FIDC NEWS

Finance Industry Development Council

(A Self-Regulatory Organisation for Non-Banking Finance Companies (NBFCs) registered with RBI)

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STATEMENT BY SHRI SHAKTIKANTA DAS RBI GOVERNOR ON NBFCs

As a part of Statement set out for various developmental and regulatory policy measures for strengthening regulation and supervision; broadening and deepening of the financial markets; payment and settlement systems; and, financial inclusion Reserve Bank Governor Shri Shaktikanta Das made following announcement for NBFCs:

Proposals relating to regulation of NBFCs as announced at Sixth Bi-monthly Monetary Policy Press Conference for 2018-19 on Feb 07, 2019 include:

Harmonisation of the three separate categories of NBFCs viz., Asset Finance Companies, Loan Companies and Investment Companies (which together constitute almost 99 per cent of NBFCs in terms of numbers) by creating a merged category called NBFC - Investment and Credit Company (NBFC-ICC), in order to address the complexities associated with multiple categories of NBFCs and to provide the NBFCs greater flexibility in their operations which would result in diversified product offerings, and better access to NBFI services;

Alignment of risk weights for bank exposures to all categories of NBFCs, other than CICs, with their credit ratings, with a view to facilitating credit flow to better rated NBFCs, lowering the cost of bank borrowings for the NBFCs and in turn, for end consumers, particularly borrowers of MFIs.[RBI website]

Risk Weights for rated exposures to Non-Banking Financial Companies (NBFCs)

Under extant guidelines on Basel III Capital Regulations, exposures/claims of banks on rated as well as unrated Non-deposit Taking Systemically Important Non-Banking Financial Companies (NBFC-ND-SIs), other than Asset Finance Companies (AFCs), Non-Banking Financial Companies – Infrastructure Finance Companies (NBFCs-IFC) and Non-Banking Financial Companies – Infrastructure Development Fund (NBFCs-IDF), have to be uniformly risk-weighted at 100%. With a view to facilitating flow of credit to well-rated NBFCs, it has now been decided that rated exposures of banks to all NBFCs, excluding Core Investment Companies (CICs), would be risk-weighted as per the ratings assigned by the accredited rating agencies, in a manner similar to that for corporates. Exposures to CICs will continue to be risk-weighted at 100%. Guidelines in this regard will be issued by the end of February 2019.

Harmonisation of NBFC Categories

Various categories of NBFCs have evolved over time pertaining to specific sector/asset classes. Regulations put in place for each NBFC category have also been somewhat different. At present, there are twelve such categories. The Committee on Comprehensive Financial Services for Small Businesses and Low Income Households (chaired by Dr. Nachiket Mor) and Internal Committee (Chairman: Shri G. Padmanabhan), which submitted their reports in January 2014 and April 2014 respectively, had recommended harmonisation of the various categories of NBFCs. The Reserve Bank is committed to such harmonisation and to move towards activity-based regulation replacing the current entity-based regulation for the NBFC sector. As a first step in this direction, deposit acceptance regulations were harmonised in November 2014. Further, with the recent rationalization and liberalization of ECB norms, differential rules applicable to various categories of NBFCs stand harmonised.

It has now been decided to harmonise major categories of NBFCs engaged in credit intermediation, viz., Asset Finance Companies (AFC), Loan Companies, and Investment Companies, into a single category. The proposed merger of existing categories would reduce to a large extent the complexities arising from multiple categories and also provide the NBFCs greater flexibility in their operations. It will cover 99% of the NBFCs by number. Guidelines in this regard will be issued by the end of February 2019. [RBI press release, Feb. 7]

RBI governor Shaktikanta Das rules out asset quality review of NBFCs

Reserve Bank of India Governor Shaktikanta Das shrugged off liquidity concerns pertaining to non-banking financial companies (NBFCs) and ruled out an asset quality review in the immediate future, saying such a move might not be well-received by the market. Das told a group of 60-70 foreign portfolio investors (FPIs) during a meeting in Hong Kong on Feb. 12 that the RBI was prepared to step in to ensure that the liquidity needs of NBFCs were duly met, said sources in the know.

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REGULATORY PERIMETER

RBI NOTIFICATIONS & CIRCULARS :

Harmonisation of different categories of NBFCs: RBI/2018-19/130; DNBR (PD) CC. No. 097/03.10.001/2018-19; 22-02-2019 [All NBFCs]

Risk Weights for exposures to NBFCs: RBI/2018-19/126; DBR. BP. BC. No. 25/ 21. 06. 001/2018-19; 22-02-2019 [All Schedule Banks, Small Banks]

Interest Subvention Scheme for MSMEs: DNBR (PD) CC. No. 096/03.10.001/2018-19; 22.2.2019 [All systemically important non-deposit taking NBFCs]

Micro, Small and Medium Enterprises (MSME) sector-Restructuring of Advances: DBR.No.BP.BC.26/21.04.048/2018-19; 22.2.2019 [All banks and NBFCs regulated by the RBI]

Micro, Small and Medium Enterprises (MSME) sector – Restructuring of Advances: DBR.No.BP.BC.18/21.04.048/2018-19;RBI/2018-2019/100; 01.1.2019 [All banks and NBFCs regulated by the RBI]

RBI rings in New Year cheer for NBFCs, HFCs

Extends relief on single borrower exposure, liquidity norms by 3 months

To further facilitate more bank lending to NBFCs and housing finance companies (HFCs), the RBI has extended by three months the relaxed liquidity norms and the higher single borrower exposure rule implemented by the regulator in October.

The RBI had, in October, permitted banks to treat government securities as Level 1 HQLA (high-quality liquid assets) under the FALLCR (Facility to Avail Liquidity for Liquidity Coverage Ratio) within the SLR requirement of up to 0.5 per cent of a bank's NDTL (net demand and time liabilities) in respect of their (banks') incremental lending to NBFCs/HFCs after October 19. This facility was available up to December 31. Now, it has been extended to March 31, 2019.

Also, in October, the single borrower limit for NBFCs (not financing infrastructure) was increased from 10 per cent to 15 per cent of capital funds till December 31, 2018. Now, this has also been extended to March 31, 2019.

Reacting to the latest RBI move, Raman Aggarwal, Chairman, Finance Industry Development Council (FIDC), said: "This is a step in the right direction and will improve bank lending to NBFCs. It is a significant move but not enough." Ravindra Sudhalkar, ED and CEO, Reliance Home Finance, said: "More than the funding (liquidity window), the time extension will bring confidence to the market."He said the IL&FS crisis had led to a liquidity crunch, bringing businesses to a standstill for many NBFCs and HFCs. [Business Line, Dec. 31]

Booster shot for MSMEs: RBI allows one-time recast of standard accounts

The RBI on January 1 offered a New Year gift to micro, small and medium enterprises (MSMEs) by allowing a one-time restructuring of existing loans that are in default but "standard" as on January 1. The facility could provide a timely support to scores of MSMEs hit by the double whammy of note ban and GST.

To be eligible for the scheme, the aggregate exposure, including non-fund based facilities of banks and NBFCs, to a borrower should not exceed Rs. 25 crore as of January 1, the central bank said in a statement. The restructuring has to be implemented by March 31, 2020. "A provision of 5% in addition to the provisions already held shall be made in respect of accounts restructured under this scheme," the RBI said.

"MSMEs form an important component of the Indian economy and contribute significantly to the country's GDP, exports, industrial output, employment generation," the central bank said. "Considering the importance of MSMEs in the Indian economy, it is considered necessary at this juncture to take certain measures for creating an enabling environment for the sector," the RBI said. [Financial Express, Jan. 2]

Filing of Security Interest relating to Immovable (other than equitable mortgage), Movable and Intangible Assets in CERSAI

RBI has on Dec. 27 advised banks/financial institutions (FIs), including NBFCs to register the transactions relating to securitization and reconstruction of financial assets and those relating to mortgage by deposit of title deeds with CERSAI. In view of the fact that the extent of registration on the CERSAI portal is very low, both for current and subsisting records, Banks/FIs, including NBFCs are advised to complete filing the charges pertaining to subsisting transactions by March 31, 2019. They are also advised to file the current charges relating to all transactions with CERSAI on an ongoing basis. [RBI Circular dared 27 Dec.]

FIDC on March 20 sought clarification from CGM, RBI in view of the fact that Records of hypothecation of vehicles (CVs, UV, LCV, Cars, tractors etc.) are already available in the public domain in the RTO records. Similarly, charge on Plant & machinery are available in ROC records w.r.t. companies registered under Companies Act whether the Circular of Dec. 27, 2018 'is applicable even to vehicle financing and whether "Vehicles" are included in "Plant & Machinery" for if it were so construed, all the vehicle financing NBFCs would have to file literally all their transactions (existing & current) in CERSAI, which will run into millions'.

RBI asks P2P lenders to furnish key details

RBI has asked all registered peer-to-peer (P2P) lenders to furnish details about borrowers, lenders, their financial profiles, total exposure of participants and the financial health of the platforms themselves as it looks to assess the overall wellbeing of the sector. The regulator sent its queries to the companies earlier this month and asked them to respond in two weeks, said people with knowledge of the matter. ET understands the RBI has sent the platforms a spreadsheet that needs to be filled in. This includes data on their net owned funds, metrics such as profit, loss, operational expenses, and delinquency status of loans disbursed and overseas investments in the companies. Going forward, the platforms will have to report these numbers to the RBI once every three months.[ET Bureau, Jan. 27]

RBI eases risk weights for some NBFC loans

The RBI on Feb. 22 allowed bank exposures to all NBFCs, excluding core investment companies (CICs), to be risk weighted according to the ratings assigned by the rating agencies. RBI had said it would consider this when it released its statement on developmental and regulatory policies on 7 February and is expected to facilitate the flow of credit to well-rated NBFCs.

Exposures on rated as well as unrated non-deposit taking systemically important NBFCs (NBFC-ND-SI), other than asset finance companies (AFCs), NBFCs–infrastructure finance companies (NBFCs-IFC), and NBFCs–infrastructure development funds (NBFCs-IDF), are uniformly risk weighted at 100%.Exposures to AFCs, NBFCs – IFC, NBFCs–IDF and other NBFCs that are not NBFC-ND-SI are risk-weighted according to ratings assigned by the rating agencies accredited by RBI.

Risk-weighted assets are used to determine the minimum amount of capital that must be held by banks and other institutions to reduce the risk of insolvency and the capital requirement is based on a risk assessment for each type of bank asset.

"It has been decided that exposures to all NBFCs, excluding core investment companies will be risk weighted as per the ratings assigned by the rating agencies registered with SEBI and accredited by the Reserve Bank of India, in a manner similar to that of corporates," the central bank said. It added that exposures to CICs, rated as well as unrated, will continue to be risk-weighted at 100%. [Live Mint, 23 Feb.]

RBI to merge three categories of NBFCs to create new category

According to a RBI release on Feb. 22, NBFCs categorized as Asset Finance Companies (AFC), Loan Companies (LCs) and Investment Companies (ICs), will be merged into a new category called NBFC - Investment and Credit Company (NBFC-ICC). "On a review, it has been decided that in order to provide NBFCs with greater operational flexibility, harmonisation of different categories of NBFCs into fewer ones shall be carried out based on the principle of regulation by activity rather than regulation by entity," RBI said in a statement.

The release also mentioned that a deposit taking NBFC-ICC shall

invest in unquoted shares of another company which is not a subsidiary company or a company in the same group of the NBFC, not exceeding twenty percent of its owned fund. [Moneycontrol News,Feb. 22]

RBI Asks NBFCs to Provide Information on Moratorium Given to Borrowers: Report

The RBI has asked NBFCs to disclose the moratorium or grace period given to borrowers, says a report. According to the report from Economic Times, the recent communique from the central bank assumes significance with the promoter of a large corporate house cutting a deal with mutual fund (MF) managers to buy time, and another corporate house moving court against lenders which sold pledged shares to cut losses. NBFCs too are large lenders against shares — often funding promoters to diversify and raise stake through creeping acquisition.

RBI is understood to be closely monitoring developments relating to share pledged by promoters.

RBI may revisit the rules on loans against shares for NBFCs and banks. This could include raising the risk weightage on loans against stock," the newspaper says quoting a source. [Moneylife Digital Team, 22 Feb]

RBI raises concern over role of 'rating advisers'

Rating agencies have come under the glare after IL&FS bonds were downgraded from 'triple-A' to 'D' in just 40 days. RBI has pinpointed the conflict of interest in the functioning of credit rating agencies and is concerned over the role of the little known club of 'rating advisers', which are unregulated entities acting as brokers between companies and rating agencies. Such adviser-intermediaries are mostly hired by mid-sized corporates (and occasionally by large ones) which shop around for the best rating.

In a recent meeting, RBI governor Shaktikanta Das categorically questioned the dual practice of rating agencies to rate a bond as well as decide its valuation which is used by mutual funds (MFs) to calculate the net asset value, or NAV, of a MF scheme. Das said the two businesses pose a conflict as he asked senior agency officials present in the meeting about the share of 'non-rating activities' in earnings of rating companies. It is perceived that the motivation to downgrade a security would be lower for an agency which carries out both businesses.

Das clearly spelt out that credit rating is a different kind of business in which revenue should not be the primary objective. [ET CFO]

Shaktikanta Das, RBI Governor meets FIDC- NBFCs in January

After taking over the reins of RBI, new governor Shaktikanta Das as a part of series of meetings he held with some of the RBI regulated sectors had a dialogue with FIDC-NBFCs on January 9. Raman Aggarwal, chairman, FIDC appreciated the Hon'ble Governor's initiative to meet the representatives from the NBFC sector to have detailed discussion. Based on the discussion held during the above said meeting, FIDC submitted following issues concerning NBFC sector.

MUDRA was setup with the prime objective of refinancing banks, NBFCs and MFIs for on-lending to non corporate small businesses. But eligibility norms to avail Refinance from MUDRA were a stumbling block for small & medium NBFCs. So eligibility norms for NBFCs for availing refinance from MUDRA should be made favorable by: [i] Allowing all RBI registered NBFCs to avail refinance; [ii] External Credit Rating criteria may be replaced by prescribing some additional financial parameters to be met, which may be more realistic and doable; [iii] The cap of 6% on the maximum spreads allowed should be done away with, since market forces ensure that the rates are within acceptable limits; [iv] Systemically Important NBFCs should be allowed to act as Aggregators by availing refinance from MUDRA for on lending to small and medium sized NBFCs.

To ensure a structured dialogue on a regular basis with the regulator, at least 2 meetings of FIDC Office Bearers with the Governor / Deputy Governor should be held in a year and meetings at the DNBR / DNBS level must be held on quarterly basis.

In the light of the prevailing scenario, it is required that the Securitization Guidelines may be amended so as to do away with the prescribed Minimum Holding Period (MHP) and Minimum Retention Requirement (MRR).

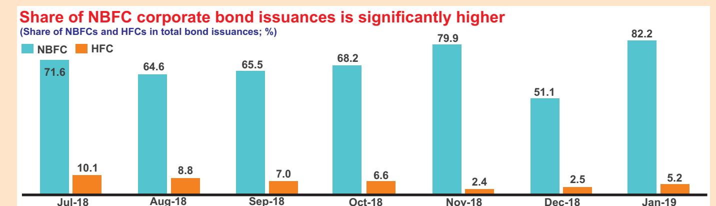
[Continued to page-9]

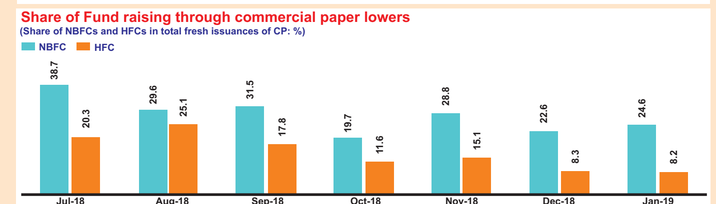
HAVE FUND-RAISING CONCERNS FOR NBFCs EASED?

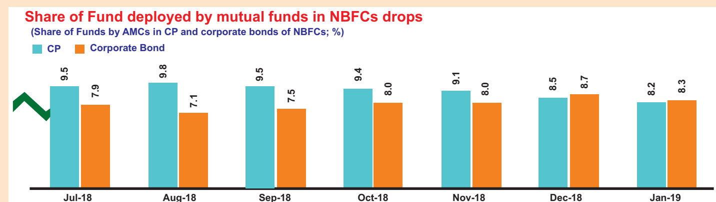
In January, there was an uptick in the share of corporate bond issuances by the NBFC sector, reflecting renewed confidence among issuers and investors.

The fund-raising challenges of non-banking financial companies (NBFCs) because of asset-liability mismatch seem to have eased marginally. In January, there was an uptick in the share of corporate bond issuances by the NBFC sector, reflecting renewed confidence among issuers and investors. In fact, the proportion of fresh corporate bond issuances by NBFCs saw a notable decline from 71.6% in July last year 64.6% in August. In January, according to a CARE Ratings study, it rose to 82.2% of the corporate bond issuances.

Similarly, the proportion of fund-raising through commercial paper for the NBFC sector was significantly low at 20%, or one-fifth of the total issuances in October last year. However, the share increased in November, before declining in the next two months.

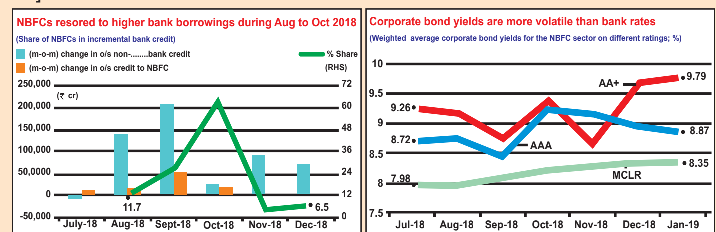


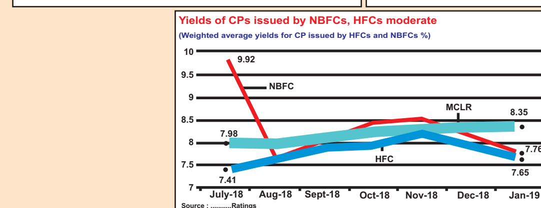




During the peak of the liquidity crisis, NBFCs resorted to higher bank borrowings. The incremental bank borrowings rose to '56,499 crore in September last year, which was about Rs. 45,000 crore higher than the incremental bank borrowings in July. However, November and December have seen a notable moderation in incremental bank credit, indicating that NBFCs are borrowing from the bond market.

The study shows that there is more volatility in the changes in the corporate bond yields in comparison with bank rates. For AAA category, the yields which rose by around 78 basis points in October last year have seen a month-on-month decline in the following three months. The yields have declined by 37 basis points from 9.24% in October last year to 8.97% in January this year. [FE Bureau, February 23]





NATIONAL E-GOVERNANCE SERVICES LIMITED, AN INFORMATION UTILITY FOR IBC

Shri S Ramann

"Mr S Ramann, MD & CEO,NeSL. National e Services Limited is a information utility which has been set up under the IBC and set up by the insolvency Board of India which going forward is going to be a real game changer when it comes to handling any type of contracts including the financial contracts." -Raman Aggarwal, Chairman, FIDC.

NeSL- National e-governance Services Limited- has been set up by the banks and having said that I must share with you that while have gone and knocked the doors of 40 banks and probably another 25 NBFCs in the course of setting up this institution and the work that we are doing, 2 NBFCs said, why don't you give equity stake to an NBFC for which I had absolutely no answer. I am already making that disclosure right now upfront, but the fact is that in all senses something like NPCI we have 17 shareholders, 13 of them banks, insurance companies and one depository. It is incorporated as a union government company.

It is a company that has been set up wholly to take care of informational needs under the IBC. Dr Umarji was saying that IBC is all about timelines. I'd like to give my little definition to IBC. IBC is about better enforcement of contracts. By just presenting IBC and rolling it out India moved from 130 to 100 on the EoDB index and if we now see the remaining part of IBC rolling out, I wouldn't be surprised we will reach 50 soon.

It will be run on principles of a public utility. It is about ensuring that your debt is completely undisputed in the hands of a neutral third party. So the entity NeSL, is Information Utility (IU) if you read the regulations. We are the custodian of data.

All compliments to Dr Umarji and the entire team which was behind this law. It's very futuristic law. It is about putting your data into a particular electronic repository and making that data into legal evidence and this happens by simply the implementation or the effect of the Evidence Act. You digitally sign your data; you upload it on to the information utility. Utility sends it across to the borrower. He has a chance to verify it and it is authenticated by both parties, irrepudiable under the court of law. I have faced several hundred questions and I am happy to face them again at all points of time, this legal evidence could be used in any Court of law. The preference is really under IBC whether it be NCLT today or DRT tomorrow as and when it comes. There is a direct entry because you don't need to prove that debt any further. So the law gives you virtually a direct entry and an admission of the case. That is really where the power of the IPC comes in because as it is known to all of us the debtors today tremble because the minute as a corporate you go into CoC you are unseated from management immediately. Your entire company vests with the IP. That is the power of the IBC.

IU is really that instrument or that pillar of IBC which makes those timelines happen. You have no idea; you are just one among several lenders. There are host of operational creditors also with that particular debtor, somebody declares a default, the IU has a duty of telling all stakeholders, be they financial creditors or operational creditors that there is a default for this particular X company. There is an immediate broadcast that is done. The next day you can pull your data from the IU, put it into the relevant form and you want to file the petition in NCLT that's your choice or your claim can go directly to the IRP who will invite the claims within 7 days of the declaration or the admission of the case. It is all about how quickly you can enforce your claim.

Just 2 months ago the law was amended to make homebuyers as financial creditors. My own personal view is that this law is implemented because of Dr Sahu's own personal energies and the way he has gone about it. The immediate thing was what IU can do for making the homebuyers be able to file their claim or their rights onto the IU. So you file your rights or you file your contract upfront into the information utility. You secure it because both parties have agreed and accepted the entire contract.

Going forward in whatever periodicity you choose, some banks are uploading or submitting data every month, somebody else may choose to do once in a quarter, somebody may choose to take high risk accounts and put it on a weekly basis. It is really up to you how you want to do it because the Information Utility will allow and will interact with any particular person either through an SFTP mode or API mode whatever is suitable. The point is that you are ready at any point of time having agreed with your data that this is the original contract and this is the outstanding balance. You are continuously getting their outstanding balanced also validated as time goes.

The question is that where is it in the law which makes the borrower comes and authenticate, answer is it is not there in the law. The larger issue is that as we evolve, as a society people will start asking show me your authentications on the IU, that will be a clear indicator to them behaviour of that borrowers. IBA has implemented this for the banks where they have put in a clause where it makes it obligation as per the Contract for the borrower to co-operate with the lender by authenticating on the information utility.

The larger future piece which is more savvy amongst the lenders and if you ask me, my own interaction with banks and NBFCs led me to clearly understand that the NBFCs pick up things much faster. The Demat of contracts - tomorrow you can visualize your contract going on IU platform, there is online stamp duty which we have now, and we are working with Stock Holding Corporation to make that happen. They have already invited us to do a testing of that.

We have taken it to the regulator. I have personally taken it to DFS, MCA all the relevant ministries. The idea is that online stamp duty will make the process of execution of contract a couple of minutes. Both lender and borrower will come on to the platform digitally signed, you store that contract on your end, one copy goes to borrower, the IU stores the contract because the IU is anyway mandated as per law to store the data and the supporting documents of every contract.

We are talking about some amazing transformational effects of this as we go into the very near future. You can actually talk about paperless lending. In the morning someone was saying the P2P platforms might still be enabling that but today the fear is that without a paper contract where we will be. There is a lot of movement and I can only say that I'm just cogging the wheel but you feel that you are slightly energetic cogging the wheel to take things forward. I will be happy to discus finer points with any of you after this.

Session Moderator: Raman Aggarwal: We seek your thoughts and clarification on two more points. **One**, now we have a multiplicity of agencies where you need to file data. We have CERSAI where we go and register and file data. That itself becomes a stumbling block in terms of the manpower, the cost, resources etc involved. I know you've been working on that part also.

Secondly, when you talk about the Demat of the contract which of course going forward will be the order of the day, what obviously comes to mind is the stamp duty implications, because when it comes to any litigation the entire genesis of this comes to the place of signing the contract and moment you talk of something electronic, place goes into thin air. As they say the whole world is my home. Such issues how do you think can be taken care of?

Shri S Ramann: With regard to the place, my own understanding from the technology people who have been helping us in this entire process and we have got some of the finest people who have implemented the Aadhaar project, GSTN project, some of those brains are lucky available to help us. We need to understand that nothing will get changed. We are going to mirror the process as it takes place today. It is simply a platform on which signing takes place. The location will still be Delhi if it is chosen to be Delhi, if it's Chennai it is Chennai. You are going into a particular platform which is a pure facility which allows for signatures to be affixed. The stamp duty as applicable to that particular jurisdiction will get applied. Nothing will change, nothing is sought to be changed. We are talking about a much larger concept if stamp duty starts becoming uniform in this country but frankly we all know it took 10 years for GSTN to come in.

Somebody was saying if stamp duty could just be made part of GSTN and that might just take care of all the problems but I really don't know how it will happen. I don't see a problem at all; in fact we have run this through some of the finest legal people as well as the technology people. It is merely creating a facility which allows a physical signature to be replaced by Digital Signature which anyway is today happening. I was surprised there are such great Fintechs in our country, nearly all employer-employee contracts are just digital signatures. We have already moved ahead.

The first question was about data - great question, answered many times to many banks and to so many people who ask that where is the architecture of this country going? How many people are going to ask for data? How often are you going to ask for it? Yesterday we were with the PCR committee of RBI. That's another one which is coming in. We

should all debate this and talk about it completely transparently. Day before yesterday I was with DFS. We have about 60% of the loans outstanding as per the RBI statistics for commercial banks have already been filed into the information utility. If you talk 30 lakh crores of lending to companies by scheduled commercial banks we have about 60% of that in the IU. So government is now saying how do we utilize the data that you have got. How do we do the slicing and the dicing in order to get better trends which can help policy formulation?

One point is very clear that we do not wish to duplicate data and therefore going forward with the demat of contracts. Once that is done on the platform the uploading of data to CERSAI will happen automatically because you are filling in data regarding the contract and there is a format of the contract, so the data is just filling up those blanks which are already there as part of the contract format. So the data is being stored in the IU. So you have metadata which is available in the IU and it is that very data which goes and you upload separately as a process under CERSAI. The same thing holds good with MCA21. Both these registries, as they are statutory registries of the government, they can be uploaded at the same time once the execution of the contract takes place. I really do not want to provide some very very wrong notions of where this will go because we all have dealt with this country, we know things take time but with the momentum that IBC has gathered, with the way the Ministry of Corporate Affairs is going ahead with demat of all shares. We are talking about unlisted companies getting into Demat of shares, from 2nd October all issuance of shares is in Demat form whether it is listed or unlisted. There is a lot of movement happening so my hope is that both CERSAI, MCA21 which between themselves have failed to do any kind of harmonious interaction, we hope that from ease of doing business we should be able to try and help the contract execution process and thereby also make the statutory filings happen in the same process.

Question: Mr Ramann spoke about the stamp duty on the electronic contracts. First of all most of the states don't offer the facility of e-stamping, so we still have to rely on physical stampings where end to end electronic contract as of today doesn't seem possible. Secondly how do you attach the stamp paper to the agreement to comply with the provisions of the stamp act? What are the various ways in which that is looked upon?

Answer: The understanding right now is that it's a matter of the states accepting a new version which is an online stamp duty. As I said there are several hoops still to be jumped through but with the backing of the central government because they are completely sold on this as a way forward for the country; so there will be a phase where each state would have to accept this particular process. Stock Holding Corporation which is currently doing e-stamping I was told in about 20 out of 29 states but the figure may be different, but nevertheless the new process of online stamp duty would have to have an acceptance in states. That is a process that will go through but I think it will be enabled with the central government also coming in. The only thing which I have understood clearly is that there is no need for any change in any Act. There is no amendment of an Act required. That's a good part. Amendment of Act in this country can take its own time.

Question: I have a questions regarding the information utility because information utility is the concept where you have to record the default online and this is a set of processes which you have to fill up the form and give the information. But some time certain information are not available, I have come across a case where the details of the cheque, where the payment was given was not available, though it was duly recorded in the balance sheet, the debt amount. In that scenario information utility has refused to register the claim.

Answer: Do tell me about this case I'll be happy to separately discuss with you. The good thing is we have issued 87 default certificates largely to operational creditors because those have been the smarter adopters of this new act and I know for a fact that two people, by the way I am not even privy to the contract I don't even know what's in the contract. I am custodian with blindfold on the eyes. But two operational creditors did write emails to us saying that after we put in the data into the information utility it was automatically sent to the purchaser and debts which were upward of 300 and 500 days unpaid got paid. The reputational risk that people run by not making payments has now come to the fore and people are quite clear. But I am happy to discuss your case.

Question: If 'A' NBFC lends to 'B' NBFC and 'B' NBFC defaults, what are the options available?

Answer: File a suit for recovery. One part is there is an action for recovery of the defaulted loan, if you have taken any security and if the amount of the loan is more than one crore you can enforce the security under Sarfaesi. The other action is that if the insolvency law becomes applicable to NBFC file insolvency petition against the defaulting company. As of now the IBPC option is not available.

[Presentation at 5th National Summit NBFCs-2018: Increasing Role of NBFCs in Building a New India at Mumbai on 11 Oct. 2018]

BORROWING COSTS INCREASE MOST FOR AA- RATED NBFCS

According to a study by rating agency CARE, NBFCs had a share of 70-75% in total issuances in the corporate debt market. The study has analysed the movement in average interest rates of private placements of NBFCs during April-November 2018 across various credit ratings (ranging from AAA to AA-).

Borrowing costs of AA- rated NBFCshave increased the most in the current fiscal. But higher rated NBFCs have done better than most other borrowers, with their increase in costs being lower than rise in banks' weighted average lending rate. According to a study by rating agency CARE, NBFCs had a share of 70-75% in total issuances in the corporate debt market. The study has analysed the movement in average interest rates of private placements of NBFCs during April-November 2018 across various credit ratings (ranging from AAA to AA-).

COSTLIER FUNDING

Increase in cost of funds in Nov '18 over Apr '18 (in basis points)

	AAA	AA+	AA	AA-
NBFCs	90	-56	12	219
HFCs	95	95	126	-
Non-NBFCs	96	163	67	15

Weighted average lending rate of banks | **40 basis points**

(1%age=100bps)

"The basic idea is to test the hypothesis of whether or not NBFCs witnessed a higher cost of borrowing over this period due to liquidity concerns," said Madan Sabnavis, chief economist of CARE. While the study does indicate that NBFCs have seen an increase in borrowing costs, it is not conclusive that the entire industry is under stress. "NBFCs have witnessed higher cost of borrowing in general after August 2018. However, this has not been uniform across three categories — NBFCs, housing finance companies and all India financial institutions," it said. For instance, AA- rated finance companies had to pay out 11.17% on bonds issued in November 2018 as against 8.98% in April, an increase of 219 basis points. But AA+ rated NBFCs have seen their costs drop during this period. Also, AA+ rated corporates have seen their costs go up to 11.5% in November 2018 from 9.87% in April 2018, showing that the increase in borrowing cost was not limited to finance companies. More importantly, interest rates of banks have also moved up during this period and hence the cycle of interest rates has moved up based on RBI policy actions. "Interest rates in corporate bond market were still more competitive than bank loans for most months. Also non-NBFCs have also witnessed such variable trends in rising interest rates and hence the post August scenario was not restricted to just NBFCs," said Sabnavis in the report.

The other finding is that while the cost of borrowings soared in October, there was a sharp drop in November due to measures taken by the government and the Reserve Bank of India. In the April - November 2018 period, the cost of bank loans have risen by 40 basis points. This is reflected both in the average marginal cost of lending rate and the weighted average lending rate. [Mayur Shetty,TNN, December 27]

DIGITISATION CAN DRIVE GROWTH OF UNSECURED LOANS

Mohan Jayaraman

The share of NBFCs in unsecured loans has gone up from 13% in September 2017 to 18% in September 2018 Between September 2017 and September 2018, the portfolio for unsecured loans was up 35% as against 21% for secured loans

Consumption

The World Bank, among others, is expecting that India will remain the fastest growing economy for at least the next three years. Positive demographics are boosting disposable income of Indian households as an increasing number of the younger population joins the workforce. By 2030, India is expected to have the largest working-age population in the world of about 962 million. Rising disposable income along with improved access to credit, in turn, is driving private consumption—the main pillar of our economy.

Digitisation

One of the biggest catalysts for rise in consumption has been technology. With the availability of consumer data, technology has also helped in easing the lending process for banks and financial institutions. Owing to the digitisation initiatives of the Centre, there is greater use of technology in the credit evaluation process. Banks and financial institutions, with their increased access to consumer credit data (approximately 700 million accounts), facilitated by the credit bureaus, can make informed decisions faster after studying a customer's credit history. The loan sanction process has, thus, been reduced to minutes from days once a customer's creditworthiness is evaluated. Additionally, with the availability of alternate data, bureaus can pass on intelligence on new-to-credit customers, thereby gauging their propensity to payback a loan within a stipulated time frame.

Rise in 'Unsecured' loans

In keeping with the boost from positive demographics and digitisation-assisted lending channels, customers are increasingly displaying an openness for unsecured borrowings. This has propelled the growth of unsecured loans to exceed that of secured loans. Unsecured loans are loans given without collaterals and comprise consumer loans, personal loans and credit card borrowings that one can see in a typical retail portfolio. Secured loans, in contrast, are backed by collaterals and include home loans, auto loans and loans against property. Between September 2017 and September 2018, the portfolio for unsecured loans was up 35% as against 21% for secured loans. The quantum of portfolio showed a similar trend with unsecured loans growing by 29% compared to a growth of 22% in secured loans. To keep their portfolio in check, banks and non-banking finance companies (NBFCs) have enlisted the services of bureaus and fraud detection CUGs (closed user groups). These CUGs prevent application fraud by matching credit application data against multiple data sources including the shared fraud data which helps in early detection and prevention of fraud.

NBFCs spurring growth

NBFCs have been spearheading the growth of unsecured loans in the country, especially since August 2017. The share of NBFCs in unsecured loans has gone up from 13% in September 2017 to 18% in September 2018.

The tremendous growth in unsecured loans has been equitably contributed from its different product categories. Personal loan sanctions (by count) grew the fastest at 59% followed by consumer loans (51%) and credit cards (28%) in the September 2018 quarter vis-a-vis the September 2017 quarter. NBFCs have been growing rapidly in the segments of personal loans and consumer loans, while banks dominated the credit card space.

The momentum continues

Lastly, with the continuous focus by successive governments on financial inclusion and digitisation, the unsecured loan segment is expected to grow further. With new start-ups and e-commerce brands offering credit on one's finger tips and within a matter of seconds, credit bureaus have a greater role to play to ensure credit is offered to the right customer for the right amount. [Abridged article. Live Mint, Feb. 14. Mohan Jayaraman is managing director, decision analytics at Experian Asia Pacific] ■

OVERREGULATION AFFECTING LIQUIDITY, HURTING SECTOR: NBFCs TELL PM MODI

Subhayan Chakraborty Somesh Jha & Abhijit Lele

On behalf of the NBFCs, Assocham submitted a detailed memorandum to the Prime Minister, highlighting key issues and suggestions, along with demands

Backed by industry body Assocham, some key NBFC players on Dec. 26 met Prime Minister Narendra Modi to bat for easier regulatory norms, highlighting how "over-regulation" is affecting their liquidity and "crippling" the sector.

On behalf of the NBFCs, Assocham submitted a detailed memorandum to the Prime Minister, highlighting key issues and suggestions, along with demands that are aimed at improving the flow of credit to NBFCs and ease liquidity situation. NBFCs complained to the government that the "fund raising activity still remains highly restricted, creating a fund crunch." "Regulation with the objective of aligning it with that for banks is leading to overregulation where NBFCs are being treated like banks. This is hampering the growth of the unique NBFC model of lending, which has successfully withstood the adverse scenario such as the 2008 global crisis and the recent liquidity crisis," the memorandum of demands stated.

Among those who attended the meeting included Dinanath Dubhashi, managing director and chief executive, L&T Finance Holdings, Raman Aggarwal, chairman, FIDC, and Umesh Revankar, managing director of Shriram Transport Finance Corporation.

In the meeting with the Prime Minister, the liquidity situation was discussed at length, sources said. "The sector needs a series of steps to boost sentiments. Following the IL&FS crisis, all the commitments (in the form of commercial papers) have been rolled over and there has not been a single default. We need steps to ease fund raising," a person, who was part of the meeting, said.

Proposing a dozen liquidity relief measures, Assocham said in its memorandum that the RBI should consider providing liquidity window for NBFCs and HFCs against sale of secured loans "by taking appropriate margin on these secured loans". It further asked for a refinance window from the National Housing Bank and the RBI at a higher rate to "help restore confidence in the sector".

"MUDRA [Micro Units Development and Refinance Agency Bank] norms for refinancing NBFCs need to be changed to make them viable and acceptable to small and medium NBFCs. This shall also give a tremendous boost to the growth of MUDRA in meeting its desired objectives," the memorandum said.

Another key demand was to allow "systemically important" NBFCs to accept public deposits, sources said. Only 100 of over 11,000 NBFCs are allowed to accept public deposits by the RBI now.

NBFCs, which have a critical mass, should be allowed to convert into banks with little hassles, the industry told the PM, sources said. "Though, prevailing regulation does not prohibit NBFCs from converting to banks, the process and rigour is a long and complicated one, and licences are not forthcoming," the memorandum further said. The industry body sought a different treatment to application from NBFCs, which want to convert to a bank from any other banking license application. "Since NBFCs are already subject to both onsite and off-site inspection and regular submission of returns to the RBI, due diligence of NBFC Application for a banking licence should be less time-consuming," the memo said.

Other key demands

- Doing away with tax deduction at source on interest income and lease rentals on movable assets
- Withholding tax exemption for masala bonds to be extended by another year
- Allowing NBFCs access to the CRILC database, Aadhaar and GST databases
- All housing finance companies should be permitted access to NHB refinance facility
- Minimum Holding Period (MHP) should be reduced to three months for loans having a maturity of 2-5 years
- Risk weights for NBFCs should be reduced
- Maintain the RBI's existing Asset-Liability Management norms till normalcy is restored. [Business Standard, Dec. 26] ■

"To RESOLVE THE CREDIT CRUNCH FOR MSMES, NBFCS NEED TO BE EMPOWERED. IT IS ABSOLUTELY ESSENTIAL TO HAVE AN ALTERNATIVE REFINANCING WINDOW FOR NBFCS TO RESOLVE THE LOOMING CRISIS."

Raman Aggarwal

Chairman of Finance Industry Development Council (FIDC)

[Entrepreneur, Feb. 2019, P. 59]

Liability of a personal guarantor survives a resolution process under the IBC: NCLAT

The National Company Law Appellate Tribunal (NCLAT) has ruled that a personal guarantor's right to subrogation against a corporate debtor can be taken away in a resolution plan under the Insolvency and Bankruptcy Code (IBC). Simply put, a personal guarantor has no right to step into the shoes of a creditor against the 'corporate debtor' (company going through IBC) in case of a resolution plan under the IBC.

This ruling came in an appeal filed by 'Lalit Mishra & Ors', the promoters of Sharon Bio Medicine Ltd (corporate debtor), against the February 28 order of NCLAT, Mumbai. Subrogation refers to the substitution of one person or group by another in respect of debt or insurance claim, accompanied by the transfer of any associated rights and duties.

Expert take: Saurav Kumar, partner, IndusLaw, a law firm, said that the judgment confirms the NCLAT's stance on no subrogation rights of a surety in case of a personal guarantee, i.e the right of a personal guarantor to step into the shoes of a creditor against the corporate debtor in case of an IBC resolution. However, the court has not clarified two aspects (a) whether such a situation would only be for a promoter-based personal guarantee, or if it could extend to a third-party personal guarantee; and (b) whether such right of subrogation is automatically taken away once a resolution plan is passed or whether it is a matter that needs to be decided in terms of the resolution plan and the committee of creditors.

"To me it seems that the latter is more likely the intent of the judgment. With this judgment most positions is now clarified on personal guarantees and, accordingly, it may be understood that the liability of a personal guarantor survives a resolution process under IBC. However, any right of a personal guarantor (at least in case of a promoter personal guarantee) can be withdrawn as part of the resolution process," he said. The judgment further empowers the committee of creditors on making decisions on a resolution plan rights and liabilities of personal guarantors, said Kumar. [Business Line, Dec. 24]

SC upholds validity of Insolvency and Bankruptcy Code in its entirety

The Supreme Court on January 25 upheld the constitutional validity of the Insolvency and Bankruptcy Code (IBC) in entirety, quashing a bunch of petitions that had challenged several provisions. It also upheld the ban on promoters bidding for defaulting companies. A two-judge Bench also rejected pleas to treat operational and financial creditors on a par. Nearly 40 operational creditors had challenged various provisions of the IBC. Holding that operational creditors [unsecured debt] were involved only in recovering amounts paid for their services and would typically be unable to assess viability and feasibility of business, the SC dismissed their claim that IBC was discriminatory. The objective of IBC was resolution of debt of the corporate debtor and repayment to financial creditors so that they can lend again to new entrepreneurs, it said. [Business Standard, Jan. 26]

NCLAT: SC directs Centre to set up circuit benches in 6 months

The Supreme Court has directed the Centre to set up 'circuit benches' for the National Company Law Appellate Tribunal (NCLAT) in the next six months. Currently, NCLAT functions only out of the national capital. This direction came in a apex court judgment—delivered by Justices R F Nariman and Navin Sinha—dismissing 10 different petitions challenging various provisions of the Insolvency and Bankruptcy Code (IBC). The setting up of circuit benches for NCLAT is expected to ensure additional presence of this Tribunal in many cities, provide convenience for appellants, who otherwise had to travel to Delhi, and expedite disposal of matters. "The Central Government should consider a combination of permanent benches and circuit benches across the country, which will allow for effective implementation of remedy under the Code", Saurav Kumar, Partner, IndusLaw, a law firm said. [Business Line, Jan. 26]

IBC reigns supreme over other civil laws, says Delhi High Court

The Delhi High Court on Feb. 22 upheld the supremacy of Insolvency and Bankruptcy Code (IBC) over other civil laws such as those of contracts and guarantees and said that only the National Company Law Tribunal (NCLT) or similar adjudicating authorities should deal with the cases falling under the code.

If civil courts were to pass any orders in matters pertaining to IBC, the entire corporate insolvency resolution process pending before NCLT would be "put at naught" as "non-serious applicants" would submit resolution plans for consideration before the Resolution Professional (RP) and Committee of Creditors (CoC), and then not abide with it once it is approved, said a single judge bench. This in turn, would lead to wastage of time, which could make resolution of corporate debtors unfeasible. In such cases, liquidation of the company would be the only alternative left owing to the time lapsed, the court said. The observations by the court came while delivering a judgement in a plea moved by Liberty House Group against State Bank of India (SBI) and others. [Business Standard, Feb. 22]

Aadhaar Ordinance gets cabinet nod to allow its use as ID proof for bank accounts, SIM connection

The Cabinet on 28 Feb. approved the promulgation of an Ordinance to allow voluntary use of Aadhaar as identity proof for opening bank account and procuring mobile phone connection. The Ordinance was necessitated as a bill, passed by the Lok Sabha on January 4 but pending in the Rajya Sabha, would have lapsed with the dissolution of the current Lok Sabha.

The amendment provides for stiff penalties for violation of norms set for the use of Aadhaar and violation of privacy. It bans storing of core biometric information as well as Aadhaar number by service providers in cases of individuals who have voluntarily offered the national ID as a means of authentication. "Aadhaar can be used as KYC on a voluntary basis under the Telegraph Act and PMLA rules. Any entity using Aadhaar will have to adhere to privacy guidelines," IT minister Ravi Shankar Prasad said. The amended law makes it clear that anyone not offering Aadhaar cannot be denied any service, be it opening of a bank account or obtaining a mobile phone SIM card. The amendments will "provide for 12-digit Aadhaar number and its alternate numbers to be generated" in a manner so as to conceal the actual Aadhaar number. [Zee Business/PTI, Feb. 28]

Try cheque cases, IPC offences separately

A complaint of dishonour of cheque under the Negotiable Instruments Act cannot be clubbed with offences of cheating and other offences in the Indian Penal Code and tried together, the Delhi High Court stated in its judgment in the case, SO Infosys vs this case, there were four cheque bounce complaints against the accused firm. There was another complaint that was inquired into by the Economic Offences Wing and a charge sheet was filed in it. All of them came before the same metropolitan magistrate. The accused persons moved an application before the magistrate to hear all the cases together as the facts were common. He rejected the prayer. The high court dismissed the appeal stating that though the facts in the cheque case are relevant to the penal code trial, the offences in the cases are different and the procedure is also different. Therefore, they cannot be tried together.

DRT to deal with loan default

The Gujarat High Court last week dismissed a petition challenging the action of a bank taking over possession of the assets of a company that allegedly failed to repay a loan. The judgment in the case, Bengani Udyog Ltd vs Small Industries Development Bank, emphasised that when the company can raise its arguments at the Debt Recovery Tribunal, it was not proper for the high court to pass an interim order. The company must first exhaust alternative remedies available under the Securitisation (Sarfaesi) Act before approaching the high court, the judgment said. That Act is a complete code in itself, even providing for appeals. The court further stated that this being a financial matter, grant of any interim order would be injurious to the other side as it involved public money at tax payers 'expenses. Therefore, the court would be extremely slow in exercising its discretion to grant stay, particularly in a matter under the Securitisation Act.

Individual Insolvency Code may soon be a reality

Failure to repay home loans might drag future defaulters to dedicated bankruptcy courts as New Delhi is seeking to put in place a broad framework on individual insolvency two years after it revamped such laws for stressed companies. Three sets of entities will fall under the individual insolvency code. They would include the personal guarantor to corporate debtors, proprietary firms and other individual borrowers, M S Sahoo, chairman of the Insolvency and Bankruptcy Board of India (IBBI), said on Feb 15. "The work is progressing, but I cannot comment on any timelines," said Sahoo. [ET Bureau, Feb. 16]

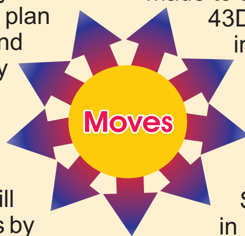
Pre-packaged bankruptcy scheme to speed up insolvency resolutions pre-IBC

The government is exploring the feasibility of implementing a so-called "pre-packaged" bankruptcy scheme, prevalent in countries like the US, in India to aid the existing insolvency framework and cut costs and time of the resolution process.

The planned scheme, if implemented, will be a "pre-IBC (Insolvency and Bankruptcy Code) window for the resolution of stressed assets, which will complement the existing framework and not substitute it," corporate affairs secretary Injeti Srinivas told FE on Monday. The secretary has asked the Insolvency and Bankruptcy Board of India to weigh the proposal and see if it can be adopted.

Explaining the idea of the proposed scheme, Srinivas pointed out that it won't seek to dilute the existing IBC framework in any way and creditors can still tap the current IBC window if they don't want any pre-IBC negotiations with debtors. The proposed scheme will only be an additional tool at disposal in case both creditors and debtors wish to avoid the usual litigations and rigour of the resolution process under the current IBC framework, which has been, in any case, immensely successful.

The "pre-packaged bankruptcy scheme" will typically allow a stressed company to prepare a financial reorganisation plan with the approval of its at least two-thirds of creditors (and share-holders) before the filing of an insolvency application by any party at the National Company Law Tribunal (NCLT). The resolution plan so reached can then be placed before the NCLT for approval, so that it can be implemented.



Since the plan is already endorsed by the lenders, it will effectively bypass various requirements and interventions by the NCLT at different stages under the usual IBC process, thus reducing litigation costs and delays. It will also help to decongest the over-burdened NCLTs. [FE Bureau/Business Standard, Nov. 27 & Feb. 7]

Government will soon start selling vehicle's registration data

The government has just approved a policy that seeks to sell vehicle registration data to individuals and organizations that can pay for it. It is called 'Bulk Data Sharing'. A total of 28 fields of data that encompasses multiple details about a vehicle's registration will be shared, and this will include the vehicle's registration number, financing, and insurance details and more. However, the name of the individual owning the vehicle will not be shared. Commercial organizations and individuals can access this data who will have to pay Rs. 3 crore per year to access this data, beginning from 2019-20. As for educational institutions, the fee will be just Rs. 5 lakh/year. [CarToq, March 13]

Unregulated deposit ordinance creates central repository of registered firms

Financial Services Secretary Rajiv Kumar on Feb. 22 said the Banning of Unregulated Deposit Scheme Ordinance promulgated by the President will help create a central repository of all the registered entities that can take deposits. The repository will help put a check on illicit deposit-taking activities that dupe the poor and the financially illiterate of their hard-earned savings, he said.

"The Ordinance makes it absolutely necessary for everyone to register before taking a deposit and creating a central repository of all the registered entities which can take deposits. So, whosoever is not registered are not regulated entities," he said.

From now on, there is a complete ban on unregulated deposit and anyone promoting this will be punishable, he said. "It also says you cannot dupe anybody as an agent or even as advertisement, you cannot give face to that scheme which is not regulated by any agency," he added. The Lok Sabha passed the Bill to this effect on the last day of the budget session by a voice-vote, but the legislation could not get the approval of the Rajya Sabha. Earlier this week, the Cabinet has requested the President of India for promulgation of the Unregulated Deposit Schemes Ordinance, 2019.

Subhash Chandra Garg, Finance Secretary

The law also proposes to create three different types of offences — running of unregulated deposit schemes, fraudulent default in regulated deposit schemes, and wrongful inducement in relation to unregulated deposit schemes.

The Ordinance also provides for severe punishment ranging from 1 year to 10 years and pecuniary fines ranging from Rs 2 lakh to Rs 50 crore to act as deterrent. It also has adequate provisions for disgorgement or repayment of deposits in cases where such schemes nonetheless manage to raise deposits illegally. The law provides for attachment of properties or assets and subsequent realisation of assets for repayment to depositors. Clear-cut timelines have been provided for attachment of property and restitution to depositors.

It also enables creation of an online central database for collection and sharing of information on deposit-taking activities in the country. Being a comprehensive union law, it adopts best practices from state laws, while entrusting the primary responsibility of implementing the provisions of the legislation to the state governments. [Deccan Chronicle/PTI, Feb. 22]

[Continued from page-11]

FIDC pleads for amendment of Section 43D, 43B and 194A (3)(iii) and Rule 6EA of I T Act

FIDC took up on March 20 with CBDT for amendments needed to be made to section 43D of the I T Act, to extend the benefit of section 43D to "Non- Banking Financial Company", whereby interest income on non-performing assets should be taxed only on receipt basis. Moreover, consequential amendment should also be made in Rule 6EA of Rules, which provides special provision regarding interest on bad and doubtful debts of banks and financial institutions, to include the "Non- Banking Financial Company" as well. Similarly, consequential amendment should also be made in section 43B of the Act which provides a list of deductions which are allowed to the payer on actual payment basis.

An amendment is also requested to be made in the section 194A (3)(iii) of the Act, which provides no withholding of taxes is required to make payment to Banking company, Life insurance companies etc., to include the "Non- Banking Financial Company" along with such other institutions, pleaded Shri Mahesh Thakkar, director general, FIDC in representations to Shri Aditya Vikram, Member (IT& Computerisation) CBDT and Shri Akhilesh Ranjan, Member (Legislation) CBDT.

NBFC Conclave: "NBFCs: Leapfrogging to Prosperity"

NBFC Conclave: "NBFCs: Leapfrogging to Prosperity" was organised by Eventalist at MMRDA Grounds, Mumbai on 24th January 2019. It was supported by FIDC. Banking Frontiers, the country's 1st BFSI magazine with total B2B focus on NBFC sector had organized 3 city NBFC Direction. Shri Mahesh Thakkar, directot general, FIDC delivered Key note address at the event.

Mahesh Thakkar, Director General, FIDC addressing on "Investors Outlook: Opportunities for the NBFC Sector" at 7th MINE India 2019 Summit at Hotel Eros International, Nehru Place, New Delhi on 22nd February, 2019.

6th NBFCs 100 Tech Summit, New Delhi

NBFCs have outperformed banks. Magnifying the importance of NBFCs in India, Elets Technomedia's premier NBFC summit is organising its 6th chapter in New Delhi. 6th NBFC100 Tech Summit will commence on 15 March, 2019, amalgamating leaders from across NBFCs, Micro Finance Institutions (MFIs), housing finance institutions, Small Finance Banks and Payments Banks. FIDC is Supporting Partner.

BALANCE SHEET SIZE OF THE NBFC SECTOR INCREASED TO Rs. 26 TRILLION IN SEPTEMBER 2018: FIN. STABILITY REPORT OF DEC. 2018

As of September 30, 2018, there were 10,190 non-banking financial companies (NBFCs) registered with the Reserve Bank, of which 108 were deposit accepting (NBFCs-D). There were 276 systemically important non-deposit accepting NBFCs (NBFCsND-SI)34. All NBFC-D and NBFCs-ND-SI are subjected to prudential regulations such as capital adequacy requirements and provisioning norms along with reporting requirements.

PERFORMANCE

The aggregate balance sheet size of the NBFC sector increased to Rs. 26 trillion in September 2018 from Rs. 22.2 trillion in September 2017 expanding by 17.2 per cent. There was 5.8 per cent increase in share capital of NBFCs in September 2018 whereas borrowings grew by 17.2 per cent. Loans and advances of the NBFC sector increased by 16.3 per cent and investments increased by 14.1 per cent (Table 1):

Table 1 : Aggregated balance sheet of the NBFC sector : y-o-y growth

(Per cent)

	March 2018	September 2018
1. Share capital	8.3	5.8
2. Reserves and surplus	19.9	17.5
3. Total borrowings	19.1	17.2
4. Current liabilities and provision	15.4	24.5
Total Liabilities / Assets	**15.0**	**17.2**
1. Loans and advances	19.2	16.3
2. Investments	9.1	14.1
3. Others	-5.9	27.5
Income/Expenditure		
1. Total income	8.9	16.7
2. Total expenditure	7.5	16.2
3. Net prot	22.9	16.2

Note: Data are provisional.
Source: RBI supervisory returns.

Net profit increased by 16.2 per cent (annualised) during the half year ended September 2018 as compared to 22.9 per cent during the year ended March 2018. RoA for the half year ended September 2018 was 1.8 per cent (annualised) as compared to 1.7 per cent during March 2018 (Table 2).

Table 2 : Select ratios of the NBFC sector

(Per cent)

	Mar-18	Sep-18
1. Capital market exposure to total assets	7.3	7.0
2. Real estate exposure to total assets	6.6	5.9
3. Leverage ratio	3.4	4.0
4. Net prot to total income	15.3	16.5
5. RoA	1.7	1.8
6. RoE	7.5	4.4

Note: Data is provisional.
Source: RBI supervisory returns.

Asset quality and capital adequacy

GNPAs of the NBFC sector as a percentage of total advances increased to 6.1 per cent in September 2018 from 5.8 per cent in March 2018.

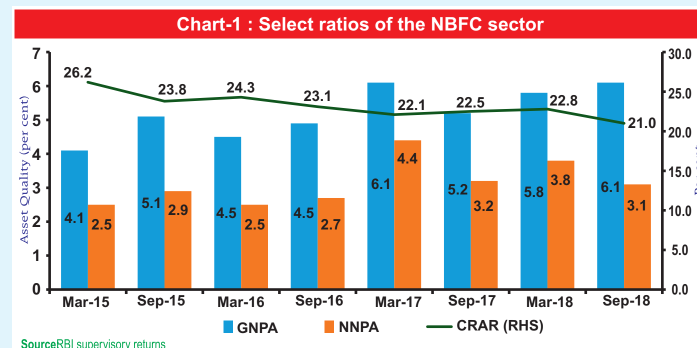
As per extant guidelines, NBFCs are required to maintain a minimum capital level consisting of Tier-I and Tier-II capital, of not less than 15 per cent of their aggregate risk-weighted assets. NBFCs' CRAR decreased to 21.0 per cent in September 2018 from 22.8 per cent in March 2018 (Chart 1).

From April 1, 2018 onwards, NBFC-ND-SIs and all deposit taking NBFCs are required to maintain 10 per cent of Tier I capital.

ROADMAP FOR IND AS

As per instructions issued by Ministry of Corporate Affairs (MCA)

Chart-1 : Select ratios of the NBFC sector



Source: RBI supervisory returns

outlining the roadmap for implementation of Ind AS for NBFCs, they are required to prepare Ind AS financial statements in two phases as under:

a) In Phase I, NBFCs with net worth of Rs. 5 billion or more and holding, subsidiary, joint venture or associate companies of such companies are required to prepare Ind AS based financial statement for accounting period beginning from April 1, 2018 onwards with comparatives for the period ending March 31, 2018.

b) In Phase II, NBFCs whose equity and/or debt securities are listed or in process of listing in stock exchange having net worth less than Rs. 5 billion and unlisted companies, other than above, having net worth of Rs. 2.5 billion to Rs. 5 billion and holding subsidiary, joint venture or associate companies of such companies are required to prepare Ind AS based financial statement for accounting period beginning from April 1, 2019 onwards with comparatives for the period ending March 31, 2019. [Extract from Financial Stability Report, Dec. 2018]

[Continued from page-3]

RBI allows cheaper funds for corporate bidders under IBC

The RBI has made a special provision for companies bidding for stressed firms under the insolvency and bankruptcy code (IBC) with a view to make funds cheaper for such companies. RBI said bidding companies can now raise foreign currency funds through foreign banks abroad and use these proceeds to repay the bank debt for stressed companies which they are looking to buy. In the new external commercial borrowing (ECB) guidelines announced last month, RBI had not permitted foreign funds to repay rupee loans, so this announcement is seen as a special provision to speed up resolution under the IBC. However, the only caveat the central bank added was that such loans cannot be availed from overseas branches or subsidiaries of Indian banks. [ET Bureau, Feb. 7]

NBFCs face new governance, exposure code: From licensing to CEO package

The RBI is drawing up a new code for NBFCs which envisages curbs on the licensing and businesses of bank-led units, parity in CEO remuneration package with that of private banks, and a gradual shift to the risk-based supervision (RBS) system. A raft of measures will be rolled out once RBI Governor Shaktikanta Das is through with the departmental presentations, which are in their final lap. Multiple high-level financial sources said these guidelines would dovetail into, and form a sub-set of, the larger regulatory framework for banks and their subsidiaries. New Order in Nutshell is likely to be:

- New policy will specify target bank-led NBFCs
- It will help arrest ever greening of loans through banks' NBFC arms via innovative financing structures
- Exposure to sensitive sectors, particularly loans against pledge os promoter shares, to be curbed
- NBFC CEOs' pay structure to mirror that of private bank chiefs' in terms of bonus and stock options
- Plan to move to risk based supervision like banks. [Business Standard, Mar. 6]

SEBI looks to counter pledged shares menace to avert crisis

Data from BSE show that shares worth Rs. 2 lakh crore have been pledged by promoters of listed companies with a handful of NBFCs. Lenders are allowed to finance around 50 per cent against the value of equity shares. But even as the benchmark indices stay at an elevated level, shares of most small- and mid-cap companies have witnessed more than 50 per cent erosion in value from their peak levels seen some time in mid-2018. This has led many NBFCs to follow up with company promoters asking them to bring in additional margin, a call which has not been heeded by many. Add to this the funding by some of the large mutual fund houses to corporate entities without adequate collateral, and the pain becomes intense, sources said.

Lenders resort to fire-sale as promoters ignore margin calls. High financing deals involving loan against shares to promoters of listed companies are now being examined by the government and market regulator SEBI, which is now discussing ways to avert a possible crisis. Market experts say some promoters have been inflating the share price during a bull-run and then pledging the shares to avail loan against them. The same promoters then buy shares again at a lower price during severe market crash or bear phase. Data show that promoters of 195 listed companies have pledged over 50 per cent of their holding. Some of them will never come back to free it from lenders. [Business Line, Feb. 12]

SEBI revises disclosure requirements for significant beneficial ownership

In December 2018, SEBI issued a circular wherein various entities were asked to make disclosures about significant beneficial owners in a prescribed format. On March 12, the markets regulator SEBI said the circular is being modified following the amendment of Companies (Significant Beneficial Owners) Rules by corporate affairs ministry last month.

A revised format for reporting companies to disclose details such as name, PAN and nationality of the significant beneficial owner as well as registered owner, among others, would be put in place by SEBI. "In view of the revised timelines under the amended Rules, the circular shall come into force with effect from the quarter ended June 30, 2019," SEBI said. [Economic Times, 14 March]

SEBI comes out with rules for single regime for FPI, NRI fund flows

SEBI has come out with rules for merger of foreign portfolio investment (FPI) and non-resident Indian/overseas citizens of India routes to bring in a single regime for foreign investors and regulate NRI and person of Indian origin fund inflows. The regulator has also exempted housing finance companies and systemically important NBFCs from disclosure of increase or decrease in shareholding due to encumbrance or release of encumbered shares, SEBI said in a notification. A similar exemption is already available to scheduled commercial banks and public financial institutions.

In another notification dated 31 December, SEBI said if single and aggregate NRI/OCI/RI holdings in assets under management of FPI are below 25% and 50%, respectively, then such persons will be allowed to be constituents of the FPI. Further, the regulator has relaxed its norms for clubbing of investment limits by well regulated foreign investors. [Live Mint/PTI, 03 Jan]

SEBI lays down mechanism to prevent insider trading

In a key policy move, the SEBI has decided to hold company promoters, irrespective of their shareholding status, responsible for violation of insider trading norms if they possess unpublished price-sensitive information (UPSI) regarding the company without any 'legitimate' purpose.

SEBI has specified that the term "legitimate purpose" will include sharing of the UPSI in the ordinary course of business by an insider with partners, collaborators, lenders, customers, suppliers, merchant bankers, legal advisors, auditors, insolvency professionals or other advisors or consultants, provided that such sharing has not been carried out to evade or circumvent the prohibitions of these regulations. The board of directors shall ensure that a structured digital database is maintained containing the names of such persons or entities, as the case may be, with whom the information is shared. SEBI has further specified that any person in receipt of the UPSI pursuant to only a "legitimate purpose" will be considered an "insider." [Business Line, Jan. 18]

SEBI unveils a slew of reform measures

SEBI on March 1 made several amendments to its regulations during its board meeting. Highlights of amendments are as under:

- Amendments to infrastructure investment trusts regulations and real estate investment trusts Regulations
- Amendments to debenture trustee regulations, issue and Listing of debt securities regulations and listing obligations and is closure requirements
- Framework for Innovators Growth Platform
- Corporate debt restructuring
- Valuation of money market and debt securities by MFs
- Participation of institutional investors in commodity derivatives markets
- Permitting permanent registration to custodians. [Financial Express, March, 2]

Default rate in small loans and auto loans lowest, finds study

Although personal loans, which are offered without any security, rose more than a quarter in the three months to September, delinquencies are still the lowest at 0.5 per cent, a study by credit bureau Transunion Cibil showed. Personal loan accounts of both banks and shadow banks combined rose to 15 million, showing a 26 per cent increase on-year. These are small-sized loans, in the range of Rs 1-5 lakh, and even their tenure is less than five years.

The number of credit card accounts increased by about 32 per cent from last year to 36.9 million in CYQ3 2018. Credit card accounts typically have outstanding less than Rs 1 lakh per account.

The study notes that the average balance per borrower is Rs 2.52 lakh, up 7.7 per cent over the previous year. The serious delinquency rate is 0.52 per cent, down one basis point over the previous year. Serious delinquency rates are measured as the percentage of balances that are 90 or more days past the due date.

Significantly, the delinquency rate in personal loans or unsecured loans is the lowest among all retail loan products analysed in the study. Delinquency rate for loans against property is the highest at 3 per cent, followed by the auto loans segment which has a delinquency rate of 2.75 per cent. [ET CFO, Dec. 26]

Fake invoice fraud: Firms inflate turnover to bag loans

Investigation into the GST fake invoice fraud has revealed that companies in the dock obtained bank loans by reportedly fudging turnover in their balance sheets. Directorate-General of GST Intelligence of Hyderabad and Visakhapatnam has written to banks to conduct vigilance inquiry into bank loans obtained by the companies in question.

Bankers, after conducting an internal vigilance probe, have to lodge a complaint with the Central Bureau of Investigation. The fake invoice scam came to light on January 18, 2019, when two kingpins of the scam were arrested for running companies that issued Rs. 680 crore worth fake invoice without actual supply of goods by floating shell firms. The arrested Hero Wiretex case honchos reportedly admitted to the GST investigators that they had inflated their turnover to receive bank loans.

The investigators also found that several major infra companies, which were executing government projects in irrigation and other infra works in both Telangana and Andhra Pradesh, had conspired with iron and steel companies and issued fake invoices. Suitcase companies were created by opening a bank account using PAN and Aadhaar details of family members and employees. [TNN, Feb. 5]

NBFCs face tougher FY20 on higher costs, rising delinquencies

NBFCs will face tighter liquidity, higher funding costs and consequently lower net interest margins (NIMs) in the next fiscal as they overhaul their balance sheets towards longer term borrowings, IndiaRatings & Research (Ind-Ra) said in its outlook report. The Fitch owned rating company expects wholesale financing NBFCs especially those lending to real estate, micro and small enterprises (MSMEs) and large corporates to grower slower than the retail financing NBFCs.

Ind-Ra expects NBFC NIMs to shrink to 6.2% in the fiscal ended March 2020 from its estimates of 6.7% in the current fiscal ending March 2019 which was lower than the 7% NIMs recorded in the fiscal ended March 2018. As NBFCs move towards longer term borrowings the impact on their margins due to higher cost of funds will be more and more severe. In-Ra expects a 21 basis points impact on margins if long term funds constitute 95% of total funding versus 11 basis points impact if long term funds constitute 85% of the total funding. One basis point is 0.01 percentage point.

Among the sectors Ind-Ra expects no further improvement for tractor loans and commercial vehicle asset quality to hold still. Microfinance NBFCs, will return to loan collection and delinquency performance to pre-demonetisation levels. [ET Bureau, Feb. 5]

NBFCs looking at offshore funds to diversify borrowing sources

To diversify borrowing sources and reduce dependence on traditional funding avenues like banks, mutual funds and insurance companies, NBFCs and housing finance companies (HFCs) are now looking to tap into the offshore credit market via masala bonds, external commercial borrowings (ECBs) and foreign currency bonds. "So far, NBFCs had no appetite. But since the appetite is coming back, all the HFCs and NBFCs are looking at various avenues of funding like retail bond issue, foreign institutional investor's (FIIs') money and offshore issuances" said Ajay Manglunia of Edelweiss Securities. Traditional avenues of borrowings for NBFCs and HFCs have come under some strain. Since they were relying on domestic funding there was liquidity crunch after IL&FS's sudden default last year. Cost of funds had also gone up. [Business Standard, Mar. 6]

FIDC urges govt to exempt NBFCs with over Rs. 500 crore asset base from TDS

Ahead of the Union Budget, the FIDC has urged the government to exempt all NBFCs with asset base of over Rs. 500 crore from the provisions of Tax Deduction at Source (TDS). Exemption from TDS can be one of the important ways to ease liquidity, Raman Aggarwal, Chairman, FIDC, said in a letter to DEA Secretary Subhash Garg.

In India, as of October-end last year, there were about 300 NBFCs that had asset base of over Rs. 500 crore and registered with the RBI. These 300 NBFCs account for about 90 per cent of the NBFC sector's assets in the country.

Co-origination: FIDC has also made a case for TDS exemption on interest paid in co-origination transactions, as borrowers are unable to split the portion related to the NBFC and deduct tax on it. "In such a scenario, the borrower will not be in a position to determine the exact interest component of the NBFC portion and hence, TDS deduction would be practically impossible," Aggarwal said.

Securitisation: The FIDC has, in this letter, suggested that the securitisation guidelines be amended so as to do away with the prescribed Minimum Holding Period (MHP) and Minimum Retention Requirement (MRR). With NBFCs having to follow Ind AS accounting system with effect from April 1, 2018, the requirement of MHP and MRR denies the benefit of a true sale and thus, results in additional capital requirement, the FIDC has said. [Business Line, Jan. 30]

FIDC pleads for permitting On Tap issuances of Bonds/ NCDs for NBFCs

NBFCs have access to Non-Convertible Debentures ("NCDs") having flexible tenure and rates, both through the private placement (with restrictions) and public issue at present. While private placements have severe restrictions on the number of investors, the frequency of issue etc., public issue of bonds tends to be very expensive, laborious and inflexible, said Raman Aggarwal, chairman, FIDC.

The features proposed by FIDC may include that such Bonds/NCDs to be rated minimum BBB- and be secured and should not fall under the definition of "deposit". For such instrument NBFC to file umbrella prospectus (valid for one year) with quarterly financial updates to be filed as addendum and laying down the overall limits and the type of NCDs to be issued (deep discount/interest bearing etc.)

NBFC may be allowed to issue as many NCDs as they wish in whatever frequency they wish to. There should be no need for a specific issue closure date and issue allotment date. The allotment of bonds to be similar to acceptance of deposits – with tenure being determined from the date of the application. Tenure may be long term say, 2 or 3 years and upwards. Since these are secured instruments, there should be no need to maintain SLR.

Governance of such instruments may be under SEBI guidelines, with overall borrowing cap being permitted by RBI. Lead Manager to have responsibility of reporting to SEBI & RBI on quarterly basis. Minimum investment amount could be low – say, Rs 10,000/- so that greater retail participation is possible. Instruments would be listed and tradable on a recognised stock exchange to provide liquidity to retail investors.

This will ensure adequate flow of funds from the institutional sources to NBFC sector which is significantly reduced due to certain isolated market events. There is a crying need to expand the sources of funds for NBFCs. This would go a long way in ensuring regular, predictable and affordable flow of credit to underserved segments such as transporters, contractors and MSMEs, added Raman Aggarwal.

FIDC presents views of NBFC sector to Expert Committee on MSMEs headed by U K Sinha

FIDC took an opportunity to present NBFC sector's views on the important role of NBFCs in Financing MSMEs and the challenges being faced by the NBFC sector in this regard, at the 6th Meeting of the Expert Committee on MSMEs headed by U K Sinha held on 8th March 2019 at RBI, Regional Office, New Delhi.

About Mudra scheme FIDC said "Only a handful of NBFCs out of the total number of 10,000 have been able to avail refinance from MUDRA".FIDC pleaded that the eligibility norms for NBFCs for availing refinance from MUDRA should be made favorable by allowing all RBI registered NBFCs to avail refinance, replacing credit rating by other financial parameters and enhancing cap on spread on margin to 10%. Moreover, Systemically Important NBFCs should be allowed to act as Aggregators by availing refinance from MUDRA for on lending to small and medium sized NBFCs.

Raman Aggarwal, chairman, FIDC also pleaded the committee to recommend to Government of India to amend The Factoring Regulation Act, 2011 so as to allow all NBFCs registered with RBI to register and participate on the TReDS Platform.

In order to promote and encourage lease as a tool of capital formation interest component of a Lease Rental should be exempted from the levy of GST, as is the case for Loans; or the rate of GST on lease rentals should be reduced to 5%, added Mr. Aggarwal.

FIDC also pleaded that all bank lending to NBFCs for On-lending to MSMES should be treated as Priority Sector Lending (PSL) for banks.

FIDC devised Data Sheet to resolve authentic and updated data on NBFC sector

The first of such Data Sheet for Q2 2018-19 shows Auto loans decelerated sharply and property loans have shown de-growth of 7%.

The Industry-wise regular, authentic and updated data has always been the problem area for the NBFC Sector as well as FIDC. This was more pertinent, in the wake of the tight liquidity crunch being faced by NBFCs, as an aftermath of the recent developments post-IL&FS default. All authorities were asking us the data of disbursements as well as mode of funds raised. Data published by RBI comes in too late. The Executives at Ministry of Finance insisted upon the collection, compilation, analysis and sharing of data by NBFC sector on regular basis. [The Members are requested to take this issue seriously and provide information in the required format on a regular basis].

FIDC in its endeavour to solve this perennial problem has taken the first step and tied up with a reputed credit bureau, which will provide FIDC all the data on a quarterly basis, on the asset side of the balance sheet. Based on the first of such Data Sheet for data up to Q2 2018-19 it was seen that in case of LAP & CV, growth in Q1 in the current financial year over Q1 last year was good, it has sharply dipped in Q2 YOY. In fact, property loans have shown de-growth of 7% in Q2 over same period last year. In respect of other products too, the reported growth rate for Q1 & Q2 YOY has been modest, with Q1 actually showing a de-growth and Q2 posting a nominal 13% growth.

"As an industry, we must be worried about it – even if we exclude Housing Loans, the growth rate is not encouraging. In fact, Auto loans decelerated sharply in Q2. The situation in Q3 when disbursements came to a sharp slow-down due to the liquidity crisis would be obviously quite alarming", said Mahesh Thakkar, director general, FIDC.

FIDC In Action

1st Annual Conclave on Construction Equipment Finance by ICEMA

1st Annual Conclave on Construction Equipment Finance is organized on 23rd January at The Hotel Lalit, New Delhi by Indian Construction Equipment Manufacturer Association [ICEMA]. The Conclave is supported by FIDC. It had focused on Opportunities, Challenges and Innovation in construction equipment financing and leasing. Construction sector contributes nearly 10% of India's GDP. This healthy growth is helping the Construction Equipment Finance Industry to grow to 4.2 billion industry by 2020. Raman Aggarwal, chairman, FIDC spoke at the Panel discussion session on Financing- A game Changer for Indian the Construction Equipment Industry.

[Continued to page-8]

Mahesh Thakkar, Director General, FIDC delivering the key note address on "NBFCs: Leapfrogging to Prosperity" at IBEX, MMRDA Grounds, BKC, Mumbai on 24th January 2019.

Issues faced by NBFCs presented by FIDC at meeting held on 16th January with DEA, MoF, GoI

Key Issues of NBFCs Needing Urgent Redressal

A meeting with Subhash Garg, Secretary, Department of Economic affairs, Ministry of Finance, Government of India [DEA, MoF, GoI] was held on 16th January, 2019 with FIDC top brass for discussing in detail the issues being faced by NBFCs. Based on the discussion held during the meeting, FIDC submitted a detailed note on the Key Issues being faced by the NBFC sector which need urgent redressal.

FIDC Meeting with Shri Subhash Garg, Secretary, Department of Economic Affairs, Ministry of Finance on 16th January 2019 at Delhi.

MUDRA's future expansion plans have to involve NBFCs in a big way: Small and medium sized NBFCs' future growth plans must involve MUDRA as the Refinancing body, as only a handful of NBFCs (out of the total number of 11,000) have been able to avail refinance from MUDRA so far.

Request for Amending Securitization Guidelines by deleting MHP & MRR: It is time to review the need for the MHP and MRR norms as they are restrictive in nature. Moreover, with the prevailing liquidity crunch, such restrictions are affecting NBFCs' ability to generate liquidity.

NBFCs with asset size of Rs. 1000 crore and above to be allowed to accept Public Deposits: RBI had taken a stance to discourage deposit acceptance by NBFCs and have not given any fresh permission to any NBFC to accept public deposits, since 1997. With the regulatory framework having been "harmonized" with that for banks and the NBFCs having grown over the last years, it is time that this policy of deposit acceptance needs a review for NBFCs having an Asset base of Rs. 1000 crore and above and minimum credit rating of AA-, may be allowed to accept public deposits.

DIRECT TAXES: 1. Tax Benefits for Income Deferral u/s.43D of the Income Tax Act: NBFCs are the only financial institutions which have been left out. This discrimination against NBFCs needs to be removed.

TDS on Interest (Sec 194A) – Request for Exemption : Such exemption may be granted to a class of NBFCs having asset base of Rs. 500cr and above.

Draft IFRS Standards Discussion Paper from ICAI : FIDC has received the Draft IFRS Standards Discussion Paper from ICAI regarding Financial Instruments with Characteristics of Equity for comments and suggestions. FIDC CFO Committee is considering the draft for offering its suggestions.

FIDC Member Vistaar Financial Services Pvt Ltd wins award: The Director General said that on 11-12th December at New Delhi 2018 Access India-FIDC Inclusive Finance India Summit and Awards, supported by NITI Aayog were declared. In the NBFC category, FIDC Member Vistaar Financial Services Pvt Ltd from Bengaluru won the Award. Hearty Congratulations from FIDC to the Company.

Mutually Agreed Code of Conduct from MFIN : The draft of Mutually Agreed Code of Conduct (MACC) in provision of Micro-Credit from MFIN (Microfinance Institutions Network) received by FIDC was placed before the Managing Committee of FIDC and it was decided that FIDC can sign this and pass it on to all Members to follow the Code in respect of all 'qualifying assets' being small and micro loans. Members, in turn, can sign and send it to all Institutional Lenders.

FIDC In Action

MUDRA refinancing: FIDC seeks favourable eligibility norms for NBFCs

Wants all RBI-registered NBFCs to be eligible for refinance

ASSOCHAM-FIDC Meeting with Shri Shaktikanta Das, Hon'ble Governor. RBI on 11th January 2019 at

On the heels of the RBI Governor Shaktikanta Das' meeting with NBFC honchos, the Finance Industry Development Council (FIDC) has called for more favourable eligibility norms for NBFCs looking to avail MUDRA refinancing. Some of the changes suggested include replacing the current external credit rating criteria by prescribing some additional financial parameters to be met, which may be more realistic and doable.

Also, all RBI-registered NBFCs should be eligible for refinance as against the current regime of allowing only those who meet the entry level Net-Owned Funds criteria prescribed by RBI, the FIDC Chairman Raman Aggarwal said in a letter to RBI Governor Shaktikanta Das. FIDC has also urged RBI to allow MUDRA to refinance big NBFCs for on lending to small and medium NBFCs. Systemically important NBFCs should be allowed to act as aggregators for availing refinance from MUDRA for on lending to small and medium sized NBFCs.

Cap on spreads: MUDRA prescribes a cap on the lending rates, by prescribing a maximum spread between borrowing and lending rates of NBFCs. This has discouraged large, small and medium sized NBFCs, since any such cap makes the business uncompetitive and in some cases unviable. FIDC has, therefore, suggested that the cap of 6 percent on the maximum spreads allowed should be done away with, since market forces ensure that the rates are within acceptable limits.

Minimum holding: FIDC has also urged the RBI to amend the securitisation guidelines to do away with the prescribed minimum holding period (MHP) and Minimum Retention Requirement (MRR) norms. It may be recalled that the RBI had, in August 2012, prescribed MHP and MRR norms to prevent unhealthy practices surrounding securitisation. "With the crying need to provide immediate liquidity to the NBFC sector, it is perhaps time to review the need for the MHP and MRR norms as they are now being seen as restrictive in nature. Moreover, with the prevailing liquidity crunch, such restrictions are affecting NBFCs' ability to generate liquidity," Aggarwal said in the letter. [Business Line, Jan. 20] ■

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