FIDC NEWS

Finance Industry Development Council

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

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MUDRA Bank offers a New Deal to NBFCs

Emergence of Micro Units Development Refinance Agency (MUDRA) Bank, with a Refinance corpus of Rs.20,000 crore, and credit guarantee corpus of Rs.3,000 crore is an epoch making event in the financial sector of the country that aims at not only Inclusive growth but contemplates to offer a better deal to SME sector as well. It is expected to benefit 58 million small businesses across the country. The prime minister while inaugurating the bank exhorted that "MUDRA will instil a new confidence in them that the country is ready to support them in their efforts that are contributing so heavily to the task of nation building". It is certainly a great initiative, as small businesses as well as individual borrowers in the country have generally found it difficult to get funding from the institutional agencies-whether specialized ones created for this purpose or banks. This led even the Reserve Bank India to allow setting up small banks for promoting financial inclusion.

Like MSMEs the NBFCs are also left to fend for themselves as far as resources for expanding their financing business is concerned. Deposits as source are drying up and bank finance was a hurdle race for them. Their demand for Refinance and Development support agency like National Housing Bank created for housing finance companies had remained unfulfilled dream so far.

MUDRA contemplates initially to offer two basic categories of products; viz; refinance product for the micro units having loan requirement in the range of Rs.50,000 (Rs.1,00,000 as per revised guidelines) through MFI and lending to NBFCs by devising newer means of addressing larger outreach through intermediation, aggregation and franchisee mode as may be considered suitable.

But with MUDRA Bank being set up as refinancing agency to cater to the needs of MSME sector will provide a long standing requirement of NBFCs' life line, i.e. finance as they are the Last Mile Financiers through whom can flow finance to productive but unfunded sectors of informal economy of the country.

Alacrity with which MUDRA Bank is made a functioning body in short time, coining and using business language [terming recipients of refinance as Partner rather than borrower], calling them for consultation for evolving a business model for MUDRA Bank gives great hope that this Agency will not fall on wayside as its predecessors unfortunately have.

MUDRA Bank has emerged as refinancing agency for all NBFCs a long awaited window for replenishing their resources. It's recently announced eligibility criteria for availing Refinancing by Banks, MFIs and NBFCs makes all RBI registered NBFCs eligible. More over small NBFCs not having external credit rating but possessing satisfactory borrowing arrangements with any Scheduled Commercial Bank for a minimum of 2 years; and net NPA not higher than 3% are eligible. Thus it frees small NBFCs from burden of seeking credit ratings.

Even for refinance for small and weak MFIs MUDRA Bank has thought of Double Intermediation (DI) approach wherein such entities may have to approach through either bigger NBFC or bank. Alternatively, large NBFCs at State / National level / Business Correspondents could act as aggregators and assistance can be channelized through them for reaching out to the Last Mile Financers [LMF]. The last-mile lenders will, however, have to ensure they run a profitable model. They will have to be diligent while checking the credibility of the businesses they are lending to and their ability to pay back.

MFIs and NBFCs in India are capable of turning this rare opportunity MUDRA Bank is offering into a success story for India. ■

Mukesh Gandhi, Member, Editorial Committee, FIDC News

REGULATORY PERIMETER

RBI NOTIFICATIONS & CIRCULARS :

Non-Banking Financial Company-Micro Finance Institutions (NBFC-MFIs) – Directions – Modifications: RBI/2014-2015/544; DNBR.CC.PD.No.027/03.10.01/2014-15; 08.4.2015 [All NBFC-MFIs]

Guidelines on Corporate Governance – Review: RBI/2014-2015/552; DNBR (PD) CC.No.029/ 03.10.001/ 2014-15; 10.4.2015 [All NBFCs (excluding PDs)]

NBFCs- Lending against Shares – Clarification: RBI/2014-2015/551; DNBR (PD).CC.No.028/03.10.001/2014-15; 10.4.2015 [All NBFCs with asset size of Rs.100 cr. and above (excluding PDs)

Implementation of Section 51-A of UAPA, 1967- Updates of the UNSCR 1267(1999) / 1989(2011) Committee's Al Qaida Sanctions List: RBI/2014-2015/569; DNBR (PD). CC. No. 032/ 03. 10.42/2014-15; 23.4.2015 [All NBFCs]

Implementation of Section 51-A of UAPA, 1967- Updates of the UNSCR 1988(2011) Taliban sanctions list: RBI/2014-2015/568; DN BR (PD). CC. No. 031/03.10.42/2014-15; 23.4.2015 [All NBFCs]

Anti-Money Laundering (AML)/ Combating of Financing of Terrorism (CFT) Standards: RBI/2014-2015/567; DNBR (PD).CC.No.030/03.10.42/2014-15; 23.4.2015 [All NBFCs]

AT A GLANCE

EDITORIAL COMMITTEE

Distribution of Mutual Fund products by NBFCs: RBI/2014-15/578 DNBR. (PD).CC.No. 033 /03.10.001/2014-15 April 30, 2015-[All NBFCs]

Resolution period for BIFR/CDR/JLF cases: RBI/2014-2015/588; DNBR (PD)CC. No. 02/SCRC/26.03.001/2014-2015; 07.5.2015 [NBFC SC/RC]

Infrastructure Debt Funds (IDFs): RBI/2014-2015/600; DNBR (PD) CC.No.035/03.10.001/2014-15; 14.5.2015; [All NBFCs (excluding PDs)

Lending against security of single product - Gold Jewellery: RBI/2014-2015/605; DNBR.CC.PD.No.036/03.10.01/2014-15; 21.5.2015; [All NBFCs (excluding Pds)]

Master Circular – "Non-Banking Financial Companies – Corporate Governance (Reserve Bank) Directions, 2015"- RBI/2014-2015/632; DNBR (PD) CC No.040/03.01.001/2014-15; 11.6.2015 [All NBFCs]

Master Circular – "Infrastructure Debt Fund-Non-Banking Financial Companies (Reserve Bank) Directions, 2011"- RBI/2014-2015/631; DNBR (PD) CC No. 039/03.01.001/2014-15; 11.6.2015 [All NBFCs]

Master Circular – "Non-Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015"-RBI/2014-2015/630; DNBR (PD) CC No.038/03.01.001/2014-15; 11.6.2015 [All NBFC- Non-SI-ND]

Master Circular – "Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015"-RBI/2014-2015/629, DNBR (PD) CC No. 037/03.01.001/2014-15, 11.6.2015. [All Systemically Important Non-Deposit taking NBFCs]

NBFCs asked to give public notice prior to merger and acquisition deals

Non-banking financial companies will need to give 30 days prior public notice before making any acquisition or takeover in addition to taking the RBI's permission, according to the central bank. "A public notice of at least 30 days shall be given before effecting the sale of, or transfer of the ownership by sale of shares, or transfer of control, whether with or without sale of shares. Such public notice shall be given by the NBFCs and also by the other party or jointly by the parties concerned, after obtaining the prior permission of the Reserve Bank," RBI said in a draft guideline released on March 30.

The public notice shall indicate the intention to sell or transfer ownership, the particulars of transferee and the reasons for such sale or transfer of control, the draft said. Further easing the rules, RBI said that its approval should be sought in case of an acquisition of shareholding in excess of 26 per cent of the paid up capital of the NBFC on any merger of an NBFC with another entity. Earlier, such an approval had to be taken on transfer of shareholding in excess of 10 per cent. [Business Line, March 30]

Norms for distribution of MF products by NBFCs eased

The RBI on 30 April eased the norms for distribution of mutual fund products by NBFCs by doing away with the requirement of prior approval from the central bank. "On a review, since the distribution of mutual fund products by NBFCs is on a non-risk sharing basis and purely as a customer service, it has now been decided to dispense with the requirement of prior approval from the Reserve Bank for NBFCs to distribute mutual fund products," RBI said. It also did away with the minimum eligibility criteria.

The RBI, however, said NBFCs should comply with the SEBI guidelines and regulations, including its code of conduct for distribution of mutual fund products. NBFCs, it said, shouldn't force customers to choose a particular mutual fund product sponsored by it.

NBFCs are allowed to act as agents of its customers, forwarding their applications for purchase and sale of mutual fund units and the payment instruments to a mutual fund. The purchase of units should be at a customer's risk, without the NBFC guaranteeing assured returns, RBI said.

It added NBFCs should neither acquire units of mutual funds from the secondary market for sale to customers nor buy back units of mutual funds from them. It said in case an NBFC was holding custody of mutual fund units on behalf of its customers, it should ensure its own investments were kept distinct from those of its customers. [BS Reporter, May 1]

RBI allows ARCs long resolution period beyond eight years

The RBI has given asset reconstruction companies (ARCs) long resolution period (beyond eight years) to ensure smooth working of restructuring package for stressed accounts. The time for redeeming security receipts (SRs) held against assets might be extended in congruence with the resolution period approved by joint lenders forum and a corporate debt restructuring (CDR), said RBI, in a communique to ARCs. [BS Reporter May 8]

RBI allows NBFC to cut forward deals in corp bonds

The RBI has now "decided to permit NBFCs registered with RBI including Government companies as defined in sub-section (45) of section 2 of the Companies Act, 2013 which adhere to the prudential norms prescribed for NBFCs by the Department of Non-Banking Regulation, Reserve Bank of India, to undertake ready forward contracts in corporate debt securities," a RBI notification on May 13 said.

Other institutions, which are already allowed to enter forward contract deals, include commercial banks, primary dealers, Exim Bank, National Housing Bank, NABARD, SIDBI, HFCs and mutual funds. Repo is repurchase agreement, and it is a short-term borrowing by pledging corporate securities. The forward contract will serve as an instrument for hedging against such investment. RBI guidelines suggest, the amount borrowed by a bank through repo in corporate debt securities should be reckoned as part of its demand and time liability or total deposits. [Economic Times, May15]

RBI changes priority sector lending norms

The RBI has revised the priority sector lending norms which direct banks to lend to certain segments by prescribing targets as a percentage of their total business. The new norms require banks to ensure that 8% of their loans go to small and marginal farmers.

New sectors like renewable energy and social infrastructure will get a boost as these are now classified as priority sector. Any bank that lends up to Rs 10 lakh to a household for solar power and biomass-based generators can classify the loan as priority sector.

Earlier, there were sub-limits for direct lending and indirect lending to agriculture. These two segments have been merged making it easier for banks to achieve the 18% agri target as large loans to processed food industry are also now covered under agriculture. The challenge for banks lies in disbursing 8% of their total credit to small farmers and 7.5% of bank credit to micro enterprises. [Times of India, Apr 24]

RBI changes public deposit rules for NBFCs

The Reserve Bank of India (RBI) on March 27 made revisions to the norms for NBFCs. These now say that if there is a downgrading of credit rating, below the minimum specified investment grade, an NBFC should immediately stop accepting public deposits. Also, RBI has said, in the event of downgrading of credit rating below the minimum specified investment grade, an NBFC, being an asset finance company or a loan company or an investment company, shall regularise the excess deposit. Beside, the NBFC should stop renewing existing deposits. All these should run to maturity. The NBFC should also report the position within 15 working days, to the regional office of RBI where the former is registered.

An asset finance company or a loan company or an investment company having a minimum Net Owned Fund (NOF) as stipulated by RBI and complying with prudential norms may accept or renew public deposits. This, together with the amounts remaining due in the books of the company as on the date of acceptance or renewal of such deposit, not exceeding one and a half times its NOF. However, RBI said this is subject to the condition that an asset finance company holding public deposits in excess of the limit of one and a half times of its NOF shall not renew or accept fresh deposits till such time these reach the revised limit. [BS Reporter, March 28]

RBI introduces early warning system to detect frauds

The RBI has put in place an early warning system to prevent financial frauds. The market intelligence units in its regional offices have been asked to pick-up early warnings on unscrupulous practices followed by financial institutions. This is part of the restructuring of the apex bank's regional offices, to come into effect by May 15. "These units are expected to enable the bank in identification of new opportunities and trends in the financial sector…detecting threats that such activities may post to the public," it said. The unit will function under the overall supervision of a senior RBI officer, according to a recent circular.[Business Line, April 22]

RBI issues draft outsourcing guidelines for NBFCs

The RBI on April 10 issued draft guidelines on managing risks and code of conduct in outsourcing of financial services by them. The RBI said an NBFC intending to outsource any of its financial activities should put in place a comprehensive outsourcing policy, approved by its Board. The policy should incorporate, criteria for selection of such activities as well as service providers, delegation of authority depending on risks and materiality and systems to monitor and review the operations of these activities.

In the draft guidelines, the RBI said NBFCs should not outsource core management functions including internal audit, compliance function and decision-making functions like determining compliance with KYC (know-your-customer) norms for opening deposit accounts, according sanction for loans and management of investment portfolio.

NBFCs would be responsible for the actions of their service provider including Direct Sales Agents / Direct Marketing Agents and recovery agents and the confidentiality of information pertaining to the customers that is available with the service provider. Outsourcing arrangements should not affect the rights of a customer against the NBFC, including the ability of the customer to obtain redress as applicable under relevant laws.

The NBFCs should evaluate and guard against the risks – strategic, reputation, compliance, operational, legal, exit strategy, counter party, country, contractual, access, concentration and systemic – in outsourcing.The RBI said outsourcing of any activity by NBFC does not diminish its obligations, and those of its Board and senior management, who have the ultimate responsibility for the outsourced activity. [Business Line, 11 April]

RBI issues new guidelines for infra debt funds by NBFCs

The RBI has allowed NBFCs to invest only in PPP projects which are at least one year into commercial operations and assigning a risk weight of 50%. The Reserve Bank on May 15 capped the average exposure limit for an NBFC to issue infra debt funds at 50% and maximum at 75% of its total capital fund, apart from limiting such issuance to only PPPs which have been successfully operational at least for a year.

The central bank announced these changes in a new circular that amends the November 2011 guidelines which sought to allow NBFCs to sponsor infra debt funds (IDFs). "On a review in consultation with the government, it has been decided to amend the November 2011 directions to allow entry of IDF-NBFCs into infra sector," RBI said in a circular.

IDF-NBFCs are also allowed to undertake investments in non-PPP projects and PPP projects without a project authority, in sectors where there is no project authority, provided these are post-COD infra projects which have completed at least one year of commercial operation.

Bonds of IDF-NBFCs and all assets of infra finance companies covering PPP and post-COD projects shall be assigned a risk weight of 50%. Investments in non-PPP projects shall be risk weighted as per the extant regulations as given in the systemically important non-deposit taking NBFCs. [DNA/PTI, 15 May]

India secures top-most ratings for financial market norms

India's financial market regulatory framework on June 11 got the top-most ratings from the global bodies of banking and capital market regulators, with RBI and SEBI being rated better than their peers in China and the US. In the latest global 'assessment study' of the regulatory framework for financial market infrastructures across the world, only six countries, including India, have got the highest score of '4' for all eight parameters on a scale of one to four. The other five countries are Australia, Brazil, Hong Kong, Japan and Singapore. The 'Rating Level 4' means that the financial market regulators -RBI and the SEBI - have all regulatory measures "fully in force". [Business Today/PTI, Geneva June 12]

MUDRA Bank:

The Indigenous financial engine

ELIGIBILITY CRITERIA FOR MUDRA REFINANCE/ LOAN

Micro Units Development and Refinance Agency (MUDRA) has finalized the eligibility norms for the partner lending institutions for the purpose availing of refinance/ finance for onlending to micro units in manufacturing, trading and service sector in rural and urban areas. The eligible institutions as indicated below may approach MUDRA corporate office at First Floor, MSME Development Centre, C-11, G Block, Bandra Kurla Complex, Bandra East, Mumbai – 400 051 or the nodal officers placed across the country.

SCHEDULED COMMERCIAL BANKS

All scheduled commercial Banks in public and private sector with 3 years of continuous profit track record, net NPAs not exceeding 3%, minimum net worth of Rs.100 cr. and not less than 9% CRAR.

REGIONAL RURAL BANKS

All restructured RRBs having net NPA within 3% (relaxable in deserving cases), having profitable operations and not carrying any accumulated losses and CRAR >9%.

MFI / SMALL BUSINESS FINANCE COMPANIES/NBFC

a. Been in lending to Own Account Enterprises, i.e. micro units with loan size upto Rs.10 lakh for atleast 3 years and/or the promoters / management having experience of atleast 10 years in this area.

b. Having minimum out reach of 3000 existing borrowers for MFIs.

c. Having suitable systems, processes and procedures such as internal accounting, risk management, internal audit, MIS, cash management, etc.

d. Meeting the minimum CRAR and other norms stipulated by RBI for MFIs registered as NBFC-MFIs and comply all the prevailing RBI guidelines. For all categories of NBFCs, registration with RBI will be mandatory.

e. Should be a member of a credit bureau.

f. Rating requirement:

   a. MFIs (including NBFC-MFIs) – minimum Capacity Assessment Rating of mfR5 by CRISIL or its equivalent.

   b. NBFCs – minimum external rating of BB- for small NBFCs having total portfolio below Rs. 500 crore and BBB+ for NBFCs having portfolio of Rs. 500 crore or more. For small NBFCs not having external credit rating, they should possess satisfactory borrowing arrangements with any Scheduled Commercial Bank for a minimum of 2 years.

g. Recovery performance: For MFIs : Portfolio at Risk (i.e. overdue more than 30 days) within 5%.
For others - Net NPA not higher than 3%.

h. For all MFIs, it will be desirable to have undergone Code of Conduct Assessment (COCA) with a minimum score of 60 or equivalent.

COMMON PARAMETERS

1. The assistance will be based on internal credit appraisal process by MUDRA / SIDBI.
2. The assistance shall be priced based on risk assessment, geographical distribution, social parameters, etc.
3. The Board of MUDRA shall fix prudential ceilings for lending to various categories of borrowers as also limits for individual borrower / borrower group in line with RBI instructions on the subject.
4. The detailed terms of assistance shall be laid down in the loan agreement to be executed with the individual intermediary.

Financing of Non Corporate Small Businesses by MUDRA - Role of NBFCs

Mahesh Thakkar
Director General, FIDC

"A big majority of lending portfolio of all the NBFCs, especially those engaged in asset financing, comprise of loans of ticket size less than Rs. 10 lakhs. This is a perfect match to the initial products (categorized as Shishu, Kishore and Tarun) of MUDRA."

"The biggest issue being faced by the NBFCs sector today is limited sources for raising funds."

"NBFCs are seeking a long-term and mutually beneficial relationship to serve the cause of expeditious inclusive growth of Indian economy."

What NBFC Sector Aspires?

The Stakeholders' Consultation Meeting on Developing Business Model for MUDRA was held in New Delhi on April 22, 2015.Discussions were focussed on the 3 key points: Partners, Products and Pricing.

PARTNERS

NBFCs have been recognized for their role in credit delivery in remote corners of India and have carved a niche for themselves in the semi-rural and rural segments of the country. NBFC-AFCs are also playing a vital role in furthering the cause of Financial Inclusion and in credit dispensation to the poor states/credit starved areas for over 5 decades.

NBFC-AFCs specialize in financing to productive assets in the Transportation, Agricultural, infrastructure and SME segments and their customer segments include , First time buyers, SRTOs, Agricultural and Weaker sections of the society, involving people who normally either cannot approach banks for their credit requirements or are unable to provide appropriate documentary proofs of their creditworthiness to the banks. Considering that such are the customers being catered to by the NBFC-AFCs, it is acknowledged time and again that they are thus playing a vital role in enabling the informal segment customers, who are "unbanked", to move away from the Money lenders to an Organised financier and over a period of time move them into the formal segment which enables these customers to be recognised and serviced by the Banking segment as well and thus become "bankable"

NBFCs are Best Suited for Funding The Unfunded

The whole concept of funding the unfunded is based on the definition of financial inclusion as given by RBI :

"Financial Inclusion is the process of ensuring access to appropriate financial products and services needed by all sections of the society in general and vulnerable groups such as weaker sections and low income groups in particular at an affordable cost in a fair and transparent manner by mainstream institutional players"

As such there are 4 key parameters which can form the basis for identifying a suitable partner to MUDRA. They are – Reliability, Affordability, Accessibility and Flexibility.

Parameter	NBFCs
Reliablility	NBFCs have 18 years of regulation history almost at par with banks covering all key areas of financial regulation.
Affordability	NBFCs are highly affordable as the interest charges are quite low as compared to MFIs and money lenders.
Accessibility	Maintaining a personal touch with the customers to understand his needs has been the key to the survival and growth of NBFCs. Significant presence in rural and semi-urban areas for more than 60 years.
Flexibility	Providing personalized services by way of flexible operations arising out of the changing customer needs and market scenario has been the hall mark of NBFCs

Credit Appraisal without Any Available Track Record/Credit History

Almost 90% of the total number of NBFCs registered with RBI are small and medium in size. These NBFCs have developed niche market in the respective regions of their presence. Even the large NBFCs have a pan India presence through their branch/field offices employing the local workforce. This enables NBFCs to be rooted to the soil of the land and keep themselves updated on the credit needs and the issues faced by the potential borrowers. They also have a thorough understanding of the prevailing business environment in their region. All this knowledge and understanding manifests itself in appraising the credit worthiness of borrowers who do not have any previous track record/credit history. This is done by gauging the earning capacity of the borrowers business coupled with his willingness to repay.

Use of Modern Technology to Increase Efficiency

In addition to relying on the traditional ways of sourcing business, credit appraisal and collection, NBFCs have effectively adopted and used modern technology to increase efficiency and maintain better asset quality as compared to banks. This is proven by the data on stressed assets.

Products / Offering of MUDRA Match Those of the NBFCs

A big majority of lending portfolio of all the NBFCs, especially those engaged in asset financing, comprise of loans of ticket size less than Rs. 10 lakhs. This is a perfect match to the initial products (categorized as Shishu, Kishore and Tarun) of MUDRA.

Further the target sector/activities identified for MUDRA include land transport which involves purchase of transport vehicles for goods and passengers like light commercial vehicles (LCVs), Auto Rickshaw, three wheelers, taxi etc. Also included are equipment finance scheme for micro units which involves purchase of machinery / equipment.

The pioneering role being played by NBFCs in financing to the above said sectors has been widely acknowledged and appreciated by all the expert committees / task force setup by Govt. of India and RBI.

Based on the facts explained above NBFCs registered with RBI are best suited to act as partners to MUDRA and avail refinancing for on lending to the small business.

While all NBFCs may be considered as direct partners (one level intermediation) to MUDRA, large NBFCs classified as Systematically Important by RBI (with asset base of Rs. 500 cr. and above) may play the role of Regional Aggregators which in turn may engage small financiers (two levels of intermediation).

PRODUCTS

Catering To The Demand of The NBFC Sector

The biggest issue being faced by the NBFCs sector today is limited sources for raising funds. NBFCs heavily rely on banks for raising funds which is an area of concern to the RBI. Therefore, it has been a long standing demand of the NBFC sector to have a refinancing window especially for asset backed lending. This demand was accepted and recommended by the Parliamentary Standing Committee on Finance vide their 45th Report dated June 2003.

Under these circumstances raising funds from MUDRA would be a win-win situation for all the stake holders.

Mode of Funding NBFCs for On lending To Small Businesses

Direct refinancing by way of term loans/cash credit limits as well as securitization by way of bilateral assignments shall be the most preferred mode of funding NBFCs. Further in case of small NBFCs providing equity support on an assured return basis, similar to the private equity model may also be considered.

Portfolio Credit Guarantee

Traditionally NBFCs have been engaged in lending against the prime security of moveable assets like vehicles, equipment etc. which are easy to repossess and sell in case of default. However, financing to the SME/MSME sector by NBFCs have been largely hampered by the lack of coverage under any credit guarantee schemes which are available to banks only.

As such providing portfolio credit guarantee upto 75% specially in case of non-asset backed lending (unsecured) shall give the much desired impetus to financing of SMEs/MSMEs by NBFCs.

PRICING

RBI has categorically ruled against regulating/capping of lending rates charged by all financial sector entities under its supervision. However, considering the sensitivity involved in operationalizing MUDRA and keeping in mind the vulnerability of target customers, we hereby suggest that a spread of 5-10% may be prescribed between the MUDRA lending rate to NBFCs and the ultimate cost to the borrower. This variation in spread is required to be commensurate to the risks involved depending on the borrower profile, geographical condition and the product offered.

NBFCs are seeking a long-term and mutually beneficial relationship to serve the cause of expeditious inclusive growth of Indian economy. ■

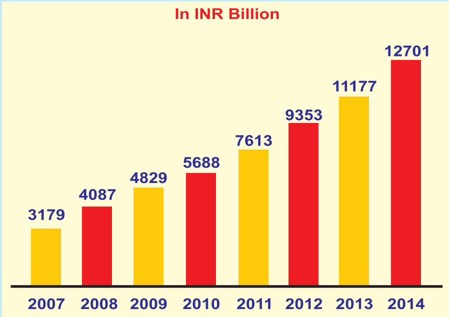
Banking on Non-Banking Finance Companies

The NBFC sector in India has undergone a significant transformation over the past few years and has come to be recognised as a systemically important component of the financial system. NBFCs are now closely interconnected with entities in the financial sector and may be exposed to risks which could impact the NBFC sector as well as other participants in the financial sector.

NBFCs asset growth and composition of advances

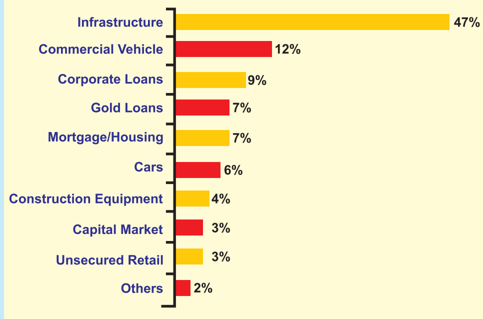
NBFCs have grown rapidly in India and that is reflected from their asset growth pattern over the years [Figure-1]. NBFCs, over a period, have created product niches in sectors like infrastructure finance, automobile finance, gold loans, personal finance and capital markets [Figure-2].

Figure : 1 Asset Growth of NBFCs-ND-SI



Source : Financial Stability Report
(Including Trends and Progress of Banking in India 2013-14)

Figure : 2 Composition of NBFC advances

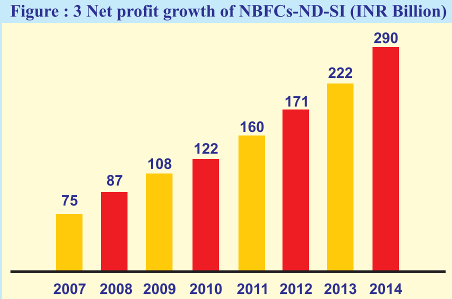


Source : 2013 ICRA reports

NBFC profitability

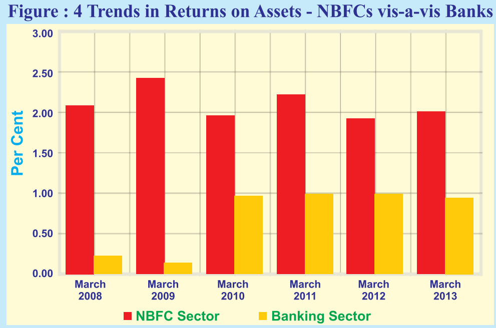
The NBFC sector has shown a consistent year-on-year growth in net profits over the last few years [Figure-3]. The effects of the market recovery are evident especially in the year 2014. With the Government and RBI's increased focus on financial inclusion, one could expect a continued growth run in the near future.

Figure : 3 Net profit growth of NBFCs-ND-SI (INR Billion)



Source : Financial Stability Report
(Including Trends and Progress of Banking in India 2013-14)

Figure : 4 Trends in Returns on Assets - NBFCs vis-a-vis Banks



Source : Speech delivered by Shri P Vijaya Bhaskar, Executive Director, Reserve Bank of India, at the National Summit on Non Baning Finance Companies - Game Changers on January 23, 2014 at New Delhi

The Return on Assets for NBFCs

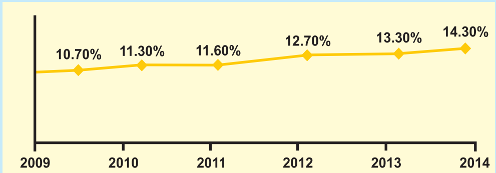
Return on Assets of NBFCs-ND-SI has shown stability with figures ranging around 2% since 2008. The Return on Assets for NBFCs is typically higher than that for banks on account of lower operating costs and no statutory requirements like Statutory Liquidity Ratio and Cash Reserve Ratio. Figure-4 shows the profitability of NBFCs vis-à-vis banks.

Growing bank advances to NBFCs

Banks have been a major funding source of NBFCs and the rapid growth in bank advances reflects an increasing dependency of NBFCs on leverage from banks. The increasing inter-linkage between banks and NBFCs has spurred the RBI to introduce additional safeguards to contain systemic risks.

Banks and NBFCs – Inter-connectedness and inter-linkages

Figure : 5 Proportion of NBFC assets to Bank assets



Source : CARE Ratings Report on NBFC sector dated December 05, 2014

NBFCs have steadily grown in number and market share, indicating the success of their business models and the opportunities/potential in their target markets.

The share of NBFCs has steadily grown from 10.7% of banking assets in 2009 to 14.3% of banking assets in 2014, thus gaining systemic importance. On the assets side, the share of NBFCs' assets as a proportion of Gross Domestic Product (GDP) at current market prices has increased steadily from 8.4% in 2006 to 12.5% in 2013.

Figure - 5 captures the growth trend of NBFCs vis-à-vis banks.

[Source: Extract from a PricewaterhouseCoopers' Report titled: Analysing the Revised Regulatory Framework for NBFCs released at ASSOCHAM National Summit on NBFCs-The Way Forward] ■

FUNDING THE UNFUNDED A NEW DEAL BY MUDRA BANK

Narendra Modi
Prime Minister

"Biggest asset of the poor is his / her integrity (imaan). By combining their integrity with capital (MUDRA), it would become the key to their success.
Prime Minister"

"The small entrepreneurs of India are used to exploitation at the hands of money lenders so far, but MUDRA will instill a new confidence in them that the country is ready to support them in their efforts that are contributing so heavily to the task of nation building.
Prime Minister"

"The basic purpose to start the Mudra bank was to 'fund the unfunded' because these micro enterprises were not getting the due attention which they actually deserve.
Finance Minister"

The Prime Minister Shri Narendra Modi said that while there are a number of facilities provided for the large industries in India, there is a need to focus on these 5 crore 75 lakh self-employed people who use funds of Rs 11 lakh crore, with an average per unit debt of merely Rs 17,000 to employ 12 crore Indians. He said that these facts, when brought to light, led to the vision for MUDRA Bank. The Prime Minister was speaking after launching the Pradhan Mantri Mudra Yojana.

Combining Integrity with Mudra

The Prime Minister gave examples of other small businesses that, with a little help, have the potential to grow manifold. He said that the biggest asset of the poor is his / her integrity (imaan). By combining their integrity with capital (MUDRA), it would become the key to their success - पूंजी सफलता की कुंजी

Speaking about women's self help groups in particular, the Prime Minister said that the kind of honesty and integrity showed by these loan takers is seldom seen in any other sector.

The Prime Minister said that MUDRA scheme is aimed at "funding the unfunded". He said that the small entrepreneurs of India are used to exploitation at the hands of money lenders so far, but MUDRA will instill a new confidence in them that the country is ready to support them in their efforts that are contributing so heavily to the task of nation building. He said that the established financial systems will soon move to the MUDRA-model of functioning, i.e. to support entrepreneurs that give employment to a large number of people using least amount of funds. The Prime Minister asked the bankers to study the successful micro finance models being followed in other parts of the world and try to adapt them according to the local requirements.

Earlier speaking on the occasion, the Union Finance Minister Shri Arun Jaitley said that this is a historic initiative by the Government to help the micro entrepreneurs to expand their business. He said that 20% of the people are dependent on micro enterprises and most of them are based on self-employment. Shri Jaitley said that the basic purpose to start the Mudra bank was to 'fund the unfunded' because these micro enterprises were not getting the due attention which they actually deserve. He said that the policy of the Government to have an industrial corridor will help in providing employment to more than 30 crore landless workers. Shri Jaitley said that under Pradhan Mantri Mudra Yojana, micro entrepreneurs will be sanctioned loans ranging from Rs. 50,000/- to Rs. 10 lakhs.

Caring for Non-Corporate Business Sector

The Government of India believes that economic growth would be self- sustaining in the long run if it is an inclusive economic growth. According to the NSSO Survey of 2013, there are some 5.77 crore small business units, mostly individual proprietorship, which run manufacturing, trading or services activities. These encompass myriad of small manufacturing units, shopkeepers, fruits / vegetable vendors, truck and taxi operators, food-service units, repair shops, machine operators, small industries, artisans, food processors, street vendors and many others. Most of these 'own account enterprises' (OAE) are owned by people belonging to Scheduled Caste, Scheduled Tribe or Other Backward Classes.

While this Non-Corporate Small Business Sector, is one of the largest disaggregated business ecosystems in the world sustaining around 50 crore lives, these hard working entrepreneurs find it difficult to access institutional finance. These entrepreneurs are largely self financed or rely on personal networks or moneylenders.

In order to address the problem of timely and adequate finances to Non-Corporate Small Business Sector, the Union Finance Minister, in his Budget Speech for FY 2015-2016, had proposed the creation of a Micro Units Development Refinance Agency (MUDRA) Bank, with a Refinance corpus of Rs.20,000 crore, and credit guarantee corpus of Rs.3,000 crore. MUDRA is to be set up through a statutory enactment and would be responsible for developing and refinancing all Micro-finance Institutions (MFIs) which are in the business of lending to micro / small business entities engaged in manufacturing, trading and service activities through a scheme namely "Pradhan Mantri MUDRA Yojana". MUDRA would also partner with State / Regional level co-ordinators to provide finance to Last Mile Financiers of small / micro business enterprises. Further, the approach goes beyond credit only approach and offers a "credit – plus" solution for these enterprises spread across the country.

The roles envisaged for MUDRA

- Laying down policy guidelines for micro enterprise financing business Registration of MFI entities
- Accreditation /rating of MFI entities
- Laying down responsible financing practices to ward off over indebtedness and ensure proper client protection principles and methods of recovery
- Development of standardised set of covenants governing last mile lending to micro enterprises
- Promoting right technology solutions for the last mile
- Formulating and running a Credit Guarantee Scheme for providing guarantees to the loans/portfolios which are being extended to micro enterprises
- Support development and promotional activities in the sector
- Creating a good architecture of Last Mile Credit Delivery to micro businesses under the scheme of Pradhan Mantri MUDRA Yojana

The above measures to be taken up by MUDRA are targeted towards mainstreaming young, educated or skilled workers and entrepreneurs. Since the enactment for MUDRA is likely to take some time, it is proposed to initiate MUDRA as a unit of SIDBI to benefit from SIDBI's initiatives and expertise.

Products and Offerings

The primary product of MUDRA will be refinance for lending to micro businesses/units under the aegis of the Pradhan Mantri MUDRA Yojana. The products would be covered under 'Shishu', 'Kishor' and 'Tarun' category to signify the stage of growth/development and funding needs of the beneficiary micro unit/entrepreneur as also provide a reference point for the next phase of graduation/growth for the entrepreneur to aspire for:

- Shishu : covering loans upto Rs. 50,000/-
- Kishor : covering loans above Rs. 50,000/- and upto Rs. 5 lakh
- Tarun : covering loans above Rs. 5 lakh and upto Rs. 10 lakh

Businesses/entrepreneurs/units covered would include proprietorship/ partnership firms running as small manufacturing units, shopkeepers, fruits/ vegetable sellers, hair cutting saloon, beauty parlours, transporters, truck operators, hawkers, co-operatives or body of individuals, food service units, repair shops, machine operators, small industries, artisans, food processors, self help groups, professionals and service providers etc. in rural and urban areas with financing requirements upto Rs.10 lakh.

The products initially being launched:

- Sector / activity specific schemes, such as, schemes for business activities in Land Transport, Community, Social and Personal Services, Food Product and Textile Product sectors. Schemes would similarly be added for other sectors/activities.
- Micro Credit Scheme (MCS)
- Refinance Scheme for Regional Rural Banks (RRBs)/Scheduled Co-operative Banks
- Mahila Uddyami Scheme
- Business Loan for Traders and Shopkeepers
- Missing Middle Credit Scheme
- Equipment Finance for Micro Units

Credit Plus Approach

MUDRA would also adopt a credit plus approach and take up interventions for development support across the entire spectrum of beneficiary segments. The highlights of such proposed interventions/ initiatives are as under:

- Supporting financial literacy
- Promotion and Support of Grass Root Institutions
- Creation of Framework for "Small Business Finance Entities"
- Synergies with National Rural Livelihoods Mission
- Synergies with National Skill Development Corporation
- Working with Credit Bureaus
- Working with Rating Agencies

Other Proposed Offerings:

In addition to the offerings mentioned in above paras, following facilities are also envisaged :

- MUDRA Card
- Portfolio Credit Guarantee
- Credit Enhancement

MUDRA will build on experiences of some of the existing players, who have demonstrated ability to cater to the Non Corporate Small Business segment to build a financing architecture and right ecosystem for both the entrepreneurs as well as the last mile financiers to the segment. Access to finance in conjunction with rational price is going to be the unique customer value proposition of MUDRA. The establishment of MUDRA would not only help in increasing access of finance to the unbanked but also bring down the cost of finance from the Last Mile Financiers to the informal micro/small enterprises sector. The approach goes beyond credit only approach and offers a credit – plus solution for these myriad micro enterprises, creating a complete ecosystem spread across the country. [Source: PIB, GoI]

The MUDRA Pricing

Access to finance is critical and equally critical is the cost of finance to the ultimate beneficiary. The rationalization would be intricately linked with the cost of funds of MUDRA.

The MFI sector is presently regulated by Reserve Bank of India and RBI has already prescribed detailed guidelines for pricing in respect of MFIs. In the backdrop of these guidelines and the fact that MFI sector has been constantly trying to reduce its costs, MUDRA would also help MFIs reduce their cost to bring down the overall cost to the end beneficiaries.

Working on the premise that the cost to the ultimate beneficiary should be reasonable and affordable, the cost of funds of MUDRA may be in the range of 6-7%. MUDRA may have to adopt a cost plus approach for pricing it offerings.

MUDRA will thus be a refinancing agency which will need funding below market prevalent rates through State interventions which in turn will help it channelise the assistance to the last mile financiers as well as the ultimate beneficiary micro units at reasonable rates, thereby, simulating the market mechanism for overall reduction in interest rates by other financers. Access to finance in conjunction with rational price is going to be the unique customer value proposition of MUDRA.

The MUDRA Process

MUDRA's delivery channel is conceived to be through the route of refinance primarily to NBFCs / MFIs, besides other intermediaries including banks, Primary Lending Institutions, etc.

At the same time, there is a need to develop and expand the delivery channel at the ground level. In this context, there is already in existence, a large number of "Last Mile Financiers" in the form of companies, trusts, societies, associations, etc. which are providing informal finance to small businesses.

The financing architecture conceptualized for the MUDRA Bank would thus also be aimed towards integration of these "last mile financiers" into the formal delivery channel by utilizing intermediaries such as NBFCs / NBFC – MFIs as also Non Corporate MFIs.

In case of relatively bigger MFIs, MUDRA can adopt the traditional on-lending/refinancing model. In case of MFIs, having healthy credentials and enjoying top notch rating, may be considered for refinancing on an accelerated basis.

In case of relatively smaller/weak MFIs, operating in unserved/underserved geographies, the Double Intermediation (DI) approach may be adopted. Although, DI approach may not be the most cost efficient model, it can be helpful in reaching out to relatively weaker/smaller MFIs.

Another possible approach, especially with Reserve Bank of India (RBI) permitting the Business Correspondent (BC) Model, could be the Aggregator approach. Large NBFCs at State / National level / BCs could act as aggregators and assistance can be channelized through them for reaching out to the Last Mile Financers.

Technology leveraging will form the backbone of the delivery system to be put in place by MUDRA in association with the intermediaries. For the last mile delivery, Mobile Technology holds immense potential. [PIB / Stakeholders Consultation Meeting convened by Mudra Bank on 22 April]

Govt notifies amendments to Companies Act

The Companies [Amendment] Act, 2015, which was passed by Parliament in May, amending the Companies Act, 2013, was to bring the law in tune with the global standards. It was notified on 26 May. Important changes :

- For setting-up a private company, new Act has done away with the norms of Rs 1 lakh minimum capital requirement and Rs 5 lakh in case of a public sector unit.
- The concept of company seal has also been done away with. The authorization can be made by two directors or by a director and the company Secretary.
- The new law said that if a firm fails to repay the deposit or any interest due thereon within the time specified, it will be "punishable with fine which shall not be less than Rs 1 crore but which may extend to Rs 10 crore" in addition to payment of deposits."...every officer of the company who is in default shall be punishable with imprisonment which may extend to seven years or with fine which shall not be less than Rs 25 lakh but which may extend to Rs 2 crore, or with both," said the notification.
- No company will declare dividend unless "carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year." The unclaimed dividend will not be transferred to Investor Education and Protection Fund.
- With regard to trying fraud cases, the new norms said that all cases under the Companies Act cannot be tried by a special court and that only serious offences will go to such courts, while the others would be tried by normal magisterial court.
- The Act has set a threshold limit for auditors to report frauds to central government with rider. "In case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee," it added.
- The issues concerning related party transactions with regard to a company and wholly-owned companies too were being addressed through the amendment. Audit Committee can make omnibus approval for related party transactions proposed to be entered into by the company in case any loan made by a holding company to its wholly-owned subsidiary or any guarantee given by a holding company in respect of any loan made to its wholly-owned subsidiary company among others. Related party transactions can be passed through ordinary resolution instead of special resolution required currently. [Deccan Herald/PTI, May 27]

Centre proposes 7-year jail term, heavy penalty for benami transactions

Persons found guilty of holding benami property will have to face rigorous imprisonment up to seven years, besides paying heavy penalty. These are among the provisions in the new Benami Transaction (Prohibition) Amendment Bill, which was introduced in the Lok Sabha on May 13. The Bill will now be scrutinised by the Standing Committee on Finance.

This is the third key measure by the government to curb black money, after Parliamentary approval for new legislation to tax and penalise undisclosed assets and income abroad and making PAN (Permanent Account Number) mandatory for any purchase or sale exceeding the value of Rs. 1 lakh. [Business Line, May 13]

Collateral management companies foray into financing, set up NBFCs

Warehouse service providers (WSP) and collateral managers have started setting up NBFCs to provide funding to farmers and aggregators, along with other allied services. Delhi-based SLCM set up Kissandhan, with an initial capital infusion of Rs 50 crore in March 2014. Since then, the company has disbursed Rs 130 crore to farmers and aggregators, with an average ticket size of Rs 2.5 crore. Kissandhan provides credit support to clients with "not-so-strong" balance sheets. It also helps farmers and aggregators that seek credit extension against their agri produce. Warehouse keepers and collateral managers have been providing services such as post-harvest management of agri commodities, storage, expert advice in addition to quality inspection and issuing of warehouse receipts. They also tie-up with banks for extension of credit facility.

Segment leaders like National Bulk Handling Corporation (NBHC) and National Collateral Management Services (NCMSL) are also planning to set up their own NBFC. "We do understand that an NBFC in the commodity system, with the back-end strength of procurement and management of stocks/commodities that a WSP like us possesses, can play a meaningful role in building up the business on both procurement and financing side. We facilitate these services across the country and are looking to scale up significantly in all geographies in the coming years." said Anil Choudhary, managing director, NBHC. Associated with 47 banks and other financing institutions, NBHC manages Rs 70,000 crore of assets under a collateral management tie-up. "Unlike other industries, the intention of NBFCs in agri space is not to compete with banks but to exploit untapped potential," said Sanjay Kaul, managing director, NCMSL, while confirming its plan to set up an NBFC. [Business Standard, April 22]

Government easing registration norms, cutting penalty for one-person companies

With the one-person-company (OPC) concept not finding enough takers, the government is simplifying the registration procedure and reducing penalties to encourage small entrepreneurs to corporatise their businesses. Introduced in April 2014 under the new Companies Act, the OPC concept was seen as an enabling platform for entrepreneurs, especially IT startups, to corporatise their entities. But just 1,953 OPCs with collective authorised capital of Rs 44.83 crore applied until end-February.

The new Companies Act made it legal to set up a company with just one director. The registration conditions include a paid-up capital of less than Rs 50 lakh and annual average revenue of not more than Rs 2 crore in three consecutive years preceding its incorporation. But harsh provisions in the law were widely seen as a key deterrent for small businessmen to convert their businesses from sole proprietorship to OPCs.

Already OPCs have been granted exemptions such as option of not including cash flow statement in financial statements. Other measures such as relaxing the compliance and filing requirements are in the pipeline and will be notified soon, a senior government official said, speaking on the condition of anonymity. Earlier, if an OPC or any of its executives contravened the provisions of the Companies Act, it was punishable with a fine of Rs 10,000 with a further Rs 1,000 per day if it didn't fix the problem. The penalty, as per the new company incorporation rules issued last week, has been reduced by 50%. [ET Bureau May 12]

Government looking at proposal to join digital payments alliance

The government is considering a proposal to join the Better Than Cash Alliance (BTCA), a global body which promotes digital payments. "BTCA, which is a forum of governments, development partners and companies that promote transition from cash to digital payments, has sent a proposal for joining the forum which is under consideration of the government," Minister of State for Finance Jayant Sinha told the Lok Sabha in a written reply. The Alliance, which is funded by organizations like UN Capital Development Fund, Bill & Melinda Gates Foundation, Citi bank and USAID has 33 members. [Economic Times/PTI Mar 20]

Govt set to do away with RBI nod for FDI

Investors seeking government approval for foreign direct investment[FDI] in the country would no longer need to wait for the central bank's green signal, a move aimed at improving the ease of doing business environment and make the Foreign Investment Promotion Board (FIPB) a truly single-window clearance mechanism.

The change, which was approved by the Parliament earlier this month as part of the Finance Bill by amending the Foreign Exchange Management Act, 1999, would soon be notified by the government after consultation with the RBI, a senior finance ministry official said. [Financial Express, May 20]

In a first, Centre will float 40-year bonds for borrowing

In 2015-16, the Government will for the first time, use bonds (Government Securities or G-secs) with a 40-year maturity period for its borrowing. Currently, the bonds have a maturity period of up to 30 years. "We will use a 40-year bond to borrow up to Rs.10,000 crore," Finance Secretary Rajiv Mehrishi told reporters after a meeting with RBI officials. Rajat Bhargava, Joint Secretary in the Finance Ministry, said that such bonds bring stability in the system, besides helping in benchmarking interest rates and easing redemption pressure. These bonds could be very useful for pension funds in their long-term investment strategy. Bonds with longer maturity are popular in various countries. The UK, for instance, has Government bonds with a maturity of up to 60 years. [Business Line, March 23]

PM moots roadmap for financial inclusion, suggests 'milestones'

Prime Minister Narendra Modi on April 2 asked the RBI to draw up a 20-year roadmap aiming for full financial inclusion by 2035. Addressing a gathering of bankers and top officials on the occasion of the 80th anniversary of the RBI, Modi said that by then every household in the country should have access to at least some financial services, adding, "In the entire country, be it cooperative banks, microfinance institutions or nationalised banks, every institution must go ahead in one direction."

Modi asked the central bank to identify milestone years for achieving the financial inclusion targets, indicating they could be 2019, the 150th birth anniversary of Mahatma Gandhi, or 2022, the 75th year of the country's independence, 2025, the 90th anniversary of RBI and finally 2035, which would be the RBI's centenary year. "These are four important dates. We can create a roadmap for financial inclusion," he said, adding that financial inclusion should not remain a government programme but should become "an article of faith".

The PM asked banks to be more accommodative towards small and marginal farmers while giving credit. [Financial Express, April 3]

Reits now eligible under Fema

After getting partial relief from imposition of Minimum Alternate Tax (MAT), real estate investment trusts (REITs) got another boost when the Cabinet on May 6 approved a proposal to enable foreign investment into these. The proposal recognises REITs as eligible financial instruments or structures under the Foreign Exchange Management Act (Fema). Thus, entities registered and regulated under the SEBI (Reits) Regulations of 2014 will be able to access foreign investments; till now, these were barred under Fema regulations. [BS Reporter, May 7]

Defaulters' claim for privacy rejected

Can a lender bank publish the name and photograph of a defaulter invoking the power under the Securitisation (Sarfaesi) Act?

High courts have taken different views on this question. Several persons challenged the right claimed by State Bank of India in writ petitions in the Gujarat High Court. They argued that their reputation and dignity would be affected and the fundamental right to privacy guaranteed in Article 21 of the Constitution violated. They also contended that the guidelines provided in the Bank Codes and the Standards Boards of India provided for the privacy and confidentiality of borrowers. However, the high court last week dismissed all the petitions, titled Monal Chokshi vs SBI. The bank had argued that the law provided for a procedure for recovery of the dues, like publication of the non-performing asset and the names of defaulters. Since the lender has that power, the modalities which are not prohibited could be resorted to, it was contended. The court accepted the bank's arguments and stated that the Act as well as the agreement signed by the borrower allowed the lender to choose the mode of publication. [Business Standard, April 5]

Interest on debentures deductible

The Supreme Court has ruled that the liability of a company to pay interest upfront to debenture holders is allowable as deduction in income tax in the first year itself though the life of the debenture may spread over several years. The Supreme Court stated so in the judgment, Taparia Tools Ltd vs CIT, Nasik, setting aside the rulings of the Income Tax Appellate Tribunal and the Bombay High Court. The high court had upheld the action of the revenue authorities who had treated the payment as 'deferred revenue expenditure' to be written off over a period of five years, which was the life of the debentures in this case. They allowed only one-fifth of the payment, though the entire payment was made in one year. The company challenged the stand of the authorities in several forums, where it lost all the way. But the Supreme Court accepted its arguments and explained the legal position as follows: "The company did not want to spread-over of the expenditure over five years. In the return filed by it, it had claimed the entire interest paid upfront as deductible expenditure in the same year. This course of action was permissible in law. Therefore it could not be deprived of the option to claim the expenditure as deduction."[Business Standard, 5 April]

Prez Promulgates Ordinance on Cheque Bounce Cases

The Supreme Court of India (SC) in August 2014 in a Judgment held that cases against those having defaulted on their cheque payments could only be filed in courts under which jurisdiction of the bank account of the accused fell in a bid to overcome the legal lacunae. However, since this order is not Payee-friendly (who happens to be the victim) the government has brought the amendment bill to by-pass the court's order. The new law is also intended to help consolidate the cases and aid the judicial system, which is currently dealing with 21 lakh cheque-bounce cases with 259 courts hearing them exclusively.

The Lok Sabha on 13 May 2015 passed the Negotiable Instruments (Amendment) Bill, 2015. Key Features of Negotiable Instruments (Amendment) Bill, 2015:

- Cases of bouncing of cheques can be filed only in a court in whose jurisdiction the bank branch of the payee (person who receives the cheque) lies.
- If a complaint against a person issuing a cheque has been filed in the court with the appropriate jurisdiction, then all subsequent complaints against that person will be filed in the same court, irrespective of the relevant jurisdiction area.
- If more than one case is filed against the same person before different courts, the cases will be transferred to the court with the appropriate jurisdiction.
- It seeks to amend the definition of cheque in the electronic form. While the parent act defines it as a cheque containing the exact mirror image of a paper cheque and generated in a secure system using a digital signature, the amendment bill re-defines it as a cheque drawn in electronic medium using any computer resource and which is signed in a secure system with a digital signature, or electronic system. [www.jagranjosh.com, 14 May]

The President has promulgated the Negotiable Instruments (Amendment) Ordinance, 2015, on June 15 that will allow filing of cheque bounce case at the place where the cheque was presented for clearance or payment and not the place of issue. It will help lakhs of persons battling cheque bounce cases far away from their places, official sources said. The ordinance was necessitated as a bill to help the litigants in the cheque bounce case was passed by Lok Sabha earlier this year but it could not go through Rajya Sabha. [Outlook, June 17]

National Company Law Tribunal gets all-clear from Supreme Court

The Supreme Court on May 14 has upheld the constitutional validity of the National Company Law Tribunal [NCLT], clearing the way for a significant reform in the framework for resolving corporate insolvency. NCLT will replace the Company Law Board and the Board for Industrial and Financial Reconstruction, and be an overarching body for resolving insolvencies. It will be the main component of the proposed bankruptcy code as well. A five-judge constitution bench asked the government to set up NCLT and its appellate forum without further delay. [Times, 15 May]

Parliament passes Payments and Settlement Bill

Parliament passed "The Payments and Settlement Systems (Amendment) Bill, 2014" that seeks to address the problem of insolvency in the payment and settlement system by increasing transparency and stability and bring India's banking payment system in sync with international practices. Moving the amended bill, Finance Minister Arun Jaitley said it was needed to address the issue of insolvency so that there is protection for payments.The amendment to the Payment and Settlement Systems Act, 2007, was proposed to update the regulations in line with globally accepted standards.

The amendment seeks to protect funds collected from the customers by the payment system providers and to extend the Act to cover trade repository and legal entity identifier issuer. [News Nation/PTI, April 27]

SNIPPETS:

Supreme Court in Cheque bounce cases decided/clarified some important norms in the following cases:

Auction purchaser retains property

The Supreme Court, last week, came to the rescue of a purchaser of mortgaged property which was auctioned for recovery of debt and which he had held in possession for eight years while the disputes were going on. In this case, Central Bank of India vs C L Vimla, Supreme Court observed that since the purchaser paid the amount in full in a bona fide manner and suffered for a long time, "equity and good conscience" demanded that his possession should not be disturbed at this stage. [Business Standard, May 3]

Harassed for cheque complaint

When a person is prosecuted for issuing a cheque that bounced, he might hit back by filing criminal cases against the complainant. His harassment could succeed to some extent as seen in the case decided last week by the Supreme Court, D P Gulati vs state of UP. The Allahabad High Court allowed the criminal cases to proceed. However, on appeal, the Supreme Court quashed the criminal cases of cheating, breach of trust and other offences under the Indian Penal Code, describing them as abuse of process of law. [Business Standard, April 5]

No notice to directors in cheque bounce cases

Directors of companies and partners of firms have been fastened with stricter onus by the Supreme Court in cheque bouncing cases. It ruled last week that notice of dishonour of cheques to the company is sufficient, and there is no need to serve separate notices on the directors. The directors are supposed to know about the dishonour when the company gets the notice. There is sufficient time, nearly 75 days, to find which directors are responsible for the fault and therefore, there is no need to prolong the process by serving notices on each director or partner. The Supreme Court overruled the Bombay High Court which had maintained that separate notices were essential. [Appeal case, Kirshna Texport & Capital Markets Ltd vs Ila Agrawal] [Business Standard, May 10]

SEBI streamlines start-up IPO norms; halves listing time to six days

SEBI in its board meeting held on 23 June halved the listing time to six days [instead of 12 days] from the date of the public offer. The shorter time period would come into effect from January 1, 2016. The SEBI also decided to allow a larger number of companies to raise funds through a 'fast-track' process. A company with public shareholding worth Rs 1,000 crore [in place of Rs. 3000 Cr.] can raise funds through FPOs under fast-track mode.

Disclosure norms for start-ups listing in the alternative trading platform would also be diluted, Sinha, chairman, SEBI said. For rights issues, the fast-track route can be availed by companies with public shareholding worth as low as Rs 250 crore. However, investors will have to wait for making the IPO process entirely online in terms of submission of their bids. While SEBI has provided for online submission of bids from terminals of market entities, the same from any computer or mobile will take some time.

SEBI also said that ASBA will be applicable to all kinds of investor categories and all IPOs. The number of bank branches with ASBA facility has increased to 95,500 now, from 9,800 when this facility was introduced. Now depository participants and registrars can also receive IPO applications. [Business Standard/PTI, June 23]

Monetary penalty for companies without women directors

Companies, which have failed to comply with the SEBI norm of appointing at least one woman director on their board, will have to pay a fine of at least Rs 50,000 which could go progressively higher depending on the period of non-compliance.

The circular issued on April 1 said that all companies which have not yet complied with the norm but manage to do so by June 2015 will be levied a fine of Rs 50,000. Companies, which comply between July and September 2015, will be charged Rs 50,000 and an additional fine of Rs 1,000 per day till the date of compliance. Companies complying with the norms on or after October 1, 2015 will have to pay Rs 1,42,000 along with an additional charge of Rs 5,000 per day till the date of compliance, as per the SEBI circular.

"For any non-compliance beyond September 30, 2015, SEBI may take any other action, against the non-compliant entities, their promoters and/or directors or issue such directions in accordance with law, as considered appropriate," said the SEBI circular. [BS Reporter, April 8]

New disclosure regime to be in place in the current financial year

This year, the SEBI is planning to revamp its disclosure requirements to apply a uniform standard to all companies, reduce the number of times certain disclosures are made, as well as introduce systems for 'automatically gathering and integrating' information from companies. "The focus during the year 2015-16 will be on implementation of corporate governance standards by listed entities… and system-based disclosures," it said.

GREATER DISCLOSURE

- Regulator says disclosures one of the key areas of focus for FY16.
- Plans to introduce systems for 'automatically gathering and integrating' company information.
- Many companies apply disclosure requirements differently for example, some disclose orders of a certain size, and others don't.
- SEBI's plans a uniform regime.
- Disclosures for public issues will be revamped, too.
- The other areas of focus mentioned for the year include the introduction of initial public offerings in electronic form, cyber security and a better environment for capital-raising by Indian start-ups. [Business Standard, April 21]

New insider trading norms kick in; ESOPs, share pledge pose challenge

The new insider trading guidelines, the one that overhauls a 23-year-old framework, comes into effect on May 14 that has far stricter provisions in certain areas. SEBI has allowed the use of 'prearranged trading plans' prevalent in the US, but any person deemed an "insider" or "connected person" cannot revoke the plan or have multiple or over-lapping trading plans. Opting a trading plan is voluntary but following it is mandatory without any alterations, said Sundaresan who was one of the 18 member-High-Level Committee to review and draft new regulations.

Tough strictures from SEBI

- SEBI allows use of prearranged trading plans, but person deemed 'insider' or 'connected person' cannot revoke plan nor have multiple or overlapping trading plans
- Challenges with applying a 6-month blanket ban on sale of ESOPs as well as share pledge by bringing every share pledge by an insider under the purview of the new law
- Earlier model code had specific carve-outs for ESOP 'exercises' & specific situations but final norms ban contra trade within 6 months
- Person deemed insider will be required to seek an approval from the compliance officer from exercising his ESOPs. If the approval lapses, an insider will be required to seek approval
- Experts say new norms tough to impose on commodities & real estate
- MF units excluded from purview of insider trading January this year, market regulator SEBI notified a stricter set of insider trading norms to check illicit transactions in shares of listed firms by management personnel and 'connected persons'. SEBI has expanded the definition of 'insider' to include persons connected on the basis of being in any contractual, fiduciary or employment relationship that allows such people access to unpublished price sensitive information (UPSI). [Financial Express, May 14]

SEBI allows stock exchange route for merger & acquisition deals

Come July 1, buybacks and share acquisitions through M&A deals can be conducted through a separate window on the stock exchanges, said a SEBI notification. [Business Line, April 13]

SEBI for including family trusts, NBFCs in QIB segment

The SEBI has proposed including 'systematically important' non-bank financial companies (NBFCs) and some registered family trusts in the qualified institutional buyers (QIB) category. The move will put such entities at a par with institutional investors like banks and mutual funds (MFs). Further, the regulator has suggested any other entity registered with SEBI and having a minimum net worth of Rs 500 crore may also be considered a QIB. [Business Standard/ PTI, April 2]

SEBI to introduce e-KYC framework in two months

After successfully implementing a common know-your-customer (KYC) framework for the capital market, the SEBI has embarked on an ambitious project to enable investors open a trading account sitting at home. According to sources, the market regulator plans to introduce an electronic, or e-KYC, format that will provide an option of conducting in-person verification (IPV) through webcams. The e-KYC process will streamline and simplify processes. A senior SEBI official said e-KYC guidelines will be ready in two months. [Business Standard, May 3]

SEBI wants to create a single distribution point for all securities market benefits

The SEBI is working on creating a single-point distribution system for all securities market benefits. This means all the cash that you receive from your security market activities — dividends, interest income from securities, redemption proceeds — will all be distributed by the same agency. "World over, in most developed markets and several emerging markets, depositories usually distribute cash benefits to their account holders...It is proposed to have a detailed consultation process with market participants on the issue of considering a mechanism wherein all securities-related benefits can be distributed at a single point," it said. Global depositories often hold a restricted banking licence, to process cash benefits directly. [Business Standard, April 13]

Tax regime at IFSC at GIFT will have to be competitive enough: FM

Union Finance Minister Arun Jaitley on April 10 launched India's first International Financial Services Centre (IFSC) at Gandhinagar and unveiled rules and regulations for this global financial hub. "The Centre has an enormous task ahead. We're trying to present a taxation regime which is internationally compatible and non-adversarial. If other IFSCs are more compatible than us, then we could lose business to them. We have to present a tax regime that is compatible," said Jaitley. The tax rate at IFSCs in Dubai, Malaysia and Singapore are zero per cent, three per cent and 10 per cent, respectively. The tax regime at IFSC at GIFT will have to be competitive enough to match those of the other IFSCs.

MAJOR GUIDELINES

- Indian and foreign insurer/reinsurer can set up IFSC Insurance Office, retrocede 90% of its reinsurance business.
- Public, private-sector banks eligible to set up IFSC Banking Units (IBUs).
- Each eligible bank can set up only one IBU in each IFSC for minimum capital of $20 million.
- IBUs in IFSC exempt from cash reserve ratio, statutory liquidity ratio requirements.
- IBUs of foreign banks to be regulated and supervised by RBI.
- Any Indian or foreign stock exchange, clearing corporation and depository may form subsidiary in IFSC with at least 51% paid-up equity share capital held by such exchange.
- Permitted stock exchange should have minimum net worth equivalent of Rs 25 crore initially, Rs 100 crore over three years from date of approval. [BS Reporter, April 11]

Govt mulls company law exemptions for IFSC

Companies setting up shop at IFSC might get exemption from some provisions of company law. A foreign company setting up a branch in India is required to have minimal fillings such as of annual results, fraud reporting or operational submissions. [Business Standard, May 23]

India Inc close to beating sovereign in debt

Even as the Union government remains the country's single largest borrower, India Inc's borrowing has risen at a swift pace over the past decade. Since 2003-04, Indian companies' outstanding debt has increased at a compound annual growth rate (CAGR) of 24.8 per cent, more than double the 11.4 per cent rate for India's public debt during the period. While corporate debt as a percentage of India's gross domestic product (GDP) has gradually increased over this period, Indian firms' incremental borrowings have been higher than the Union government's on at least three occasions in the past seven years.

In fact, corporate India at present is more indebted than all state governments put together. In absolute terms, the gap in the outstanding liabilities of the Union government and corporate India has widened a little — from Rs 14.86 lakh crore in 2003-04 to Rs 22.21 lakh crore in 2013-14. But in terms of multiples, the balance outstanding debt of the Union government now is only 1.6 times as much as corporate India's liabilities (including non-debt liabilities but excluding net worth), compared with over five times in 2003-04.

Public debt in the past decade has grown at a slower rate than the country's gross domestic product (at current price). This has led to a steady decline in the public debt-to GDP ratio. At 71.6 per cent, public debt is close to its lowest since the late 1990s, while the Union government's debt-to-GDP ratio declined to a three-decade low of 55.2 per cent of GDP in 2013-14. In 2004-15, the ratio was as high as 71.5 per cent.

By comparison, corporate debt has grown at a much faster pace, resulting in a sudden surge in corporate debt-to-GDP ratio. The outstanding corporate debt is now equivalent to over a third of India's GDP (34 per cent in 2013-14), up from 14.8 per cent in 2003-04. As a ratio of revenues, India Inc's combined debt was equivalent to 57 per cent of revenues last financial year, up from 37.3 per cent in 2003-04.

In a way, India Inc displaced the sovereign from the capital market as public and corporate debt combined hovered between 99 per cent and 105 per cent of GDP during the period. Experts attribute this to the state desisting from increasing the number of infrastructure sectors in favour of private participation through public-private partnership projects.

A Business Standard analysis, based on the combined figures of India's top 1,000 listed non-financial companies by revenues in each of the past 11 years since 2003-04 — these companies accounted for an average 95 per cent of revenues and assets of all listed non-financial ones — shows the combined debt of these firms jumped nearly 10 times in the past decade. It stood at Rs 35.6 lakh crore at the end of 2013-14, compared with Rs 3.9 lakh crore at the end of 2003-04.

By comparison, the Union government's outstanding liabilities during the period tripled to Rs 57.8 lakh crore in 2013-14 from Rs 18.7 lakh crore in 2003-04. The state governments' combined liabilities jumped 2.7 times to Rs 24.7 lakh crore at the end of 2013-14 from Rs 9.2 lakh crore in 2003-04. The combined public debt is lower, as the Union government's loans to states gets cancelled in the aggregate figure. [Business Standard, March 23]

Perpetual bonds fail to woo investors

Placing perpetual bonds issued by banks to shore up Tier-I capital with investors has turned out to be a bitter experience for arrangers in FY15. Arrangers, merchant bankers registered with the SEBI and involved in issue management and mobilisation of funds, have not been able to sell forward these Basel III-compliant bonds to investors due to the risks involved in these instruments. Key investors such as insurance companies have stayed away from these bonds, due to which arrangers are still saddled with almost 50 per cent of these bonds in their kitty. [Business Standard, April 27]

Reforms needed to improve ease of corporate bond issuance: RBI

RBI deputy governor R Gandhi has asserted the need for regulatory and administrative reforms, an expansion in the investor base and securitisation of corporate debt instruments to improve the corporate bond market. He said bond issuance was being viewed as costlier and more cumbersome than bank lending. "For it to be attractive to the issuers to approach the corporate debt market, the ease and cost of issuance has to improve. The listing, disclosure requirements and procedures have to be simple and less complicated," he added.

One of the prime concerns, Gandhi noted, was the absence of liquidity in the corporate bond market. He said the trading in the Indian bond markets was characterised by the tendency of investors to buy and hold the instruments as well as trading in select maturities, both of which inhibited liquidity. Nilesh Shah, MD & CEO, Kotak AMC, said: "You can create liquidity through collateralised borrowing and lending obligations (CBLO) kind of mechanism in the corporate bond repo market." Rashesh Shah, chairman & CEO, Edelweiss Group, said: "It is very hard for retail investors to participate in the bond market directly as it is expensive and not very user-friendly." [Financial Express, March 24]

'55% of RuPay cards active under Jan Dhan Yojna'

As India's own card-payment scheme RuPay aims to go global, National Payments Corporation of India (NPCI), which conceived and launched the scheme, has tied up with Chinese and Japanese companies to help citizens of these countries use Indian ATMs and Point-of-Sale terminals. AP Hota, Managing Director and CEO of NPCI, says the corporation plans to take this one-way relationship further and bring more activity into the home-grown card network.

Over 130 million cards have been dispatched as on April-end. According to Finance Ministry data, 55 per cent of the 140 million cards issued under Jan Dhan are active.

We are working with the Ministry of Transport to make payments easier in smart cities by issuing mobility cards. We have built the specifications based on both national and international standards.

Debit card will have to be EMV (Europay, MasterCard, and Visa) enabled and have NFC (near field communication) technology, Mr. Hota added. [Business Line, 25 May]

FIDC Director General Maheesh Thakkar and others at a Personal Meeting with Shri Kalraj Mishra, Hon'ble Union Cabinet Minister of Micro, Small and Medium Enterprises, Government of India at Udyog Bhavan, New Delhi on 21st May 2015.

FIDC dialogue with MUDRA Bank

FIDC has been in dialogue with MUDRA Bank so that this newly created Refinance & loan window is open for NBFC-MFIs and all NBFCs. FIDC actively participated in Stakeholders Consultation Meeting on Developing Business Model for MUDRA held at New Delhi on 22 April. MUDRA has released on 6 May, 2015 the eligibility criteria for availing Refinancing by banks, MFIs and NBFCs. As per this: 1. All RBI Registered NBFCs are eligible; 2. Credit Rating is NOT required if NBFCs enjoy funding from Banks for minimum 2 years; 3. Net NPA not higher than 3%.

Expressing joy Mr. Mahesh Thakkar, Director General, FIDC said "Great news and new lease of life for small NBFCs. A Long pending demand of FIDC is met. A Refinance Institution [has emerged], other than Bank (that will grant finance without Credit Rating)".

He also took up with Mr. Hasmukh Adhia, Secretary, Department of Financial Services with regards to the Role that NBFC-AFC can play as partner for Financing of Non Corporate Small Businesses by MUDRA in a representation on 8 May [see for details page-4].

National Summit on Small Business financing through MUDRA Bank- The way forward on July 3 at New Delhi

ASSOCHAM with support of Finance Industry Development Council (FIDC) with all key stakeholders is organizing National Summit on Small Business financing through MUDRA Bank- The way forward" on July 3 at New Delhi to strengthen the confidence in financing small business entities and building road map for MUDRA Bank. Shri Kalraj Mishra, Minister of MSME Government of India will inaugurate the summit as chief guest and Shri Jiji Mammen, CEO, MUDRA Bank will deliver key note address in Inaugural session.

The summit is expected to create a platform for brainstorming discussions around the issues which are important for nurturing the start-ups with all key stakeholders to chalk out a feasible and effective agenda to build model framework and suggest measures that can be taken to strengthening the confidence of entrepreneurs in financing small business units.

Meeting with Hon'ble Mr. Jayant Sinha

Mr. Raman Aggarwal had a brief meeting with Mr. Jayant Sinha, union minister of State for Finance, where he was convinced about NBFCs being granted level-playing field with banks as well as providing a refinance window for all NBFCs including small NBFCs. FIDC on 23 April submitted a representation to him advocating the cause of Small NBFCs saying that 90% of the NBFCs are small which cannot be treated at par with large NBFCs. For them a separate category may be created with NoF of Rs. 10 crore with a view to fulfill objective of financial inclusion.

Road Transport & Safety Bill - Version IV

FIDC will represent the issues regarding Road Transport & Safety Bill - Version IV and balance issues to the concerned authorities and also request for the meeting with the Hon'ble Minister Shri Nitin Gadkari.

Meeting with the Estimates Committee

A meeting with the Estimates Committee of Government of India, where representatives from Shriram, Sundaram and Bandhan were present took place. It was very positive meeting and the Chairman Shri Murali Manohar Joshi assured to take up all issues pertaining to NBFCs.

Presentation on GST and its impact on NBFCs

E & Y has agreed to make a presentation on GST and its impact on NBFCs to FIDC members, which would be arranged at the mutually convenient date.

Guidelines for outsourcing of Financial Services by NBFC should be for large firms

FIDC suggested that the guidelines on "Managing Risks and Code of Conduct in Outsourcing of Financial Services by NBFC" should be for large entities. Responding to RBI draft guidelines released on 10th April, Shri Mahesh Thakkar, director general of FIDC said: "even if there is a need for stipulating outsourcing guidelines for NBFCs, these can be considered only for the NBFCs which have balance sheet size of Rs. 25000 crore and above and have 100 branches and above, in order to balance the purpose of risk management and viability of the NBFCs."

"The guidelines should not be made applicable to all the existing agreements. On the contrary, it should be made applicable to outsourcing agreements with large vendors only and with prospective effect," Mr. Thakkar said.

Since there is large number of individual vendors, the requirement that vendor should not be related party, especially to identify whether the vendor is related to any officer /employee or their relatives is difficult. Also there should be relaxation in cases where the outsourcing transaction is on arm's length basis and also the bar may be applied only to senior employees and not all employees, he added.

Commenting on the Restriction on outsourcing Internal Audit functions FIDC said that Internal Audit is a core management function and many NBFCs are conducting their internal audit through big firms where the services are far more superior and they provide an independent and objective assurance to add value and improve the company's operations suggesting to remove the restriction for outsourcing of Internal Audit function in such cases. Alternatively, a panel of firms may be formed which can provide internal audit services to NBFCs. FIDC added that the guidelines should provide a framework for evaluating the adequacy of risk management practices adopted by NBFCs for outsourcing agreements. This is critical since the external auditors would require a framework and guidance before certifying the same.

The draft guidelines do not differentiate between outsourcing to large and small vendors. All the controls prescribed in the guidelines over large number of small vendors, like DSAs, DMAs, and Recovery Agents who provide limited service of sourcing customers or only repossession services, would not be practical and are difficult to implement, FIDC said in its representation on May 8.

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Suggestions and feed-back

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Your inputs and contributions too are welcome on : fidcnews@gmail.com

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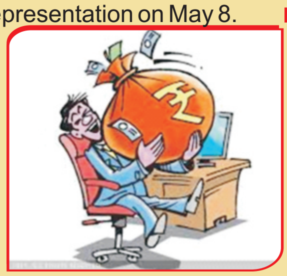

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