relating to shareholders' funds.
9.	The taxation of the shareholders' share of surplus could be at the corporate rate and the balance surplus could be at a rate below the current rate.	May be addressed in the Union Budget through the Finance Bill with corresponding amendment in First Schedule of Income Tax Act 1961.
10.	Transfers to the Unexpired Risk Reserve and Catastrophe Reserve in case of general insurance companies, out of pre-taxed profits may be considered in certain cases.	May be addressed in the Union Budget through the Finance Bill with corresponding amendment in the Income Tax Act, 1961.
11.	There should be an explicit restriction on the formation of composites companies, i.e., doing both life and non-life business.	IRDA Regulations may be suitably modified.
12.	The regulator as a general rule should ascertain names of natural and legal persons holding direct or indirect qualifying participation in the applicant company and more importantly make this knowledge public while granting the license.	The IRDA could issue the relevant regulations in line with Section 3 of Insurance Act.
13.	For registration of new insurance companies, there should an information system calling for detailed information about the Directors/Senior Managers for submission. Sound reputation of honours may be ensured. Whenever changes are taking place in these positions, the information system needs to be made continuous one for submission of information.	The acceptable guidelines of IAIS could be brought into the IRDA (Registration of Indian Insurance Companies) Regulation 2000 in line with Section 3 of Insurance Act.
14.	It would be desirable to follow the international practice, as also other Indian industrial practices, by considering the outsourcing of	Necessary amendments may be made in the IRDA(Registration of Indian Insurance Companies) Regulations 2000,

	various functions of an insurance company in view of the economies of scale and scope.	in consonance with Section 40 (1) of the Insurance Act which places restrictions only in respect of the marketing (distribution) function.
15.	In case of new products, the certificate of product design including the basis of premium given by the actuary the premium rate table and the benefit design could be treated as published information.	IRDA can issue suitable guidelines.
16.	Regulator may make available a recommendatory standard format of Articles of Incorporation.	IRDA Regulations should incorporate a suitable provision for such format.
17.	The firm of consulting actuaries may be considered for appointed actuaries. Condition of Certificate of Practice from the Actuarial Society of India in each year needs a relook.	IRDA (Appointed Actuary) Regulation 2000 could be modified accordingly.
18.	Unit-linked insurance business could be brought under the life insurance business, both in letter and spirit, so that life insurance companies do not engage in mutual fund operations under the guise of life insurance.	IRDA may issue necessary guidelines.
19.	The marginal gaps between the Indian and international standards the calculations of unearned premium reserves may be addressed with the passage of time.	Suitable amendments to IRDA Regulations could be considered.
20.	The deficiencies with regard to collection of claims statistics relating to the estimation of the 'loss reserves' could be filled up with experience in the coming years by positioning appropriate data base systems.	IRDA (Assets, Liabilities and Solvency Margin) Insurance Regulation 2000 needs amendment.
21.	Suitable standards could be evolved in setting up of catastrophe reserves, in a period of the next 2-3 years, after gaining sufficient expertise in this area.	May be addressed in the IRDA Regulations.
22.	The supervisory should protect the interest of both policy holders and shareholders by delinking investment of assets of shareholders' funds from restriction.	Section 27 of Insurance Act and IRDA (Investment) Regulation may be reviewed to ease out the restriction on investment relating to shareholders' funds.

<b>I. <u>Technical Group on Market Integrity</u></b>		
1.	Preventing laundering of proceeds derived from offences stated in the 1988 Vienna Convention.	Proposed in the Prevention of Money Laundering Bill (PMLB), 1999
2.	Conceiving financial institutions secrecy laws such that they do not inhibit the implementation of FATF recommendations.	Proposed in the PMLB, 1999
3.	Enforcement of money laundering programmes that include increased multilateral co-operation and mutual legal assistance in investigations, prosecution and extradition.	Proposed in the PMLB, 1999
4.	Criminalising money laundering as set forth in the Vienna Convention, and to classifying drug money laundering as a serious offence together with determining which serious crimes would be designated as money laundering predicate offences.	Proposed in the PMLB, 1999
5.	Corporations, wherever possible, and not their employees would be subject to criminal liability.	Proposed in the PMLB, 1999
6.	Enable competent authorities to confiscate property laundered, proceeds from, instrumentalities used or intended for the use of commission of any money laundering offence.	Proposed in the PMLB, 1999
7.	Ensure that financial institutions pay special attention to all complex and unusual large transactions with no apparent or visible lawful purpose and for examination and reporting of findings to supervisors, auditors and law enforcement authorities.	Proposed in the PMLB, 1999
8.	Legally protect directors, officers and employees of financial institutions from criminal or civil liability for breach of any restriction or disclosure of information imposed by relevant legislative, regulatory or administrative provisions or contracts.	Proposed in the PMLB, 1999
9.	Enable financial institutions reporting of suspicions to comply with the instructions from competent authorities.	Proposed in the PMLB, 1999

10.	Establish procedures for mutual assistance in criminal matters through compulsory provisions for production of records of financial institutions, search of persons and premises, seizure and obtaining of evidence for use in money laundering investigations and prosecutions and related actions in foreign jurisdictions.	Proposed in the PMLB, 1999
11.	Enable authorities to take expeditious action to foreign country requests to identify, freeze, seize, and confiscate proceeds or other property based on money laundering crimes.	Proposed in the PMLB, 1999
12.	Devise and apply enable mechanisms for determining suitable venue for prosecution in the interests of justice and in cases involving more than one country.	Proposed in the PMLB, 1999
13.	Recognize money laundering as an extraditable offence subject to legal frameworks.	Proposed in the PMLB, 1999
14.	Enable full implementation of the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism, United Nation Security Council Resolution 1373 and other related such resolutions.	Proposed in the POTO, 1999
15.	Provide for freezing of domestic accounts of listed terrorists in public interest.	Suitable amendment in BR Act will be required.

**Advisory Group-wise Non-Legislative Recommendations**

The annexure highlights some of the non-legislative recommendations of the advisory groups that requires changes to subordinate legislations/ rules, regulatory instructions and guidelines, internal reorganization/procedures of the regulator and suggestions for improvements in the existing regulatory / Government practices \*. These changes have been highlighted to illustrate the range of policy issues involved. Detailed discussions and issues are available in the concerned reports. The groups on securities bankruptcy and corporate governance are not included her because their recommendations are not easy to classify in this manner. The textual summary in the report indicates some of their concerns.

<b>S.No</b>	<b>Recommendations</b>	<b>Nature of Follow up Action</b>	<b>Agency Involved and Remarks</b>
<b><u>Advisory Group on Transparency in Monetary and Financial Policies</u></b>			
1.	The Advisory Group recommended that the RBI should set up a seven member <i>Monetary Policy Committee</i> (MPC) as a Committee of the RBI Central Board. MPC consisting of the Governor, the three Deputy Governors and three other members drawn from the RBI Central Board.	Internal reorganizations of the regulator	RBI
2.	The regulatory/supervisory authorities in India should give early consideration to introducing, in a phased manner, a practice of disclosure of adverse supervisory action.	Suggestions for improvements in the existing regulatory/government practices	RBI
<b><u>Advisory Group on Fiscal Transparency</u></b>			
1.	The Group recommends that the Government should report the revenue loss from major existing and all new tax concessions.	Suggestions for improvements in the existing regulatory/government practices. These changes would require a change in the reporting style of the Budget and Economic Survey. While they would	GOI

\* Also refer to Annexure -IV.

2.	The Govt. should move towards a listing of major QFA's. As a start these could be provided in the Economic Survey for earlier years.	Suggestions for improvements in the existing regulatory/government practices	GOI
3.	The <i>Economic Survey</i> should incorporate a fuller discussion of recent trends in the consolidated position of central and state governments especially regarding capital expenditures and the basic fiscal balance measures fiscal deficit, primary deficit, revenue deficit, etc	Suggestions for improvements in the existing regulatory/government practices	GOI
<b><u>Advisory Group on Data Dissemination</u></b>			
1.	The Group recommends that hyperlink from the DSBB to the NSDP of India should be established. Further, in order to facilitate wider use of data by the public at large, the system of hyper-link has to be further extended to take care of the links with more disaggregated information available in respect of the concerned sectors of the economy.	This is sort of hard to hard to classify, as it requires some redesign of the website but continuous maintenance would require issuing Regulatory instructions and guidelines.	GOI Department of Statistics
2.	Include Data on Public Sector and Local Finances as part of Govt. Finances	Regulatory instructions and guidelines.	GOI Department of Statistics/ Ministry of Finance

<b><u>Advisory Group on Accounting and Auditing</u></b>			
1.	ICAI take up on an emergency basis the issuance of standards comparable to (a) IAS 30 “Disclosures in Financial Statements of Banks and Similar Financial Institutions” (b) IAS 32 “Financial Instruments : Disclosure and Presentation” and (c) IAS 39 “Financial Instruments : Recognition and Measurement”.	Changes in sub-ordinate legislations/rules. The standard is like a Guideline.	ICAI, but this will require coordination with RBI
2.	It should be the endeavor of the ASB that Indian Accounting Standards should correspond as far as possible to International Accounting Standards. It should therefore be mandatory that if there is a departure in the Indian standard from the corresponding International Standard, there should be a note to the Indian standard which identifies such departure and explains the reason for the departure.	Regulatory instructions and guidelines.	ICAI/ASB The ICAI has decided that this will be done for all new standards.
3.	It is necessary that the ASB appoint a separate committee, consisting solely of persons selected on the basis of their technical expertise, to which committee matters of general concern are referred and whose pronouncements have the authority of interim pronouncements issued by the Institute.	Internal reorganization of the regulator. This committee would help clarify conflicts controversies etc.	ICAI/ASB
<b>Advisory Group on Insurance Regulation</b>			

1.	With a view to enhancing transparency, the regulator may, as a general rule, ascertain the names of the natural and legal persons holding a direct or indirect qualifying participation in the applicant company and more importantly, make this knowledge public while granting the license	Suggestions for improvements in the existing regulatory/Government practices.	Insurance Regulator
2.	While discussing the suitability of directors and/or senior management, although the present position in India is different from that of the current international practice, necessary steps must be taken, in future, to ensure the fulfillment on a continuing basis. Accordingly, the information system needs to be modified and maintained.	Changes to sub-ordinate legislations/rules / Suggestions for improvements in the existing regulatory/Government practices.	IRDA (Registration of Indian Insurance Companies) Regulations, 2000, will need to be strengthened in line with Section 3 of the IA 1938
3.	There is no uniform international practice as regards the design of products. The certificate, including the basis of premium, given by the actuary, may be treated as a public document and be made available, on demand, to other companies and any practising actuary. Further, the premium rate table and the benefit design have also to be treated as Published Information. A similar procedure could be considered for group business and also for general insurance business	Changes to sub-ordinate legislations/rules / and Regulatory instructions and guidelines.	

4	With a view to ensuring uniformity in the design of products, terms and conditions and marketability and also to bring about a level playing field between insurance companies and mutual funds, there is a need for co-ordination between regulators of these two segments of the financial sector	Internal reorganization/procedures of the regulator	IRDA and SEBI will need to put in place mechanisms for coordination
5.	A firm of consulting actuaries may be considered for acting as appointed actuaries as per the practice obtaining in most countries. Furthermore, the condition that a “certificate of practice” has to be obtained each year from the professional body is not present in respect of any other profession. This needs a relook.	Changes in sub-ordinate legislation/rules.	Changes in the IRDA’s Appointed Actuary Regulations 2000 will be needed.
<b><u>Advisory Group on Payment Systems</u></b>			
1.	Proper appreciation of financial risks in the form of liquidity risks and credit risks are perceived to be lacking amongst banks in our clearing house operations	Regulatory instructions and guidelines / suggestions for improvement in the existing regulatory framework	The RBI in association with market participants may prepare the guidelines detailing risks in payment system under DNS and RTGS systems.
2.	There is now a strong need to evolve a system of net bilateral, multilateral and system caps as also a loss sharing arrangement so that settlement is not disrupted in the even of failure of the single largest net debtor or multiple net debtors	Changes to sub-ordinate legislations/rules / Regulatory instructions and guidelines.	

3.	RBI should conduct a periodic survey on costing of various retail and wholesale payment instruments such that effective pricing of these instruments can be done. A migration to such fee-based pricing of instruments can then be considered.	Regulatory instructions and guidelines / suggestions for improvement in the existing regulatory framework	
4	Implementation of at least Lamfalussy standards for the DNS system and similar standards for the RTGS system	Changes to sub-ordinate legislations/rules / Regulatory instructions and guidelines.	
5.	The Group recommends that a system of centralized collection of information, its availability to the market players and relative prudential guidelines with a view to implementing cross-margining across the securities markets should be explored in India at the earliest.	Regulatory instructions and guidelines/internal reorganization/procedures of the regulator	The RBI in association with other regulatory bodies such as SEBI may initiate such an exercise.

**Advisory Group on Securities Market Regulations**

1.	The Group recommended that the lacuna relating to the absence of margin requirement for institutional trades be addressed.	Changes in sub-ordinate legislation/rules	SEBI
2.	There is a need to reduce the AMCs' discretion in valuation of thinly traded or non-traded securities	Changes to sub-ordinate legislations/rules / Regulatory instructions and guidelines.	SEBI

**Advisory Group on Banking Supervision<sup>i</sup>**

**(a) Core Principles**

1	RBI should apply stricter norms for the 'fit and proper' test while evaluating directors and the quality of the board.	Changes to sub-ordinate legislations/rules / Regulatory instructions and guidelines.	This requires directives by RBI for implementation. However, suitable legal reforms will provide statutory backing for certain basic norms.
---	--	--	---

2	RBI may assist and guide banks in their efforts to stabilise advanced risk management systems.	Regulatory instructions and guidelines.	
3	A system for classification of off-balance sheet items on the lines of the extant system of classification of funded exposures should be put in place and a note to that effect provided in banks' financial statements.	Regulatory instructions and guidelines.	.
4	RBI may require banks to have mechanisms in place for continually assessing the strength of guarantees and appraising the worth of collateral.	Regulatory instructions and guidelines.	
5	RBI may consider issuing instructions to the effect that loans to connected and related parties which are not fully collateralised may be deducted from banks' capital to the extent that they are not collateralised.	Regulatory instructions and guidelines.	
6	Banks should be instructed to monitor the total amount of loans to connected and related parties. Limits on aggregate exposures to connected and related parties need to be established.	Regulatory instructions and guidelines.	
7	Advanced risk management capabilities must be in place in all banks latest by the end of the financial year 2002-2003.	Regulatory instructions and guidelines.	
8	Banks should be required to include a statement on their risk management policies and procedures in their publicly available documents.	Regulatory instructions and guidelines.	
9	A more formal and rigorous assessment of the boards' performance must be undertaken. If the rating falls below a certain specified level,	Internal reorganization/procedures of the regulator/ suggestions for improvements in the existing regulatory practices	

	prompt corrective action should be triggered.		
10	Implementation of “Know Your Customer” guidelines should be verified by the supervisor and adherence thereto made more stringent.	suggestions for improvements in the existing regulatory practices	
11	RBI should consider moving over to a risk-based approach to supervision as early as possible.	Internal reorganization/procedures of the regulator/ suggestions for improvements in the existing regulatory practices	
12	RBI may consider introducing meetings with banks’ boards and external auditors in the interest of greater involvement of the board with supervisory concerns and actions in order to enrich the scope of examination of banks.	suggestions for improvements in the existing regulatory practices	
13	RBI may consider using independent and well qualified external auditors to examine specific aspects of banks’ operations.	Internal reorganization of the regulator.	
14	RBI may impress upon the government the need and urgency of achieving and maintaining a high level of coordination among different regulators.	Internal reorganization of the regulator/regulatory practice / suggestions for improvements in the existing regulatory practices.	
<b><u>(b) Corporate governance</u></b>			
15	Linkage between contribution and remuneration/reward should be established.	Regulatory instructions and guidelines.	
16	Nomination Committees to assess the effectiveness of the board and direct the process of renewing and replacing board members are desirable.	Changes to sub-ordinate legislations/rules / Regulatory instructions and guidelines.	
17	Disclosures in respect of committees of the board and qualifications of the directors, incentive structure and the nature and extent of transactions	Regulatory instructions and guidelines.	

	with affiliated and related parties need to be encouraged.		
<b>(c) Internal control</b>			
18	Boards of banks, should have a firmer say in the maintenance and improvement of internal control systems. Discussions between the managements and boards of banks on quality of internal control systems should be institutionalised.	Regulatory instructions and guidelines.	.
19	RBI may consider outlining clearly the role of the boards of banks in risk management. Risk-based supervision of banks by RBI has to be mirrored in their boards' supervision and guidance.	Regulatory instructions and guidelines /suggestions for improvements in the regulatory practices.	
20	RBI may consider taking steps so that on-site inspections are made more bank-specific.	Suggestions for improvements in the regulatory practices.	
21	Guidelines in respect of dealings with highly leveraged institutions should be put in place.	Regulatory instructions and guidelines	
<b>(d) Loan accounting, transparency and disclosures</b>			
22	The formulae-based system of classification and provisioning should give way to a more closer to reality assessment of the realisabilty of assets, relying on a risk assessment-based system.	Changes to sub-ordinate legislations/rules / regulatory instructions /guidelines	Regulatory instructions together with initiatives at the level of the banks would be required.
23	Portfolio-based approach to provisioning may be considered in the case of groups of small homogenous loans.	Regulatory instructions and guidelines	
24	In preparing its future guidelines on provisioning, RBI may undertake ratio analysis of overall provisioning to past due and impaired loans, and to total loans, over time and across institutions. Banks also may be	Suggestions for improvements in the regulatory practices.	

	asked to undertake such an analysis and make it a part of their mandatory disclosures.		
25	RBI may take early steps to introduce the concept of materiality in the matter of disclosures.	Suggestions for improvements in the regulatory practices.	
<b>(e) Financial Conglomerates</b>			
26	RBI should ensure that fitness, propriety or other qualification tests are applied to managers and directors of the unregulated entities in a conglomerate if they exercise a material or controlling influence on the operations of the regulated entities.	Changes to sub-ordinate legislations/rules / regulatory instructions /guidelines	
27	Fitness, propriety or other qualification tests need to be applied on a continuous basis.	Suggestions for improvements in the regulatory practices.	
28	Arrangements should be formalised for exchange of information between all regulators involved in regulation of different entities in a conglomerate.	Internal reorganization of the regulator./ Regulatory practice / Suggestions for improvements in regulatory practices.	
29	RBI may consider introducing the concept of primary supervisor in order to improve coordination between different supervisors (regulators).	Internal reorganization of the regulator./ Regulatory practice / Suggestions for improvements in regulatory practices.	
30	Information which helps the market or the supervisors to arrive at meaningful inferences in regard to financial condition, solvency, earnings performance and risk profile, should be provided on solo as well as a consolidated basis.	Regulatory instructions and guidelines	
31	RBI may consider including material risk concentrations at the conglomerate level as one of the possible triggers for the prompt corrective action framework.	Internal reorganisation/procedures of the regulator	

<b>(f) Cross-Border Banking</b>			
32	More attention needs to be paid to the operation of subsidiaries. RBI should begin encouraging Indian banks and foreign entities operating in India to submit to consolidated supervision.	Internal reorganisation/procedures of the regulator / Suggestions for improvements in the regulatory practices.	
33	RBI faces constraints in countries where the local laws do not permit the home supervisor to conduct onsite inspection/examination of records. A country-wise analysis will have to be made and suitable action taken to address the constraints.	Suggestions for improvements in regulatory practices.	
34	Separate approvals of the home country supervisors of a foreign bank should be insisted upon for every new branch which that bank wants to open in India.	Regulatory instructions and guidelines	Regulatory instruction required
35	A periodic review would need to be made of the supervisory systems and standards of host supervision where Indian banks have a presence.	Suggestions for improvements in regulatory practices.	

---

<sup>i</sup> The recommendations of this Group were extremely detailed. The list below is merely indicative of the class of issues. A detailed discussion can be found in the report of the Group.