

FRDI bill is depositor friendly, says Centre; consultants flag bail-in clause as a concern

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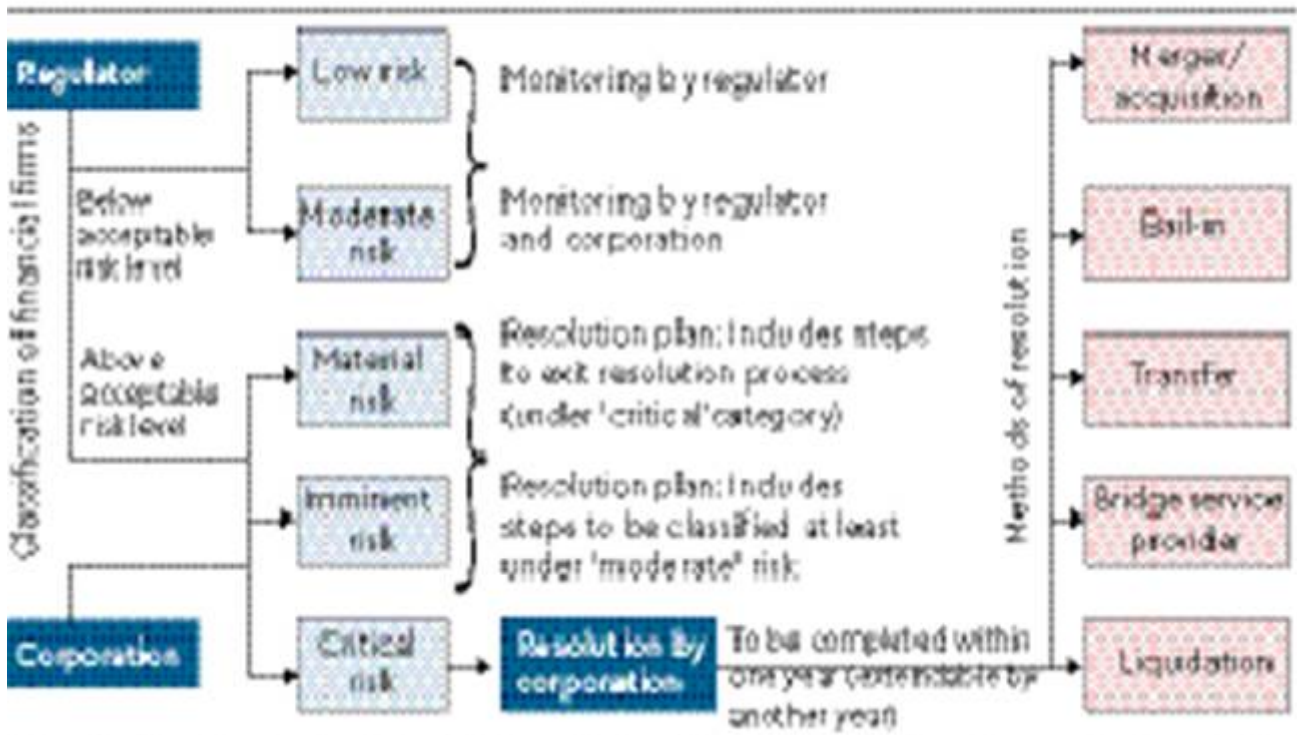
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The Financial Resolution and Deposit Insurance Bill (FRDI) is “far more depositor-friendly” than many other jurisdictions, where consent of creditors or depositors is not required for a bail-in, the finance ministry said on Thursday.

Lawyers and financial consultants FE spoke to said while the Bill was aimed at resolving any imminent stress in financial institutions, the bail-in clause is a cause of concern. They added that while the UK has a bail-in clause, others like Australia and the US do not have it.

According to the Bill, the liabilities of a bank or another financial firm can either be cancelled or modified in a resolution process, using the bail-in clause. In other words, if enacted in the current form, deposits by customers in a bank can be converted into

Monitoring and resolution of financial firms



Sources: The Financial Resolution and Deposit Insurance Bill, 2017, FRS

At present a deposit of up to Rs 1 lakh per customer is insured under the Deposit Insurance and Credit Guarantee Corporation Act (DICGC), an institution which shall cease to exist once the new resolution corporation is instituted. While there's no mention if the insured sum will remain at `1 lakh or be raised, the implication is that any amount deposited with a bank beyond this could be subject to the bail-in clause.

According to Ramakant Rai, partner, Trilegal, the Bill does not provide clarity on whether haircuts taken by a depositor during the bail-in restructuring will be refunded after the bank is revived. "Though the intent is good, lacunae like the bail-in clause need to be addressed," he said.

Karan Kalra, head of Financial Services at Nishith Desai Associate, said the Bill's provisions are not completely unknown and laws for such eventualities are present in other countries as well. His views suggest while most experts welcome the government's move, they are watchful of what clauses the final Bill may contain.

joint committee of Parliament. However, certain portions of the draft have caused great concern to the public and the finance ministry statement issued on Thursday sought to address these. The provisions, the ministry said, do not modify present protections to the depositors 'adversely' at all. It emphasised further, that the Bill seeks to provide additional protection to the depositors in a more transparent manner.

The Bill seeks to establish a resolution corporation, a body comprising 11 members, that will take up the resolution process for financial firms in distress. The corporation will have a chairperson, a representative each from [RBI](#), Sebi, Insurance Regulatory and Development Authority and Pension Fund Regulatory and Development Authority, a finance ministry representative, three government-appointed and two independent members. The government has proposed to classify financial firms under five categories based on their risk of failure — low, moderate, material, imminent and critical. The resolution corporation will take control of the firm from the date of its classification as 'critical' and aim to resolve the problem through various means within a year, extendable by another year.

Ashvin Parekh, managing partner of Ashvin Parekh Advisory Services, said if small savers are made to pay for the inefficiencies of the banks and stakeholders, and if the deposits of middle class and the poor are either written off or reduced, it will be unacceptable. "The measure may be so draconian that it will attract the attention of not just the citizens in India but globally as well," he added.

In its statement on Thursday, the finance ministry also said the FRDI Bill doesn't propose in any way to limit the scope of powers for the government to extend financing and resolution support to banks.
