

UNIT TRUST OF INDIA ACT, 1963

52 of 1963

[30th, December, 1963]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title, extent and commencement
2. Definitions

CHAPTER 2 :- ESTABLISHMENT OF THE UNIT TRUST OF INDIA AND THE INITIAL CAPITAL THEREOF

3. Establishment and Incorporation of Unit Trust of India
- 3A. Prohibition against the use of the words "Unit Trust", "Unit" or "Unite" as a part of the name of any person other than the Trust
4. Initial capital of Trust
- 4A. Transfer of initial capital to Development Bank
- 4B. Payment of amount
5. Maintenance of register of contributories
6. Issue of contribution certificates
7. Right of transfer of contribution certificates in certain cases
8. Rights and liabilities of holders of contribution certificates

CHAPTER 3 :- MANAGEMENT OF THE TRUST

9. Management
10. Board of trustees
- 10A. Transitional provision for continuance of Chairman and certain trustees of the Board
11. Term of office of trustees
12. Disqualification for being a trustee
13. Vacation and resignation of office of trustee
14. Chairman and executive trustee
- 14A. Emergency powers of the whole-time Chairman
15. Casual vacancy in office of chairman or executive trustee
16. Fees and allowances of certain trustees
17. Meetings of Board
18. Executive Committee and other committees

CHAPTER 4 :- POWERS AND FUNCTIONS OF THE TRUST

19. Business of Trust

- 19B. Special provision for enforcement of claim by the Trust
- 19A. Power to impose conditions, etc
- 20. Borrowing powers
- 20A. Special contribution by Reserve Bank
- 20B. Grants, donations etc. to Trust
- 20C. Power to transfer rights
- 21. Unit scheme

CHAPTER 5 :- ALLOCATION AND DISTRIBUTION OF INCOME AND RESERVE FUNDS

- 22. Capital of the Trust
- 23. Income of the Trust
- 24. Allocation of income in respect of first unit scheme
- 25. Allocation of interest and other expenses
- 25A. Distribution of income
- 25B. Reserve funds
- 25C. Definition

CHAPTER 6 :- ACCOUNTS AND AUDIT

- 26. Preparation of balance-sheet, etc., of Trust
- 27. Audit
- 28. Publication of annual accounts and reports
- 29. Furnishing of information

CHAPTER 7 :- MISCELLANEOUS

- 30. Power of a [Development Bank] to give directions
- 31. Staff of Trust
- 32. Income-tax and other taxes
- 33. Act 18 of 1891 to apply in relation to Trust
- 34. Declaration of fidelity and secrecy
- 35. Defects in appointments not to invalidate acts, etc
- 36. Indemnity of trustees
- 37. Protection of action taken under this Act
- 38. Delegation of powers
- 39. No trust to be taken notice of
- 39A. Nomination by unit holders and agents
- 39B. Protection of certain amounts from attachment
- 40. Repayment of contribution in case of winding up of contributing institu- tion
- 41. Power of Central Government to reconstitute Board
- 42. Liquidation of Trust
- 43. Regulations
- 44. Amendment of certain enactments
- 45. Power to remove difficulty

SCHEDULE 1 :- THE FIRST SCHEDULE

SCHEDULE 2 :- THE SECOND SCHEDULE

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STATEMENT OF OBJECTS AND REASONS The question of establishing an institution in the public sector for carrying on the business which is transacted by unit trusts or mutual funds in other countries has been under consideration for some time. It is now proposed to establish such an institution, to be known as Unit Trust of India, with an initial capital of five crores of rupees. The Unit Trust of India will encourage saving by providing for various classes of investors the facility of investing their money in units of the Trust. The Trust will invest the initial capital and the capital obtained by the sale of units in shares and other securities and will distribute every year not less than ninety per cent, of the net income accruing to the unit-holders. It is expected that the risk of losses or of depreciation on account of the investments will be reduced or eliminated as a result of the proposed arrangement. The Trust will also be in a position to contribute, through its operations, to the growth and diversification of country's economy. The various provisions of the Bill are explained in detail in the notes on clauses.-Gaz. of Ind., 26-11-1963. Pt. II, S. 2. Ext. p. 802. Amending Act 10 of 1965.- The Unit Trust of India Act, 1963 provides at present for the sale of units by the Trust under a scheme, which was brought into force on July 1, 1964. Although the response from the public has been encouraging, it is considered desirable that the Trust should be enabled at this stage to offer, in addition, facilities for the acquisition of units by various classes of Investors under other schemes catering to their special preferences or requirements. It is also proposed that the Unit Trust should be in a position to formulate plans for the accumulation of saving by intending investors, for subsequent investment in units. 2. The Bill seeks to amend the Unit Trust of India Act, 1963 for these and for certain other purposes.-Gaz. of Ind., 10-12-1965 Pt. II S. 2, Ext., p. 1258. Amending Act 16 of 1975.- During the last few months there was a spurt in the redemption of the units issued by the Unit Trust of India causing a serious impact on the liquidity of the Unit Trust of India. To curb this trend and to provide incentive for fresh investments in units of the Unit Trust of India, the President promulgated an Ordinance on the 7th January, 1975. amending the Unit Trust of India Act, 1963 and the Indian Trusts Act, 1882. The

amendments envisage the grant of further relief from income-tax to the extent of Rs. 2,000 for income from units over and above the existing limit of Rs. 3,000 already available under section 80 L of the Income-tax Act, 1961, in respect of certain approved investments including units, and also provide for further exemption upto Rs. 25,000 from Wealth-tax on investment in units over and above the existing exemption limit under section 5 of the Wealth-tax Act, 1957 in respect of the investments including units specified in that section. The ordinance specifies that the units of the Unit Trust of India will be eligible to be treated as trustee securities under the Indian Trusts Act, 1882, and the amounts payable to the nominees of the unit-holders will, subject to certain conditions, vest in the nominees. The Bill seeks to replace the above Ordinance with certain modifications specified in a separate memorandum appended to the Bill.-Gaz. of Ind., 10-3-1975. Pt. II. S. 2. Ext.. p. 204. Amending Act 3 of 1976.- Government have recently been examining various suggestions to mobilise the savings of non-resident Indians and aliens of Indian origin living abroad and to facilitate investment by them in India. At present investments made by non-resident Indians and aliens of Indian origin in fixed deposits with Commercial Banks out of the Non-Resident (External) Accounts are totally exempt from payment of Income-tax and Wealth-tax. In order to make the investments in units of the Unit Trust of India also attractive and to encourage the flow of foreign exchange into the country, the President promulgated the Unit Trust of India (Amendment) Ordinance, 1975 on 31st October, 1975 amending the Unit Trust of India Act 1963. 2. The ordinance provides that the income earned from units of the Unit Trust of India purchased by non-resident Indians and aliens of Indian origin from Non-Resident (External,) Accounts or through remittance of foreign exchange, will be free of income-tax. The Ordinance further provides that investments in units by the above mentioned persons, either from Non-Resident (External) Accounts or through remittance of foreign exchange, will also be free of Wealth-tax. 3. The present Bill seeks to replace the said Ordinance-Gaz. of Ind., 12-1-1976, Pt. II, S. 2, Ext., p. 276.

CHAPTER 1
PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called, THE UNIT TRUST OF INDIA ACT, 1963.

(2) It extends to the whole of India.

(3) It shall come into force on such date ¹ as the Central Government may, by notification in the Official Gazette, appoint.

1. Cl. (cc) as inserted by Act 17 of 1966 re-lettered as Cl. (cb); and Cl. (ca) inserted by the Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975), S. 44 (16-2-1976).

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "Board" means the Board of trustees constituted under Section 10 or Section 41;

(b) "contributing institution" means an institution which is, for the time being, a contributory to the initial capital of the Trust under Section 4-

(c) "contribution certificate" means a certificate issued under Section 6;

¹[(ca) "Development Bank" means the Industrial Development Bank of India, established under Industrial Development Bank of India Act, 1964 -]

¹[(cb) "first unit scheme" means the unit scheme made before the commencement of the Unit Trust of India (Amendment) Act, 1966];

³(cc) 'General Insurance Corporation' means the General Insurance Corporation of India formed under Section 9 of the General Insurance Business (Nationalisation) Act 1972 (57 of 1972);

(d) "initial capital" means the capital of the Trust referred to in Section 4;

(e) "Life Insurance Corporation" means the Life Insurance Corporation of India established under Life Insurance Corporation Act, 1956 ;

(f) "prescribed" means prescribed by regulations made under this Act;

⁴(fa)'public financial institution' means every financial institution, other than the Trust, specified by or under Section 4-A of the Companies Act, 1956 (1 of 1956) ;

(g) "Reserve Bank" means the Reserve Bank of India constituted under Reserve Bank of India Act, 1934 ;

(h) "Scheduled Bank" means a bank for the time being included in the Second Schedule to Reserve Bank of India Act, 1934 ;

5(i) "security means-

(a) any share, stock, bond, debenture or debenture stock, of any body corporate;

(b) any unit or sub-unit issued by, or other participation in a unit scheme framed by, any body or authority (not being the Trust) outside India or a mutual fund established outside India; and includes-

(i) a government security as defined in Section 2 of the Public Debt Act, 1944 (18 of 1944) ;

(ii) a savings certificate to which the Government Savings Certificates Act, 1959 (46 of 1959) applies;

(iii) any security issued by any local authority in India, or by the Government of, or a local authority in, any such country outside India as may be approved by the Reserve Bank; and

(iv) any foreign security as defined in Section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973), as may be approved by the Reserve Bank;".]

(j) "State Bank" means the State Bank of India constituted under State Bank of India Act, 1955 ;

6 [(jj) "subsequent unit scheme" means any scheme made after the commencement of the Unit Trust of India (Amendment) Act, 1966];

(k) "subsidiary bank" has the same meaning as in S. 2 of the State Bank of India (Subsidiary Banks) Act, 1959

(l) "Trust" means the Unit Trust of India established Section 3 ;

(m) "trustee" means a trustee appointed, nominated or elected under Section 10 or Section 41;

(n) "unit" means a unit issued under [a unit scheme];

(o) "unit capital" means the aggregate of the face value of the

units sold under [a unit scheme] and outstanding for the time being;

(p) 'unit certificate' means a certificate issued to the purchaser of a unit under [a unit scheme];

(q) "unit holder" means a person for the time being recognised by the Trust as the holder of a unit certificate under [a unit scheme];

(r) "unit scheme" means a scheme made under Section 21.

1. Cl. (cc) as inserted by Act 17 of 1966 re-lettered as Cl. (cb); and Cl. (ca) inserted by the Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975), S. 44 (16-2-1976).

3. Inserted vide THE UNIT TRUST OF INDIA (AMENDMENT) ACT, 1985 (63 Of 1985), Dt. 7th December, 1985 Published in Revised the assent of the President on December 7, 1985 and published in the Gazette of India, Extra., Part II, Section I, dated 7th December, 1985, pp. 1-8 [C]

4. Inserted vide THE UNIT TRUST OF INDIA (AMENDMENT) ACT, 1985 (63 Of 1985), Dt. 7th December, 1985 Published in Revised the assent of the President on December 7, 1985 and published in the Gazette of India, Extra., Part II, Section I, dated 7th December, 1985, pp. 1-8 [C]

5. Substituted for " (i) "Securities" means shares, debentures, bonds and other stock of any company or other body corporate, whether incorporated in India or outside, and securities issued by any local authority in India, or by the Government of, or a local authority in any such country outside India as may be approved by the Reserve Bank and includes Government security as defined in S. 2 of the Public Debt Act, 1944 , but does not include mortgages on immovable property; ", vide THE UNIT TRUST OF INDIA (AMENDMENT) ACT, 1985 (63 Of 1985), Dt. 7th December, 1985 Published in Revised the assent of the President on December 7, 1985 and published in the Gazette of India, Extra., Part II, Section I, dated 7th December, 1985, pp. 1-8 [C]

6. Inserted, Substituted for the words 'the unit scheme', by the Unit Trust of India (Amendment) Act, 1966 (17 of 1966), S. 2 (10-6-1966).

CHAPTER 2

ESTABLISHMENT OF THE UNIT TRUST OF INDIA AND THE INITIAL CAPITAL THEREOF

3. Establishment and Incorporation of Unit Trust of India :-

(1) The Central Government shall, by notification ¹in the Official Gazette, establish a Corporation by the name of the Unit Trust of India which shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this

Act, to acquire, hold or dispose of property and to contract, and may, by the said name, sue or be sued.

(2) The head office of the Trust shall be at Bombay or at such other place as the ² [Development Bank] may, by notification in the Official Gazette, specify.

(3) The Trust may establish local offices, branches or agencies at any places in or outside India.

1. Substituted for the words "Reserve Bank" by the Public Institutions Laws (Amend- ment) Act, 1975 (52 of 1975), S. 47 (16-2-1976).

2. Inserted, Substituted for the words "Reserve Bank" by the Public Institutions Laws (Amend- ment) Act, 1975 (52 of 1975), S. 47 (16-2-1976).

3A. Prohibition against the use of the words "Unit Trust", "Unit" or "Unite" as a part of the name of any person other than the Trust :-

(1) No individual or group of individuals, or company, other than the Trust, who or which accepts money by way of any loan deposit, investment or similar other transaction, shall use the word or words "Unit Trust", "Unit" or "Units" as a part of his or its name.

Explanation.- For the removal of doubts it is hereby declared that nothing in this sub-section shall be deemed to prevent any individual or group of individuals, or company from describing any scrip or other security issued by him or it for any amount which has been received and repayable by him or it in the course of transaction of any business which is of the nature of a unit trust or mutual fund, as a unit certificate or units, as the case may be.

(2) If any provision of sub-section (1) is contravened, any person guilty of such contravention shall be punished with fine which may extend to two thousand rupees and where the contravention is a continuing one, with a further fine which may extend to one hundred rupees for every day after the first during which the contraven- tion continues.

(3) Where any provision of sub-section (1) has been contravened by com- pany every person who at the time of such contravention was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be

liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided herein if he proves that the contravention was made without his knowledge or that he had exercised all due diligence to prevent the contravention.

(4) Notwithstanding anything contained in sub-section (3), where any offence under this section has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) No Court shall take cognizance of any offence punishable under this section except upon a complaint in writing made by an officer of the Trust generally or specially authorized in writing in this behalf by the Trust and BO court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence.

Explanation.- For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm means a partner in the firm.]

4. Initial capital of Trust :-

(1) Subject to the provisions of this Act, the initial capital of the Trust shall be five crores of rupees divided in the form of certificates each of which shall be of such face value as may be prescribed and contributed in the manner hereinafter provided.

(2) Before such date as the Central Government may, by notification in the Official Gazette, specify in this behalf-

(a) the Reserve Bank shall contribute two and a half crores of rupees;

(b) the Life Insurance Corporation shall contribute seventy-five lakhs of rupees;

(c) the State Bank and the subsidiary banks shall contribute seventy-five lakhs of rupees, the amount which the State Bank and each subsidiary bank shall contribute being determined by the

State Bank;

(d) other institutions,¹ namely, scheduled banks other than those referred to in Cl. (c) and such classes of financial institutions as may be notified by the Central Government in the Official Gazette in this behalf may contribute one crore of rupees.

(3) If the aggregate of the contributions made by the institutions referred to in clause (d) of sub-section (2) exceeds one crore of rupees, the Board shall refund the excess amount to such institutions, so however, that the amount to be refunded to each such institution bears, as far as possible, the same proportion to the contribution made by it as the excess amount bears to the aggregate of the contributions made by such institutions.

(4) If the aggregate of the contributions made by the institutions referred to in clause (d) of sub-section (2) is less than one crore of rupees, the Reserve Bank shall contribute the deficiency within thirty days of the date specified under sub-section (2): Provided that the Reserve Bank may, thereafter, transfer the whole or any part of its contribution under this sub-section to any institution referred to in clause (d) of sub-section (2).

(5) If at any time the Board is of opinion that the amount of the initial capital is in excess of the requirements of the Trust, [the Board may, and if the Central Government being of like opinion so directs, the Board shall, refund the whole or as the case may be so much of such capital as is in excess of its requirements]¹ [any contributing institution, and in making any such refund the Board shall not make any discrimination between the institutions referred to in clause (c) of sub-section (2) or between, the institutions referred to in clause (d) of that sub-section]: Provided that where only a part is so refunded the amount to be refunded to each such institution shall bear, as far as possible, the same proportion to the contribution made by it as such part bears to the initial capital; Provided further that for the purpose of any refund the value of the initial capital shall be determined by the Board on such basis as the Central Government may specify in this behalf, regard being had to the real or exchangeable value thereof.

1. Substituted for the words "Reserve Bank" by the Public Institutions Laws (Amendment) Act, 1975 (52 of 1975), S. 47 (16-2-1976).

4A. Transfer of initial capital to Development Bank :-

On such date as the Central Government may, by notification in the Official Gazette, appoint (herein- after referred to as the notified date), all the contributions made by the Reserve Bank to the initial capital of the Trust, as on the date immediately preceding the notified date, shall, stand transferred to, and vested in, the Development Bank.

4B. Payment of amount :-

The Reserve Bank shall be given by the Develop- ment Bank, in cash, for the transfer to, and vesting in, the Development Bank of the Contributions made to the initial capital of the Trust by the Reserve Bank, an amount equal to the contributions to the initial capital so transferred.]

5. Maintenance of register of contributories :-

The Board shall maintain in such manner as may be prescribed a register containing the names of the contributing institutions, the amount contributed by each institution and such other particulars as may be prescribed.

6. Issue of contribution certificates :-

(1) As soon as may be after the contri- bution has been made by any contributing institution under S. 4, the Board shall issue to such contributing institution a contribution certificate or contribution certi- ficates in such form and containing such particulars as may be prescribed.

(2) Where the whole or any part of the contribution has been refunded to any institution under sub-section (5) of section 4 , that institution shall, as soon as may be after the refund has been made, forward the contribution certificate or certi- ficates to the Board for cancellation or amendment, as the case may be, and the Board shall cancel or amend the certificate or certificates accordingly.

7. Right of transfer of contribution certificates in certain cases :-

(1) Any contributing institution referred to in clause (d) of sub-section (2) of section 4 may, in the prescribed manner, transfer a contribution certificate to any other institution referred to in that clause and thereupon such other institution shall be deemed to be a contributing institution for the purposes of this Act.

(2) Save as provided in sub-section (1), a contribution certificate shall not be transferred.

"Clauses 7 and 8 provides for the transfer of the certificates of contribution. The Reserve Bank, the Life Insurance Corporation and the State Bank and its subsidiaries will not be able to transfer their contributions to other institutions. The other contributories will however be able to do so among themselves." -S.O.R. (1963).

8. Rights and liabilities of holders of contribution certificates :-

Every holder of a contribution certificate shall have all the rights and be subject to all the liabilities conferred or imposed on a contributing institution by or under this Act.

CHAPTER 3

MANAGEMENT OF THE TRUST

9. Management :-

(1) The general superintendence, direction and management of the affairs and business of the Trust shall vest in a Board of trustees which may exercise all powers and do all acts and things which may be exercised or done by the Trust.

(2) The Board shall, in discharging its functions under this Act, act on business principles, regard being had to the interest of the unit holders.

10. Board of trustees :-

The Board of trustees shall consist of the following namely-

(a) the Chairman to be appointed by the ¹[Central Government in Consultation with the Development Bank];

[(aa) one trustee to be nominated by the Reserve Bank;]

(b) four trustees to be nominated by the ¹[Development Bank], of whom not less than three shall be persons having special knowledge of, or experience in, commerce, industry, banking, finance or investment;

(c) one trustee to be nominated by the Life Insurance Corporation;

(d) one trustee to be nominated by the State Bank;

(e) two trustees to be elected in the prescribed manner by the contributing institutions referred to in clause (d) of sub-section (2) of section 4 , and

(f) an executive trustee to be appointed by the ¹ [Development Bank]. Provided that if the appointment of the Chairman is whole-time it shall not be necessary to appoint an executive trustee: Provided further that on the first constitution of the Board, the trustees referred to in clause (e) shall be nominated by the Reserve Bank and shall hold office for a period of twelve months from the date of their nomination, or until two trustees are elected under the said clause, whichever may be earlier.

1. See F.N. (a) under S. 14.

10A. Transitional provision for continuance of Chairman and certain trustees of the Board :-

Every person holding office, immediately before the notified date, as Chairman under clause (a) of section 10 or as trustee, not being an officer of the Reserve Bank, nominated under clause (b) of that section or as executive trustee appointed under clause (f) thereof shall, notwithstanding the amendment of this Act by the Public Financial Institutions Laws (Amendment) Act, 1975, continue, subject to the same conditions, to hold office for the unexpired portion of his term.]

11. Term of office of trustees :-

(1) A trustee nominated ¹[under clause (aa) or] under clause (b) of section 10 , if he is an officer of the Reserve Bank ¹ [or the Development Bank] or a trustee nominated under clause (c) or clause (d) of that section shall hold office during the pleasure of the authority nominating him.

(2) A trustee nominated under clause (b) of section 10 , if he is not an officer of the Reserve Bank, or a trustee elected under clause (e) of that section shall hold office for four years and thereafter until his successor is duly nominated or elected.

(3) A casual vacancy in the office of a trustee referred to in subsection (2) or in the office of a trustee nominated under the second proviso to section 10 shall be filled by election or nomination, as the case may be, and the trustee so elected or nominated shall hold office for the unexpired portion of the term of his predecessor; Provided that no such vacancy occurring within three months of the date of the expiry of the normal term of office of such trustee need be filled under this sub- section.

(4) A trustee nominated under the second proviso to section 10 or

a trustee nominated in his place under sub-section (3) of this section shall be deemed to be a trustee elected under clause (e) of section 10 .

(5) A person who holds, or who has held, office as a trustee shall, subject to the other provisions of this Act, be eligible for re-nomination or re-election, as the case may be.

1. See F.N. (a) under S. 14.

12. Disqualification for being a trustee :-

A person shall not be capable of being nominated or elected as a trustee if-

(a) he is, except in the case of the Chairman or the executive trustee, an officer or other employee of the Trust, or

(b) he is, or at any time has been, adjudicated as insolvent or has suspended payment of his debts or has compounded with his creditors or

(c) he is of unsound mind and stands so declared by a competent Court, or

(d) he has been convicted of an offence which, in the opinion of the ¹ [Development Bank], involves moral turpitude.

1. See F.N. (a) under S. 14.

13. Vacation and resignation of office of trustee :-

(1) If a trustee-

(a) becomes subject to any of the disqualifications mentioned in Section 12; or

(b) is absent without leave of the Board from more than three consecutive meetings thereof; or

(c) being a trustee elected or deemed to be elected under clause (e) of section 10 becomes an officer or other employee of Government or of the Reserve Bank ¹[or of the Development Bank], State Bank, a subsidiary bank or the Trust, his office shall thereupon become vacant.

(2) A trustee nominated under clause (b) of section 10 who is not an officer of the Reserve Bank ¹ [or of the Development Bank] or a trustee elected or deemed to be elected under clause (e) of that

section may by letter addressed to the Board resign his office and on such resignation being accepted by the Board shall be deemed to have vacated his office.

1. See F.N. (a) under S. 14.

14. Chairman and executive trustee :-

(1) The appointment of a Chairman or of an executive trustee may be either whole-time or part-time: Provided that if the appointment of the Chairman is part-time, the appointment of the executive trustee shall be whole-time.

(2) The Chairman or the executive trustee shall-

(a) hold office for such term not exceeding five years as the ¹[Development Bank] may specify [and shall be eligible for reappointment];

(b) receive such salary or allowances or both from the Trust and be governed by such terms and conditions of service as the ¹[Development Bank] may determine, and

(c) perform such functions as the Board may entrust or delegate to him.

1. See F.N. (a) under S. 14.

14A. Emergency powers of the whole-time Chairman :-

If the Chairman, whose appointment is whole-time, is of opinion that circumstances exist which render it necessary for him to take immediate action in respect of any matter which is within the competence of the Board and that the interests of the Trust may be prejudicially affected if such action is deferred until after the next meeting of the Board, then, notwithstanding anything contained in clause (c) of sub-section (2) of Section 14, the Chairman may take such action in respect of that matter as he deems necessary and for such purpose, he may exercise all powers and do all acts and things which may be exercised or done by the Board, but in every such case, he shall, as soon as may be after the action is taken, make a written report to the Board containing a statement of the action taken and the circumstances under which it was taken. ".]

15. Casual vacancy in office of chairman or executive trustee :-

If the Chairman or the executive trustee is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave

or otherwise, in circumstances not involving the vacation of his appointment, the ¹ [Development Bank] may nominate another person to act in his place until the date on which the Chairman or the executive trustee, as the case may be, resumes his duties.

1. See F.N. (a) under S. 14.

16. Fees and allowances of certain trustees :-

Trustees, other than the Chairman and the executive trustee, shall be paid such fees and allowances for attending the meetings of the Board or of any of its committees and for attending to any other work of the Trust, as may be prescribed: Provided that no fees shall be payable to a trustee who is an officer of Govern- ment or of any corporation established by any law for the time being in force.

17. Meetings of Board :-

(1) The Board shall meet not less than six times a year and at least once every two months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The Chairman, or, if for any reason he is unable to attend any meeting of the Board any other trustee nominated by him in this behalf or, in the event of such nominated trustee also being unable to attend the meeting or no such nomination having been made by the Chairman, any other trustee elected by the trustees present at the meeting from among themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decid- ed by a majority of votes of the trustees present and voting, and, in the event of equality of votes, the Chairman or, in his absence, the person presiding, shall have a second or casting vote,

18. Executive Committee and other committees :-

(1) There shall be an Execu- tive Committee which shall consist of-

(a) the Chairman of the Board,

(b) where an executive trustee has been appointed by the ¹[Development Bank], such executive trustee, and

(c) two other trustees nominated in this behalf by the ¹ [Development Bank]

(2) The Chairman of the Board shall be the Chairman of the Executive Committee,

(3) Subject to such general or special directions as the Board may, from time to time, give the Executive Committee shall be competent to deal with any matter within the competence of the Board.

(4) The Board may constitute such other committees whether consisting wholly of trustees or wholly of other persons or partly of trustees and partly of other persons as it thinks fit and for such purpose as it may decide.

(5) The Executive Committee or any other committee constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(6) The members of a committee (other than the trustees) shall be paid such fees and allowances for attending its meetings and for attending to any other work of the Trust, as may be prescribed: Provided that no fees shall be payable to a member who is an officer of Government or of any corporation established by any law for the time being in force.

1. See F.N. (a) under S. 14.

CHAPTER 4

POWERS AND FUNCTIONS OF THE TRUST

19. Business of Trust :-

(1) Subject to the provisions of this Act and the regulations made under Section 43, the Trust may carry on and transact any of the following kinds of business in India, namely:-

(1) selling and purchasing units;

(2) investing in, and acquiring, holding or disposing of, securities and exercising and enforcing, all powers and rights incidental thereto including protection or realisation of such investment and the taking over of the administration of any property offered as security for such investment;

(3) granting of loans and advances upon the security of any movable or immovable property or otherwise;

(4) accepting, collecting, discounting, rediscounting, purchasing,

selling or negotiating or otherwise dealing with, any bills of exchange, hundies, promissory notes, coupons, drafts, bills of lading, railway receipts, warehouse receipts, documents of title to goods, warrants, certificates, scrips and other mercantile instruments;

(5) purchasing, selling or issuing participation certificates in relation to any loan or advance granted by any public financial institution or scheduled bank or such other institution as may be prescribed;

(6) keeping money on deposit with companies or other bodies corporate, scheduled banks or such other institutions as may be prescribed;

(7) investing in any special paper or security floated by the Central Government or the Reserve Bank or by any such foreign government or foreign bank as may be prescribed;

(8) formulating in relation to any unit scheme,-

(a) savings and life insurance plan or plans under which a person may acquire an interest in units in association with or as the agent of, the Life Insurance Corporation or the Central Government, but not including the life insurance business;

(b) savings and insurance plan or plans under which a person may acquire an interest in units in association with or as the agent of, the General Insurance Corporation but not including the general insurance business; or

(c) any other plan or plans, under which a person may acquire an interest in units;

(9) acquiring immovable property or any interest therein, the development (including construction) and sale of such property and the rendering of financial and other assistance to any person for the acquisition of any immovable property or any interest therein and for the development (including construction) of such property;

(10) providing leasing and hire purchase finance to persons, companies, and other bodies corporate;

(11) providing merchant banking and investment advisory services;

(12) extending investment or fund or portfolio management services to persons resident outside India;

(13) opening of an account or the making of an agency arrangement with a bank incorporated outside India;

(14) buying or selling of, or entering into such other dealings in, foreign exchange, as may be necessary for the discharge of its functions;

(15) doing any other kind of business connected with mobilisation of savings or investments which the Central Government may authorise;

(16) generally, doing all such acts and things as may be incidental to or consequential upon the discharge of its functions under this Act.

(2) Subject to the provisions of this Act and the regulations made under Section 43, the Trust may carry on outside India also any of the kinds of business mentioned in clauses (1), (2), (4), (6), (7), sub-clause (c) of clause (8) and clauses (11), (12), (13) and (15) of sub-section (1)."]

19B. Special provision for enforcement of claim by the Trust

:-

(1) Where a company or other body corporate, in breach of any agreement, makes any default in repayment of any loan or advance or any instalment thereof, or in meeting its obligations or otherwise fails to comply with the terms of its agreement with the Trust, then, without prejudice to the provisions of Section 69 of the Transfer of Property Act, 1882 (4 of 1882), any officer of the Trust generally or specially authorised by the Trust in this behalf may apply to the Court for one or more of the following reliefs, namely

:-

(a) for an order for the sale of the property pledged, mortgaged, hypothecated or assigned to the Trust as security for the loan or advance, or

(b) for transferring the management of the company or other body corporate to the Trust, or

(c) for an ad interim injunction where there is apprehension of the machinery or the equipment being removed from the premises of the company or other body corporate without the permission of the Trust.

(2) An application under sub-section (1) shall state the nature and extent of the liability of the company or other body corporate to the Trust, the grounds on which it is made and such other particulars as may be prescribed.

(3) When the application is for the reliefs mentioned in sub-clauses (a) and (c) of sub-section (1) the Court shall pass an ad interim order attaching the security or so much of the property of the company or other body corporate as would on being sold realise in its estimation an amount equivalent in value to the outstanding liability of the company or other body corporate to the Trust together with the costs of the proceedings taken under this section with or without an ad interim injunction restraining the company or other body corporate from transferring or removing its machinery or equipment.

(4) Where the application is for the relief mentioned in sub-clause (6) of sub-section (1) the Court shall grant an ad interim injunction restraining the company or other body corporate from transferring or removing its machinery or equipment and issue a notice calling upon the company or other body corporate to show cause on a date to be specified in the notice why the management of the company or other body corporate should not be transferred to the Trust.

(5) Before passing any order under sub-section (3) or sub-section (4), the Court may, if it thinks fit, examine the other making the application.

(6) At the same time as it passes an order under sub-section (3), the Court shall issue to the company or other body corporate a notice accompanied by copies of the order, the application and the evidence, if any, recorded by it calling upon the company or other body corporate to show cause on a date to be specified in the notice why the ad interim order of attachment should not be made absolute or the injunction confirmed.

(7) If no cause is shown on or before the date specified in the notice under sub-sections (4) and (6), the Court shall make the ad interim order absolute and direct the sale of the attached property or transfer the management of the company or other body corporate to the Trust or confirm the injunction.

(8) If cause is shown, the Court shall proceed to investigate the claim of the Trust and the provisions of the Code of Civil Procedure, 1908 (5 of 1908), shall as far as practicable apply to such

proceedings.

(9) On an investigation made under sub-section (8) the Court shall pass an order-

(a) confirming the order of attachment and directing the sale of the attached property; or

(b) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property; or

(c) releasing the property from attachment, if it is satisfied that it is not necessary in the interests of the Trust; or

(d) confirming or vacating the injunction; or

(e) transferring the management of the company or other body corporate to the Trust or rejecting the claim made in this behalf : Provided that when making any order under clause (c), the Court may make such further orders as it thinks necessary to protect the interests of the Trust, and may apportion the costs of the proceedings in such manner as it thinks fit: Provided further that unless the Trust intimates to the Court that it will not appeal against any order releasing any property from attachment, such order shall not be given effect to until the expiry of the period fixed under sub-section (12) within which an appeal may be preferred, or if an appeal is preferred, unless the Court empowered to hear appeals from the decisions of the said Court otherwise directs until the appeal is disposed of.

(10) An order of attachment or sale of property under this section shall be carried into effect as far as may be practicable in the manner provided in the Code of Civil Procedure, 1908 (5 of 1908), for the attachment or sale of property in execution of a decree, as if the Trust were the decree-holder.

(11) An order under this section transferring the management of a company or other body corporate to the Trust shall be carried into effect, as far as may be practicable, in the manner provided in the Code of Civil Procedure, 1908 (5 of 1908), for the possession of immovable property or the delivery of movable property in execution of a decree, as if the Trust were the decree-holder.

(12) Any party aggrieved by an order under sub-section (7) or sub-section (9) may, within thirty days from the date of the order,

appeal to the Court empowered to hear appeals from the decisions of the Court which passed the order and the appellate court may after hearing the parties pass such orders as it things proper.

(13) Nothing in this section shall be construed, where proceedings for liquidation in respect of the company or other body corporate have commenced before an application is made under sub-section (1) as giving to the Trust any preference over the other creditors of the company or other body corporate not conferred on it by any other law.

(14) For the removal of doubts, it is hereby declared that any Court competent to grant an ad interim injunction under this section shall also have the power to appoint a receiver and to exercise all other powers incidental thereto.

(15) For the purpose of this section "Court" means the High Court within the local limits of whose jurisdiction,- (i) the defendant or respondent, or where there is more than one defendant or respondent any one of them- (1) has his registered office; or (2) carries on the whole or part of his business, at the time of the commencement of any legal proceedings, against him under this Act; or (3) the cause of action for such legal proceedings, wholly or in part, arises.

(16) The provisions of this section shall not apply to or in relation to any proceedings (whether by way of suits or appeals or other proceedings) under this Act pending before a District Judge or an Additional District Judge or a High Court at the commencement of the Unit Trust of India (Amendment) Act, 1985.".]

19A. Power to impose conditions, etc :-

(1) In entering into any arrangement, under section 19 , with any concern, the Trust may impose such conditions as it may think necessary or expedient for protecting the interest of the Trust and for securing that the accommodation granted by it is put to the best use by the industrial concern.

(2) Where any arrangement entered into by the Trust under section 19 with any concern provides for the appointment by the Trust of one or more directors of such concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 , or in any other law for the time being in

force or in the memorandum, articles of association or any other instrument relating to the concern, and any other provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Trust in pursuance of the arrangement as aforesaid.

(3) Any director appointed as aforesaid shall,-

(a) hold office during the pleasure of the Trust and may be removed or substituted by any person by order in writing by the Trust;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.]

20. Borrowing powers :-

(1) [The Trust may borrow, whether in India or outside India] from any authority or person, not being Government or the Reserve Bank, against such security and on such terms and conditions as may be agreed upon.

1 [(2) The Trust may borrow money from the Reserve Bank-

(i) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date on which the money is so borrowed against stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;

(ii) repayable on demand or within a period of eighteen months from the date on which the money is so borrowed, against the security of the bonds which the Trust may issue with the approval of the Central Government;

(iii) on such terms and conditions and against the security of such other property of the Trust as may be specified in this behalf by the Reserve Bank for the purposes of any scheme other than the first

unit scheme;

(a) five crores of rupees in respect of each such scheme; and

(b) ten crores of rupees in respect of all such schemes in the aggregate.

(3) The bonds issued by the Trust under sub-section (2) shall be guaranteed by the Central Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Central Government at the time the bonds are issued.]

1. Substituted for the words "shall make a unit scheme" by the Unit Trust of India (Amendment) Act, 1966 (17 of 1966), S. 7 (10-6-1966).

20A. Special contribution by Reserve Bank :-

¹[The Reserve Bank or the Development Bank may] from time to time, in its discretion pay to the Trust from out of the amount ² [payable to the Reserve Bank or, as the case may be, the Development Bank under sub-section (1) of section 25A any sum to be utilised by the Trust solely for meeting the losses arising out of, or any additional amount required in connection with, any variation made by the Trust in the sale or re-purchase price of a unit.

1. Unit Scheme 1964 made by the Board at its meeting d/- 12-5-1964 has been amended by notifications published in Gaz. of Ind., 1967, Pt. III, S. 4, p. 316; 1968, Pt. III, S. 4, pp. 80,218 and 226; , 1969, Pt. III, S. 4, p. 456.

2. Substituted for the words 'the Scheme', by Act 17 of 1966, S. 7. (10-6-1966).

20B. Grants, donations etc. to Trust :-

The Trust may receive gifts, grants, donations or benefactions from Government or any other source and such gifts, grants, donations or benefactions shall be treated by the Board as capital or income of the first unit scheme or, as the case may be, of any subsequent unit scheme according to the purposes for which they are made and in the absence of any indication of such purposes they shall be treated as capital or income of such unit scheme or schemes and to such extent as the Board thinks fit.]¹

1. Substituted for the words "shall make a unit scheme" by the Unit Trust of India (Amendment) Act, 1966 (17 of 1966), S. 7 (10-6-1966).

20C. Power to transfer rights :-

The rights and interests of the Trust (including any other rights

incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Trust, either in whole or in part, by the execution or issue of any instrument, or by the transfer of any instrument by endorsement or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Trust may, notwithstanding such transfer, act as the trustee within the meaning of Section 3 of the Indian Trusts Act, 1882 (2 of 1882), for the transferee.".]

21. Unit scheme :-

(1) For the purpose of providing facilities for participation in the income, profits and gains arising out of the acquisition, holding, management or disposal of securities by the Trust, the Board ¹[may make one or more ²[unit schemes, including one or more unit schemes for issuing units to persons resident outside India in such foreign currencies, as the Trust may deem fit].] ³

(2) Subject to the provisions of this Act, and the regulations made under section 43 , a scheme made under sub-section (1) may provide for-

⁴(a) the issue of units and the face value of each unit: Provided that the face value of each unit shall, where such value is in Indian currency, be not less than ten rupees or more than one hundred rupees and where such value is in any foreign currency, be in multiples of ten;.]

(b) the form and manner in which an application may be made for the purchase of a unit from the Trust;

(c) the manner in which payment may be made for purchasing a unit from the Trust;

(d) the issue of unit certificates and the form and manner in which such certificates may be issued;

(e) the issue of duplicate of any unit certificate in the event of loss or destruction of the original and the fee on the payment of which such duplicate may be issued;

(f) the procedure for determining the value at which the units may be sold or purchased, from time to time, by the Trust;

(g) the recognition of persons as unit holders;

5 [(ga) the application for, and the holding of, or dealing with, units by any parent of a minor;]

(h) the persons to whom, the time at which and the manner in which any payments in respect of a unit shall be made by the Trust;

(i) the preparation and maintenance of a register, if any, of unit holders;

(j) the conditions, if any, subject to which a unit holder may transfer the unit;

(k) any other matter which the Trust may consider to be necessary or proper for the effective implementation of the scheme.

5 [2A) Where any parent of a minor holds, deals with or makes any application for the purchase of a unit on behalf of the minor, the provisions of the scheme, in pursuance of which the unit had been issued, shall be binding on the minor.

(2B) Where the payment of any sum becomes due on, or in respect of, any unit held on behalf of a minor, such payment shall, subject to the provisions of the scheme be made to the parent by whom the purchase of such unit was applied for or by whom such unit was acquired, as the case may be, and such parent shall be entitled to receive such payment for and on behalf of the minor; and in the event of the death of the said parent, such payment shall be made to the lawful guardian of the minor.

Explanation.- References in this section to "parent" shall be construed as including references to step-parent.]

(3) The Board may, from time to time, add to or otherwise amend **7** [any scheme] made under sub-section (1).

(4) **6** [Every scheme] made under sub-section (1) and every amendment thereof under sub-section (3) shall be notified in the Official Gazette.

1. Substituted for the words "shall make a unit scheme" by the Unit Trust of India (Amendment) Act, 1966 (17 of 1966), S. 7 (10-6-1966).

2. Substituted for "unit schemes", vide THE UNIT TRUST OF INDIA (AMENDMENT) ACT, 1985 (63 Of 1985), Dt. 7th December, 1985 Published in Revised the assent of the President on December 7, 1985 and published in the Gazette of India, Extra., Part II,

Section I, dated 7th December, 1985, pp. 1-8 [C]

3. Unit Scheme 1964 made by the Board at its meeting d/- 12-5-1964 has been amended by notifications published in Gaz. of Ind., 1967, Pt. III, S. 4, p. 316; 1968, Pt. III, S. 4, pp. 80,218 and 226; , 1969, Pt. III, S. 4, p. 456.

4. Substituted for " (a) the issue of units and the face value of each unit, which shall not be less than ten rupees or more than one hundred rupees: ", vide THE UNIT TRUST OF INDIA (AMENDMENT) ACT, 1985 (63 Of 1985), Dt. 7th December, 1985 Published in Rewived the assent of the President on December 7,1985 and pullishtd in the Gazette of India, Extra., Part II, Section I, dated 7th December, 1985, pp. 1-8 [C]

5. Inserted by the Trust Laws (Amendment) Act, 1975 (16 of 1975), S. 5 (29-3-1975).

7. Substituted for the words 'the Scheme', by Act 17 of 1966, S. 7. (10-6-1966).

CHAPTER 5

ALLOCATION AND DISTRIBUTION OF INCOME AND RESERVE FUNDS

22. Capital of the Trust :-

(1) The capital of the Trust in relation to the first unit scheme shall consist of-;

(i) the initial capital,

(ii) the unit capital of the said scheme,

(iii) any reserves created for that scheme,

(iv) any amount borrowed for the purposes of that scheme,

(v) any amount received for the purposes of that scheme by way of gifts, grants, donations or benefactions from the Government or any other source and treated as the capital of that scheme under section 20B ,

(vi) any other capital allocated to that scheme by the Board having regard to the nature of such capital and other relevant factors.

(2) The capital of the Trust in relation to any subsequent unit scheme shall consist of-

(i) the unit capital of that scheme,

(ii) any reserves created for that scheme,

(iii) any amount borrowed for the purposes of that scheme,

(iv) any amount received for the purposes of that scheme by way of

gifts, grants, donations or benefactions from the Government or any other source and treated as the capital of that scheme under section 20B ,

(v) any other capital allocated to that scheme by the Board having regard to the nature of such capital and other relevant factors.

(3) The capital in respect of a unit scheme shall be held separately from the capital in respect of any other unit scheme and such capital shall, subject to the provisions of this Chapter, be applied solely for the purposes of that unit scheme.

23. Income of the Trust :-

The income of the Trust shall consist of-

(i) in relation to the first unit scheme,-

(a) the income arising out of the capital referred to in sub-section (1) of section 22 .

(b) any gifts, grants, donations or benefactions treated as the income of that scheme under section 20B , and

(c) any other income allocated to that scheme by the Board having regard to the nature of the income and other relevant factors :

(ii) in relation to any subsequent unit scheme,-

(a) the income arising out of the capital referred to in sub-section (2) of section 22 .

(b) any gifts, grants, donations or benefactions treated as the income of that scheme under section 20B , and

(c) any other income allocated to that scheme by the Board having regard to the nature of the income and other relevant factors.

24. Allocation of income in respect of first unit scheme :-

The income of the Trust in any year arising out of the capital of the Trust relating to the first unit scheme shall be allocated to the initial capital and unit capital thereof in the same proportion as the former bears to the latter at the end of that year.

25. Allocation of interest and other expenses :-

(1) The interest payable for any year for any borrowings by the Trust and the total amount of other expenses incurred by the Trust for that year for the purposes of the first unit scheme shall be

al- located and charged to the initial capital and the unit capital thereof in the same pro- portion as is referred to in section 24 .

(2) Notwithstanding anything contained in sub-section (1), if in any year the amount of expenses, other than interest allocated to the unit capital relating to the first unit scheme is more than five per cent. of the income allocated in that year to that scheme, only an amount equal to such five per cent. shall be charged to that unit capital and the rest of the total amount of expenses other than interest shall be charged to the initial capital.

(3) The interest payable for any year for any borrowings by the Trust and the total amount of other expenses incurred by the Trust in that year for the purposes of any subsequent unit scheme shall be charged to the unit capital of such scheme in such manner and to such extent as the Board may, with the previous approval of the ¹[Development Bank], determine.

(4) For purposes of this section, where expenses are incurred in common by the Trust in relation to more than one unit scheme such expenses may be allocated to the different schemes to such extent and in such manner as the Board may, with the previous approval of the ¹ [Development Bank], determine having regard to the nature and purposes of the expenses and other relevant factors.

1. Substituted for former Chap. V consisting of Ss. 22 to 25 by the Unit Trust of India (Amendment) Act, 1966 (17 of 1966), S. 8 (10-6.1966).

25A. Distribution of income :-

(1) The income allocated to the initial capital in any year reduced by the interest and the amount of other expenses charged for that year to the initial capital may be distributed in the prescribed manner among the contributing institutions in each case in proportion to their respective contribu- tions.

(2) The income allocated in any year to the unit capital relating to the first unit scheme reduced by the interest and the amount of other expenses charged for that year to such unit capital may, but not less than ninety per cent. of such income so reduced, shall be distributed in respect of that year to the unit holders under that unit scheme.¹ ["Provided that in relation to any year in which the Trust has declared a dividend of not less than ten per cent on the

unit capital the requirement as to distribution of not less than ninety per cent of such income in such year as so reduced shall not apply.".]

(3) The income allocated in any year to the unit capital relating to each of the subsequent unit schemes reduced by the interest and the amount of other expenses charged for that year to such unit capital may, having regard to the purposes of that scheme and other relevant factors,-

(i) be distributed in respect of that year to the unit holders under that scheme in such manner and at such percentage of the income so reduced as the Board may determine; or

(ii) be carried forward and re-invested or otherwise utilised for the benefit of the unit holders in accordance with the provisions of that scheme.

1. Inserted vide THE UNIT TRUST OF INDIA (AMENDMENT) ACT, 1985 (63 Of 1985), Dt. 7th December, 1985 Published in Revised the assent of the President on December 7, 1985 and published in the Gazette of India, Extra., Part II, Section I, dated 7th December, 1985, pp. 1-8 [C]

25B. Reserve funds :-

(1) The Trust may establish one or more reserve funds by transferring such sums as it may deem fit out of the amount of the income of the Trust not distributed to the contributing institution or unit holders under the provisions of this Chapter.

(2) Subject to the provisions of this Act, the amount in any reserve fund created specifically for the purposes of any unit scheme shall be applied or utilised only for the benefit of the unit holders under that unit scheme and for such purposes and in such manner as the Board may determine.

25C. Definition :-

In this Chapter, "year" means the period in respect of which the books and accounts of the Trust are balanced and closed under sub-section (2) of section 26 .]

CHAPTER 6

ACCOUNTS AND AUDIT

26. Preparation of balance-sheet, etc., of Trust :-

(1) The balance-sheet and accounts of the Trust shall be prepared

and maintained in such form and manner as may be prescribed.

(2) The Board shall cause the books and accounts of the Trust to be balanced and closed each year as on such date as may be prescribed.

27. Audit :-

¹[(1) The affairs of the Trust shall be audited by one or more auditors duly qualified to act as auditor under sub-section (1) of Section 226 of the Companies Act, 1956 , (hereinafter referred to as the auditor) who shall be appointed by the Trust with the previous approval of the ¹ [Development Bank] and shall receive such remuneration as the Trust may fix.]

(2) The auditor shall be supplied with a copy of the annual balance-sheet of the Trust and it shall be his duty to examine it together with the accounts and vouchers relating thereto and he shall have a list delivered to him, of all books kept by the Trust and shall at all reasonable times have access to the books accounts vouchers and other documents of the Trust.

(3) The auditor may, in relation to such accounts, examine any trustee or any officer or other employee of the Trust and shall be entitled to require, from the Board or officers or other employees of the Trust such information and explanation as he may think necessary for the performance of his duties.

(4) The auditor shall make a report to the Trust upon the annual balance-sheet and accounts examined by him and in every such report he shall state whether in his opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and property drawn up so as to exhibit a true and fair view of the state of affairs of the Trust and in case he had called for any information or explanation from the Board or any officer or other employee of the Trust, whether it has been given and whether it is satisfactory.

1. Substituted by the Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975), S. 55 (16-2-1976).

28. Publication of annual accounts and reports :-

The Trust shall furnish to each of the contributing institutions within four months from the date on which its accounts are balanced and closed in respect of any year a copy of the balance-sheet and accounts together with a copy of the auditor's report and

shall publish the same in the Official Gazette.

29. Furnishing of information :-

The Reserve Bank or the Development Bank may, from time to time, call upon the Trust to furnish such information as either of the said banks may require, and the Trust shall be bound to furnish the same.]

CHAPTER 7

MISCELLANEOUS

30. Power of a [Development Bank] to give directions :-

In the discharge of its functions under this Act, the Trust shall be guided by such directions in matters of policy involving public interest as the ¹[Development Bank] may give to it in writing, and if any question arises whether the direction relates to a matter of policy involving public interest, the decision of the ¹ [Development Bank] thereon shall be final.

1. Inserted by the Trust Laws (Amendment) Act, 1975 (16 of 1975). S. 6 (1-4-1975).

31. Staff of Trust :-

(1) The Trust may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Trust to utilise, and for the Reserve Bank to make available, the services of such staff of the Reserve Bank on such terms and conditions as may be agreed upon between the Trust and the Reserve Bank.

¹ [(3) Every member of the staff of the Reserve Bank,-

(a) whose services are being, immediately before the notified date, utilised by the Trust under sub-section (2), or

(b) whose services, having been made available to the Trust, stand, immediately before the notified date, deputed by the Trust to any other organisation,

(4) Notwithstanding anything contained elsewhere in this Act, or in any other law or in any contract, for the time being in force, for a temporary period, not being a period exceeding eighteen months

from the notified date or the date of commencement of section 5 of the Public Financial Institutions Laws (Amendment) Act, 1975, whichever is earlier, if the Reserve Bank, in consultation with the Trust or the Development Bank, considers it necessary in the interests of the said institutions, to promote any member of the staff of any of the said institutions to a post in either of the other two institutions, it shall be lawful for the Reserve Bank to transfer on promotion any such member of the staff to that other institution, and on such transfer each such member of the staff shall be deemed to be a member of the staff of the institution to which he is so transferred and shall be entitled to the same salary emoluments and other terms and conditions of service to which he was entitled immediately before the date of such transfer including benefits, if any, arising directly out of such promotion; Provided that every member of the staff aforesaid may, before the expiry of a period of eighteen months from the notified date or the date of commencement of section 5 of the Public Financial Institutions Laws (Amendment) Act, 1975, whichever is earlier, elect to go back to the institution from which he was so transferred by exercising an option in writing to that effect, the option once exercised being final, and on the exercise of such option, that institution shall, before the expiration of a period of thirty months from the notified date or the date of commencement of section 5 of the Public Financial Institutions Laws (Amendment) Act, 1975, whichever is earlier, take back such member of the staff and on such member being taken back by that institution, he shall become a member of its staff and shall cease to be a member of the staff of the institution to which he was earlier transferred.

(5) Notwithstanding anything contained in any law or in any agreement, for the time being in force, no member of the staff shall be entitled to claim any compensation for, or ill relation, to any matter concerning, his transfer, appointment or, as the case may be, return, under sub-sections (3) and (4), and no claim in respect thereof, shall be entertained by any Court, tribunal or other authority.]

1. Inserted by the Trust Laws (Amendment) Act, 1975 (16 of 1975). S. 6 (1-4-1975).

32. Income-tax and other taxes :-

(1) Notwithstanding anything contained in ¹[the Wealth-tax Act, 1957,] the Income tax Act, 1961, the Super Profits Tax Act, 1963 .

²[the Companies (Profits) Surtax Act, 1964], or in any other enactment for the time being in force relating to income-tax, super-tax or ²[super profits-tax, surtax] or any other tax on income, profits or gains-

(a) the Trust shall not be liable to any income-tax, super-tax, super profits tax, ²[surtax] or any other tax in respect of any income, profits or gains derived by it from any source;

⁵[(aa) in the case of an assessee who is not resident in India, being,-

(i) an individual who is an Indian or a person of Indian origin, or

(ii) a Hindu undivided family,

Income tax Act, 1961 , any income received by such assessee in the previous year in respect of units acquired by such assessee from the Trust out of funds in a Non- resident (External) Account maintained with any bank in India or by the remittance of, funds in foreign exchange, in accordance, in either case, with the provisions of the Foreign Exchange Regulation Act, 1973, or any rules or orders made thereunder;]

⁶[(b) * * * * *]

⁷[* * * * *]

⁴[(ba) * * * * *]

⁵[* * * * *]

³[(bb) in the case of an assessee who is not resident in India, being an individual who is an Indian or a person of Indian origin, or a Hindu undivided family, wealth-tax shall not he payable by the assessee in respect of, and there shall not be included in, the net wealth of the assessee computed under the Wealth-tax Act, 1957, the value of the assets in the form of units acquired from the Trust, out of funds in a Non-resident (External) Account maintained with any bank in India or by the remittance of funds in foreign exchange, in accordance, in either case, with the provisions of the Foreign Exchange Regulation Act, 1973, or any rules or orders made thereunder;]

(c) where a contributing institution is liable to be assessed to super profits tax under the Super Profits-tax Act, 1963, ²[or to surtax

under the Companies (Profits) Surtax Act, 1964] in respect of its own income, profits or gains and receives any sum from the Trust under this Act in respect of its contribution to the initial capital, such sum as reduced by the amount of any income-tax and super-tax payable in respect thereof shall be excluded from the total income of the said institution in computing its chargeable profits for the purposes of super profits tax, ²[or surtax].

³[Explanation I- In this sub-section,-

(a) in ¹⁴[clause (aa)], the expressions "previous year" and "total income" shall have the meanings, respectively, assigned to them in Income tax Act, 1961 ;

(b) in ⁴[clause (bb)], the expressions "assessee" and "net wealth" shall have the meanings, respectively, assigned to them in Wealth-tax Act, 1957,

Explanation II.- For the purposes of sub-sections (1) and (2),--

(a) an assessee shall be deemed to be "not resident in India" if he is a non-resi- dent within the meaning of clause (30) of section 2 of the Income-tax Act, 1961;

(b) a person shall be deemed to be a person of Indian origin if he or either of his parents or any of his grandparents howsoever high in degree of ascent, whether on the paternal side or on the maternal side, was born in India as defined in Government of India Act, 1935 , as originally enacted:]

(2) Notwithstanding anything contained in section 193 or S.194 of the Income tax Act, 1961-

(a) no deduction of income-tax or super-tax shall be made on any interest or dividend payable to the Trust in respect of any securities or shares owned by it or in which it has full beneficial interest;

(b) no deduction of income-tax shall be made by the Trust from the income distributed by it to a unit holder being an individual; and

²[(c) where in the case of a unit-holder, being an individual who is not resident in India, the income in respect of units receivable by him from the trust during the financial year-

(i) does not exceed ¹⁷[seven thousand rupees], no deduction of income-tax shall be made by the Trust from the income distributed

by him;

(ii) exceeds ⁷[seven thousand rupees] deduction of income-tax shall be made by the Trust from the whole of the income distributed to him at the rate of fifteen per cent. of such income.]

3 [Provided that no deduction of income-tax shall be made by the Trust, where the units in respect of which income is distributed to-

(i) an individual who is an Indian or a person of Indian origin, or

(ii) a Hindu undivided family;

Foreign Exchange Regulation Act, 1973, or any rules or orders made thereunder.]

(3) Subject to the foregoing sub-sections, for the purposes of the income-tax Act, 1961.-

(a) any distribution of income received by a unit-holder from the Trust shall be deemed to be his income by way of dividends; and

(b) the Trust shall be deemed to be a company.

Clause 32 provides for the grant of relief from certain provisions of the Income-tax Act 1961 and other enactments in order to facilitate the operations of the Trust and to encourage savings by individuals in the form of units. The Trust as an institution acting for and in the interests of the unit holders, will be exempted from the payment of income-tax, super-tax, and other taxes on its income. The contributories to the initial capital will be exempted from the payment of super profits tax on the income accruing to them in respect of their contributions. The unit-holders will be exempted from the payment of income-tax but not of super tax, on the dividend income obtained from Units. The Trust so far as the income accruing to it is concerned and the unit-holders in respect of the dividends accruing to them from the Trust, will be entitled to receive the amounts due to them, without deduction of income-tax at source (super tax deductions will, however, be made the case of non-resident unit-holders, if any.)- S.O.R. (1963).

1. Inserted by the Trust Laws (Amendment) Act, 1975 (16 of 1975). S. 6 (1-4-1975).

2. Inserted or substituted by the Unit Trust of India (Amendment) Act, 1966 (17 of 1966), S. 10 (10-6-1966).

5. Inserted by the Unit Trust of India (Amendment) Act, 1976 (3 of 1976). S. 2 (24-1-1976).

6. Clauses (b) and (ba) omitted, Substituted for the words "clauses (aa) and (b)" and "clauses (ba) and (bb)" by the Finance Act, 1984 (21 of 1984), S. 54 (1-4-1985).

7. Explanation to clauses (b) and (ba) omitted, Inserted by the Unit Trust of India (Amendment) Act, 1976 (3 of 1976). S. 2 (24-

1-1976).

14. Substituted for the words "clauses (aa) and (b)" and "clauses (ba) and (bb)" by the Finance Act, 1984 (21 of 1984), S. 54 (1-4-1985).

17. Substituted for the words "five thousand rupees" by the Finance Act, 1982 (14 of 1982), S. 56 (1-6-1982).

33. Act 18 of 1891 to apply in relation to Trust :-

The Bankers' Books Evidence Act, 1891 shall apply in relation to the Trust as if it were a bank as defined in section 2 of the said Act.

34. Declaration of fidelity and secrecy :-

Every trustee, auditor officer or other employee of the Trust or any employee of the Reserve Bank whose services are utilised by the Trust under section 31 shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule to this Act.

35. Defects in appointments not to invalidate acts, etc :-

(1) No act or proceeding of the Board or of any committee of the Trust shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or committee.

(2) No act done by any person acting in good faith as a trustee shall be deemed to be invalid merely on the ground that he was disqualified to be a trustee or that there was any other defect in his appointment.

36. Indemnity of trustees :-

(1) Every trustee shall be indemnified by the Trust against all losses and expenses incurred by him in, or in relation to, the discharge of his duties except such as are caused by his own wilful act or default,

(2) A trustee of the Board shall not be responsible for any other trustee, or for any officer or other employee of the Trust, or for any loss or expenses resulting to the Trust, from the insufficiency or deficiency of value of or title to any property or security acquired or taken on behalf of the Trust or the insolvency or wrongful act of any debtor or any person under obligation to the Trust or anything done in good faith in the execution, of the duties of his office or in relation thereto.

37. Protection of action taken under this Act :-

No suit or other legal proceeding shall lie against the Trust or ¹[the Reserve Bank or the Development Bank] or any trustee or any officer or other employee of the Trust or ¹ [the Reserve Bank or the Development Bank] or any other person authorised by the Trust to discharge any functions under this Act for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act.

1. Substituted for the words "the Reserve Bank" by the Public Financial Institutions Laws (Amendment) Act, 1975(52 of 1975). S. 57 (16-2-1976).

38. Delegation of powers :-

The Board may, by general or special order, delegate to any officer of the Trust, subject to such conditions and limitations, if any, as may be specified in the order such of its powers and duties under this Act as it may deem necessary.

39. No trust to be taken notice of :-

Except to the extent provided in, and except in accordance with the regulations made under this Act, no notice of a trust, express, implied or constructive, shall be receivable by the Trust.

39A. Nomination by unit holders and agents :-

(1) Notwithstanding anything contained in any other law for the time being in force,-

(a) where a nomination in respect of any units has been made in accordance with the regulations made under this Act, the amount payable to the unit holder in respect of the said units shall, on the death of the unit holder but subject to any right, title, claim or other interest of any other person to or in respect of the said units as provided in such regulations, and subject to any charge or encumbrance over the said units, vest in, and be payable to, the nominee-

(b) where any person appointed by the Trust as an agent for soliciting or procuring any business, including the sale of units, has nominated, in accordance with the regulations made under this Act, any person or a social or charitable institution, to receive the commission or other remuneration payable to him after his death, such commission or other remuneration shall, on the death of the person making the nomination, be payable to his nominee: Provided that nothing contained in this section shall affect any

nomination made before the date on which the Trust Laws (Amendment) Act, 1975, receives the assent of the President.

(2) A payment by the Trust under sub-section (1) shall be a full discharge to the Trust, from all liability in respect of the units, or, as the case may be, the commission or other remuneration.

39B. Protection of certain amounts from attachment :-

Notwithstanding anything contained in any other law for the time being in force, the amount standing to the credit of a contributing institution shall not be liable to attachment under any decree or order of any court in respect of any debtor liability incurred by the contributing institution.]

40. Repayment of contribution in case of winding up of contributing institution :-

(1) In the event of a contributing institution referred to in clause (d) of sub-section (2) of section 4 being wound up, the Trust shall, on a demand in that behalf made by the authority in charge of the winding-up, pay to such authority an amount equivalent to the value of the contribution to the initial capital made by that institution.

(2) The value of the contribution shall be determined by the Board on such basis as the Central Government may specify, regard being had to the real or exchangeable value of such contribution.

41. Power of Central Government to reconstitute Board :-

(1) Notwithstanding anything contained in section 10 or section 11, where the whole of the initial capital has been refunded to the contributing institutions, the Central Government may, after consultation with the ¹ [Development Bank], by order, provide for the reconstitution of the Board.

(2) An order made under sub-section (1) may provide for all or any of the following matters, namely :-

(a) the number of trustees that will constitute the Board;

(b) the manner in which they shall be chosen;

(c) their term of office;

(d) filling of casual vacancies;

(e) such incidental, consequential and supplementary matters as

may be necessary to give effect to the order including the reconstitution of the executive committee or other committees.

(3) Every order made under this section shall be published in the Official Gazette and a copy thereof shall be laid before each House of Parliament as soon as may be after it is made.

1. Substituted for the words "Reserve Bank" by the Public Financial Institutions Laws (Amendment) Act, 1975 (52 of 1975), S. 52 (16-2-1976).

42. Liquidation of Trust :-

(1) The Trust shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

(2) In making such order, the Central Government shall, if the initial capital has not been wholly refunded, direct, among other things, that-

(i) the value of the net assets of the Trust after paying off all its liabilities, other than those in respect of the initial capital and the unit capital shall be divided into two parts in the same proportion as the aggregate face value of all the units immediately prior to the date on which the Trust is placed in liquidation bears to the initial capital as on that date; and

(ii) the first part shall be distributed among the contributing institutions in proportion to their respective contributions to the initial capital as on that date and the second part shall be distributed among the unit holders in proportion to the face value of the units held by them as on that date.

43. Regulations :-

(1) ¹[The Board, with the previous approval of the Development Bank, may, by notification in the official Gazette,] make regulation not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for-

(a) the form and manner of maintenance of the register of contributing institutions and the particulars to be contained therein;

(b) the face value of a contribution certificate its form and the particulars to be contained therein;

(c) the manner of transfer of a contribution certificate;

(d) the rights and liabilities of a contributing institution-

(e) the holding and conduct of elections under this Act, including the final decision on doubts or disputes regarding the validity of elections;

(f) the fees and allowances that may be paid to the trustees;

(g) the times and places of the meetings of the Board or of any committee constituted under this Act and the procedure to be followed at such meetings including the quorum necessary for the transaction of business;

(h) the fees and allowances that may be paid to the members of a committee other than trustees;

2(i) the institutions to which loans or advances may be granted or with which money may be kept in deposit;

(ia) special papers or securities floated by governments or banks in which investment may be made;

(ib) the particulars which may be included in an application under Section 19-B;

(j) the manner of distribution of income to the contributing institutions;

(k) the form and manner in which the balance-sheet and the accounts of the Trust shall be prepared and maintained'

(l) the date on which the books of accounts of the Trust shall be balanced and closed each year;

(m) the duties and conduct, salaries and allowances, and other conditions of service of officers and other employees of the Trust;

(n) the establishment and maintenance of provident or other benefit funds for officers and other employees of the Trust, **3**[*]

3[(nn) the extent to which and the circumstances under which nominations may be recognised and trusts may be taken notice of; and

(o) any other matter which is to be, or may be, prescribed.

(3) Any regulation which may be made by the Board under this Act may be made by the Reserve Bank within three months of the establishment of the Trust and any regulation so made may be altered or rescinded by the Board in the exercise of its powers under this Act.

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

1. Substituted for "The Board may, with the previous approval of the a [Development Bank] ", vide THE UNIT TRUST OF INDIA (AMENDMENT) ACT, 1985 (63 Of 1985), Dt. 7th December, 1985 Published in Rewived the assent of the President on December 7,1985 and pullishtd in the Gazette of India, Extra., Part II, Section I, dated 7th December, 1985, pp. 1-8 [C]

2. Substituted for " (i) the institutions with which money may be kept on deposit; ", vide THE UNIT TRUST OF INDIA (AMENDMENT) ACT, 1985 (63 Of 1985), Dt. 7th December, 1985 Published in Rewived the assent of the President on December 7,1985 and pullishtd in the Gazette of India, Extra., Part II, Section I, dated 7th December, 1985, pp. 1-8 [C]

3. Word "and" omitted and clause (nn) inserted by the Trust Laws (Amendment) Act, 1975 (16 of 1975), S. 8 (7-1-1975).

5. Inserted vide THE UNIT TRUST OF INDIA (AMENDMENT) ACT, 1985 (63 Of 1985), Dt. 7th December, 1985 Published in Rewived the assent of the President on December 7,1985 and pullishtd in the Gazette of India, Extra., Part II, Section I, dated 7th December, 1985, pp. 1-8 [C]

44. Amendment of certain enactments :-

Repealed by the Repealing and Amend- ing Act, 1974 (56 of 1974), S. 2 and Ist Sch. (20-12-1974).]

45. Power to remove difficulty :-

If any difficulty arises in giving effect to the provisions of this Act,

as amended by the Public Financial Institutions Laws (Amendment) Act, 1975, the Central Government may, by order, do anything, not inconsistent with such provisions, for the purpose of removing the difficulty: Provided that no such order shall be made after the expiration of three years from the date of commencement of the said Amendment Act.]

SCHEDULE 1

THE FIRST SCHEDULE

(See section 34) DECLARATION OF FIDELITY AND SECRECY I do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as trustee, auditor, officer or other employee (as the case may be) of the Unit Trust of India and which properly relate to the office or position held by me in the said Trust. I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Unit Trust of India or to the affairs of any person having any dealing with the said Trust; nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Unit Trust of India, and relating to the business of the said Trust or the business of any person having any dealing with the said Trust. Signed before me : (Signature) Date-

SCHEDULE 2

THE SECOND SCHEDULE

[Repealed by the Repealing and Amending Act, 1974 (56 of 1974), S. 2 and 1st Sch. (20-12-1974)].