

MR. DEPUTY CHAIRMAN: I will check in the procedure. यह procedure में check होगा। Procedure में check करके ही इसमें कुछ कर सकते हैं। Now, the Bilateral Netting of Qualified Financial Contracts Bill, 2020.

**The Bilateral Netting of Qualified Financial Contracts Bill, 2020**

THE MINISTER OF FINANCE AND THE MINISTER OF CORPORATE AFFAIRS  
(SHRIMATI NIRMALA SITHARAMAN): Sir, I move:

"That the Bill to ensure financial stability and promote competitiveness in Indian financial markets by providing enforceability of bilateral netting of qualified financial contracts and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into consideration."

*The question was proposed.*

MR. DEPUTY CHAIRMAN: Shri Mahesh Poddar; not present. Shri Suresh Prabhu. सुरेश प्रभु जी, क्या आप लोक सभा से बोल रहे हैं?

SHRI SURESH PRABHU (Andhra Pradesh): Sir, let me support the Bill because it involves some very important provisions. We all know that the financial markets of the world are the backbone of the global economy. In fact, the derivative market is probably twenty times larger than the real global economy. In fact, it had grown more than sixty or seventy times bigger than the global economy before 2008 when the global crisis hit through the banking system and the banking system was affected because of the derivatives market.

(THE VICE-CHAIRMAN, SHRI BHUBANESWAR KALITA, *in the Chair*)

Now, the derivatives have different kinds of financial products. The underlying security for derivatives could vary from stocks to bonds, to interests, to commodities or any kind of it. It is necessary because it provides liquidity to the financial market system. It releases the investment that has gone into the real assets and also provides the innovation to the financial services market. So, while it is necessary that we should promote such financial products, derivatives in particular, at the same time, there is a need to have prudential oversight or regulation on it. If you want the regulation, then you must make the regulation in a way that it will not kill the innovation, but rather promote it. Now, it is a very difficult regulation to make at any given point of time and

[Shri Suresh Prabhu]

to ensure both at the same time. Therefore, I compliment the hon. Finance Minister for bringing out this legislation in a way that it actually deals with and tries to address both the issues at the same time. As I said, if you just leave it as it is and leave it to the market forces, then it could lead to chaos and crisis as it happened in 2008. But if you regulate it in a way that it kills the basic purpose of financial innovation, this, again, is counter-productive. Now, let me give an example of how it can function in a way that will benefit Indian economy. Over the Counter Transaction (OTC), which is outside the regulated markets, is something which can release a lot of liquidity into the market place. At the same time, when you release the liquidity, if you do not have a prudential way to regulate it, it can probably lead to some sort of a crisis again. So, now, there are two elements of this Bill which I really support. One, which tries to ensure –that is actually the global template now; the G-20 also has accepted this –that there should be some margin that should be stipulated when you do OTC trade of this kind. If you make a margin in such a way that the margin will be very high, then no transaction will take place ever. So, this particular Bill actually ensures that netting out of transaction is possible. That always happens in the case of a financial institution. There could be exposure of two kinds. On the one side, the financial institution has lent something to somebody, or, has taken obligation on behalf of somebody. In this case, obligation will be more normal than lending. But, at the same time, there is a possibility that there could have been receivable or a receiving obligation from the counter party.

In today's regulated market, or, today's regime, it is not possible that you can net out such two transactions. But, that would mean that parties will have to put in more money into the place and which is not necessary. Therefore, netting out of transactions of this kind will allow more liquidity to come into the market. So, we prescribe the margin, which is necessary, we are also netting it out. And, netting out is not just for these margin transactions, but it is overall. As I said, as we move along, we will have to find out ways of creating more liquidity into the market, more financial instruments into the market. Particularly when Prime Minister Modi has embarked upon a very ambitious target of investing more than a trillion dollars into infrastructure and we are also expecting a good part of that to also come from the private sector, I would like to say that any investment of any kind from private sector, whether it is in infrastructure, manufacturing or services or even in agriculture, it is always fraught with risk. So, if you want to cover the risk, you will have to come out with some derivative products. You

have to cover the risk maybe related to Forex markets, and particularly because of the global situation being so fragile, when we are entering into an unknown territory, an uncharted path, in which we don't know the way in which the Forex market will behave, in such a situation, we have to go out with covering the risk related to that, and if you want to cover the risk, you must have a proper situation. For example, take the case of an export from an Indian. When he goes out to sell his product to the foreign buyer, he is actually taking a currency risk. If he covers that risk, he will be able to get a discounted value at today's price for the money that he is actually getting by export. So, doing that would help it.

Again, there are interest swaps that happen in the banking system in a very significant way. In fact, the interest swaps go into several hundred billions of dollars actually. As that happens, it actually benefits the financial institutions on one hand, and at the same time, there is the person who is going to benefit from some transactions. But, more importantly, the economy as a whole also benefits. Therefore, we must find out ways of how transaction can help at a macro level for the economy as a whole, and also at the business level, wherein a businessman can also benefit. Now, to do this, this is a regulation which brings in, into its ambit, more or less all the regulators of the financial services sector, whether it is banks, through the Reserve Bank of India, or the insurance companies through the IRDA, or the pension funds through the PFDI, or also the new Financial services Centre which they have already set up and the regulators which have also been put in place. All of them will be actually like a parent for these transactions. As there are always two parties in any transaction, one of the parties must be regulated through one of these regulators. This itself is a very good idea because that has not happened just outside of anybody's realm, and that too because as I said, they are mainly OTC transactions, and OTC transactions are necessary, but, at the same time, if these are not properly brought under some sort of vigilance or monitoring, then it can actually lead to some sort of a problem. So, I think, it is a very interesting development. I just want to request the Finance Minister to look into a very fine point of this particular provision. I was just reading it out. I don't want to read it again to save the time. We have already talked about qualified financial contracts. This is the Bill which actually deals with qualified financial contracts. It says somewhere as to which qualified financial contracts will be governed by this Bill. I do not think the intention of the Government, or, the intention of the legislature, when we pass the Bill finally, would be to go into the macro management of the instrument. It will be the kind of

[Shri Suresh Prabhu]

transaction that we are talking about. It is not the individual transaction or the individual contract that we are talking about. So, I think, that should be properly explained. I am sure that the Finance Minister, who is really doing a great job in difficult times, would certainly ensure that this particular part is properly taken care of. It is said that the regulator will designate which are the qualified financial contracts. What is meant by the legislature is already there, but, sometimes, drafting of the Bill could probably lead to some sort of confusion, which I think, we should be able to avoid. There is another aspect, about which the hon. Finance Minister made a mention in her Budget Speech, if I can recollect correctly. There is a need to promote a very dynamic, versatile and forward-looking bond market in India. We need a primary as well as secondary bond market in India. We need to promote debt instruments in a very significant way for financing the growing need of infrastructure. As we know, the infrastructure in India actually needs long-term funds. Sir, the problem faced by the banking system today is that the time and demand liabilities of the banking system is normally collected from the households, which is for a very short duration of less than five years, whereas when you lend money for the infrastructure, it is always for a period exceeding five years because the gestation period is such that the interest during construction, as we call it, when you actually finance infrastructure, is too long a period. In such a situation, you have to have long-term instrument to finance the infrastructure. Particularly, when the hon. Prime Minister is embarking upon a very ambitious target of five trillion dollar economy, we require much-needed investment in infrastructure, and, in that case, a dynamic bond market will be necessary. Sir, I feel that this is a good step which will actually lead to that over a period of time. But, I personally request the hon. Finance Minister to create a roadmap for a very vibrant and dynamic bond market in India. Of course, there is other element, about which you also mentioned in your Budget Speech, of sovereign borrowing globally. But, I think, a dynamic market within the country, which can actually lead to even interest-rate stabilisation, which will provide opportunities to all the investors to find another alternate avenues of making investment through the bond market into the much-needed and a growing possibility of infrastructure-related instrument. So, I think, this is what is necessary. Even if you do that, we will have to make sure...

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Mr. Prabhu, please

conclude.

SHRI SURESH PRABHU: I am concluding, Sir. उपसमाध्यक्ष जी, अब मैं कहने वाला था कि हमें क्या करना चाहिए, तो आपने कहा कि उसको खत्म कर दीजिए। मैं कह रहा था कि bond market लाना चाहिए, तो आपने कहा कि उसको खत्म कर दीजिए। मैं खत्म करने की बात नहीं कर रहा हूँ, मैं कुछ दोहराने की बात कर रहा हूँ। मैं आपसे विनती कर रहा हूँ कि we should try to work in a way that will lead to a dynamic, financial services market in India, which, in turn, will make our real economy grow faster, which, in turn, will create more jobs, and, in fact, the financial services in itself have the potential to create millions of jobs. I think, we should try to do that. I respect the Chair, and, I conclude my speech. But, I will definitely request the hon. Finance Minister to look into all the aspects. Let me congratulate her, let me congratulate the Government for taking such a forward-looking step. It looks like a very innocuous Bill but it has a potential to make the financial services grow at a much faster pace. Thank you very much.

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Thank you, Mr. Prabhu. Next speaker is Shri S.R. Balasubramoniyam. ...*(Interruptions)*... All right. Next speaker, Shri A. Vijayakumar. Mr. Vice-Chairman, Sir, the Bill seeks to provide a legal framework for bilateral netting of qualified financial contracts which are over the counter derivatives contracts. Netting refers to offsetting of all claims arising from dealings between two parties to determine the net amount payable or receivable from one party to another. The Bill allows for enforcement of netting for qualified financial contracts. The qualified financial contracts means any bilateral contract notified as a QFC by the relevant authority. The authority can be RBI, SEBI, IRDAI, PFRDA or IFSCA. The relevant authority may, by notification, designate any entity regulated by it as a qualified financial market participant to deal in QFCs. This would include entities such as non-banking finance companies, insurance companies and pension funds. The provisions of the Bill will apply to QFCs between two qualified financial market participants. The Bill provides that netting of QFCs is enforceable if the contract has a netting agreement. A netting agreement is an agreement that provides for the netting of amounts involving two or more QFCs. A netting agreement may also include collateral arrangement. A collateral arrangement is a form of security provided for one or more QFCs in a netting agreement. It may include a pledge of assets or an arrangement to transfer the title to a collateral or a third-party guarantor. The inclusion of non-qualified financial contracts in a netting agreement will not invalidate the enforceability of netting of QFCs under

[Shri Bhubaneswar Kalita]

the agreement. Close-out netting refers to the termination of all obligations arising out of relevant QFCs. The process may be initiated by a party to the QFC in the case of a default, that is, failure to honour the obligations of a QFC by the other party, or a termination event, as specified in the netting agreement that gives one or both parties the right to terminate transactions under the agreement. In case where one party to agreement is placed under administration, the consent of such party or the administration practitioner is not required. Administration refers to imposition of moratorium, proceedings of winding up, insolvency or bankruptcy among others. The administration practitioner is the entity that administers the affairs of the party. The parties to a QFC must ensure that all obligations owed by one party to the other under the contract are replaced by a single net amount. The netting will have the effect of liquidating present and future obligations arising out of QFCs to which the netting agreement applies. The net amount payable or receivable under the close-out netting would be determined in accordance with the netting agreement entered into by the parties, if one exists, or through agreement between the parties or through arbitration. Unless the agreement specifies otherwise, collateral provided under a collateral arrangement may be liquidated without consent from any entity. Close-out netting is enforceable against an insolvent party and against the person providing collateral, if applicable. Close-out netting is also enforceable against a party placed under administration, notwithstanding any injunction, moratorium, insolvency, resolution, winding up or order of a court issued under any law. The administration practitioner cannot render ineffective any transfer of cash, collateral or other interests made in connection with a netting agreement between the insolvent party and the non-insolvent party to a QFC. That is why I request that the Central Government can, by notification, amend the list of authorities and Acts which regulate entities that are party to a QFC. Therefore, I support this Bill. Thank you.

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Thank you. The next speaker is Shri V. Vijayasai Reddy, not present. The next speaker is Shri Sujeet Kumar.

SHRI SUJEET KUMAR (Odisha): Sir, this is a very welcome and major step to implement much-needed financial reforms in our country. I particularly commend hon. Finance Minister and her team for bringing this Bill barely a couple of months after the Economic Survey of 2019-20 which advocated the benefits of enabling financial contracts netting in India.

Sir, netting is a very common practice in advanced economies. Most of the advanced financial jurisdictions such as the U.S.A., the U.K., Japan, Singapore and Canada have legal provisions in place for netting agreements. But, as of now, bilateral netting of financial contracts is not allowed in India. And this has had a huge negative impact on banks and financial market transactions.

As hon. Member Suresh Prabhu ji pointed out, establishing this legal framework will bring huge liquidity in the financial market and also much-needed innovation and innovative instruments in the financial market. It will also reduce credit risk and regulatory capital burden of banks and free up capital which is otherwise locked up in bilateral transactions for productive uses. According to the RBI estimates, close to ₹2,000 crore is locked up because of non-availability of this legal financial framework.

Sir, to conclude, all I will say is that this is a very important milestone which will improve the financial health of our nation by bringing in much-needed liquidity, by reducing transaction cost and by boosting investor confidence.

I wholeheartedly support and welcome this Bill.

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Shri V. Vijayasai Reddy; not present. Shri Swapan Dasgupta; not present. The next speaker is Shri Kanakamedala Ravindra Kumar.

SHRI KANAKAMEDALA RAVINDRA KUMAR (Andhra Pradesh): Sir, I am thankful to the Chair for permitting me to speak on the Bill.

It is said that bilateral netting refers to offsetting claims arising from dealings between two parties to determine the net amount payable or receivable from one party to the other. It is expected that once the Bill becomes an Act, it will be beneficial to dispute settlement and the process of dispute settlement will become a very smooth process. It is further expected that a law on bilateral netting of financial transactions would further develop financial market in India. It has been informed that such legal framework exists in around fifty countries. The Bill has been drafted on the basis of the International Swaps and Derivatives Association. It has also been informed that the estimated savings will be around ₹ 46,000 crore annually.

In view of this, I support the Bill. I welcome the Bill. I congratulate hon. Finance Minister on bringing this Bill. Thank you, Sir.



**11.00 A.M.**

[Shri Mahesh Poddar]

SHRI MAHESH PODDAR (Jharkhand): Sir, I am thankful to you for giving me an opportunity to debate on this futuristic Bill for our financial sector.

The Bilateral Netting of Qualified Financial Contracts Bill, 2020 put forth by the Government introduces an extremely important framework to the Indian financial system. Bilateral netting is a standard practice in financial systems of developed economies around the world. This new law is a significant step towards enlisting financial system's potential to expand. The two elements are netting and qualified financial contracts (QFCs). Bilateral netting of QFCs is a framework that allows two counter parties in a bilateral financial contract to offset claims against each other on a net basis rather than on a gross basis. I will give you just an example. If there are two counter parties 'X' and 'Y' in a contract. 'X' has an exposure of ₹50 to 'Y'. While 'Y' has an exposure of ₹60 to 'B' which is a third party. The gross exposure in the contract is ₹110.

In the present system, where bilateral netting is not permissible, the two systems have to put aside capital for a potential exposure of ₹110. This large amount of capital being set aside prevents the two parties in the contract from carrying out other businesses. However, if there is netting facility, the fact is that the net exposure will be only ₹10. So, the requirement for margin will come down heavily and this fund can be better utilized by the respective parties. This will be helpful to them. But then, the QFC mechanism has to be in place. The capital is freed up by this system and we all know that in a growing economy like India, we need larger capital very badly, particularly for infrastructure projects.

Sir, there are two major benefits from this. Firstly, in terms of over-the-counter transactions, this will help in expanding product range. The bilateral netting framework enables the creation of a Credit Default Swap (CDS) market, a crucial element of any dynamic corporate bond market. The freedom from high capital requirements necessary till date will allow financial institutions to trade Credit Default Swaps without the risk of having to terminate such operations abruptly if the need arises. These new advantages for the corporate bond market will allow it to grow rapidly and generate further capital that can be reinvested. A strong bond market is needed by the large and growing infrastructure sector. It has been mentioned by many concerned persons time and again. This will pave the way for having a very strong bond market in India.



Sir, the second advantage is that there exists a global consensus on imposition of margins for non-centrally cleared over-the-counter derivatives. The Basel norms on bank capitalization that establish this consensus require countries that have adopted its framework to allow for bilateral netting. Such margins on a gross basis would make transactions, as I mentioned earlier, very costly. But, the net offsetting would significantly improve the possibilities for efficient and cost-effective margining. Taken together, CDSs, over-the-counter derivatives, and hedging instruments make up a significant share of the corporate financial market. By facilitating growth on all these fronts, the Bill in question creates grounds for a wholesale expansion of India's financial market.

Sir, QFC has to be regulated. Very rightly, the following authorities have been authorized to do that which are the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority of India, the International Financial Services Centres Authority, the Pension Fund Regulatory and Development Authority. These are the authorities which will regulate the QFCs because netting facility backed by QFCs is the key element for this provision.

Sir, the enforceability of bilateral netting of QFCs is laid out clearly under Section 5 of the Bill. A proviso that prevents any non-qualified financial contract in a netting agreement, that is, an agreement that provides for the netting amounts involving two or more QFCs, from invalidating the enforceability of netting a QFC is specified under Section 5(1)(a).

Sir, the third kind of safeguard that this Bill provides is for the invocation of close-out netting. Close-out netting is the termination of all obligations arising out of a QFC in the case of a default by one party or the occurrence of a termination event as specified in the netting agreement. It is also worth mentioning that under Section 6(4) of the Bill, close-out netting is made applicable to all QFCs and participants. Furthermore, parties to QFCs are to ensure that all obligations owed by one party to another under the contract are replaced by a single net amount. सर, जब हम देश को आगे बढ़ाना चाहते हैं और पाँच ट्रिलियन economy की बात हो रही है, तो हमें अपनी financial market को भी बहुत तेजी से आगे बढ़ाना पड़ेगा। And these are the mechanisms which are needed to be there so that we can take it forward. सर, मैं विशेष रूप से उल्लेख करना चाहूँगा कि इस वैश्विक महामारी के समय हमारे जननायक प्रधान मंत्री जी ने दो मूल मंत्र दिए - "जान और जहान", "जान भी, जहान भी।" मुझे गर्व है कि इस सरकार की एक टीम जहाँ जान के लिए सब कुछ कर रही है, वहीं दूसरी टीम जहान के लिए, भारत को आगे बढ़ाने के लिए बहुत कुछ कर रही है। ये सब कदम और इस तरह के प्रावधान, जो कभी किसी ने सोचे नहीं थे, वह यह सरकार

कर रही है, इसके लिए मैं सरकार को बधाई देना चाहता हूँ और इस बिल का समर्थन करता हूँ, धन्यवाद।

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Thank you, Mahesh Poddarji. Now, the hon. Minister.

THE MINISTER OF FINANCE AND THE MINISTER OF CORPORATE AFFAIRS (SHRIMATI NIRMALA SITHARAMAN): Sir, I thank all the Members who have spoken today on this issue of bilateral netting. The Government is bringing a Bill on bilateral netting of qualified financial contractors. This is absolutely critical for financial stability in this country. So, very many Members have spoken on what exactly that this Bill is bringing in. I would like to repeat some of the fundamental points related to this Bill. This Bill actually brings in a firm legal basis for bilateral netting between two counter parties. Why only bilateral, why not multilateral and what exactly does this entail in the name of bilateral? I would just like to elaborate on that for a minute. Multilateral netting is already taken care of. For multilateral financial contracts, you have a Clearing Corporation of India; take, for example, acts as a mediator and, therefore, it is a multilateral contract, regulator, manager and so on. The Clearing Corporation of India acts as a buyer to a seller and as a seller to a buyer thereby minimizing counter party default risks. And netting as opposed to grossing in the case of multilateral contracts is already available through the Payment and Settlement Systems Act, 2007 and also under the SEBI approved regulations. So, such regulations take care of regulating them. The Payment and Settlement Systems Act, 2007 is already in place. So, in a way, multilateral financial contracts have a system and a legal framework available. It is just the bilateral ones which do not have any legal firm basis. Let us just see what the volume of bilateral financial contracts in this country is. An estimation, which was done by the Clearing Corporation of India, places the value of bilateral derivative contracts –those which are non-Centrally cleared and this is an estimate –to be about ₹56,33,257 crores as of March, 2018. That is the volume of bilateral derivative contracts and this is an estimate done by the Clearing Corporation of India, which deals with the multilateral financial contracts but only the bilateral ones is estimated to be ₹56,33,257 crores as of March, 2018. It is also estimated that about 40 per cent of the total derivative transactions in India are non-centrally cleared and the rest 60 per cent are centrally cleared or multilateral derivative contracts. In other words, the share of multilateral derivative contracts in total financial contracts is about 60 per cent and bilateral ones are 40 per cent of the total financial contracts.

Sir, here, while recognizing the chunk of bilateral contracts and, therefore, the importance for; the need for, and the necessity for a frame legal basis is established but I would want to underline the historical importance of this one in the sense that this is an exercise which all of us are engaging in in getting our legal basis for bilateral netting because of the lessons learnt from the global financial crisis of 2008. In the global financial crisis of 2008, as you know, there was no COVID but it shook the entire world. The global financial crisis of 2008 shook the entire world, even India suffered under it and it raised a lot of questions on the role which has been played by the OTC derivatives in accentuating the crisis. So, the global financial crisis had a very strong, if you can recognize, influence played by these kinds of derivatives which probably were less regulated. The derivative markets can facilitate excessive and opaque risk-taking which may lead to a lot of systemic risks. As a result, three concerns emerged. The G-20 countries also called for an international standard setting bodies to reform this entire derivative markets. The major reform measures implemented in this regard after the 2008 global crisis are: (1) Standardized OTC derivatives should be traded on exchanges or electronic platforms wherever appropriate. (2) All standardized OTC derivatives should be cleared through Central Counterparty which is what the Clearing Corporation of India is. So, three lessons were learnt. The first one was, all standardized OTC derivatives should be traded on exchanges or on electronic platforms where appropriate. That was the first lesson we learnt. The second lesson we learnt was that all standardized OTC derivatives should be cleared through a Central Counterparty which is the Clearing Corporation for us. Third one and that is what is more important and relevant for this Bill here. The third one is the non-Centrally cleared derivatives, which is in a way the bilateral derivatives, should be subjected to higher capital requirements, and also these derivatives should attract margin requirements. So, this meant, banks had to keep a higher margin locked-up just to meet the risk of such contracts which are not centrally cleared. For those derivative contracts which are not getting centrally cleared, banks ended up keeping more money to meet the risk in a locked-up kind of a format and that money which is kept locked-up, which was ballooning, was not even available for lending and other activities of the bank. Therefore, the RBI, in India in May, 2016, came up, after due consultation, with a draft regulation, which was then named as Discussion Paper on Margin Requirements for non-centrally cleared derivatives Variation Margin RBI Direction, which was a draft document which was put out by the RBI for consultation. Consultations were held but, unfortunately, it couldn't see the light of the day because

[Shrimati Niramala Sitharaman]

there was no legislative backing available. After 2016, again, the RBI has come up, some time on the 7th of September, 2020, with another draft of such a regulation which can regulate all the bilateral netting matters and that is also awaiting a legislative backing. Today, we are discussing on the legislative backing, just so the lessons learnt from the global financial crisis, the three of them—the first two have been addressed, the third one awaits a legislative backing—and, therefore, today, if we pass it, that legislative backing can be provided. Then it can help us to save quite a few amount of money which otherwise the banks are expected to keep in a locked up mode and, therefore, to that extent, credit capital remains unutilised or it remains denied. Just to give you an idea, now after passing the Bill, we went back to assess, in case the Act was available earlier, how much of money would have been available with the banks for onward lending without getting locked up in an unproductive way if the credit exposure was reckoned on net basis and not on gross basis and if margin system was in place. If only this law was available even in 2017, ₹42,194 crores would have been available with the banks for credit onward lending. Whereas, because this Act was not available, ₹42,194 crores were kept locked up and it was not available at all which was not necessary if only the bilateral netting had happened. Instead of calculating on gross basis, if we had calculated the values in net basis, this is the kind of money the banks did not have to keep locked up to face any eventual risk. Again, if this law was available even in 2018, ₹45,956 crores would have been available for credit lending. In 2019, ₹67,792 crores would have been available. And, if I take the figures of March, 2020, ₹58,308 crores are locked up because we don't have a law for bilateral netting. This set of figures that I have given you now is on the basis of the actual data collected from 31 private, public and foreign banks all put together for India. So just imagine the ballooning requirement for banks to keep aside that kind of money just because we don't have a law in this country to authorise the regulators for bilateral netting out rather grossing out. If I have to very, very simply put it, if two parties are engaging in a contract, one has to pay the other ₹100, the other had to pay ₹210. The end of the day, only ₹110 will have to be exchanged because this and that would be netted out. Whereas, now what happens is, this one keeps aside for ₹100 and that one keeps aside for ₹210 and at the end of the day, everybody is calculating risk on the basis of what they are facing rather than netting what exactly the financial market will face. And the end of the day, everybody is locking more money for just facing risk. This particular legislation that we are engaging in is so necessary for the stability of the financial market. Otherwise, the banks, each one of them, are locking

up money and that money is not available for our economic activity. The end of the day, locked up money remains locked up, economy is starved up for funds. The lesson enhances liquidity into the market and, therefore, what happens is economy gets greater lubrication to move rather than sit and wait for that locked up assets to get released. So, these are the essential points. I would just highlight that the benefits that the country will derive from this exercise would be, the financial sector would be greater resilient for this particular Act which is coming in. Second, it will reduce the price of derivative products on account of optimal utilization of all the capital which will be available and enable banks to increase credit limits because they will have more money now. They will have greater credit limits for counter parties and clients. Then, hon. Member Shri Suresh Prabhu raised this point. Corporate bond markets will get energized. In fact, Suresh Prabhuji asks for a roadmap, which in a way I have mentioned during my Budget speech. So, corporate bond markets will be greatly energized because the credit default swap markets will be better functioning now. Finally, Sir, business exits also will be better because improved recovery mechanisms will happen for financial contracts. To that extent, the IBC also will have a bearing, in that, and this particular legislation, to a limited extent, will have a preference over the IBC itself. There are one or two other points which I would like to highlight. This bilateral netting legislation will help us in evaluating risks far more in real time basis and actual risk assessment happens rather than a notional risk assessment based on the gross figures. It is the net which is important. Otherwise, the real value of money is locked up. With largely these kinds of benefits, which are so clearly standing up, it is important for us to recognize how much of a milestone this legislation if passed today will have. One or two points which are specifically raised by Suresh Prabhuji include whether individuals will be affected, whether we will be micro-managing it. He is a very qualified chartered accountant and also knows quite a few things about financial market. He raised this very important point. I respect him for that. The individual is eligible for netting benefits. But, however, the counter party to such transaction must be an entity regulated by the authority who is enlisted in the First Schedule of the Bill. In other words, a bilateral financial contract entered between the two individuals is not *per se* eligible but the one for netting and other counter party must be a regulated entity. And, that list is very clearly given by us in the Schedule itself.

Sir, what kind of things are covered under this Bill and what are not covered, with that, I will conclude. The Bill covers financial contracts which are entered into on a bilateral basis, which is outside of the clearing system. This Bill will empower financial regulators, that is, RBI, SEBI, IRDAI, PFRDA which is the prominent financial regulator,

[Shrimati Niramala Sitharaman]

IFSC, all authorities who we mentioned in the Schedule I of this Act, will be notifying the contract under its purview as qualified financial contract. So, typically, the types of trades that are negotiated bilaterally, which would get included here, are swaps, forwards and certain complex options. So, some of the contracts which are going to get covered under the Bill are cross currency or interest rate swaps or commodity derivatives. Also, spot, futures or forward foreign exchange transaction, gets covered here; currency or interest rate, futures or options gets covered here. Sir, credit derivatives such as the credit default swap gets covered here which is very important in today's global strategy and economy. Sir, bilateral commodity derivatives such as electricity derivatives, oil derivatives, coal derivatives and gas derivatives also get covered here. Sir, with just this one bullet which I am telling you, –commodity derivatives such as electricity derivatives, oil derivatives, coal derivatives and gas derivatives –you can immediately imagine as to what kind of transactions are going to get covered because of this legislation that this House is choosing to consider today. This Bill, if passed, will have a very big bearing on the financial stability of India and we will have a buoyant bond market, as a result of which, businesses will have greater, affordable resources. Therefore, I would strongly recommend that this House consider passing this Bill, and, Sir, I thank you for the support extended.

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): The question is:

"That the Bill to ensure financial stability and promote competitiveness in Indian financial markets by providing enforceability of bilateral netting of qualified financial contracts and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into consideration."

*The motion was adopted.*

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): We shall now take up Clause-by-Clause consideration of the Bill.

*Clauses 2 to 11, the First Schedule and the Second Schedule  
were added to the Bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

SHRIMATI NIRMALA SITHARAMAN: Sir, I move:



*That the Bill be passed.*

*The question was put and the motion was adopted.*

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Now, we will take up three Bills together, i.e., the Occupational Safety, Health and Working Conditions Code, 2020; the Industrial Relations Code, 2020 and the Code on Social Security, 2020.

**\*The Occupational Safety, Health and Working Conditions Code, 2020;**

**\*The Industrial Relations Code, 2020 and**

**\*The Code on Social Security, 2020**

श्रम और रोजगार मंत्रालय के राज्य मंत्री (श्री संतोष कुमार गंगवार): उपसभाध्यक्ष महोदय, जैसा अभी आपने बताया कि तीनों बिल्स एक-साथ लिए जाएंगे। लोक सभा ने कल इन पर चर्चा करके इन्हें पारित किया है।

महोदय, मैं प्रस्ताव करता हूँ:

"कि किसी स्थापन में नियोजित व्यक्तियों की उपजीविकाजन्य सुरक्षा, स्वास्थ्य और कार्यदशाओं को विनियमित करने वाली विधियों को समेकित और संशोधित करने तथा उससे संबंधित या उसके आनुषंगिक विषयों के लिए विधेयक पर, लोक सभा द्वारा पारित रूप में, विचार किया जाए।"

महोदय, मैं प्रस्ताव करता हूँ:

"कि व्यवसाय संघ, औद्योगिक स्थापन या उपक्रम में नियोजन की शर्तें, औद्योगिक विवादों के अन्वेषण तथा परिनिर्धारण और उससे संबंधित या उसके आनुषंगिक विषयों से संबंधित विधियों का समेकन और संशोधन करने के लिए विधेयक पर, लोक सभा द्वारा पारित रूप में, विचार किया जाए।"

महोदय, मैं प्रस्ताव करता हूँ:

"कि संगठित या असंगठित या किन्हीं अन्य सेक्टरों में सभी कर्मचारियों और कर्मकारों की सामाजिक सुरक्षा को बढ़ाने के उद्देश्य से सामाजिक सुरक्षा से संबंधित विधियों का संशोधन और समेकन करने के लिए और उससे संबंधित तथा उसके आनुषंगिक विषयों के लिए विधेयक पर, लोक सभा द्वारा पारित रूप में, विचार किया जाए।"

THE VICE-CHAIRMAN (SHRI BHUBANESWAR KALITA): Motions moved.

श्रम और रोजगार मंत्रालय के राज्य मंत्री (श्री संतोष कुमार गंगवार): उपसभाध्यक्ष महोदय, मैं दो मिनट में आपके सामने अपनी बात रखना चाहता हूँ। हमारी सरकार ने सभी श्रम कानूनों को चार लेबर कोड्स में समाहित करने का कार्य 2014 में प्रारम्भ किया था। मैं यह बताना चाहता

---

\*Discussed together.