FIDC NEWS

Finance Industry Development Council

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

JULY-SEPTEMBER – 2012 | VOLUME - 4 NO. – 2 | FOR PRIVATE CIRCULATION

Allow transition of two years

Presently there are essentially two main sources of funding by the Banks to the NBFC-AFCs: (a) Direct lending by banks to the NBFC-AFCs for non-priority sector assets and (b) Direct assignment / securitisation transactions focussed completely at the Priority sector assets. Direct Assignment transactions vide which the banks buy Priority Sector assets from the NBFC-AFCs, have formed an important source of funding for NBFC AFCs and have also ensured the furtherance of the principle of Financial inclusion. Such a partnership between banks and NBFC AFCs has not only supported in fulfilling the banks' statutory compliance of Priority Sector Lending but has also provided NBFC AFCs a regular source of funds – primarily by assigning the loans originated by NBFC-AFCs. The continuance of this source for funding is critical for sustenance of NBFC-AFCs since the corporate debt market is non-existent and the mutual fund industry is stagnant and has almost reached its ceiling in terms of exposure on NBFC sector.

Due to recent guidelines to banks, on the one hand the Direct Assignments transactions forming an essential source of funding the Priority sector segments by the NBFC-AFCs are expected to be severely affected because of non availability of credit enhancement, on the other hand, the unresolved issue of the Income Tax authorities' claim of taxing the Special Purpose Vehicle (SPV) involved in securitisation transactions as a separate entity will constrain the transaction through the securitisation route as well. As a consequence most routes of making available appropriate finance facilities to the NBFC-AFCs involved in furthering the avowed cause of Financial Inclusion is restricted.

NBFC-AFC therefore strongly feel that a transition of two years for Direct Assignments be allowed so that it can continue in its existing structure, i.e. with Credit Enhancement, i.e. at least until the Income tax issue is resolved on the Securitization transactions. More over the RBI need to rely on the KYC documents collected by the NBFCs as these NBFCs are also regulated by RBI and have been collecting and verifying the KYC documents as a bank do.

R Sridhar, Chairman, FIDC

Regulatory Perimeter

RBI NOTIFICATIONS:

1. **Implementation of Section 51-A of UAPA, 1967 - Updates of the UNSCR 1267 (1999) /1989 (2011) Committee's Al Qaida Sanctions List:** RBI/2012-13/115-DNBS(PD).CC.No 294/03.10.42/2012-13- 5 July 2012.
2. **Priority Sector Lending – Targets and Classification [For Banks]:** RBI/2012-13/138: RPCD.CO.Plan.BC 13/04.09.01/2012-13-July 20, 2012.
3. **Master Circular - Lending To Priority Sector:** RBI/2012-13/108; RPCD. CO. Plan.BC 12/04.09.01/2012-13-July 2, 2012.
4. **The Non-Banking Financial Company –Factors (Reserve Bank) Directions, 2012**: RBI/2012-2013/140-DNBS (PD) CC. No. 297 / Factor / 22.10.91/ 2012-13-July 23, 2012
5. **KYC Norms/AML Standards/Combating Financing of Terrorism -Risk Categorisation and Updation of Customer Profiles:** RBI/2012-13/144 DNBS(PD). CC.No.298/03.10.42 /2012-13- 26 July 2012.
6. **Revised Capital Adequacy Framework for Off-Balance sheet items for NBFCs – Clarifications:** RBI/2012-

AT A GLANCE

- Allow transition of two years ...... R Sridhar, Chairman, FIDC 1
- Regulatory Perimeter 1
- Role and Vision for the NBFC Sector .....Key Advisory Group, GoI 3
- ESMA probes credit rating agencies' views. Brooke Masters 4
- Brotherhood 5
- MOVES 6
- SEBI Moves 7
- Legal Eagle 9
- Beyond Boundaries 10
- Periscope 11
- FIDC in Action 12

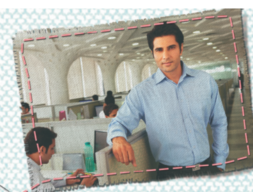
EDITORIAL COMMITTEE

- MR. R. SRIDHAR ...Chairman
- MR. ALOK SONDHI ... Co-Chairman
- MR. T. T. SRINIVASARAGHAVAN
- MR. RAMAN AGGARWAL
- MR. MAHESH THAKKAR ... Director General
- MR. MUKESH GANDHI
- MR. SRINIVAS ACHARYA
- MR. N M MUKHI ... Editor

RELIANCE

Take your business to greater heights with **Tailor-made Reliance SME Loans.**

SMS **SMEF** to **55454*** I **www.reliancecommercialfinance.com**



*All loans will be at the sole discretion of Reliance Capital Ltd. Conditions apply. #SMS charges as applicable. Reliance Commercial Finance is presented by Reliance Capital Ltd.

13/154: DNBS.PD.CC No.299/03.10.001/2012-13- 1 Aug.2012.
7. Non Banking Financial Company-Micro Finance Institutions (NBFC-MFIs) – Directions – Modifications RBI/2012-13/161; DNBS (PD) CC.No.300 /03.10.038/2012-13; August 03 , 2012
8. Revisions to the Guidelines on Securitisation Transactions: RBI//2012-13/170**-** DNBS. PD. No. 301/3.10.01/2012-13**;** August 21, 2012
9. White Label ATMs (WLAs) in India – Guidelines: RBI/2012-13/183; DPSS.CO.PD. No.391/02.10.002/2012-13; 31 Aug. 2012
10. NBFCs/RNBCs - Anti-Money Laundering/Combating of Financing of Terrorism – Standard: RBI/2012-13/210-DNBS(PD).CC.No304/03.10.42/2012-13

RBI tightens norms for securitisation of loans by NBFCs

Reserve Bank tightened the NBFC securitisation norms by stipulating that a NBFC will have to retain at least 5 per cent of the loan being sold to another entity. The RBI also stipulate that NBFC cannot sell or securitise a loan unless three monthly instalments have been paid by the borrower. These stipulations, the central bank said are aimed at checking "unhealthy practices" and distributing risk to a wide spectrum of investors. The RBI said a loan up to two years can be securitised only after payment of three monthly instalments by the borrower. The limit for loans between two and five years is six monthly instalments and above five years, 12 monthly instalments.

With regard to minimum retention requirement (MRR) for securitisation, the guidelines said the NBFCs selling loans will have to retain 5 per cent of the amount if the loan is for less than two year period and 10 per cent if it is of over two years.

The originating NBFCs, it said should disclose to investors the weighted average holding period of the assets securitised and the level of their MRR in the securitisation. They should also ensure that prospective investors have readily available access to all materially relevant data on the credit quality and performance of the individual underlying exposures, cash flows and collateral supporting a securitisation exposure, RBI said. As per the guidelines, NBFCs should formulate policies regarding the process of due diligence to be exercised by their own officers to satisfy about the Know Your Customer requirements and credit quality of the underlying assets. RBI also said that NBFCs will not be permitted to carry out re-securitisation of assets and synthetic securitisation, which refers to bundling of assets with different risk profile. These guidelines have to implemented by NBFCs in two phases by October end. [PTI/Eco.Times, Aug 21]

RBI issues norms for NBFC-Factors

The RBI issued separate set of guidelines for a newly introduced category christened as Non-Banking Financial Company-Factors. Under this new class, a company has to seek registration from the regulator with a minimum net owned fund (capital + reserve) of Rs 5 crore. "An NBFC-Factor shall ensure that its financial assets in the factoring business constitute at least 75% of its total assets and its income derived from factoring business is not less than 75% of its gross income. An existing NBFC registered with the Bank (RBI) and conducting factoring business that constitute less than 75% of its total assets/income shall have to submit to RBI within six months from the date of notification," RBI said in a notification. "Every company intending to undertake factoring business shall make an application for grant of certificate of registration (CoR) as NBFC-factor to the Bank (RBI). Existing NBFCs that satisfy all the conditions enumerated in these directions may approach the Regional Office where it is registered, along with the original CoR issued by the Bank for change in their classification as NBFC-Factor within six months from the date of notification," RBI said. Non-compliance to the provisions of those directions shall invite penal action under the Act.

Factoring is at a nascent stage. So far, there are around 10 'factors'. Out of all factors, seven or eight companies are on standalone basis. Factoring can be of two types: domestic and export oriented. With the new category (NBFC-Factors), factoring companies will have higher access to bank borrowings. Earlier in January, 2012; the Parliament had passed a bill on the Factoring Regulations Act, 2011 wherein similar proposal was mentioned. The RBI directives came in line with that. "RBI measure will help expand the factoring industry in India," Sudeb Sarbadhikary, CEO - India Factoring and Finance Solutions said. [moneycontrol.com, July 23]

NBFCs told to follow KYC/AML norms strictly

RBI said in a circular issued on July 26: “NBFCs are aware that risk categorization of customers as also compilation and periodic updation of customer profiles and monitoring and closure of alerts in accounts by NBFCs are extremely important for effective implementation of KYC/AML/CFT measures. It is, however, observed that there are laxities in effective implementation of the Reserve Bank's guidelines in this area, leaving NBFCs vulnerable to operational risk.” It added, “NBFCs should, therefore, ensure compliance with the regulatory guidelines on KYC/AML/CFT both in letter and spirit.” RBI has advised NBFCs to complete the process of risk categorization and compiling/updating profiles of all of their existing customers by the end-March 2013. [Banktech India News Network, 26 Aug.]

Non-banking firms can infuse capital to meet eligibility criteria for WLAs: RBI

The RBI has clarified that non-banking companies seeking its authorization for setting up White Label ATMs (WLAs) in India can get additional capital to meet the criteria of net worth of Rs 100 crore. Such entities would need to submit a certificate from a chartered accountant [who has audited its last balance sheet or a CA who has conducted a limited review of the accounts of the last quarter / half-year] stating that additional capital has been infused to satisfy the net-worth criterion along with the application seeking authorization as per the stipulated guidelines. [Banktech India News Network, 31 Aug.]

RBI approves SME rating agency licence

The RBI approved SME Rating Agency of India as an eligible credit rating agency for rating bank loans. It is promoted by Small Industries Development Bank of India, Dun & Bradstreet and some public, private and foreign banks. This will help banks to use the ratings for risk weighting their claims for capital adequacy purposes. It offers SME ratings, ratings of NCDs & Bonds, IPO grading, education institution ratings, micro finance institution, maritime training institutes and loan portfolio review for banks.[Economic Times, Sept.14]

L&T Financial Services calls for changes in norms for NBFCs

Larsen and Toubro Financial Services has called for changes in requirements governing the non-bank lending segment and asked the sector regulator not to give step-motherly treatment to it.

He gave out a list of changes which the sector expects from the Reserve Bank of India, including bank finance being classified under priority sector lending and easy access to other fund raising instruments like external borrowings. "I think they (NBFCs) have played an extremely important role. However, the regulator perhaps considers them as a step-child. I think there are very serious issues when it comes to regulation," L&T Financial Services Chairman and Managing Director Y M Deosthalee said.

"I don't know why achieving PSL targets through NBFCs is a problem? Ultimately reach is important," he said, stressing that the NBFCs are playing an important role in distribution. There are many issues which a NBFC faces on the liability side, he said and asked for steps like liberalising the External Commercial Borrowings window in order to reduce NBFCs' dependence on bank lending. He also sought to dispel notions on safety of the sector, stating, "The NBFC model is safer because they have larger capital adequacy. Their net worth is higher. From depositor perspective, they are safe." "Regulation should be pro-development of a sector, rather than killing the sector," he said. With over 12,000 NBFCs, the role of the regulator does tend to get difficult, but Deosthalee stressed on the need to look at well established large NBFCs in a different way. [PTI/Eco. Times, Aug 19]

Banks told to issue multi-city cheques, not to levy clearance charges

With a view to improving customer services and speeding up fund transfer, the Reserve Bank on Aug. 10 asked all CBS (core banking solutions)-enabled banks to issue multi-city [CTS 2010 Standard] cheques to all eligible customers and refrain from levying clearing charges on them. A 'payable at par' or 'multi-city' cheque of a bank can be cleared by any branch of the same bank in the country. The process has significantly reduced the outstation cheque clearance time. RBI has issued these directives in view of complaints that certain banks were issuing multi-city cheques with value cap or only to high net-worth customers. There are about 35,000 CBS-enabled branches. The initiative was aimed at using the technology to speed up movement of funds throughout the country and also to improve customer services. [PTI/Eco. Times, Aug 10]

A regulation a day keeps business away

“While there is a need to be vigilant, it is also important for the regulators not to be too prescriptive and let market forces work… It appears that there is an attempt to slowly and steadily curb activities of NBFCs by clamping down on their ability to raise resources…It became a case of a regulation a day keeps business away!”

Deepak Parekh, chairman, HDFC

ROLE AND VISION FOR THE NBFC SECTOR

Key Advisory Group
Department of Financial Services
Ministry of Finance, Goi

"The ability of NBFCs to produce innovative products in consonance with needs of their clients is well recognized."

"They have helped expand the financial services markets to the interiors of the country and newer products and services."

" An additional category of NBFC loan company – priority sector (NBFC-LC-PS) may be looked at for NBFCs engaged in servicing priority sector customers as defined by RBI."

1. Issues

The key Advisory Group underlines the fact that the NBFCs have grown substantially and are rendering valuable services to the unbanked and under-banked population of the country. Even the RBI appointed Thorat Committee has lauded the role of NBFCs in the economic growth of the country. NBFCs have been innovators in financial services, designing products and services customized to the needs of the target customers. In addition they have created a suitable operational structure to make the business models viable. They have helped expand the financial services markets to the interiors of the country and newer products and services.

The role and vision for NBFC sector has, therefore, been looked at and analyzed from the following viewpoints:

1. Is there an economic role that the NBFCs fulfill?
2. What is the kind of regulatory structure that can be envisaged for the sector?
3. What is the systemic risk posed by the sector and the progression curve for NBFCs?
4. Apart from the existing categories, is there any need for providing of additional categories of NBFCs considering the economic role played by them?

Answering the above questions will crystallize the shape and direction of policy action for the sector.

2. Is there an economic role that the NBFCs fulfill?

NBFCs have been operating various businesses under sound economics. Many businesses started by the sector have later been taken up by banks and become regular banking services. For instance, car financing, which was started by NBFCs has now become one of the larger revenue streams for banks. The NBFCs themselves have now moved on to financing second hand cars. Other businesses, namely, infrastructure finance, asset finance, hire purchase and, in the recent past, microfinance have been the major areas of operations for NBFCs. Additionally, NBFCs play a supportive role in the economy and also in financial inclusion and therefore need to be encouraged. Some of the economic roles played by NBFCs are:

2.1 Infrastructure financing

While the RBI doesn't have any specific sector exposure limits, it has asked the banks to formulate internal policies for exposure to the infrastructure sector. The banking sector's exposure to infrastructure was Rs. 5,50,178 crore as on May 2011, which was 15% of total non-food bank credit of the banks. In comparison, the Infrastructure Finance NBFCs had an outstanding infrastructure loan book size of Rs.1,96,158 crore. Banks' further exposure to infrastructure is constrained by prudential internal limits (which typically are 12-15%) and asset liability mismatch due to long tenure of assets and short tenure of liabilities.Given the projected capital requirement for infrastructure sector in the 12th five-year plan, NBFCs will play a part in supplying capital to the sector. However, proper credit rating, accounting and financial norms have to be ushered in for greater transparency and soundness of the sector as also operating in the NBFC sector.

2.2 Serving unbanked customer segments

NBFCs have traditionally focused on customer segments which were not served by banks like micro, small and medium enterprises (MSMEs), funding of commercial vehicles including old vehicles, farm equipments viz. tractors, harvesters, etc. loan against shares, funding of plant and machinery; etc. NBFCs typically are specialized vehicles –both in terms of products and the geographies in which they operate. This specialization provides them a unique framework to assess the risk in the undertaken business. A much closer market awareness provides them the ability to rate borrowers, monitor them, price the relative credit suitably and effect recoveries from them. NBFCs also provide credit for certain sectors which are not served by banks and Financial Institutions because Banks/FIs do not have adequate market relationships and infrastructure for the same. Some of these sectors are:

(a) Used Trucks
(b) Used passenger vehicles
(c) Consumer durable loans
(d) Personal Loans
(e) Funding to the Small & Medium Enterprises (SME Sector) which do not have access to institutionalized funding, etc.

Traditionally, these sectors were financed entirely by the unorganized financiers at exorbitant high interest rates. In the last 10 years, with their retail strength, NBFCs have rendered significant service by extending credit to these sectors. Now banks and financial institutions are availing of the reach and expertise of NBFCs for employing funds in these sectors through NBFCs. This has brought in lot of funds into these sectors, thereby reducing interest rates.

2.3 Strong understanding of customer segments and ability to deliver customized products

The ability of NBFCs to produce innovative products in consonance with needs of their clients is well recognized. This, in addition to the proximity to the clients, makes the NBFCs distinct from its banking sector counterparts. In a short period of time, NBFCs have become market leaders in most of the retail finance segments like commercial vehicles, car financing and personal loans. In the last decade or so, the Indian retail finance markets have seen several new products being developed and introduced by NBFCs. The following are some cases in point - Used vehicle financing, Small ticket personal loans (ST-PL), Three-wheeler financing, Loan against shares, Promoter funding, Public issue financing (IPO financing) and Finance for tyres and fuel.

NBFCs have a significant economic role, especially servicing the under-banked and unbanked populace and geographies. Bringing the diverse set of NBFCs under regulation rather than curtailing their operations, would help orderly growth of the sector.

3. What kind of regulatory structure that can be envisaged for the sector?

With the substantial size of the NBFC sector it is prudent that the regulation and supervision structure

is strengthened. However, given the large numbers, the regulation and supervision is a huge challenge. Prudential norms for stricter monitoring and reporting norms should be put in place and, at an initial stage; it could be through data mining and analytics which could evolve into on-site and other inspections in due course of time. Further, increased regulatory focus and prudential framework are required for systemically important NBFCs. For smaller entities, elaborate reporting norms is likely to be a better option – as it will save on time, energy, cost and resources both to the Regulator as well as to the regulated entities. To achieve this objective, the Regulator may also consider size-wise uniform accounting requirements and financials reporting requirements for different sets of NBFCs.

4. What is the systemic risk posed by the sector and the progression curve for NBFCs?

The systemic risk posed by the sector is the inter-connect and dependence on public funds which amounts to approximately 58% of all funding to the sector. The size of the NBFC sector is approximately 13% of the banking sector. Once the regulatory structure and prudential norms are put in place and the regulator is in a position to assess and manage the risks posed by the sector, there could be an even increased interplay with the banking sector. Additionally, development of the corporate bond market will help the NBFC sector source funds from the capital market and be less dependent on deposits or bank borrowings and limit the risk posed to the banking sector.

5. Apart from the existing categories, is there any additional category of NBFCs required in view of the economic role played by them?

Currently, the RBI classifies NBFCs into 7 categories as following:

1. Asset finance company (AFC)
2. Investment company (IC)
3. Loan company (LC]
4. Infrastructure finance companies (IFC)
5. Core investment companies (CIC)
6. Infrastructure debt fund – Non-banking finance company (IDF-NBFC)
7. Non-banking finance company – Micro finance institution (NBFC-MFI) - (introduced on December 2, 2011).

The Group has observed that the NBFCs are engaged in financing physical assets and resultant creation of a large number of jobs - which supports and strengthens economic activities across sectors, and play a critical role as an effective instruments of credit delivery particularly in the small and retail sectors of the economy. Therefore, the Group is of the opinion that the policies may be geared towards the development and growth of the sector. The regulator has also been proactive in recognizing the diverse and critical role played by NBFCs and has accorded added regulatory focus on the sector by introducing and strengthening prudential frameworks for NBFCs. Considering the role played by NBFCs in creation of assets, financial inclusion,generation of employment opportunities for marginalized sections of the society and their outreach, an additional category of NBFC loan company – priority sector (NBFC-LC-PS) may be looked at for NBFCs engaged in servicing priority sector customers as defined by RBI.

6. Future growth and development of NBFCs

Given the important role played by NBFCs as innovators, serving unbanked and under-banked geographies and customer segments and services not provided by banks, it is imperative that the growth and development of the sector be accorded some degree of priority. With adequate regulatory oversight of systemically important NBFCs, implementation of prudential norms, regular reporting and monitoring, etc., NBFCs may be looked at playing a larger part in the financial service. ***[Extract from the report of Key Advisory Group under the chairmanship of Mr. Alok Nigam, Joint Secretary { Banking Operations), set up by Ministry of Finance, Department of Financial Services, on 30th September, 2011]***

NBFCs' Scope gets Reduced

The provisions of Securitisation guidelines and priority sector lending norms have the effect of reducing the NBFC scope of activities day by day.

R Sridhar, Chairman, FIDC

ESMA probes credit rating agencies' views

The pan-European markets regulator has launched a probe into the way the big three credit rating agencies evaluate banks to determine if the process is sufficiently rigorous and transparent, its chairman Steven Maijoor told the Financial Times. The European Securities and Markets Authority has begun inspecting Standard & Poor's, Fitch and Moody's Investors Service and expects to finish by the end of the year.

Credit rating agencies were not regulated in Europe until last year, when the European Union began requiring them to register with Esma. The rating agencies have attracted harsh criticism first for their overly rosy opinions of structured products and banks before the financial crisis and more recently for their mass downgrades of sovereigns and financial institutions amid the eurozone crisis.

“Bank ratings are very important because there is an interaction with sovereign ratings and government bonds,” Mr Maijoor said. Moody's downgraded 15 global banks last month (Nomura and Macquarie had already been downgraded), and S&P took a similar step late last year, downgrading 15 of the top 37 global banks in November after changing its methodology.

Esma, which is less than two years old, has never taken an enforcement action. But rating agencies must be registered and in good standing with the watchdog to operate in Europe, so its concerns cannot be ignored. Mr Maijoor said the mass downgrades raised “concerns about whether there are sufficient analytical resources” at the rating agencies. “This is an area where there have been many ratings changes in the past weeks and years. That raises issues of whether there is sufficient resource and expertise to cope with the additional work.” “A bloc rating change cannot be an excuse to spend less time. It is still important that each individual rating gets the same level of attention to detail and analysis,” Mr Maijoor said.

He said Esma was not attempting to influence the actual ratings. “This is not rating the ratings. We are not putting restrictions on the methodology. We only ask that their choices make economic sense and be logical.” As a new regulator, Esma is still building its resources. Its credit agencies unit has 14 people and hopes to have 20 by the end of the year. They are charged with supervising 17 rating agencies. Mr Maijoor said the watchdog was taking a risk-based approach and would focus this year on bank ratings at the big three and compliance functions across the board.

S&P, which is owned by McGraw-Hill, said it “looks forward to explaining to Esma, as part of its regular inspection programme, the steps we have taken to maximise the transparency, quality and consistency of our bank ratings”.“Our new criteria provide a clear guide to how we rate banks and what might cause ratings to change, and we are proud of the strong track record of our bank ratings in the region as indicators of default risk,” it said. Fitch and Moody's declined to comment. [Brooke Masters: Financial Times, London, 1 July, 2012]

LEARNING FROM BANK BLUNDER

As market intermediaries, there have been several lessons for Indian credit rating agencies too. Globally credit rating agencies were caught in the eye of the storm during the financial crisis. In India strong regulations for rating agencies- instituted way back in 1999- and absence of exotic instruments helped avert a financial crisis of the kind developed markets saw. Nevertheless the questions asked about the methodologies and transparency of credit rating agencies provided us the opportunity to look at what we could change for better. Consequently, we strengthened our surveillance to keep rating current in an increasingly volatile environment.

ROOPA KUDVA, MD and CEO, CRISIL

E U Commission proposes new rules for non-bank credit providers

Financial Leasing Association's [FLA] director general Stephen Sklaroff says FLA has responded to the European Commission's recent Green Paper on “shadow banking” by questioning the need for any new rules for non-bank credit providers.

Non-banks respond to Government's Business Finance Partnership

“We understand that a number of FLA members in the non-bank asset finance sector are participating in responses to the Government's recent request for proposals for the £100 million small business tranche of its Business Finance Partnership (BFP) scheme,” said director general of FLA, UK. “The Department for Business has told us that the Government is keen to include non-bank asset finance companies in the scheme, which is intended to help establish new ways for private-sector investors to fund non-bank lending to small businesses,” he added. The U K Government is expected to announce the preferred applicants by the end of the summer.

New standards for payday and short-term loans

On 25 July 2012, trade associations (including the FLA) representing 90% of the payday and short-term lending sector launched a good practice Charter containing new protections for customers. Over 130 firms are covered by the new requirements, which will be implemented by 26 November 2012.

Under the Charter, lenders have committed to:

- provide clear information on how a pay day or short-term loan works, including the price for each £100 borrowed, inclusive of fees and charges;
- not pressurise customers to take out a loan or to extend (roll over) the term of an existing loan agreement;
- carry out a sound, proper and appropriate affordability assessment and credit-vetting to check that customers can afford the loan; and
- set out clearly how Continuous Payment Authority works, and the customer's rights to cancel this authority.

The effectiveness of the new Charter will be reviewed in 2013. The Government and several consumer bodies have welcomed it.

Green Bank opens its doors to leasing

In June, representatives of the Asset Finance Division's Operations Group met UK Green Investments (UKGI) – which has now become the Green Investment Bank (GIB) – to present the findings of the FLA's recent research paper on the potential role of asset finance in supporting energy efficient investment by UK businesses. The UKGI told us it was interested in developing a co-investment scheme with the FLA to support the development of the asset finance market for energy-efficient equipment. Similar discussions are underway with the Energy Efficiency Deployment Office in the Department of Energy and Climate Change.

FLA Vehicle Recovery Scheme

FLA's vehicle recovery scheme now covers 39 police forces in England, Wales and Scotland. It alerts finance company owners when their vehicles have been impounded, and has helped member companies recover around 430 vehicles, worth in excess of £3.4 million (about £110,000 of recoveries for each participating lender). [Source: www.fla.org.uk]

ELFA is considering withdrawing its support for issuance of final standard

The Equipment Leasing Finance Association [EFLA] an active body in USA representing 550 member companies has consistently supported the lease accounting project's principal objective of providing users of financial statements with an accounting model for leases which includes the recognition on a lessee's balance sheet of the assets and liabilities arising from lease contracts. The ELFA of late perceived that the International Financial Accounting Standard Board [IFASB], London and Financial Accounting Standard Board[FASB], Norwalk have not appropriately resolved the question of lessee cost allocation.

“We are seriously considering withdrawing our support for the issuance of a final standard based upon the tentative conclusions reached in the recent redeliberations. The tentative decision that all equipment leases are purchases is fraught with difficulties. We believe a continuation of the existing accounting standards is preferable to the model that has been proposed,” wrote William Sutton, President and CEO, ELFA. “The approach to leasing now envisioned in the project by the Boards does not meet these requirements, and we believe issuance of a revised exposure draft would be ill-advised. We do not believe that reporting under the proposed model will satisfy the diverse needs of investors and will involve significant costs to implement and inappropriately raise the cost of capital, he wrote to Mr. Hans Hoogervorst, Chairman, IFASB and Ms. Leslie Seidman, Chairman, FASB on 30 Aug. The letter outlines ELFA's chief concerns with the proposal and suggests a framework for accounting for leases that the association would support. [Source: elfaonline.org]

ELFA's Survey of Economic Activity: Monthly Leasing and Finance Index

The Equipment Leasing and Finance Association's (ELFA) Monthly Leasing and Finance Index (MLFI-25), which reports economic activity for the $628 billion equipment finance sector, showed overall new business volume for July was $6.6 billion, up 15.8 percent from volume of $5.7 billion in the same period in 2011. Volume was down 17.5 percent from the previous month. Year-to-date cumulative new business volume increased 14.7 percent.

Receivables over 30 days were 2.2 percent, down from 2.4 percent in June, and down slightly when compared to the same period in 2011. Charge-offs decreased to 0.4 percent in July, down from 0.6 percent the previous month, and down by 43 percent compared to the same period last year.

Credit approvals decreased to 77.5 percent in July from 78.7 percent in June. Sixty-five percent of participating organizations reported submitting more transactions for approval during July, unchanged from the previous month.

Supplemental data show that again trucking and construction led the underperforming sectors, followed by small and medium-sized enterprises.

Separately, the Equipment Leasing & Finance Foundation's Monthly Confidence Index (MCI-EFI) for August is 50.2, down from the July index of 51.5, reflecting ongoing industry concerns over economic, regulatory and political. [ELFA, August 23]

More extensive reporting gives wider picture of European leasing

The results of the Q2 2012 Leaseurope Index (which show return-on-assets and return-on-equity for the first time) reveal a continued deterioration across all indicators compared to the same quarter of the previous year, with the exception of operating costs which improved for the first time since the start of this data collection exercise. [Asset Finance International-Canada, 3 Sept.]

Making it easier for business to lease: FLA

Finance Leasing Association [UK] is calling for the International Accounting Standards Board (IASB) to keep their proposed new lease accounting rules simple, to avoid unnecessary costs for relevant lessees. FLA also insisted that UK's Accounting Standards Board and HM Revenue and Customs (HMRC) also need to ensure that changes to accounting and tax rules for small and medium-sized companies subsequent to the launch of the IASB's new rules are well-designed. Additionally any measures put in place by HMRC to combat tax avoidance should be designed to avoid any detrimental impact on genuine leasing activities.

Planned changes to financial sector regulation - including new capital requirements rules, ring-fencing of banks, shadow banking and a possible financial transactions tax - need to avoid imposing unnecessary expense or restrictions on lessors, FLA said. “We are working with the relevant regulators to help ensure that the new regulations are well-designed,” FLA added. ■

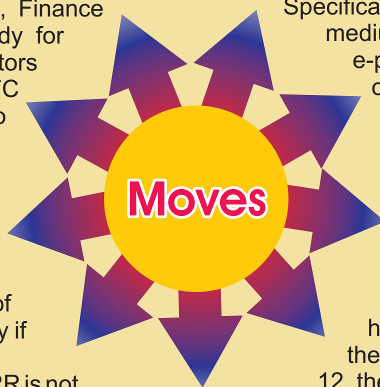
NBFCs may now have to build extra reserves to redeem debt

Finance companies, often perceived by regulators as a weak link in the system, will be asked to build extra reserves to avert delays and defaults in paying off lakhs of investors who buy their debentures.

Financial sector regulators plan to tighten norms for NBFCs by making the creation of debenture redemption reserve (DRR) mandatory for all securities. Unlike other companies that have to create such a reserve from their profits every year till the debentures are redeemed, NBFCs are partly exempted from this rule. But with several NBFCs hitting the debt market to raise funds, regulators are of the view that tighter norms are needed to strengthen for the sector.

According to Prime Database, banks and financial services firms have raised Rs 7.26 lakh crore through both public debt offers and private placements over the last five years against Rs 82,518 crore raised through equity offerings. Top 10 NBFCs including HDFC, IDFC, Mahindra Finance and Shriram Transport have outstanding non-convertible debentures of about Rs 89,342 crore as of March 31, 2012.

"There is a thinking that there should be some requirement on NBFCs to create a debenture redemption reserve as this will ensure that NBFCs meet their long-term liability," said a person close to the development. The proposal was recently discussed at an inter-regulatory meeting. While analysts feel that such a move will dampen loan growth and reduce the leverage of non-banking finance companies, rule makers are keen to reduce possible systemic risk by protecting the interest of debenture holders.



According to Mahesh Thakkar, director general, Finance Industry Development Council, the industry body for NBFCs, there are more than five lakh investors holding debentures floated by NBFCs. Section 117C of the Companies Act requires every company to create a DRR to which adequate amounts have to be credited every year out of its profits till debentures are redeemed. For manufacturing and infrastructure companies, the DRR has to be 50% of the value of debentures issued through public issue and 25% for privately-placed papers. But NBFCs, as per rules, have to set aside 50% of the outstanding debentures towards a reserve only if there is a public issue.

But V Ravi, CFO, Mahindra Finance, feels that a DRR is not necessary for a financial institution as funds raised through debentures are normally deployed in liquid assets like loans to the borrowers of the finance company which are repayable in equated monthly instalments. “Hence, there is a steady flow of funds into the company to meet any emergency including partial or full redemption of debentures. Unlike manufacturing companies, debentures raised by financial companies are not deployed in plant and machinery or fixed assets but it is mainly used to on-lend,"he says. [ETBureau,Aug23]

India to implement IFRS norms from April next year

Convergence to IFRS norms will commence even if the proposed new direct taxes code is not in place by the said date. Reiterating India's commitment to International Financial Reporting Standards (IFRS), Minister for Corporate Affairs and Power Veerappa Moily has said that India will implement the global reporting norms from next year in April. The minister said that this will be done even if the proposed new direct taxes code is not in place by the said date. Currently accepted in over 100 countries, the IFRS norms or India's own Ind AS accounting standards (which borrow heavily from IFRS) are expected to significantly affect enterprises' daily operations, to the extent of impacting the reported profitability of the business itself. Experts believe that conversion to IFRS is much more than a technical accounting issue. [Banktech India News Network, 9 Aug.]

Asset recast firms to be allowed to convert bad loans into equity

The government is set to allow asset reconstruction companies (ARCs), such as Arcil, Pegasus and Reliance ARC, to convert the bad loans they acquire from banks to equity in the debtor company in a move aimed at making corporate turnaround an easier and remunerative business in the wake of slowing economic growth.

Senior officials in the government said the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2012, will be tabled in Parliament in the monsoon session beginning on August 8. The Bill seeks to strengthen both the Sarfaesi Act and the Recovery of Debts due to Banks & Financial Institutions (RDBF) Act. It proposes to remove a major hurdle that prevented ARCs from investing in rescuing an indebted and poorly run company as corporate turnaround often needs more capital and a change in the way business is done. ARCs now do not have the freedom to convert the bad debt they acquire into equity as they are bound to restructure bad loans as per RBI guidelines, which are silent on debt-equity conversion by these entities. Banks, on the other hand, ensure that they have the option to convert a loan into equity by making it a part of the loan contract they sign with the borrower, explained Sumant Batra, past president of UK-based INSOL International, a global body of bankruptcy judges and bankers. [Financial Express, 2 Aug.]

FinMin asks banks to pare cheque-based transactions

The Finance Ministry has asked public sector banks and regional rural banks to bring down cheque-based transactions by popularising electronic payments. It has directed these banks to pare cheque-based transactions by at least 20 per cent in the current financial year in the top 20 per cent branches in terms of business volumes. Further, banks' board of directors have to set targets for shifting customer transactions to the electronic mode and monitor them on a quarterly basis.

Specifically, the Ministry has mentioned that small and medium enterprises should be encouraged to embrace e-payments. Banks have already been advised to use only electronic transactions for all payments to and from customers/suppliers/staff; disbursement of loans and payment towards instalments and investments; and electronic clearing service advice instead of post-dated cheques.

It wants banks to encourage their customers to migrate to e-payments as studies showed that the cost of handling a cheque during its entire lifecycle — from printing till storage and destruction — is high, Rs 25-40 per cheque, depending on the size of the bank. As per Reserve Bank of India data, in 2011-12, the number and value of cheque transactions were at 134 crore and Rs 98,94,000 crore, respectively. In the same period, the number and value of retail electronic transactions were at 1160 crore and Rs 22,07,533 crore, respectively. While electronic transactions are witnessing a rapid increase, in value terms they account for only about 18 per cent of the total value of transactions. [Business Line, July 6]

CIBIL to launch risk index for corporates

Credit Information Bureau (India) Ltd is expanding its portfolio of services by introducing a Risk Index for corporates and business houses. This will help Indian banks and NBFCs, most of which are shareholders in the company, to take quicker decisions on extending loans to these business entities. The lower a company figures in the Risk Index, the more confidence banks will have in its ability to service the loan. The credit information company (CIBIL) currently has the TransUnion Score for individual borrowers that are being used by banks and financial institutions for credit decisions. The score assigned to a borrower ranges from 300 to 900. [BusinessLine, Aug.7]

Bank credit to NBFC sector rose by 40.5 percent in 2011-12

Data on sectoral non-food credit deployed by all scheduled commercial banks for the year ended July 29 2012 reveal that the bank credit to NBFCs had a quantum jump of 40.5 percent during July 2011 to July 2012 period against a rise of aggregate gross bank credit by 17 percent during the period. This showed the single largest rise amongst the sectoral credit deployment of schedule banks released by banking regulator on Aug.31. Credit to the NBFC sector rose from Rs. 1729 billion as on July 29, 2011 to Rs. 2430 billion on July 29, 2012. It was followed by credit to wholesale trade [30%] and to weaker sections [29.5 %]. The credit to NBFC sector had, however, risen to 54 percent during previous year.

SEBI to penalise audit firms for erroneous certification

Capital market regulator SEBI is looking to bar audit firms from certifying accounts of listed companies for a certain period if accounts of books, certified by them earlier, are found to have been manipulated. Earlier this month, SEBI asked all listed companies to submit separate filings with adverse audit observations made against them, in a move aimed at tightening noose around companies trying to hide issues raised by auditors in their voluminous annual reports.

In a circular issued on August 13, SEBI also asked the bourses to conduct immediate scrutiny of issues highlighted in these documents and seek necessary clarifications from the concerned companies about the observations made by auditors. If the auditors' observations are found to be serious, the Sebi can ask the companies to restate financial accounts and to inform shareholders about it. All listed companies are required to submit the copies of annual reports containing audited financial statements to the stock exchanges. However, many serious issues about the companies' accounts, including possible cases of fraud, can go unnoticed even if they have been flagged by auditors, because such observations are generally buried deep inside the bulky documents like annual reports.

The new guidelines would be applicable to all annual audited financial results submitted by the companies for the period ending on or after December 31, 2012. SEBI has decided to accept the fresh recommendation regarding its penalty on audit firms, along with various other suggestions made by the PMAC. Other recommendations include mandating the companies to make full disclosure of related party transactions with the book-running lead managers (BRLMs) of the public issue, "certifying the extent to which profits from these transactions constitute legitimate business profits". [PTI/Financial Chronicle, Aug 28]

SEBI reduces time for share transfer to a fortnight

The SEBI on July 5 said the timeline for share transfers would be reduced to 15 days from one month earlier. “With a view to expedite the transfer process in the interest of the investors, it has been decided, in consultation with the Registrars Association of India, stock exchanges and market participants, to reduce the timeline for registering the transfer of shares to 15 days. The same timeline shall also be applicable for transfer of debt securities,” the market regulator said in a circular.SEBI has directed all the recognised stock exchanges to amend clauses in their listing agreements to facilitate the new timeline. [BS Reporter, July 06]

SEBI may get access to emails, records

Following a renewed demand last month from the SEBI to allow it to utilise telephone call records as evidence in insider trading cases, the government has hastened the process of providing the equity markets regulator a green signal. A meeting called by economic affairs secretary R Gopalan was slated to take place to discuss the issue of adding Sebi to the list of enforcement and investigating agencies allowed to ask the department of telecommunications for emails and call data records from service providers. The official said the Telecom Regulatory Authority of India was likely to support this move. SEBI, in fact, has been requesting the finance ministry for the past three-odd years to allow it access to telephone call records whenever required for carrying out investigations. The access to call records from telecom operators of persons suspected to be involved in insider trading and other similar offences related to stock markets would help the regulator gather and present evidence against them. This could become circumstantial evidence to prosecute persons involved in insider trading.

SEBI does not have powers to undertake wiretapping, which involves recording of conversations between suspects. Nor does its US equivalent, the Securities and Exchange Commission. SEBI is not seeking the power to wiretap but it seems to want the more basic right of access to call records and data records from service providers. This will give the regulator basic information such as who called whom, when and for how long. SEBI had earlier used the mobile phone records of suspects to establish their having met. In a landmark case in 2009, SEBI investigation chief Pradnya Sarvade had used the mobile tower locations of three accused in the Pyramid Saimira forged letter case to establish that they'd met at a Mumbai hotel before they implemented their plan. [Business Standard, Jul 24]

SEBI makes stake sale easier for promoters with slew of measures

The SEBI eased rules relating to the offer for sale (OFS) mechanism. The new guidelines will make the share sale route easier for promoters who need to dilute their shareholding to 75% to comply with the regulator's listing norms. The minimum gap between two successive OFS issues or even institutional placement programmes (IPP) has been shortened to just two weeks. This will allow companies to sell shares in smaller lots and at a higher frequency without very long gaps.” What should also help companies is that the floor price for the issue no longer needs to be announced as part of the company's notice to the stock exchanges. SEBI says that if the seller intends to disclose the price, it can be done after business hours a day before the OFS.

The regulator has also given institutional investors an option of bidding in an OFS without paying a 100% up-front margin . However, they will have to pay an ad hoc margin decided by the exchange and such bids cannot be modified. “The fact that institutions now have been given a choice on how to pay the margin will be appreciated.” Further, SEBI has said the indicative price will be displayed during the last 60 minutes [instead of 30 minutes] of the close of the bidding session, irrespective of whether the book has been fully built or not. [Financial Express, June 27]

E-voting made mandatory

Among other initiatives, the regulator has made electronic voting mandatory for all listed companies in respect of those businesses that are transacted through postal ballot. While this would be implemented in a phased manner, the top 500 companies of BSE and NSE will have to implement it immediately. [Financial Express, June 27]

SEBI to form a Qualified Audit Report Review Committee

SEBI will form a Qualified Audit Report Review Committee (QARC) to enhance the quality of financial reporting. The committee, which will have representations from ICAI, stock exchanges, will guide Sebi in processing audit reports where auditors have given qualified audit reports. [Financial Express, June 27]

ICDR regulations relating to Infra sector amended

To harmonise the SEBI (ICDR) Regulations relating to infrastructure sector with the amended Securities Contracts (Regulation) Rules, 1957, SEBI has modified the minimum subscription requirements for companies coming out with IPOs. It has stated that the minimum subscription will not be less than 90% of the offer, subject to allotment of minimum 25% or 10%, as the case may be, of the securities offered to the public. [Financial Express, June 27]

SEBI jurisdiction extends to unlisted firms, too

While analysing the obligations of SEBI, Justice Jagdish Singh Khehar said: The obligation cast on SEBI to protect the interest of investors in securities, promote securities market and to regulate it by such measure as it thinks fit, remains undiluted. Further, SEBI's power would extend to all kinds of companies dealing with securities. The said power, as already noticed above, clearly emerges from the words “by such measures as it thinks fit” expressed in Sub-Section (1) of Section 11 of the SEBI Act, he observed. In answering the question posed above, there seems no ambiguity that SEBI has the jurisdiction to regulate and administer the two Sahara companies— Sahara India Real Estate Corporation Ltd and the Sahara Housing Investment Corporation Ltd.

It was submitted, that the most significant violation/ omission of the provisions of the SEBI Act, was committed by asserting that invitation to the OFCDs was made by way of 'private placement'. He questioned as to how the invitation was addressed to about three crore persons and was actually subscribed by about 66 lakh. It was pointed out, that in case of an invitation to 50 or more persons, the invitation is deemed to have been issued “to the public” (under the

mandate of Section 67 of the Companies Act). The Supreme Court concurred with SEBI's observation that the whole affair was doubtful, dubious and questionable. The consequence thereof, if correct, would be shocking. There can, therefore, be no hesitation in accepting that the perspective raised by SEBI, to demonstrate a pre-planned attempt by the two companies to bypass the regulatory and administrative authority does seem to be real, he said. [Business Line, Aug. 31]

SEBI allows partial flexibility for IDR investors

SEBI said investors will have partial flexibility in dealing with Indian Depository Receipts and can convert up to 25 per cent of their IDRs into underlying shares in a financial year. The move is expected to help in attracting foreign entities to list their IDRs on domestic bourses. "... To retain the domestic liquidity, it is decided to allow partial fungibility of IDRs (ie redemption/conversion of IDRs into underlying equity shares) in a financial year to the extent of 25 per cent of the IDRs originally issued," SEBI said in a circular. The fungibility issue is seen as one of the major factors restraining foreign entities from listing their IDRs. So far, only UK banking major Standard Chartered in 2010 has come out with their IDRs.

In 2012-13 Budget, the government had proposed to allow two-way fungibility of IDRs to encourage greater foreign participation in the Indian capital market. The two-way fungibility would enable Indian shareholders to convert their depository receipts into equity shares of the issuer company and vice versa. [PTI/Financial Chronicle, Aug 28]

SEBI allows fresh promoter stake sale routes

Market regulator SEBI amended its rules to allow promoters to use rights and bonus issue of shares for dilution of their stake to meet minimum public holding norms, and said it would consider any further relaxation in this matter on case by case basis. The promoters will have to forego their entitlement to shares being issued in such rights and bonus issues, the SEBI said in a circular. These two additional avenues for sale of shares by promoters to meet minimum public holding (25% for private sector companies and 10% for PSU entities) norms were approved by SEBI's board on August 16.

SEBI already allows promoters to dilute their holdings through newly introduced methods like IPP (Institutional Placement Programme) and Offer for Sale (OFS), as also traditional routes like Follow-on Public Offer (FPO). The regulator further said that listed entities "desirous of achieving the minimum public shareholding requirement through other means may approach Sebi with appropriate details.[Moneycontrol.com, 29 Aug.]

Firms to face one year ban, penalty for rejected IPO papers

Companies will not be able to access the capital market for at least one year if their IPO documents are rejected by market regulator SEBI, while managers of such public issues would also face penal action. Besides, SEBI has also decided to make public the details of such companies and their issue managers, along with the reasons of rejection. After SEBI's last board meeting on August 16, Chairman U K Sinha had announced that the regulator has decided to put in place a detailed set of criteria for rejection of IPO documents to safeguard the interest of investors. As per the details finalised by SEBI, in consultation with its Primary Market Advisory Committee (PMAC), the companies and the book-running lead managers (BRLMs) should be penalised for filing offer documents that are not in conformity with the pre-defined eligibility criteria in this regard. [PTI/Business Line, 23 Aug.]

SEBI may cut listing time to 7 days

SEBI is planning to cut listing time for public issue from 12 days from closure of an issue to seven days. It will soon issue a circular to allow application for an IPO electronically through brokers across 1000 cities. SEBI also plans to allow investors to make payment for IPOs through ATM, debit and credit cards as also mobile banking.[Business Standard, 29 Aug.]

Update IPO disclosure filing

Taking cue from US regulators, SEBI is making it mandatory for all listed companies to update every year the offer document filed at the time of their IPO and wants a much stricter disclosure regime to safeguard the interest of investors. According to proposed measure approved by SEBI board and soon notified all listed companies would have to file a comprehensive annual disclosure statement. [Business Standard, 27 Aug.]

Amendment of SEBI (Issue and Listing of Debt Securities) Regulations, 2008

The SEBI approved the amendments to Schedule I of SEBI (Issue and Listing of Debt Securities) Regulations, 2008 which lays down the Disclosure Requirement in the offer documents/ memorandum in connection with the Public issue & listing of non-convertible debt as well as privately placed debt securities which are listed or sought to be listed, respectively.

SEBI decided to make following major amendments:

[a.] Additional disclosures have to be made: [i]. Particulars of trustee, auditor, arrangers, registrar and rating agency,[ii]. Details of changes in capital structure over the last five years, [iii]. Details of corporate guarantee and commercial paper issued, if any, [iv]. Details of default and delay in payment on borrowings over the last five years, [v]. Details of whether debt security is backed by guarantee or letter of comfort, where applicable, [vi]. Copy of consent letter from debenture trustee

[b]Requirements that have been standardized: [i]. Format for presenting financial information, [ii]. Format for presenting history of equity share capital details, [iii].Term sheet with details of covenants on security creation, default in payment and delay in listing.

In case of frequent issues through private placement, an enabling clause for a shelf placement document with a validity of 180 days has been provided.[SEBI press release]

Basic Services Demat Account

The SEBI Board had taken decisions to extend the reach of IPOs for the benefit of retail investors. With a view to achieve wider financial inclusion, encourage holding of demat accounts and to reduce the cost of maintaining securities in demat accounts for retail individual investors, it has been decided that all depository participants (DPs) shall make available a "Basic Services Demat Account" (BSDA) with limited services and reduced costs. The details are provided in the SEBI circular dated August 27, 2012.[SEBI press release]

Regulations on Investment Advisors

SEBI approved the SEBI (Investment Advisors) Regulations, 2012 ("Investment Advisors Regulations") thereby providing a framework for registration and regulation of Investment Advisors ("IA"). The Investment Advisors Regulations have been framed by SEBI based on consultation with RBI, IRDA, PFRDA and comments received from the public on the concept paper disseminated for this purpose. All individuals, body corporate and partnership firms engaged in the business of providing investment advice to investors for consideration are required to be registered and regulated under these Regulations. Any person who holds himself as an investment advisor shall also fall under the purview of these Regulations. Investment advice given without any consideration through media at large and widely available to the public shall not be considered as investment advice.[SEBI Press Release, 16 Aug.]

SEBI for making Asba mandatory in phased manner

SEBI has proposed to make application supported by blocked amount (Asba) compulsory for retail investors. In order to bring down the time taken between closure of an initial public offering (IPO) and listing of a security, SEBI wants to make Asba complusory for retail investors in a "phased manner" and wants to shift from the current IPO distribution model of "syndicate Asba" to "bank Asba".The regulator has set an objective of bringing down the IPO timeline from the current 12 days to five days.

Introduced by Sebi in 2008, the Asba facility allows investors to apply for public offerings, with the money moving out of the bank account only after allocation of shares. In 2011, SEBI made Asba complusory for non-retail investors—quailifed institutional buyers and high net worth individuals. Meanwhile, retail investors, at present, can apply either by way of Asba or through the traditional method of cheque payment. "In the near term, a shift from the present syndicate ASBA to a bank Asba, together with making Asba mandatory for all primary issue payments, would bring significant efficiencies in the time taken to close issues, and extend the geographical and retail reach of the market," states a SEBI board meeting agenda paper. [Business Standard, 18 Sept.]

GML Act not applicable to NBFCs under RBI Act: HC

The Gujarat High Court has held that Gujarat Money Lenders Act (GMLA) , 2011, was not applicable to those Non Banking Financial Companies (NBFCs), operating in the state, registered under the section III(B) of the Reserve Bank of India (RBI) Act. The ruling was given by Chief Justice Bhaskar Bhattacharya and Justice J B Pardiwala while hearing a petition by one of the NBFCs Sundaram Finace Ltd challenging the provisions of GML Act. According to section 5(2) of the GMLA all NBFCs registered under RBI Act and operating in Gujarat come under purview of the GMLA They will have to report to the Registrar General of Money Lenders. The Court held that this was in direct interference with the institutions which are registered under the RBI Act. The state law was encroaching upon the RBI Act which is a central act. The section 5(2) of the GMLA is against the Constitution of India as it seek to have control over all NBFCs already registered under the RBI Act. "The GMLA will not be applicable to all NBFCs registered under RBI Act," the court held. The counsel for the petitioner company Percy Kavina said that the court had on Thursday held that the state act was devoid of legislative competence.

The Act came into existence after the Gujarat Assembly passed the bill in March 2011. The Act seeks to regulate money lending transactions, registration of money lenders mandatory in the state. It empowers the government to fix interest rates for the sector. As per the provisions of the GMLA on default in repayment by debtors neither direct recovery by the lenders will be permissible nor they will be able to seize assets like vehicles, jewellery, property, in the wake of cash borrowings. In the event of default in repayment the lenders will have to approach the government for a settlement.[Business Standard, 7 Sept.]

RBI submits affidavit on AP microfinance law jurisdiction

The RBI has said the Andhra Pradesh Microfinance Institution [Regulation of Moneylending] Act has jurisdiction only on MFIs which are not NBFCs and not registered with it. An Andhra Pradesh Law, said to be the root cause of the collapse of microfinance in India and the State in particular, has no jurisdiction over microfinance institutions registered as non-banking financial company (NBFC), the RBI has told the AP High Court recently. "NBFCs being regulated simultaneously by the RBI and State Government will result in dual regulation thereby adversely affecting the functioning of the NBFC-MFIs and the interest of the public," the RBI said in an affidavit filed in the court. This was in response to a writ petition filed by some MFIs questioning the legal validity of AP MFI Act. "In case of NBFCs, the RBI has exclusive power to regulate and supervise them. The provisions of the impugned Act are ultra virus the constitution of India so far as it deals with NBFCs," it added.

The MFI Act mandates prior approval of the State Government authorities for every loan application of borrower. The Act also changed the MFIs collection cycle from weekly to monthly at a designated place. Fresh disbursals in the State have come to a standstill with the stringent norms set by the State Government. The State Government has the power to cancel the licence of the MFI in case of any violation of the rules of the Act. "Since the MFIs which are not registered under the impugned Act (AP MFI Act), cannot recover the loans granted by them, it would adversely affect the financial conditions of RBI-regulated NBFC MFIs", the affidavit said. [Business line, 27 July]

Govt dues don't have priority over secured debts: Court

The excise, customs and service tax authorities have to yield to the special dispensation contained in the Debt Recovery Tribunal law of 1993 and Securitization law of 2002 when it comes to competing claims of these taxes and the banks in respect of their dues.

This was held by the Hyderabad High Court in IDBI and others vs the Deputy Commissioner (Arrears Recovery Cell), Central Excise and Customs. The Court pointed out that in a welfare State, the Government indeed has to enforce its writ and collect taxes due to it but this inherent power of the State has to yield to the specific provision of the two enactments passed with the intention of addressing the festering problem of bad debts of the banking system in the country. In fact the customs and excise laws defer to these two recovery enactments made in favour of the banking system in the country so much so that the secured debts of the banks have a priority over the unsecured tax dues of the government, observed the Court. It therefore quashed the auction proceedings conducted by the Excise Department against one of the defaulting borrowers' properties who incidentally was also an excise defaulter. The auction was conducted despite the ongoing proceedings in the Debt Recovery Tribunal. [Business Line, July 19]

Commercial Courts Bill

A Bill seeking to establish separate divisions in high courts for speedy hearing of commercial disputes of Rs 5 crore and above [to be decided within one year] is likely to get Parliament's nod in the coming monsoon session. The Commercial Division of High Courts Bill, 2009, is already before Parliament. The high courts are proposed to have a commercial division for fast-tracking large-value or important public interest matters relating to commercial issues. "There will be a list of areas described as commercial areas that would be taken directly by the high courts. They will have special division called commercial division," Khurshid, Law Minister informed. The minister noted that economic analysis of law is still in infancy in India. [Business Standard, July 5]

Where to file bad cheque case

The Bombay high court has dismissed three writ petitions moved by HDFC Bank Ltd in a case involving bounced cheques. A firm in Ahmedabad, New Tech Forge and Foundry Ltd, had issued cheques in Ahmedabad in favour of Centurion Bank, which later amalgamated with HDFC Bank. The latter bank presented the cheques in Mumbai. When they were dishonoured by partners of the firm, HDFC Bank filed cases against the firm under Section 138 of the Negotiable Instruments Act in Mumbai criminal court. It rejected the complaint stating that it had no territorial jurisdiction. The bank moved the high court arguing that its registered office is in Mumbai, the cheques were deposited in Mumbai, and the demand notice was dispatched from Mumbai, and therefore the Metropolitan Magistrate, Mumbai, had jurisdiction. The high court rejected this contention stating that the jurisdiction could not be decided "at the whims of the bank forgetting the basic facts." The credit facility was extended to the firm by Centurion Bank at Ahmadabad, the cheques were dishonoured there, the cheques were also drawn on the bank there. Therefore, HDFC Bank was expected to move a court at Ahmadabad, the high court said.

Post-dated cheque cannot bounce

The Punjab and Haryana High Court has dismissed the petition of Everest Engineering House Ltd seeking to quash prosecution and civil suit against it for issuing a cheque in favour of Yamuna Power and Infrastructure Ltd which was dishonoured by the bank for insufficient fund. Everest company argued that the complaint was pre-mature since it was filed approximately five days prior to the expiry of the time period mentioned in the notice, issued in terms of Section 138 of the Negotiable Instruments Act. Further, it was contended that the cheque was a post-dated one and had been issued as a security. Another contention was that the complaint was of a civil nature. The high court rejected all these arguments. It ruled that premature complaint cannot be dismissed if it was presented at an early date. The law only prescribes that no cognizance can be taken in such cases. Regarding post-dated cheque, the court stated that such cheques are merely bills of exchange till they become due for maturity. Therefore, issuing a post-dated cheque is not a ground for quashing the complaint.

"If a bank is excluded from the operation of the GML Act, there is no reason why an NBFC, which is also controlled by the RBI in the same way a Banking Corporation is controlled, should not be excluded from its operation."

Gujarat High Court

Low rates worldwide cannot last

How long can today's record-low, major-currency interest rates persist, asks Kenneh Rogoff, a former Chief economist, IMF and professor of economics at Harward.Ten-year interest rates in the United States, the United Kingdom and Germany have all been hovering around the once-unthinkable 1.5 per cent mark. In Japan, the 10-year rate has drifted to below 0.8 per cent. Global investors are apparently willing to accept these extraordinarily low rates, even though they do not appear to compensate for expected inflation. Indeed, the rate on inflation-adjusted US Treasury bills (so-called "TIPS") is now negative up to 15 years. Is this extraordinary situation stable? In the very near term, certainly; indeed, interest rates could still fall further. Over the longer term, however, this situation is definitely not stable, he asserts.

Ultra-low interest rates may persist for some time. Certainly Japan's rates have remained stable at an extraordinarily low level for a considerable period, at times falling further even as it seemed that they could only rise. But today's low interest rate dynamic is not an entirely stable one. It could unwind remarkably quickly, Mr. Kenneth adds. He believes:The global savings glut will end and central banks will learn they must tolerate highinflation. [BusinessStandard,Aug17]

Auto lenders go back to subprime borrowers

U.S. lenders are giving as large a portion of new car loans to subprime borrowers as they did just before the start of the financial crisis, according to a new study. Subprime, or less qualified, borrowers received 25.41 percent of all loans on new vehicles in the three months through the end of June, up from 22.29 percent in the same period a year ago and more than the 24.96 percent at the start of the financial crisis in 2007, Experian Plc's (EXPN.L) auto finance research unit said in a report released on 4 Sept..The report also found lenders more aggressively making loans to subprime borrowers of used cars. Subprime borrowers received 56.46 percent of loans on used cars in the quarter, up from 52.70 percent a year earlier. Banks and other lenders are under pressure to make up for profits lost to shrunken loan portfolios and low interest rates that persist five years after the financial crisis began. Melinda Zabritski, director of automotive credit for Experian, said lenders are showing caution, however, on another key front: how much they lend against the value of new vehicles. The average loan-to-value on new cars was 109.55 percent, down 0.61 percentage points from a year earlier. The average time to repay new and used car loans increased by one month, to 64 months for new cars and to 60 months for used cars. [Reuters, Sep 4]

Six European nations lead the pack of most competitive economy

The World Economic Forum's Global Competitiveness Report says six European nations are among the 10 most competitive countries in the world. Switzerland is ranked the most competitive, with Finland coming in third. Singapore, at second, is the highest-ranked non-European country. The other European states are Sweden, the Netherlands, Germany and Britain. The United States loses ground in the WEF report for the fourth consecutive year, dipping to seventh place from 5th in 2011 For a couple of years, emerging nations were steadily moving up the table, but this trend seems to have come to an end. China moved down three positions to 29th place. India also dipped three notches, ending in 59th position. And Russia took 67th place, down from 66th last year. Only Brazil managed to improve its rating, ending in 48th position as compared to 53rd in 2011. [Deutsche Welle (Germany), 5 Sept.]

A bill to curb high-interest lending proposed

Sen. Dick Durbin, D-Ill., introduced a bill that would limit interest rates and fees on certain consumer loans, including payday and car-title loans. The bill proposes a 36% cap on interest, finance charges and fees. Durbin cited payday lenders that he said charge an interest rate of 200% to 300% of the loan value. "These excessive rates are often hidden and can have crippling effects on those individuals who can afford it least," he said. [The Hill/On the Money blog, 27 July]

Leasing drives industry for residential solar power

Residential solar energy took off only after the industry developed innovative leases to let consumers bypass a huge investment in equipment. Solar leases allow customers to cut their utility bill while renting a system that can cost as much as $25,000. The New York Times,9 Aug.]

BRIC nations finally feel the pinch of global slump

While the so-called BRIC economies boasted strong growth during the first few years of the global economic crisis, signs are growing that their fortunes are changing. Brazil, Russia, India and China are all beginning to falter, albeit at different rates and for different reasons. Policymakers are stumped, and perhaps the most likely outcome is eventual acceptance of lower growth as a new normal. The Guardian (London)/Economics Blog, 12 Aug.]

Cuts in red tape to help businesses

Facing a challenging economic slowdown, the Chinese government pledged on Aug. 22 to cut red tape in the private sector and reduce government intervention to encourage business growth. About 300 procedures subject to government approval, mostly in the areas of real economy, small and micro-businesses and private investment, will be removed, merged or devolved to a lower level of authority to avoid overregulation, according to a statement released after a State Council meeting. At the previous meeting, on July 30, Premier Wen Jiabao urged for a "fair, transparent and predictable" economic environment for private capital and called for further reform of the administrative approval system for the sector. Zhang Jianhua, chairman of the Hubei Chamber of Commerce in Wenzhou, a city in Zhejiang province known for small and medium-sized businesses, said eliminating red tape for small and micro-businesses is necessary, especially in the current economic environment. [ChinaDaily, 23 Aug.]

Deposit flight from 4 eurozone countries threatens currency

The prospect for economic growth in the eurozone is being undercut by a flow of bank deposits from troubled parts of the region. In the year that ended July 31, about €326 billion was withdrawn from banks in Spain, Portugal, Ireland and Greece, according to data compiled by Bloomberg. [Bloomberg, 19 Sept.]

Squeezed for Credit, Companies Turn to Invoice Auction Sites

More companies are getting cash quickly by auctioning off unpaid bills they are owed, in an indication both of how strapped corporations are for funding and how new firms are springing up to take business away from stressed banks. Companies that need working capital have long sold receivables for up-front cash from banks and factors, which buy these invoices and take a cut. When the 2008 financial crisis and the ongoing euro zone turmoil caused banks to slash lending, some companies began turning to new online auction houses to sell their invoices. [CFO Journal. July 13]

A bleak, protectionist future awaits global trade

Global trade is in a downturn, driven by the economic slowdown. With Doha trade talks effectively dead, a growing tide of protectionism among Group of 20 countries might become a drag on any recovery, according to The Economist. "An agreement on 'trade facilitation' (cutting red tape at borders) would more than offset the petty protectionism of some G20 members. But the tide of support for free trade is ebbing," the magazine notes. [The Economist, 8 Sept.]

China Construction Bank says overdue loans are up 60%

China Construction Bank, the world's second-biggest lender by market value, said that in the first six months of this year, overdue loans increased more than 60%, to $3.9 billion. Questions have been raised about the bank's asset quality amid news reports that 17 of 47 business owners who disappeared last year to avoid repaying loans were customers of China Construction Bank. [China Daily (Beijing), 28 Aug]

Real lending rates halved to 3.8%: RBI

"The real or net of inflation weighted average lending rate (WALR) increased only moderately to about 3.8 per cent in 2011-12, but remained lower than the average of about 7 percent in the pre-crisis period of 2003-04 to 2007-08."-RBI Annual Report

Retail-focused NBFCs face speed breakers

Defying macroeconomic headwinds such as economic slowdown, slowing consumer demand and high interest rate environment, some of the large retail-focused NBFCs have delivered robust performance in FY12 and the quarter ended June 30, 2012. The road ahead, however, may not be as smooth for them and the industry. "Due to the semi-urban and rural orientation in the business profile of the retail NBFCs, they have continued to show a strong growth in their disbursements in 2011-12 and the first quarter of current financial year," says Suman Chowdhury, director, CRISIL Ratings.

"At an industry level, CRISIL estimates the growth in this period to be at 25-30 per cent. This growth rate is expected to slow down to 15-20 per cent in the next 12 months. The key reasons for the same are a) slowing sales of passenger car, heavy- and medium-commercial vehicle, and tractor segments and b) expectation of cautious approach in lending due to weaker economic environment," Chowdhury added. He also expects the industry's non-performing assets (NPAs) to inch up in FY13.

Some of these leading NBFCs seem to be confident of beating the industry trend and delivering good growth in FY13, while analysts, too, don't seem to be majorly worried, though they are a little cautious. Due to a strong traction in the consumer finance business, along with new products in the lifestyle financing segment, analysts expect good growth in income and profits in FY1. Analysts expect loan growth should pick up in FY14. However, any slowdown in rural economy and a poor monsoon remain key risks.

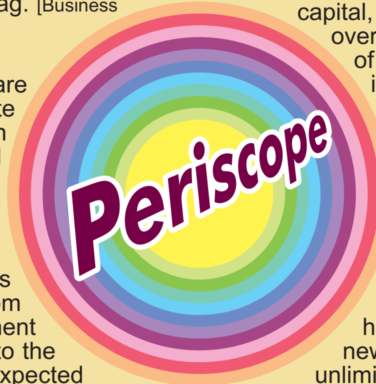
"An increase in the tilt towards retail loans, amid a slowdown in corporate loans within banks, is likely to raise competition in the commercial vehicle (CV) financing segment. Growth in competition and a fall in growth of new CV sales may drive moderation in loan growth for retail financials." Says Anand Shanbhag. [Business Standard, Aug 21]

NBFCs adopt new deal structures

The NBFCs lending to property developers are selectively using a new deal structure to mitigate risk and raise the upside on some transactions. In loan and stock deals, NBFCs are giving out small amounts for which they get stock in residential projects from developers at big discounts, besides a larger debt offering. The intention is to sell this property stock later at higher margins.

NBFCs have also adopted structured debt routes where they demand a share of profit generated from a certain project, apart from the usual debt repayment schedule. These structures differ from one deal to the other, depending on a project's performance and expected receivables or a developer's repayment ability, analysts said.

Developers are borrowing more from NBFCs to pay for land, construction and pre-development of projects. While banks usually lend to realty firms at interest rates of 13-14% and private equity (PE) firms seek returns of 24-30%, NBFCs charge 18-22%. There are three-four NBFCs looking at such structures, according to Amit Goenka, national director, capital transactions, at property advisory Knight Frank India. They give cash against stock in projects at discounts of 15-20% or more. "It works out well for developers, too, who are sitting on unsold inventory," Goenka said. In 2010-12, an estimated Rs. 5,000-6,000 crore of lending came into the sector from NBFCs. This year, property analysts expect NBFCs to contribute around Rs. 3,000 crore or more. [LiveMint.com, June 19]



Commercial vehicle industry loan ABS resilient: Fitch

Fitch Ratings says that Indian commercial vehicle (CV) loan asset-backed securities (ABS) are resilient even under a severe slowdown in the Indian economy. The stress factors against which the ratings were analysed are a slowdown in industrial production which leads to reduced freight demand and a contraction in the operating margin of CV operators arising from their inability to increase freight rates when faced with increased fuel rates. These are expected to lead to a surge in defaults and drop in recovery rates on vehicle values of defaulted and repossessed loans, increasing loss severity.

In the moderate stress scenario, Fitch has assumed that diesel prices will rise by 12 per cent -15 per cent, without a commensurate increase in freight rates, and the Index of Industrial Production (IIP) will experience a 0% to negative 3% yoy change over the next 18 months on account of a sluggish industrial activity. This is expected to lead to a two-fold increase in default rates from those observed currently and recovery rates dropping by 10% from Fitch's current estimates. Under this scenario, 63.6 per cent of the tranches rated 'Fitch AAA would continue to maintain their ratings and none would migrate to ratings below the 'Fitch A(SO)(ind)' category.

For severe stress, Fitch has assumed that IIP will experience a negative 10 to 12 per cent yoy change over the next 18 months and that diesel prices would surge by over 25 per cent, without an equivalent hike in freight rates. However, the agency believes that such a scenario is highly unlikely and well beyond the realm of more plausible downside scenarios. The default rates are expected to increase to four to five times of the current peak defaults and recoveries to be 30 per cent lower than those seen today.

Fitch expects that in the severe stress scenario almost three quarters of the tranches rated 'Fitch AAA(SO)(ind)' would be downgraded. Of this 75 per cent, almost 40 per cent are expected to remain above the 'Fitch BBB(SO)(ind)' rating category. More significantly, none of the tranches would fall below 'Fitch C(SO)(ind)' or worse, implying that these highest rated tranches would still not face any loss. In both scenarios, Fitch expects the ratings issued before 2011 to be less affected by the stresses reflecting the higher level of credit enhancement build up in these transactions compared with newer vintages of 2011-2012. [ET Bureau Aug 29]

Expect infra financing industry to grow at 25% in FY13: Sunil Kanoria

The construction equipment business grew slower than what it was last year, but growth was there. In the previous year, the sector grew at about 40%. This year the growth in Q1 was only about 20%-22%. We expect the sector to grow at about 25% over the year. Margin has been steady because the interest rate has neither reduced nor gone up. Therefore, it has been steady for the last few quarters. So, spread was maintained almost at the same levels.

This sector needs a lot of equity capital in the country. To attract capital, sector needs to have a positive perception. Today, overall perception in this sector is very negative because of the government's inaction. If we see policy initiatives, reforms and improvement in the regulatory framework in the next few months, then that can gradually start attracting capital into the sector.

Today, the entire sector is starved of equity capital, and almost every sponsor of infrastructure project is highly levered, because there was growth in the past 5-8 years in this sector. So people have been growing through that. But the capital markets are virtually closed today, which need to be opened up and corrected. Once that is done and easing happens, we would start seeing further growth and newer projects coming in. The opportunities are unlimited, but these corrections will be required.

Secondly, some norms like the securitization rules which have been brought in and have virtually closed that window for the NBFC sector since the last guideline came in from March-April onwards. There has been virtually no securitization transaction in the country, and that is the challenge that needs to be reviewed. Through securitization transactions, you were supporting the NBFC sector that in turn was supporting asset creation in the system, particularly in the SME sector. Therefore, on the one hand, we talk about financial inclusion and on the other you bring in regulation which curtails that financial inclusion. One needs to see the facilitation required to ensure that the policy which has been laid down is ultimately achieved. [Excerpts from an interview of Mr.Sunil Kanoria, VC, SREI Infrastructure Finance Ltd by ET Now on 21 Aug.12

CMIE lowers auto production forecast to 9.6 %

The Centre for Monitoring Indian Economy (CMIE) has lowered its automobile production forecast by a percentage point to 9.6 percent for this fiscal on account of a persistent higher interest rate regime, hike in taxes and the resultant increase in vehicle prices besides an overall gloomy domestic economic climate."Automobile production is expected to grow by a moderate 9.6 percent this fiscal. This is lower than our earlier forecast of 10.6 percent," the city-based economic think-tank said in its monthly report.

According to the report, commercial vehicles production, which clocked a healthy 19.8 percent growth last fiscal, is expected to come down to 8.5 percent in FY'13. While the light commercial vehicles segment is expected to do well, the medium and heavy commercial vehicle production may see a meagre 2.4 percent growth amid rise in truck rentals and higher ownership costs. On the passengers' vehicle side, the report forecast upswing in production from the onset of the festival season, adding the first half is expected to witness a slow growth. [ZeeBiz.com, July 16]

Restore onlending by banks to NBFC-AFCs for PSL

FIDC pleaded to the RBI that the transportation of farm produce, whether by farmer himself, or by any other entity, be restored as an eligible category under direct finance to agriculture under Priority Sector Lending guidelines issued to the banks on 20th July, 2012. The revised guidelines have limited the loans to farmers for transportation of their own farm produce only as the eligible category. FIDC reasoned that it is unviable for the farmers owning smaller land to buy a truck for their own usage.

NBFC-AFCs were expecting, in view of Nair committee recommendation, that onlending by banks to NBFC – AFCs for deployment in to priority sector will be restored as was prevailing prior to April 1, 2011 when such onlending was withdrawn. RBI has, however, provided this benefit only to NBFC-MFIs by way of extension of priority sector benefits to banks for on-lending to expand the financial inclusion. FIDC stated that other avenues to raise funding by NBFC-AFCs are not developed in India and will take more time as efforts to deepen the corporate bond market by RBI to bear fruits.

Perhaps the concerns expressed relating to ensuring the end use of the funds so lent by banks to NBFCs may be the reason for withdrawal of this benefit. FIDC said in a representation to RBI "We would like to convey that the same can be easily done by asking NBFCs to submit documentary evidence to this effect for end use of these funds."

Allow classification of CDR account as standard post CDR

The Corporate Debt Restructuring (CDR) Mechanism is a voluntary non-statutory system based on Debtor-Creditor Agreement (DCA) and Inter-Creditor Agreement (ICA) and the principle of approvals by super-majority of 75% creditors (by value) which makes it binding on the remaining 25% to fall in line with the majority decision.

The mechanism is such that the loans given by an NBFC, which has a first and exclusive charge and not part of any consortium or syndication, cannot be part of the CDR mechanism. Even if NBFC agrees to be a part, voluntarily or involuntarily, it has to classify the loan as sub-standard as per the prevailing RBI norms.

FIDC has pleaded to RBI to either keep the NBFCs out of the entire process of CDR and allow them to negotiate and take individual decisions, without applying the principles of super-majority ; or else, allow classification at par with the banks so that at least post CDR, it can classify the account as standard, i.e. not to classify the asset as sub standard as per the Prudential Norms. In the prevailing tough economic scenario, this is causing undue problems for NBFCs and that too for no fault on their part, said Mahesh Thakkar, director general, FIDC.

FIDC In Action

FIDC wants top priority status for road transport finance

The Finance Industry Development Council, a self-regulatory organisation for registered NBFCs, wants the government to treat road transport finance on par with housing finance. According to FIDC, each commercial vehicle manufactured, sold and financed in this country gives direct and indirect employment to minimum six persons. Also, the potential for the commercial vehicle financing in India is estimated at Rs 15,000 crore and is growing at a fast pace. Therefore, in its Budget Memorandum to the finance ministry, FIDC has requested the government to give equal importance to both road transport finance as well as housing finance. It wants the government to set up a new finance corporation for road transport finance that will act as a refinancing corporation for NBFCs engaged in road transport financing. Also, FIDC wants the benefits of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act to be extended to the NBFCs. [PM News Bureau, 8 Aug.]

FIDC: Accomplishments in FY 2011-12

FIDC pro-actively took up several matters affecting NBFC-AFC sector with all concerned authorities and also engaged the regulator RBI in constant discussion and interactions on various issues on a regular basis. As a part of consultative process for credit policy two meetings were held with RBI Governor. FIDC made a strong representation both in person and in writing before the working group on NBFCs headed by Mrs Usha Thorat. This group recommended level playing field for NBFCs with banks in matters relating to taxation and recovery. Likewise, the expert committee on PSL recommended that bank lending to NBFCs and HFCs for on-lending to priority sector areas should be treated as priority sector lending for banks (upto 5% of the Net Bank Credit).It is also noteworthy that "following the presentation made by FIDC, the sub group on Energy, Environment and Modernization on Trucking Industry in India formed by Ministry of Road Transport and Highways recommended that NBFCs role in vehicle financing should be recognized by providing an industrial status and NBFCs should be brought under the ambit of SARFAESI Act, "records the FIDC annual report..

RBI action on Usha Thorat Working Group Report is likely soon

RBI Governor had announced at the time of Annual Policy Statement for 2012-13 issued in April: "it has been decided to issue the draft guidelines on the regulatory framework for NBFCs by end-June 2012 based on the recommendations of the Usha Thorat Working Group". But it has not yet come so far. Mr. R Sridhar, chairman, FIDC informed members of Managing Committee on 4 September about the status of RBI Notification based on Usha Thorat Committee Report which is likely to be announced by the end September 2012. He stated that asset size of Rs 50 crores, 90 days provisioning and 15% Tier I CRAR – all are likely be introduced, though in phased manner, giving time to NBFCs to reach these levels. Mr. S D Chug apprehended that out of 170 registered AFCs that are left today " if Usha Thorat Committee recommendations on minimum size of assets of Rs 50 crores is accepted, we may be left with less than 50 AFCs". He suggested that FIDC again represent to RBI if existing NBFCs can be exempt from this provision. Mr. Alok Sondhi, Co-chairman, emphasised that a meeting in this regard with RBI top brass may be arranged by FIDC.

FIDC to represent NBFCs in asset finance business

To the question, whether FIDC should represent only AFCs or other categories of NBFCs too, it was decided that for the time being, status quo should be maintained and that FIDC should continue to represent all NBFCs in asset finance business and no other category and this position may be reviewed from time to time as may be required.

Dissemination of info on role of NBFCs

Mr R Sridhar, Chairman, FIDC stated that top NBFCs in all categories are planning to form NBFC Forum with a view to collect and disseminate information and statistics pertaining to NBFCs and will appoint professional organisation for this purpose.

The FIDC perceived need for collection and compilation of information and statistics pertaining to NBFC sector and decided that FIDC prepares the Data Form to be sent to all members, in order to gather and publish the information pertaining to the member company. The data thus collected would then be properly compiled and the collective data be sent to all authorities, media and public at large to emphasize the role played by NBFC sector in the development of economy. ■

Views expressed herein are not necessarily the views of FIDC.

Published by :

R. Sridhar
for and on behalf of
Finance Industry Development Council,
222, Ashoka Shopping Centre, 2nd Floor, L T Road,
Near G T Hospital, Mumbai-400001, INDIA.
Phone : 91-222267 5500 / 91 98200 35553
Director General : maheshthakkar45@yahoo.in
Website : www.fidcindia.com

Suggestions and feed-back

We would appreciate your views, suggestions and feed-back to make the **'FIDC News'** more useful and illuminating. Your inputs and contributions too are welcome on : fidcnews@gmail.com

- Editorial Committee

Inflation in India

The fight against inflation has left RBI In lonely place

[Courtesy: The Economist]

Printed by : Aditya Print Shop (Ph.) 079-26579959