



MEMBERS' REFERENCE
SERVICE LARRDIS
LOK SABHA SECRETARIAT
NEW DELHI

LEGISLATIVE NOTE

For the use of Members of Parliament

NOT FOR PUBLICATION

No. 30 /LN/Ref./March/2021

**The National Bank for Financing Infrastructure and Development
Bill, 2021**

AS INTRODUCED IN LOK SABHA

Bill No. 76 of 2021

THE NATIONAL BANK FOR FINANCING INFRASTRUCTURE AND
DEVELOPMENT BILL, 2021

ARRANGEMENT OF CLAUSES

CHAPTER I
PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II
ESTABLISHMENT AND INCORPORATION OF INSTITUTION

3. Establishment and incorporation of Institution.
4. Purpose and objectives of Institution.
5. Authorised share capital.

CHAPTER III
BOARD OF DIRECTORS AND MANAGEMENT

Prepared by Rohit Arora, Research Officer (2303-5358) and Smt. Pooja Singh, Joint Director (2303-4370) of Lok Sabha Secretariat under the supervision of Shri Naushad Alam, Director (2303-4760) and Smt. Kalpana Sharma, Additional Secretary (2303-4430).

The Legislative Note is for personal use of the Members in the discharge of their Parliamentary duties, and is not for publication. This Service is not to be quoted as the source of information as it is based on the sources indicated at the end/in the context.

INTRODUCTION

The National Bank for Financing Infrastructure and Development Bill, 2021 was introduced in Lok Sabha on 22th March, 2021 by the Hon'ble Finance Minister Smt. Nirmala Sitharaman. The bill seeks to establish the National Bank for Financing Infrastructure and Development to support the development of long-term non-recourse infrastructure financing in India. It also includes the development of bonds and derivatives markets necessary for infrastructure financing and to carry on the business of financing infrastructure and for matters connected therewith or incidental thereto.

Background

For an emerging economy like India, to find sources of investment for infrastructure has remained a vital task as good infrastructure is the foundation of fast growth and development of the economy. Finance Minister while presenting the Union Budget 2021-22 stated that "Infrastructure needs long term debt financing and a professionally managed Development Financial Institution (DFI) is necessary to act as a provider, enabler and catalyst for infrastructure financing. The DFI will be set up with a capital base of Rs. 20,000 crores and will have a lending target of Rs. 5 lakh crore in three years".

Need of the Present Bill

India needs significant investments in infrastructure. Infrastructure financing requires long-term and non-recourse financing, which is inherently risky in nature due to higher credit costs, high risk of delay and failure of projects. Traditionally, banks and financial institutions in India have been an important source of financing for infrastructure sector. While banks rely heavily on short-term liabilities, infrastructure financing essentially involves long-term finance. Consequently, exposure to long-term infrastructure financing has been a fundamental source of asset-liability mismatch on the balance-sheets of the banks which raises systemic

concerns.

On the other hand, the Indian corporate bond market is not sufficiently deep and is inadequately mature to meet India's infrastructure financing requirements. In view of this, it is necessary to facilitate and to enable flow of low cost, long-term, patient capital (primarily debt) from India or abroad into Greenfield infrastructure projects to foster sustainable economic development.

Therefore, it has been decided to set up a statutory Institution to be called the National Bank for Financing Infrastructure and Development as the principal development financial institution and development bank for infrastructure financing. It will address market failures that stem from the long-term, low margin and risky nature of infrastructure financing. The Institution shall be wholly owned by the Central Government to begin with in order to foster confidence on its stability and sustainability and to raise resources at competitive rates.

Salient Features of the bill

- **Development Financial Institution:** to establish a statutory Institution to be called the National Bank for Financing Infrastructure and Development to support the development of long-term infrastructure financing in India and to carry on the business of financing infrastructure. The Institution shall have developmental and financial objectives and authorized share capital of the Institution shall be one hundred thousand crore rupees.
- **Equity of the Institution:** to enable the Central Government, multilateral institutions, sovereign wealth funds, pension funds, insurers, financial institutions, banks and such other institutions to hold equity in the Institution. It also provided that the Central Government shall hold at least twenty-six per cent of the shares of the Institution at all times.
- **Board of Directors:** The Board of Directors of the Institution shall consist of the following, namely:— (a) a Chairperson, to be appointed by the Central Government in consultation with the Reserve Bank; (b) a Managing Director, to

be appointed by the Board; (c) not more than three Deputy Managing Directors, each of whom shall be appointed by the Board; (d) two directors, to be nominated by the Central Government, who shall be the officials of the Central Government; (e) such number of directors not exceeding three, elected by shareholders in such manner as may be prescribed, such that a shareholder, other than the Central Government, holding ten per cent. or more of the total issued equity share capital may nominate one director; (f) such number of independent directors not exceeding three or one-third of the total number of directors on the Board, whichever is higher, to be appointed by the Board on the recommendation of the Nomination and Remuneration Committee; provided further that at least one of the directors specified in clause (e) or in clause (f) shall be a woman. A meeting of the Board shall be held at least once in every calendar quarter and at least four such meetings shall be held every year.

- **Power and Functions of Institution:** The Institution shall perform the following functions and exercise the following powers, namely:—
 - form subsidiaries or joint ventures or branches, in India or outside India, for carrying out its functions; and enter into any arrangement with such subsidiary company or joint venture or branch etc;
 - co-ordinate its operations and the operations of various institutions engaged in the field of infrastructure finance and maintain expert staff to study problems relating to infrastructure finance;
 - set up trusts for establishment of funds for such nature as would assist in financing of infrastructure projects located in India, or partly in India and partly outside India;
 - takeover or refinance existing loans extended by a lender for infrastructure projects located in India, or partly in India and partly outside India;
 - transfer loans and advances granted by it, with or without the securities, to trusts, for consideration and ;
 - assign securities issued to the Institution, etc.

- **Guarantee, Grant and other Concessions:** it provides that the Central Government may, on a request being made to it by the Institution, guarantee the bonds, debentures and loans issued by the Institution as to the repayment of principal and the payment of interest at such rate, terms and conditions as may be agreed by the Central Government. It also provides that the Central Government may support the Institution through grants or contribution, as and when necessary, in the form of cash or marketable Government securities

Benefits of the Bill

The bill will pave the way for the setting up of a government-owned Development Finance Institution (DFI). The role of DFIs has remained instrumental in advancing economic growth, improving long term finances, providing credit enhancement for infrastructure and housing projects and improving debt flows towards infrastructure projects.

It will help in developing a deep and liquid bond market of international standards for long-term infrastructure financing in India including through widening of the issuer and investor base. It would facilitate the development of markets for interest rate derivatives, credit derivatives, currency derivatives and such other innovative financial instruments as may be necessary for infrastructure financing.

It would also assist in establishing a credible framework that attracts equity investments from domestic and global institutional investors as well as debt investments, including green finance, from investors, aligned to their risk appetite and asset-liability profile, in order to cater the financing needs of Indian infrastructure sector.

STATEMENT OF OBJECTS AND REASONS

India needs significant investments in infrastructure. Infrastructure financing requires long-term and non-recourse financing, which is inherently risky in nature due to higher credit costs, high risk of delay and failure of projects. Traditionally, banks and financial institutions in India have been an important source of financing for infrastructure sector. While banks rely heavily on short-term liabilities, infrastructure financing essentially involves long-term finance. Consequently, exposure to long-term infrastructure financing has been a fundamental source of asset-liability mismatch on the balance-sheets of the banks which raises systemic concerns. On the other hand, the Indian corporate bond market is not sufficiently deep and is inadequately mature to meet India's infrastructure financing requirements. In view of this, Government's intervention is necessary to facilitate and to enable flow of low cost, long-term, patient capital (primarily debt) from India or abroad into greenfield infrastructure projects to foster sustainable economic development. Solutions for financing would be part of overall policy interventions addressing challenges to infrastructure development.

2. Therefore, it has been decided to set up a statutory Institution to be called the National Bank for Financing Infrastructure and Development as the principal development financial institution and development bank for infrastructure financing. Its aim is to address market failures that stem from the long-term, low margin and risky nature of infrastructure financing. The Institution shall be wholly owned by the Central Government to begin with in order to foster confidence on its stability and sustainability and to raise resources at competitive rates. The Government will provide the Institution with grants and contributions, guarantees at concessional rates for foreign borrowings and any other concessions. Dilution or sale of stake may be considered once the Institution has achieved stability and scale in its business operations but the Government would at all time hold twenty-six per cent of the paid-up voting equity share capital of the Institution.

3. The Institution shall have both developmental and financial objectives. Among other things, this would include developing a deep and liquid bond market of

international standards for long-term infrastructure financing in India including through widening of the issuer and investor base. It would also facilitate the development of markets for interest rate derivatives, credit derivatives, currency derivatives and such other innovative financial instruments as may be necessary for infrastructure financing. The financing objectives would involve establishing a credible framework that attracts equity investments from domestic and global institutional investors as well as debt investments, including green finance, from investors, aligned to their risk appetite and asset-liability profile, in order to cater the financing needs of Indian infrastructure sector.

4. Debt securities, including bonds and debentures, issued by the Institution should be considered as eligible for the purposes such as approved investments, securities, etc., as per limits and conditions to be prescribed by Indian financial regulators for their regulated entities. The Institution would also be empowered to lend to, or invest in, infrastructure projects located in India, or partly in India and partly outside India, prioritising systemic risk mitigation, credit enhancement, subordinate debt, debt maturities suited to project life spans and to raise long-term finance for the same. The Institution may also be involved in project structuring, monitoring and monetisation of completed projects by itself or through its subsidiaries, etc., promoting innovation in financial products and services including by issuing long-term bonds with explicit or implicit sovereign guarantee, underwriting and dealer services. Overall, the Institution shall provide a supporting, technology enabled ecosystem across the life-cycle of infrastructure projects as a provider, enabler and catalyst for sustainable infrastructure financing in India with the backing of the Government. The Institution shall support the bond market with the aim of fostering complementarity of market raised debt with lending for infrastructure projects.

5. Accordingly, it is proposed to bring a legislation, namely, the National Bank for Financing Infrastructure and Development Bill, 2021 which seeks to provide, inter alia, for the following:—

(i) to establish a statutory Institution to be called the National Bank for Financing Infrastructure and Development to support the development of long-term infrastructure

financing in India and to carry on the business of financing infrastructure;

(ii) to enable the Central Government, multilateral institutions, sovereign wealth funds, and such other institutions to hold equity in the Institution;

(iii) to enable the Institution to provide financial assistance to infrastructure projects located in India, or partly in India and partly outside India;

(iv) to enable the Institution to borrow or raise money by way of loans or otherwise, both in rupees and foreign currencies;

(v) to provide adequate safeguards for decision making to address risk aversion;
and

(vi) to make provision for the establishment of other development financial institution, in addition to the Institution established under the proposed legislation.

6. The notes on clauses explain in detail the various provisions contained in the Bill.

7. The Bill seeks to achieve the above objectives.

NEW DELHI;

NIRMALA SITHARAMAN

The 18th March, 2021.

ANNEXURE

Framework & Key Definitions of the Bill

The NBFID Bill, 2021 is divided into seven chapters and three Schedules which covers the following aspects:

Chapter	Title	Clauses
<i>I</i>	<i>Preliminary</i>	1-2
<i>II</i>	<i>Establishment and Incorporation of Institution</i>	3-5
<i>III</i>	<i>Board of directors and Management</i>	6-16
<i>IV</i>	<i>Activities of Institution</i>	17-20
<i>V</i>	<i>Government Grants, Guarantees and Other Concessions</i>	21-23
<i>VI</i>	<i>Accounts, Audit and Report</i>	24-27
<i>VII</i>	<i>Miscellaneous</i>	28-48
<i>Schedule I</i>	<i>Format for the Declaration of Fidelity and Secrecy</i>	Linked to Section 38 (2)
<i>Schedule II</i>	<i>Amendments to the Reserve Bank of India Act, 1934</i>	Linked to Section 42
<i>Schedule III</i>	<i>Amendments to the Banking Regulation Act, 1949</i>	Linked to Section 48

Definitions of the terms under NaBFID Bill 2021

- **"Audit Committee"** means the Audit Committee of the Board constituted under sub-section (1) of section 15;
- **"Board"** means the Board of Directors constituted under section 6;
- **"Bureau"** means a body which the Central Government may notify, for the purpose of recommending candidates for appointment of Managing Director and Deputy Managing Director under sub-section (1) of section 6 and for removal of a director under clause (ii) of sub-section (1) of section 11;
- **"Chairperson"** means the Chairperson of the Board appointed under clause (a) of sub-section (1) of section 6;
- **"Committee"** means a committee of the Board constituted under section 15;
- **"Deputy Managing Director"** means the Deputy Managing Director appointed under clause (c) of sub-section (1) of section 6;
- **"Director"** includes a Chairperson, Managing Director, Deputy Managing Directors and other directors of the Board appointed or nominated under section 6;
- **"Executive Committee"** means the Executive Committee of the Board constituted under sub-section (2) of section 15;
- **"Financial Institution"** shall have the meaning assigned to it under clause (m) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- **"Independent Director"** means the independent director of the Board appointed under clause (f) of sub-section (1) of section 6;

- **"Infrastructure"** means the sectors covered by the list of infrastructure sector notified by the Central Government from time to time;
- **"Institution"** means the National Bank for Financing Infrastructure and Development established under section 3;
- **"Insurer"** shall have the meaning assigned to it under sub-section (9) of section 2 of the Insurance Act, 1938;
- **"Managing Director"** means the director appointed under clause (b) of sub-section (1) of section 6;
- **"Nomination and Remuneration Committee"** means the Nomination and Remuneration Committee of the Board constituted under sub-section (1) of section 15;
- **"Notification"** means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;
- **"Pension Fund"** shall have the meaning as assigned to it under clause (l) of sub-section (1) of section 2 of the Pension Fund Regulatory and Development Authority Act, 2013;
- **"Prescribed"** means prescribed by rules made under this Act by the Central Government;
- **"Regulations"** means regulations made by the Board under this Act and includes the regulations made by the Reserve Bank under section 29;
- **"Reserve Bank"** means the Reserve Bank of India established under the Reserve Bank of India Act, 1934;
- **"Risk Management Committee"** means the Risk Management Committee of the Board constituted under sub-section (1) of section 15;
- **"Schedule"** means a Schedule appended to this Act.

Media Coverage

- “National Bank for Financing Infrastructure and Development Bill, 2021 to be introduced in Lok Sabha today”

<http://newsonair.com/Main-News-Details.aspx?id=412491>

- “Nirmala Sitharaman to introduce National Bank for Financing Infrastructure and Development Bill in Parliament”

<https://www.moneycontrol.com/news/business/nirmala-sitharaman-to-introduce-national-bank-for-financing-infrastructure-and-development-bill-in-parliament-6670811.html>

- “National Bank for Financing Infrastructure and Development Bill, 2021 introduced in Lok Sabha”

<https://theindianawaaz.com/national-bank-for-financing-infrastructure-and-development-bill-2021-introduced-in-lok-sabha/>

- “Cabinet approves Bill to set up development finance institution”

<https://www.thehindu.com/news/national/cabinet-approves-bill-to-set-up-dfi/article34083167.ece>

References

- Original Text of the Bill

<http://loksabhaph.nic.in/Legislation/billintroduce.aspx>

- Press Information Bureau Release dated 30 Jan 2021

<https://pib.gov.in/PressReleasePage.aspx?PRID=1693556>

- Ministry of Parliamentary Affairs

<https://mpa.gov.in/bills-list>