VOLUME – 11 NO. – 3 October - December – 2019 FOR PRIVATE CIRCULATION

The NBFC sector pivotal to making the USD 5 trillion economy aspiration a reality

Ramesh Iyer
Chairman, FIDC

Friends as we step into a New Year, I would like to wish each of us a fresh new beginning!

Enough and more has been spoken and written about the challenges we faced as a sector, so I will not dwell too much on those. Yes the last 12 to 15 months have been tough on the industry as a whole. After witnessing healthy growth over the past few years, growth slowed down in the second half of the last fiscal. But adverse times are not new to us. We have faced it before and have emerged successfully from it.

The concerns this time may be different, compounded by the economic slowdown, particularly in the automotive, infrastructure and real estate sectors. But what is heartening, is that the role of NBFCs in facilitating inclusive growth has been recognised by the Government and the Regulator alike and is reflected in a slew of announcements made by the Finance Ministry and the RBI to support the sector.

In the 2019 budget, the Government announced its aspiration of achieving a USD 5 trillion economy over the next five years. We are an important constituent of the financial services sector and the economy and have played a key role in funding first-time borrowers, the unbanked and unbankable customers, thus contributing to Financial Inclusion in its true sense. We also play a fundamental role in improving social indicators such as employment rate, per-capita income and percentage of population below poverty line. Thus hastening India's journey towards achieving the status of a developed nation. A healthy and growing NBFC sector is therefore crucial to achieving the USD 5 trillion aspiration and this has been well-acknowledged on various platforms.

The onus is now on us, as an industry, to make the most of this opportunity and the privileged status. It is time for us to deep dive into our business models and explore ways to bridge gaps if any. To recalibrate our strategies to deal with the changing business dynamics.

I strongly believe that the most significant driver of growth will be our ability to create innovative products, to develop strategic partnerships with key ecosystem players and leverage technology to meet the demands of new consumers. Having said that, striking the right balance between the physical and digital approach will also be crucial. And most importantly it is time to work collectively towards incorporating higher standards of governance, compliance, and risk management and to ensure that the concerns of Regulators, Investors and Lenders are well-addressed.

A recent Bloomberg report indicates that the NBFC sector is beginning to show tentative signs of recovery. A good festive season did give us some reason for cheer and the momentum seems to have continued in November and December. This leads me to believe that an uptick in on the cards. That is the indication we are getting from most pockets across the country and it is positive news which will keep the offtake going up.

FIDC has consistently taken a positive and pro-active stance on issues concerning the sector and has played a significant role in some of the initiatives undertaken by the Government and the RBI to boost the sector. We are a large and diversified group with business models which are very different from each other. Our challenges might be unique to each of us but there is a lot we can learn from each other.

FIDC has taken on the task to study and analyse best practices and systems and facilitate knowledge sharing through seminars, workshops, training sessions etc. thus enabling a uniform code of conduct for the sector and harmonized systems.

And while we are already seeing an uptick between the first two quarters of FY20 versus the current to next quarter, the pre-2018 growth story is still a way off. Every entity in the ecosystem, be it a lender, a borrower or an intermediary, has to experience a change for the better and at every location across the country. That is when the Regulator would get convinced and that is when the real growth story will kick-in! - *Ramesh Iyer, Chairman, FIDC*

AT A GLANCE

- The NBFC sector pivotal to making the USD 5 trillion economy aspiration a reality..........Ramesh Iyer, Chairman, FIDC 1
- Regulatory Perimeter........ 2
- Fit-for-future NBFCs: A key pillar of the USD 5 trillion economy........PwC India 3
- NBFCs should lend more to reverse downturn ....Anurag Thakur 5
- NBFCs: Tighter regulations, not the way forward....V P Nandakumar, Managing Director & CEO, Manappuram Finance Ltd 5
- India is Fastest Household Wealth Creator in the World: Credit Suisse Study...Nilanjana Chakraborty and Sabari Saran 6
- All NBFCs shouldn't be painted with the same brush........................Keki Mistry, Vice Chairman & CEO, HDFC Bank 6
- Government Lays Down Rules for Resolution of Stressed Financial Firms........ 7
- Moves........ 8
- FIDC Pre-Budget Memorandum for Union Budget F Y 2020-21........ 8
- Legal Eagle........ 9
- SEBI MOVES........ 10
- Human Resource Development for NBFCs: Concerted actions by FIDC........ 10
- Periscope........ 11
- Mr. Ramesh Iyer takes over as Chairman, FIDC........ 11
- FIDC IN ACTION........ 12

EDITORIAL COMMITTEE

- Mr. RAMESH IYER ...Chairman, FIDC
- Mr. RAMAN AGGARWAL ... Co-Chairman, FIDC
- K V SRINIVASAN ..... Co-Chairman, FIDC
- Mr. T. T. SRINIVASARAGHAVAN
- Mr. ALOK SONDHI
- Mr. MAHESH THAKKAR ... Director General, FIDC
- Mr. MUKESH GANDHI
- Mr. N M MUKHI ... Editor

TATA Motorsfinance
driven by trust
The largest financier of TATA vehicles

Retail Finance PV & CV | Used vehicle finance
Tyre Loan | Balance Transfer
Working Capital | Channel Finance/ Corporate Lending
TATA
Missed call No. : 9266592665 Website : www.tmf.co.in

REGULATORY PERIMETER

RBI NOTIFICATIONS & CIRCULARS :

Acquisition of financial assets by Asset Reconstruction Companies from sponsors and lenders: RBI/2019-2020/110; DOR. NBFC(ARC) CC. No. 8/26.03.001/2019-20; 06.12.2019 [All ARCs]

Qualifying Assets Criteria - Review of Limits: RBI/2019-2020/95DOR.NBFC (PD) CC. No. 103/ 22. 10.038/2019-20; 08.11.2019 Department of Regulation [All NBFC-MF]

Liquidity Risk Management Framework for Non-Banking Financial Companies and Core Investment Companies: RBI/2019-2020/88; DOR.NBFC (PD) CC. No.102/03.10.001/2019-20; 04.11.2019; Department of Regulation. [All NBFCs including Core Investment Companies (CICs)]

RBI Reorganises its Regulation and Supervision Departments

RBI has on Nov. 1 reorganised its regulatory and supervisory Departments. Currently, the supervision of financial sector entities is undertaken through three separate departments, viz., Department of Banking Supervision, Department of Non-Banking Supervision and Department of Co-operative Bank Supervision. Similarly, the regulatory functions relating to financial sector entities are carried out through three separate departments, viz., Department of Banking Regulation, Department of Non-Banking Regulation and Department of Cooperative Banking Regulation. With a view to having a holistic approach to supervision and regulation of the regulated entities so as to address growing complexities, size and inter-connectedness as also to deal more effectively with potential systemic risk that could arise due to possible supervisory arbitrage and information asymmetry, it has been decided to integrate the supervision function into a unified Department of Supervision and regulatory functions into a unified Department of Regulation with effect from November 01, 2019.

The above restructuring will:

i. make supervisory and regulatory process more activity based rather than being segmented purely based on the organizational structure of regulated entities;

ii. bestow graded supervisory approach to all the RBI supervised entities linked to their size and complexity;

iii. facilitate more effective consolidated supervision of financial conglomerates among the RBI supervised entities;

iv. result in more efficient allocation of human resources attending to regulation and supervision of financial sector entities under the Bank's purview; and

v. help build an experienced and skilled human resources in the area of regulation and supervision of financial sector entities.

It may be recalled that the Central Board of the RBI had in its meeting on May 21, 2019, approved the creation of the separate supervisory and regulatory cadre. The restructuring of the regulation and supervision function is among a series of steps RBI will take to implement this decision. [RBI press release, Nov. 1]

RBI plans PCA framework, different supervisory system for NBFCs by 2022

The RBI contemplates a return to an earlier supervisory rating framework for NBFCs, too, while ensuring financial statement disclosures here are on a par with banks:

- To make financial statement disclosures of NBFCs on a par with banks
- Integrated off-site monitoring system for ongoing oversight
- Robust compliance culture through enforcement of regulations and cancellation of licences
- Differentiated supervisory framework for large 'deposit-taking and systemically important' NBFCs and smaller NBFCs
- Uniform accounting standards through implementation of Ind-AS RBI is planning a prompt corrective action (PCA) framework and a different supervisory system for NBFCs by 2022. Its medium-term strategy, termed Utkarsh 2022, talks of a "revised and effective PCA framework for NBFCs" as part of a policy for achieving "excellence" in performance of its statutory role, among other steps. This means NBFCs will have to strictly meet benchmarks on capital requirement, non-performing assets (NPAs), and asset quality.

The RBI contemplates a return to an earlier supervisory rating framework for NBFCs, too, while ensuring financial statement
disclosures here are on a par with banks. This framework is what is termed CAMELS, an abbreviation used globally in this regard
regarding bank supervision — for capital adequacy, asset quality, management, earnings, liquidity, and sensitivity to market risk. [Somesh Jha, Business Standard, Nov. 11]

RBI asks NBFCs to adopt better tools to detect liquidity strains early

Reserve Bank on Nov. 4 asked the already fund-starved NBFCs to adopt better risk monitoring tools that capture the strains early on and also to maintain a liquidity buffer as per the mandated liquidity coverage ratio. The regulator also wants the NBFCs to monitor their liquidity risks based on a stock approach to liquidity.

The new norms will be applicable to all non-deposit taking NBFCs with an asset size of Rs. 10,000 crore and above, and all deposit-taking NBFCs irrespective of their asset size and mandate them to maintain a liquidity buffer in terms their liquidity coverage ratio. The new LCR requirement will be binding from December 2020 with the minimum high quality liquid asset of 50% of LCR, and progressively reaching up to the required level of 100% by December 2024. "An NBFC should conduct stress-tests on a regular basis for a variety of short-term and protracted NBFC-specific and market-wide stress scenarios," the RBI said. [Live Mint, 04 Nov.]

RBI is closely monitoring NBFC sector: Shaktikanta Das

The RBI is closely monitoring NBFCs, and is regularly interacting with the management of these companies to take corrective steps as and when required, governor Shaktikanta Das said on Nov. 7. "RBI is monitoring top 50 NBFCs, which account for 75% of the sector. We are having regular interaction with the management of NBFCs and asking them to take corrective steps as per market mechanism. RBI has a broad and good sense of what's happening in the sector," Das told reporters.

Financial Stability and Development Council (FSDC) chaired by finance minister Nirmala Sitharaman reviewed proposals for further strengthening of the resolution mechanism and framework for cyber security of the financial sector. The Council reviewed current global and domestic macro-economic situation, financial stability and vulnerabilities issues, including those concerning non-banking finance companies and credit rating agencies. [Live Mint, Nov. 7]

NBFC regulation is not as strong as banks. We are now making changes to the sector. We have mandated that there should be a chief risk officer. We have also mandated that NBFCs should have Liquidity Coverage Ratio (LCR) requirement as part of asset-liability management (ALM). There are a few other regulatory measures which are under consideration that we will be bringing in steadily. These new regulations have to be brought in a non-disruptive manner because the sector is slowly regaining momentum. Any regulatory intervention should not therefore disrupt the process, RBI Governor said. [Live Mint, Dec. 17]

Credit flow is slowly reviving to the NBFC sector, says RBI Governor

"The NBFC sector is being monitored and the credit flow is slowly reviving to the sector," Das said in a media interaction after the monetary policy committee meet on Dec. 5. Currently, "good NBFCs" are able to raise three months commercial paper (CP) at 5-6 per cent interest rate, but the not-so-good ones are raising CPs for three months tenure at 8-9 per cent. RBI governor said bank credit to NBFCs till the end of November had grown by 26.5 per cent. "We are, wherever required, making deep dive into their books and other numbers. We exactly know, and I can say this with some amount of confidence, that we have a fairly good idea of where the vulnerabilities lie," the governor said. He said the RBI was closely monitoring liquidity situation of NBFCs to ensure they meet repayment obligations. [Business Standard, Dec. 5]

RBI panel proposes stricter rules for core investment companies

Core investment companies (CICs) will have to form board level committees, appoint independent directors and conduct internal audits, if the RBI decides to accept the recommendations of a working group formed to improve their corporate governance standards. The recommendations were made by the Working Group to Review Regulatory and Supervisory Framework for Core Investment Companies set up by the central bank. [Business Standard, Nov. 7]

RBI increases lending caps for micro finance institutions

With the aim to increase credit availability to lower income groups, the RBI, on October 4, raised the lending caps for micro finance institutions.The household income limit for borrowers of NBFC-MFIs in rural areas will be hiked to Rs. 1.25 lakh from the current Rs. 1 lakh, while for urban and semi-urban areas it will be increased to Rs. 2 lakh from the current Rs. 1.6 lakh. The RBI has also announced raising the lending limit to every eligible borrower to Rs. 1.25 lakh from the current Rs. 1 lakh.

"Taking into consideration the important role played by MFIs in delivering credit to those in the bottom of the economic pyramid and to enable them play their assigned role in a growing economy, it is proposed to revise these criteria," the RBI said. [Business Line, Oct. 4]

RBI not looking at liquidity for facility for NBFCs: Dy Guv Vishwanathan

RBI has ruled out any special liquidity facility for NBFCs saying there is enough in the system to meet their needs for borrowings and it is for the lenders to take a call on lending to the NBFCs. "Reserve Bank's position is that there is adequate liquidity in the system and it is for the lenders to take a view on which borrower to give money to and I do not think at this moment we are looking at a liquidity facility for NBFCs", RBI deputy Governor N. S. Vishwanathan said in an analyst meet after the Monetary Policy Committee (MPC) meeting.

RBI recently put a draft circular on the "Liquidity Risk Management Framework for NBFCs and Core Investment Companies (CICs) to be adopted by all deposit taking NBFCs; non-deposit taking NBFCs with an asset size of 100 crore and above for stronger Asset Liability Management (ALM) framework in the NBFCs. In addition, the draft proposes to introduce Liquidity Coverage Ratio (LCR) for all deposit taking NBFCs; and non-deposit taking NBFCs with an asset size of 5000 crore and above. With a view to ensuring a smooth transition to the LCR regime, the proposal is to implement it in a calibrated manner through a glide path over a period of four years commencing from April 2020 and going up to April 2024. [Live Mint, 8 Oct.] ■

Fit-for-future NBFCs: A key pillar of the USD 5 trillion economy

The Prime Minister has announced the vision of building a USD 5 trillion economy by 2024. To fund this growth, we will require a well-functioning NBFC sector to achieve adequate GDP growth. We strongly believe that a healthy NBFC sector is instrumental in maintaining India's growth momentum and achieving the target of a USD 5 trillion economy by 2024. - Deepak Sood, Secretary General ASSOCHAM

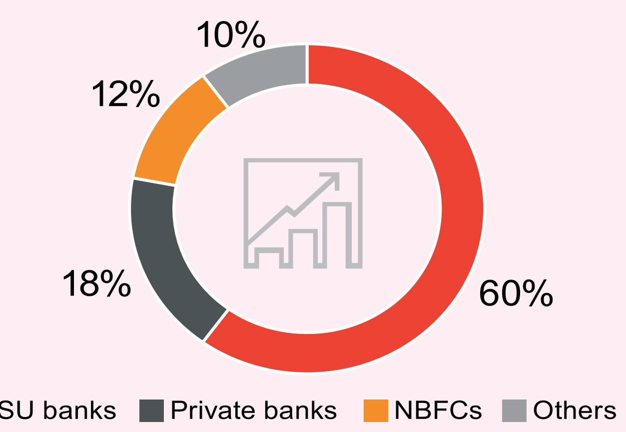
The NBFC sector in India witnessed meteoric growth until the first half of 2018, accounting for nearly 18% of the total formal credit flow. The pace of growth was fuelled by four key drivers.

Outgunning state-run banks

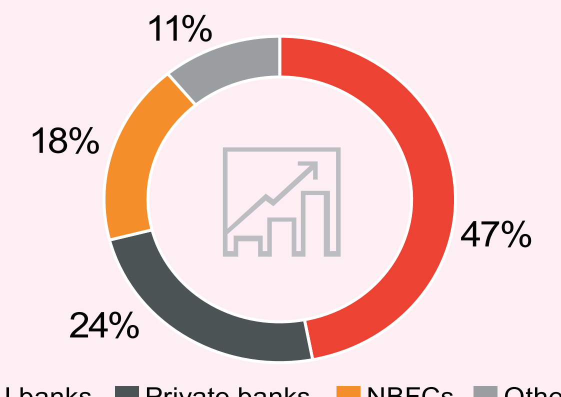
The share of state-run banks in the total credit mix dropped by 13% between FY08 and 18. The drop was led by asset quality fiascos, particularly in the corporate book, that crippled capital availability for new businesses. As lenders shifted their focus to retail individuals, nimbler NBFC and private sector banks were able to grab a larger share of the pie.

Exhibit-1 : Growth in market share of NBFCs and private sector banks – 2008–18

2008: Share of institutions in total formal credit – ~INR 30 trillion



2018: Share of institutions in total formal credit – ~INR 118 trillion



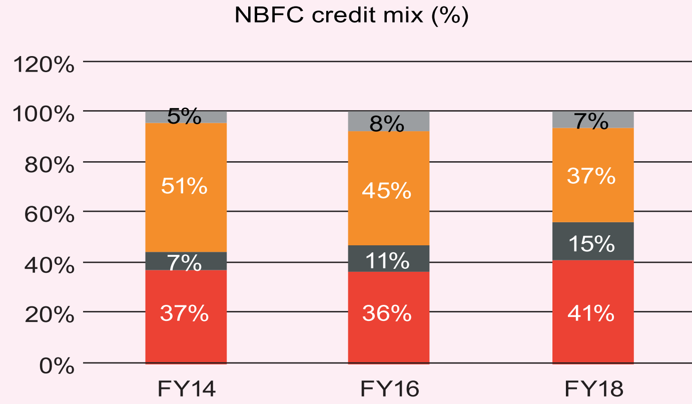
Easy access to liquidity through banks, capital and money markets

Based on a deep understanding of the sector and know-how of the local market, NBFCs have driven credit growth in unorganised markets where banks have traditionally been unwilling to lend. Several NBFCs have built niche, differentiated business models that are sector-, product- and geography-specific to harness existing enterprise or group capabilities. By customising products to match customer needs, enriching customer interactions and deepening customer relationships, NBFCs have emerged as the preferred lender in such markets.

Asset-light, technology-based low-cost models to improve customer reach and penetrate underserved markets

NBFCs have pursued aggressive business growth by building distribution capabilities across new, untapped and under-penetrated geographies and customer segments. Such expansion has required NBFCs to adopt technology advances and integrate with the FinTech ecosystem to build cost-effective, lean and robust operations and risk management capabilities.

Exhibit 2: Increase in share of short-term commercial papers by NBFCs and resulting reduction in cost of funds – 2014–18)



NBFC cost of funds (%)

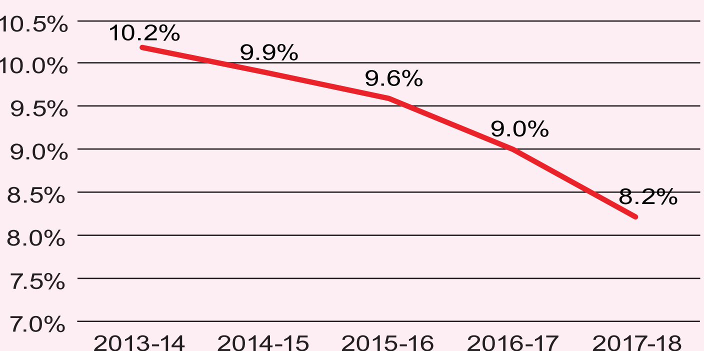


Exhibit 3: Customer-, sector-, product- and geography-focused business models of NBFCs that maximise internal capabilities

Focus type	Focus area	Enabling capabilities			
		Deep understanding of customer groups	Specialised sector experience	Easy access to capital	Efficient distribution network
Customer segment focused	Corporate	✓		✓	✓
	Retail	✓		✓	✓
	MSME	✓		✓	✓
	Blue-collar workforce	✓	✓		✓
Sector	Affordable housing	✓	✓		✓
	Infrastructure	✓	✓	✓	
	Automotive	✓	✓	✓	✓
	Diversified	✓	✓	✓	✓
Product	PoS financing	✓		✓	✓
	Working capital	✓		✓	✓
	Digital lending	✓		✓	✓
	Education loan	✓		✓	✓
Geography	Chennai	✓	✓		✓
	Jaipur	✓	✓		✓

Importance of a healthy NBFC sector for achieving the USD 5 trillion milestone

The 2019 budget presented by the NDA government highlighted a key aspiration – a USD 5 trillion economy in 2024, translating to a real GDP growth rate of 8%. The follow-up Economic Survey 2018–19 highlighted the current NBFC crisis as a key challenge that could choke credit growth and impede achievement of the milestone. The NBFC liquidity situation appears to have manifested itself in the current economic crisis – as visible through

the slowdown in the auto, real estate and infrastructure sectors, where NBFC presence has been significant.

Differentiated business models that leverage a deep understanding of the sector and extensive knowledge of local markets

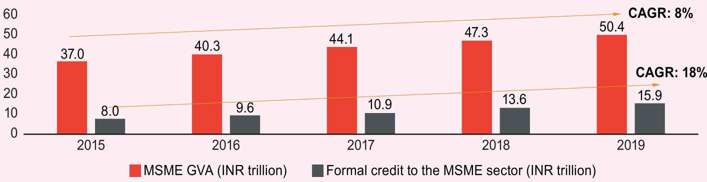
Based on a deep understanding of the sector and know-how of the local market, NBFCs have driven credit growth in unorganised markets where banks have traditionally been unwilling to lend. Several NBFCs have built niche, differentiated business models that are sector-, product- and geography-specific to harness existing enterprise or group capabilities. By customising products to match customer needs, enriching customer interactions and deepening customer relationships, NBFCs have emerged as the preferred lender in such markets.

Improving access to formal credit for the underserved retail and MSME sector

Currently accounting for 29% of India's GDP, the MSME sector comprises 63.3 million enterprises and employs nearly 110 million of India's population across rural and urban areas. Given its contribution to the economy, the sector is a critical growth engine for the 2024 milestone – a fact recognised by the government and economic think tanks.

Known to borrow at high rates from the informal lending market, the MSME sector has registered a CAGR of about 10% in gross value addition over the last five years, despite the impact of demonetisation and roll-out GST.

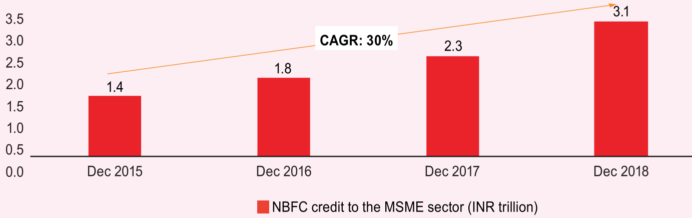
Exhibit 4: Strong correlation between MSME GVA growth and the availability of credit through formal and informal sources



Only 16% of MSME enterprises access formal credit, resulting in higher borrowing costs. Despite the roll-out of GST, banks and financial institutions are constrained by the availability of valid documents and legitimate collateral for security, and face challenges in improving distribution and reach.

Exhibit 5: Credit from NBFCs to the MSME sector has grown at 30%, compared to the overall MSME formal credit growth rate of 18%13

NBFC lenders currently account for around 20% of the sector's credit needs,



clocking a CAGR of 30% over the last five years. Focusing particularly on the lower end of the spectrum, NBFCs have provided credit by leveraging product customisation, deep understanding of micro markets, alternative data-driven underwriting models, risk-based pricing and technology advances. MSME-focused NBFCs have adopted unique business models through a segment-, productor geography-based focus on the sector to improve penetration.

Over and above formal and informal supply, the MSME sector faces a credit shortfall, with estimates pegging the gap at INR 25 trillion. This has resulted in curtailed growth despite available potential. At the latest credit to GDP estimate for the MSME sector, meeting the shortfall translates to an additional GDP of approximately INR 30–50 trillion at the current MSME debt/GDP estimates from the sector.

Meeting the credit shortfall will require NBFCs to play a pivotal role and actively participate in growing the MSME economy.

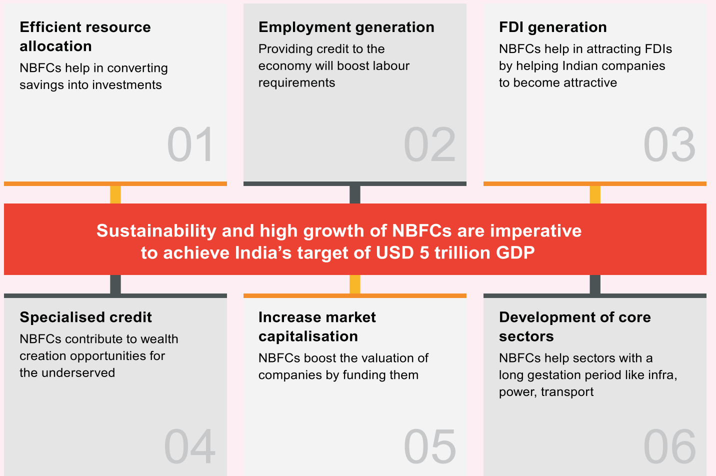
Contribution of NBFCs to nation building

As a critical part of India's financial system, NBFCs have been driving credit inclusion among individuals and enterprises by improving access and bridging pricing inefficiency through innovative product solutions and delivery models.

India ranks lower than the major developing and developed economies on credit penetration among individuals and enterprises. A healthy, growing NBFC sector is important to achieve the 2024 GDP milestone, as well as move India forward towards developed nation status by improving social indicators such as employment rate, per capita income and percentage of population below the poverty line.

Exhibit 6: NBFCs contribute to nation building by improving value across six key dimensions

Diversifying the borrowing mix

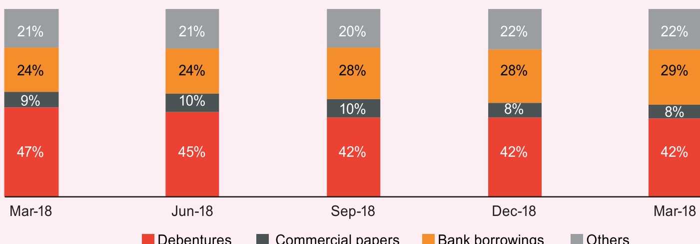


The NBFC sector is currently undergoing perhaps the worst liquidity crisis since 2008. The realisation of the folly of financing long-term assets through short-term borrowings and added regulatory scrutiny are forcing NBFCs to look for more diversified sources of borrowings. As the analysis below shows, the absolute issuance of short-term commercial papers by NBFCs declined significantly during H2FY19.

Exhibit 7: The borrowing mix for NBFCs from Mar '18 to Mar '19

Optimising operating costs

With respect to reduce the operating cost, we have focused on the three



critical phases of customer lifecycle management and the costs associated with them: NBFCs are exploring more stable and long-term sources of capital to instill more ALM discipline in their balance sheets. In the short term, CPs are expected to be replaced by other forms of borrowings such as non-convertible debentures (NCDs) and off balance-sheet instruments. However, in the medium to long term, more stable sources of financing like masala bonds, external commercial borrowings and retail NCDs are likely to become more prominent. Notwithstanding the options available, policymakers and the industry should work together to strengthen the bond market further. Innovations like covered bonds can help NBFCs access a reliable source of long-term borrowing while also protecting the cost of funds. Further, banks can look at customising their lending to NBFCs as per the needs of the latter.

Profitability and sustainability of NBFCs

Nitin Jain, Partner, Financial Services – Strategy and Digital, PwC India notes that:

NBFCs are facing stiff competition from new-age FinTechs which have been capturing a greater market share with their technology-heavy low-cost operating models and by setting new gold standards for customer experience.

In the wake of these developments, through this report, we have attempted to offer solutions to some of the key issues pertaining to the profitability and sustainability of NBFCs, which include:

- Developing new channels of growth by exploring partnerships with aggregators, e-commerce companies, FinTechs and the MSME marketplace and developing capabilities to build these partnerships
- Targeting new profitable markets and diversifying the asset base with new products
- Boosting sales from direct/digital channels by leveraging process automation, data analytics and digital marketing, and extending the salesforce to the 'difficult to reach' tier 1/tier 2 customers

- Targeting new market segments through the proposed co-origination model with banks and other financial institutions (All India Financial Institutions)
- Exploring alternative borrowing channels to address the asset liability management (ALM) mismatch and reduce the overall cost of funds
- Optimising the operational cost to improve the return on equity (ROE) and free up capital for investments in growth areas
- Strengthening governance and risk management controls by using new-age technologies such as big data analytics, artificial intelligence and mobility solutions.

We strongly believe that a healthy NBFC sector is instrumental in maintaining India's growth momentum and achieving the target of a USD 5 trillion Indian economy by 2024. NBFCs have shown resilience in the past in dealing with such downturns through business innovation. In light of new regulations, it would be interesting to see how the story unfolds for the NBFC sector in the next couple of months.

Conclusion

To the credit of NBFCs, they have risen from the ashes before – as evidenced during the 2008 and 2014 financial crises. This time, however, there are additional concerns. The first is around the domestic economic slowdown that is visible, particularly in the automotive, infrastructure and real estate sectors, where the NBFC focus is significant.The second deals with the margin pressure resulting from the proposed RBI move to link NBFC lending rates to an anchor rate.

While the liquidity condition in the market improves for the NBFC sector, it is imperative for NBFCs to establish strong governance and risk management practices (as discussed in this paper) to restore stakeholder/investor confidence and reduce overall borrowing costs. Additionally, NBFCs can improve their bottom line by optimising their operating expenses through digitisation and automation initiatives.

Finally, the ability of NBFCs to develop strategic partnerships with key ecosystem players and leverage technology to meet the demands of new consumers will determine the future course of the industry. ***[Extract from Knowledge Paper by PwC India presented at ASSOCHAM-FIDC 6th National Summit: Non-Banking Finance Companies -2019 "Contributing to 5 USD Trillion Economy"]*** ■

NBFCs should lend more to reverse downturn : Anurag Thakur

Minister of State (MoS) for Finance Anurag Thakur on Oct. 17 urged non-banking financial companies (NBFCs) to step up lending and help the government reverse the current economic slowdown.

"It is very-very important to have NBFCs on board because they play a very crucial role in the nation-building process, in the growth of the economy. If we want to achieve the $5 trillion economy mark, then NBFCs have to play a very important role," Thakur said at an Associated Chambers of Commerce and Industry (ASSOCHAM) event.

Thakur further said that not many NBFCs participated in the 'grahak mela' or the outreach programme organized by banks and other lending institutions across 200 districts in the country last week and they should lend money that they receive from banks.

Last month, the finance minister met public as well as private sector banks, and other lending institutions and prodded them to take steps to increase credit disbursal during the festive season, to boost consumer demand, amid a slowdown in the economy.

NBFCs and housing finance companies (HFCs) came under stress after the breakdown of Infrastructure Leasing and Financial Services (IL&FS) in September, 2018. However, in the last few months, the government has announced several measures to support HFCs and NBFCs.

"Since the IL&FS default in September 2018 till 10 October 2019, PSBs have sanctioned total support of Rs. 3,97,557 crore in the form of credit as well as pool-buyouts of Rs.1,07,792 crore, including Rs. 15,455 crore under the newly launched partial credit guarantee scheme," the finance ministry said in a statement earlier this week.

As part of the Rs. 1 trillion partial credit guarantee scheme, which was announced for restoring liquidity in NBFCs, the government is providing a one-time six-month partial credit guarantee to state-owned banks for the first loss of up to 10% for the purchase of high-rated assets.

"I also request you, the money which has been passed on to the NBFCs should not be utilised just to improve the credit ratings, should be passed on to the end-consumer to fuel the growth and help the economy to grow," Thakur said. [Live Mint, 17 Oct.] ■

NBFCs: TIGHTER REGULATIONS, NOT THE WAY FORWARD

V P Nandakumar
Managing Director & CEO, Manappuram Finance Ltd

Any attempt to prevent downside risks in the NBFC sector by heavy-handed regulations will stifle innovation. Introducing risk-based capital norms and deepening the bond market will be steps in the right direction

After the IL&FS debacle, NBFCs have come under the microscope of regulators, investors, analysts and the wider public. Predictably, there are calls for further tightening of regulations in the belief that a move from the light-touch to the more heavy-handed will somehow improve matters.

To get to the crux of the issue, let's begin by asking, why do NBFCs exist in the first place? After all, it should theoretically be possible for banks to take over this space. But then, the banking system's coverage has well-known gaps that exclude large sections, precisely the failing that has allowed non-banks to thrive. Examples include sectors requiring specialised knowledge like infrastructure, or cost-effective ways to cater to the marginal borrowers. NBFCs address these constituencies with specialised knowledge acquired through focussed attention, and innovations that help contain the extra risks.

A case in point is loans against second-hand trucks, by logic a troublesome asset to finance. It depreciates rapidly and you never know for sure where the asset is at any point in time. Besides, borrowers are most often truck drivers high on hope and short on money. A regulator evaluating this business would see red flags everywhere.

And yet, Shriram Transport Finance plunged headlong into it and triumphed brilliantly. It did that by learning the nitty-gritty of the trade and building an entire eco-system around it, ensuring that its truck would face minimum downtime, and eventually fetch a good resale price.

Regulations versus innovations

Regulations are a product of rational thought, whereas innovations emerge from out-of-the-box thinking. Innovations cannot thrive under a heavy hand and encouraging the innovation culture requires a higher tolerance for failure. Innovations are like start-ups where the failure rate is high, yet the one that survives, and flourishes, goes on to redefine the sector.

In banking, failures come at a high cost and therefore the need for rigorous regulations to prevent downsides. That's why NBFCs have been at the forefront of innovations in financial services, which banks go on to adopt later. Any attempt to prevent downside risks by tighter, heavy-handed regulations will stifle innovation.

Besides, regulators also have a fiduciary responsibility to facilitate the growth of NBFCs. After all, NBFCs have led the way in product and services innovations, such as financing second-hand trucks or instant loans against gold jewellery. Lending against gold was for long ignored by banks, pushing borrowers towards moneylenders and pawnbrokers. The entry of NBFCs redefined the category with innovations in products and processes that brought millions into the ambit of institutional credit.

Change with the times

Regulations must evolve with the times. For example, in the era of digital lending, making gold loan NBFCs seek prior approval before opening new branches serves little purpose. There's a need to strike a balance between preventing downside risks and allowing businesses to grow to their potential. Surely, the time is right for introducing risk-weighted capital requirements for NBFCs at par with banks.

Existing rules prescribe a uniform 100 per cent risk-weight across all assets irrespective of the tenor. If lenders taking on excessive risk is the worry, risk-based capital norms are the way to go. Only those who understand the risks and have the capital to bear the consequences will remain in the fray now. They will also become free to drive innovations and lead the herd.

Likewise, moving away from blanket caps on loan-to-value (LTV) ratios towards risk-weighted capital will catalyse innovations in the

[Continued on Page-8]

India is Fastest Household Wealth Creator in the World: Credit Suisse Study

- Nilanjana Chakraborty and Sabari Saran

Household wealth grew by 5.2% in dollar terms in the year till 30 June against the 11% average growth in the 20 years to 2019.
The report estimates that 78% of India's adult population has wealth below $10,000, while 1.8% of India's population has more than $100,000.
Wealth creation in India slowed to a crawl in the year ended 30 June even as household debt jumped, a Credit Suisse study found. India's total household wealth grew by 5.2% in dollar terms in the period, the Credit Suisse Global Wealth Report released on Oct. 22 said. Net wealth per adult grew at 3.3%, sharply slower than the average 11% growth rate reported in the 20 years to 2019, the report said.
Still India is Fastest Wealth Creator: India, however, remains one of the fastest wealth creators in the world, with household wealth in dollar terms growing faster than any other region.
The slowdown in wealth creation coincides with a downturn in the Indian economy, which grew at the slowest pace in six years in the three months ended 30 June. Growth in private consumption expenditure also slumped to an 18-quarter low of 3.1% in the June quarter, indicating a negative wealth effect.

The wealth distribution

India was among the regions with the highest percentage change in wealth per adult at 3.3%. Wealth per adult in the country is estimated at $14,569 as of mid-2019.

Change in wealth per adult 2018-19 (in %)		Wealth per adult 2019 (in $)
India	3.3	14,569
Latin America	3.2	22,502
North America	2.7	417,694
China	2.6	58,544
Europe	1.2	153,973
Africa	0.4	6,488
Asia Pacific	-0.3	54,211
World	1.2	70,849

Source: Global wealth databook 2019

Non-Financial Assets: Overall, the Credit Suisse report found that non-financial assets of Indian households [real assets like gold and property] grew by 6.9% in 2018-19, outpacing the 1.4% growth in financial assets. The last time household wealth grew at a slower pace was in 2017-18, when it expanded 2.6%. But that was largely due to the sharp weakening of the rupee in that year — a 7-8% rise in asset values was offset by an almost 5% currency depreciation. In 2018-19, Indian asset prices grew at a slower pace of nearly 6% but foreign exchange fluctuations were more favourable.
Disparity in Wealth Distribution: The report estimates wealth per Indian adult at $14,569 (Rs.10.31 lakh as on 21 October). However, the average number is skewed heavily by a few wealthy individuals. The report estimates that 78% of India's adult population has wealth below $10,000, while 1.8% of India's population has more than $100,000. At the other extreme, nearly 4,500 possess wealth of over $50 million and 1,790 adults have wealth over $100 million. India accounts for 2% of the world's millionaires. India is ranked fifth among the countries with ultra high net-worth individuals, according to the report.
Indians hold an average of about $13,000 in physical assets and roughly $3,000 in financial assets. There is also a debt of $1,345 per adult.
The Credit Suisse report also found that the increase in household wealth in India in 2018-19 was mostly driven by rising home prices. "The returns from real estate have come down in the past few years, and this is a major factor that has contributed to the slowdown in the growth of household wealth," said Gaurav Awasthi, senior partner, IIFL Wealth Management Ltd. [Live Mint, Oct. 22]
Wealth Grew At 12% In Last Decade: India's wealth has trended upward strongly since the turn of the century, although there was a setback in 2008 due to the global financial crisis and there have been bumps due to currency fluctuations. Annual growth of wealth per adult averaged 11% over 2000–19. Prior to 2008, wealth rose strongly, from USD 2,127 in 2000 to USD 6,378 in 2007. After falling 29% in 2008, it rebounded and grew at an average rate of 12% up to 2019. Wealth per adult is estimated at USD 14,569 in mid-2019 after a year of moderate growth. Personal wealth in India is dominated by property and other real assets, which make up the bulk of household assets.
[Extract from Global Wealth Report, 2019, Credit Suisse]

ALL NBFCs SHOULDN'T BE PAINTED WITH THE SAME BRUSH

Keki Mistry
Vice Chairman & CEO, HDFC Bank

For more than a year, an overwhelming drive seems to be underway to label non-banking financial companies (NBFCs) as anathema to the economy. It's easy to paint all NBFCs with the same brush, but it can be quite flippant to ignore the contributions they have made in addressing economic demand that has helped in financial inclusion.
Shadow banking, a term borrowed from the West, suggests being outside the scope of the financial regulatory system. This is completely untrue for India. It is incorrect to believe that NBFCs and housing finance companies (HFCs) are significantly riskier than banks. Many banks don't have the wherewithal to cater to the segment that NBFCs are able to reach out to.
Unbanked borrowers are made bankable by NBFCs: Many NBFCs specialise in lending in a particular sector, and develop skill sets unique to that customer base. Many unbanked borrowers avail credit from NBFCs and later use their track record to become bankable borrowers.
The Infrastructure Leasing & Financial Services (IL&FS) default in September 2018 was not a systemic issue. The pain seen in the broader NBFC sector was largely one of liquidity, and not a solvency crisis. Nonetheless, the IL&FS default created a 'risk aversion' in the system. It signalled the end of easy money — that is, using cheaper, short-term market instruments to fund longer-term assets.
Admittedly, perception and liquidity issues have affected NBFCs that, to some extent, have caused the fall in credit to the auto, real estate, agriculture and small and medium enterprises sectors. Many well-managed NBFCs continue to do well, but others are struggling.
Need for RBI support: RBI has strengthened the regulatory framework of NBFCs by introducing a robust liquidity framework, and proposed a liquidity coverage ratio for large NBFCs, which is currently applicable only to banks. RBI could also consider:
1. Initiate conversations with senior bankers and provide assurances, so that banks can start feeling more confident of funding NBFCs.
2. Examine a roadmap for the merger of NBFCs into banks, with appropriate guidelines to grandfather the existing NBFC balance sheet from maintenance of the cash reserve ratio, statutory liquidity ratio and priority sector lending requirements of a bank.
3. Increase the threshold entry level of NBFCs and HFCs by raising the minimum capital require.
NBFCs will have to focus on liability management. Most large NBFCs are well capitalised, but have got exposed due to excessive short-term borrowing.
Diverse funding avenues: The stronger NBFCs and HFCs have a more diversified funding base. Very few non-bank financial entities have the benefit of retail deposits, a source of stable funding, especially in these times. NBFCs are considering other instruments to raise money, such as masala bonds or external commercial borrowings. In fact, larger NBFCs offering good collaterals are accessing funds from global investors.
An alternate source of long-term funding beneficial for the lender is the securitisation of mortgage loans. Securitisation provides much-needed liquidity to the balance sheet of an HFC, as it helps the company to churn its portfolio and make room for fresh assets. According to the International Monetary Fund (IMF), securitisation helps free up capital that allows banks to extend new credit to the economy.
Another potential fund source is covered bonds. These are the largest asset class in the European bond market.
Covered bonds are held on the balance sheet of the issuer — not in the special purpose vehicle (SPV) — and in an event of the bankruptcy of the issuer, the covered pool is protected and can be claimed by the investor. They also receive a higher credit rating, as they are backed by high-rated pool of assets.
From a housing finance perspective, there is a need to ensure that appropriate measures are taken to further develop the corporate bond market. In the current scenario, banks and mutual funds have shown little interest to invest in long-term bonds. Debt financing will be an important source of stable long-term funding.
Currently, negative sentiments have percolated to all sectors including housing, particularly high-end housing. Like all asset classes, housing markets go through cycles. Yet, the current issues in the housing sector seem more symptomatic of a cyclical downturn, rather than a deep-rooted structural slowdown. In this context, finance minister Nirmala Sitharaman needs to be congratulated for introducing a Rs 25,000 crore special window to revive stuck projects, subject to certain conditions.
There is no substitute for prudent lending. By sacrificing margins or appraisal norms, you can capture all the growth you want. But this kind of growth will not lend to sustained long-term success. By covering a wide spectrum of customised services and innovative products, NBFCs have played an active role in strengthening the economy, and will continue to do so. [Sub-heading are added; Economic Times, Nov. 11]

Government Lays Down Rules for Resolution of Stressed Financial Firms

The government has announced a framework for resolution of stressed financial institutions, in the absence of a full-fledged law to deal with insolvency of banks and non-bank lenders. The new rules, issued under the Insolvency and Bankruptcy Code, 2016, will apply to systemically important financial service providers other than banks.

"The Ministry of Corporate Affairs has notified the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 on Nov. 15 to provide a generic framework for insolvency and liquidation proceedings of systemically important Financial Service Providers other than banks," the government said in a notification.

The rules come against the backdrop of emerging strains across non-bank lenders. While some of these lenders, such as Dewan Housing Finance Corporation Ltd., have defaulted on their dues, resolution has proved to be difficult as the Insolvency and Bankruptcy Code does not apply to financial institutions. A Financial Resolution and Deposit Insurance Bill, which has been in the works for a few years, is yet to be finalised.

The rules notified on Nov. 15 will act as an interim resolution framework for financial service providers. The process laid down is as follows:

- The resolution process of a financial service provider will be initiated only on an application by the appropriate regulator. The permission of the regulator would also be required for initiating voluntary liquidation proceedings.
- An administrator will be appointed on the recommendation of a regulator. This administrator shall have the same power as a resolution/ liquidation professional.
- The regulator can constitute an advisory committee of three or more experts to advise the administrator in the operations of the financial institution during the resolution process.
- An interim moratorium shall commence on the date of initiation of resolution process till admission or rejection by adjudicating authority.
- The licence or registration of the financial institution for providing financial services will not be suspended or cancelled during the interim-moratorium and the resolution process.
- Provision of moratorium shall not apply to third-party assets or property, including any funds, securities or assets held in trusts.

Once the resolution plan by the Committee of Creditors is approved, the administrator will have to seek 'no objection' from the regulator for the new management of the firm. The regulator shall issue the no objection on the basis of 'fit and proper' criteria applicable to the financial service provider.

The gazette notification of the rules clarifies that the regulator will not be constrained by section 29A when issuing the no objection.

If the regulator does not refuse a no objection certificate within 45 days of receipt of application from the administrator, it shall be deemed that 'no objection' has been granted.

"The government has placed the onus of reference on regulators, which is an important move to ensure that no financial services provider faces unnecessary insolvency proceedings. It seems that the process would be similar to any corporate insolvency process being conducted right now, except the regulator would be closely involved with the resolution process." [Abizer Diwanji, Head-Financial Services, EY] [Bloomberg, Nov. 15]

NBFCs with Rs 500 cr assets can go for insolvency resolution

After discussions with the central bank, the corporate affairs ministry on November 18 issued a notification specifying the categories of financial service providers (FSPs) that can be taken up for resolution under the "generic framework" of the Insolvency and Bankruptcy Code.

"NBFCs (which include housing finance companies) with asset size of Rs 500 crore or more, as per last audited balance sheet," can be taken up for insolvency resolution and liquidation proceedings under the Code, the ministry said in a notification.

Section 227 of the Code enables the central government to notify, in consultation with the financial sector regulators, FSPs or categories of FSPs for the purpose of insolvency and liquidation proceedings.

On Nov. 15, Nirmala Sitharaman said there would be something similar to the insolvency law for the financial sector and till that time, the new provision would take care of financial institutions. "In an environment where it may be necessary to invoke something akin to IBC and in absence of IBC like provision for the financial services sector we have brought out this notification under Section 227 within the IBC which can be used. Post this; it is up to the RBI to take a call on this. "Whether we will have something equivalent to IBC for financial sector, we will address that in future," she had said. [PTI/ @moneycontrol.com, Nov. 18]

There is a need for a streamlined resolution process for non-bank lenders in India, taking care of multiple regulators' concerns, according to the head of India's largest bank. Different regulators and the multiplicity of the class of creditors is posing a challenge in resolving the stress in the non-bank financial services segment, Rajnish Kumar, chairman of State Bank of India, said. SBI has written letters to authorities, including the RBI, requesting help in smoothing over these issues on Sept. 19.

In order to implement the resolution plan, SBI sought, "appropriate regulatory measures." The failure to take these necessary steps could have a negative impact on the flow of bank credit to NBFCs, SBI had cautioned in its letter. [Bloomberg, Oct.21]

NBFC view: Reacting to the latest MCA move to bring NBFCs with over Rs. 500 crore assets under IBC fold, Raman Aggarwal, Co-Chairman, FIDC said this is a positive move as with a defined resolution process in place, it should instil more confidence with the investors. However, the Centre must also immediately give NBFCs all the recovery tools that is currently available with other financial institutions, he added. [Business Line, Nov. 19]

RBI Action on DHFL: "In exercise of the powers conferred under Section 45-IE (I) of the RBI Act, 1934, the Reserve Bank has today superseded the Board of Directors of Dewan Housing Finance Corporation Limited (DHFL) owing to governance concerns and defaults by DHFL in meeting various payment obligations," the RBI said. "The Reserve Bank also intends to shortly initiate the process of resolution of the company under the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 and would also apply to the NCLT for appointing the Administrator as the Insolvency Resolution Professional," it added. R. Subramaniakumar, ex-MD and CEO of Indian Overseas Bank has been appointed as the administrator. [ET CFO.com, 20 Nov.]

FIDC Managing Committee Meeting on 22nd June, 2019 at Chennai

FIDC Director General Mr. Mahesh Thakkar with Hon'ble Finance Minister of India, Smt. Nirmala Sitharam at FE Best Banks Awards at ITC Grand, Mumbai on 30th Sep, 2019

Moves

Government plans to amend IBC to ring-fence buyers of stressed assets from prosecution

The Central Government plans to amend the Insolvency and Bankruptcy Code (IBC) to provide immunity to companies taking over stressed assets from prosecution for financial crimes committed by erstwhile promoters. This will help make the insolvency process more attractive for the bidders and instill confidence in them, sources said. The amendment comes after several companies that are vying for assets being auctioned under IBC expressed concern regarding getting into legal trouble over the cases against previous promoters. In many of the cases under insolvency, the promoters are under investigation by various agencies, the sources said. [Business Line, Nov. 24]

Govt notifies scrapping policy mandates discounts on junking old cars

The Centre has notified a scrap recycling policy to promote circular economy in the steel sector and utilise scrap emanating from vehicles and white goods that have reached their end of life. Under the policy, the ministry of road transport and highways and the department of heavy industry would work towards "extended producer responsibility" by requiring vehicle manufacturers to incentivise scrapping of unfit vehicles in exchange for price discounts for purchase of new vehicles. "This too shall provide for the required feed to the scrapping centres. MoRTH may formulate an Automobile Fitness Certification Policy to prevent plying of unfit and polluting vehicles. This would facilitate establishment of fitness centres in the private sector by providing supporting policy framework," said the new policy announced by the Union ministry of steel on Nov. 8.

The OEMs and/or its dealers would facilitate collection of old vehicles/ELVs (end of life vehicles)/ recyclable spare parts of old automobiles either through a take back scheme or by setting up scrapping centres of their own or through tie-ups with such facilities, thereby acting as an aggregator for the collection of vehicles. Unfit vehicles, according to the voluntary decision of the owners, would be considered as the feed material for the steel scrapping centres. [Business Standard, Nov. 8]

Govt to bring back FRDI Bill, may hike insurance cover of customers

The finance ministry has started work on reviving the contentious Financial Resolution and Deposit Insurance (FRDI) Bill, a year after the proposed law for ushering insolvency of financial institutions was withdrawn by the Union government. "The Department of Economic Affairs is redrafting the FRDI Bill and will soon circulate it for inter-ministerial consultation," said a top finance ministry official. [Business Standard, 17 Oct.]

Govt to decriminalise 2/3rds of offences under Companies Act

The govt is set to decriminalise two-thirds of the Companies Act as it looks to do away with jail term in over 40 sections out of the 66 where compounding is permitted. It is also seeking to lower the penalty for small companies. The steps are being discussed by the Company Law Committee, which is also looking at stringent deterrents for violators, without putting them in jail. Once the amendments are approved by Parliament, civil offences will be dealt through MCA's in-house mechanism led by the registrar of companies, with a handful to be decided by the courts. [ET CFO.Com, Oct. 14]

Govt to soon bring changes to make one single definition of MSMEs: Gadkari

The government will soon make changes to the definition of a micro, small and medium enterprise, Union Minister Nitin Gadkari said on Oct. 22 and hoped to generate five crore jobs in the MSME sector in five years. Finance Minister Nirmala Sitharaman had in August said the government would consider amending the MSME Act to move towards a single definition. The update in the definition of micro, small and medium enterprises (MSMEs) may allow a single definition for purposes related to taxation, investment, etc. The new definition is likely to be effected through an amendment to the MSME Act and may lead to further improvement in India's ease of doing business scenario. In February last year, the Union Cabinet had approved amendments to the law to change the criteria for classifying MSMEs from 'investment in plant and machinery' to 'annual turnover'. [Business Standard, Oct. 22]

Personal Insolvency Regime to be operational in a year: Injeti Srinivas

Personal insolvency regime is expected to be fully operational in one year, and a non-adjudicatory process is being worked out for entities having very small exposures, Corporate Affairs Secretary Injeti Srinivas said on October 1. Besides, the corporate affairs ministry is keen to develop a marketplace for stressed assets so that there is maximum participation and value can be achieved for such assets. The Insolvency and Bankruptcy Code, which came into force in 2016, provides for personal insolvency, but the provision is yet to be made operational. [BloombergQuint/PTI, Oct. 1] ■

FIDC Pre-Budget Memorandum for Union Budget FY 2020-21

While appreciating the measures announced during the last one year to address the liquidity crunch being faced by NBFCs, FIDC in its Pre-Budget Memorandum on December 16 made following suggestions for healthy growth of NBFCs to enable them to play a very important role in nation's drive to become a $5 trillion economy by 2024-25:, said Raman Aggarwal, Co-Chairman, FIDC:

- It is of prime importance to clearly differentiate the short term retail financing NBFCs from the long term financing players, to ensure that all are not painted by the same brush and perceived to be high risk.
- Funding sources outside the banking system need to be developed to reduce the reliance on Banks: [1] Refinance window to be developed exclusively for NBFCs, [2] MUDRA can Refinance large number of Small & Medium NBFCs, [3] NBFCs should be allowed On Tap issuance of secured debentures/bonds.
- Department of Financial Services, Ministry of Finance should organize regular meetings (once every quarter with FIDC as the representative body of NBFCs).
- Tax issues to be considered favourably: [1] TDS on Interest (Sec 194A be exempted; [2] Higher Depreciation Rates for Construction Equipment be allowed; [3] Lease rental may be exempt from the levy of GST on the lines of interest on loans.
- Recoveries need to be fast tracked and facilitated by doing away with the rider of minimum loan ticket size of Rs 1.0 cr for Enforcement of Security Interest under the SARFAESI Act.
- Necessary amendments to the MSME Act (to redefine micro, small and medium enterprises on a turnover basis instead of the current basis) and the Factoring Act (to enable non-factoring NBFCs also to participate in the TReDS platforms) may be fast tracked.

Pre Budget meeting with FM : FIDC has put forth the requests to the FM at the pre-budget meeting held on 16th December, 2019 to do full justice by bringing complete parity with banks, HFCs and FIs in matters relating to recovery. "We have suggested to FM that our over dependence on banks needs to be reduced. So funding sources would have to be diversified and a refinance window can be created with SIDBI, Nabard or NHB at the helm. And, also for the co-origination of loans is currently restricted to non deposit taking systemic important NBFCs which should be extended to deposit taking NBFCs," Raman Aggarwal, Co-chairman said. [Live Mint & Eco. Times, Dec.16] ■

[Continued from Page-5] :

NBFCs: TIGHTER REGULATIONS, NOT THE WAY FORWARD

risk underwriting process. As loans go further above a base LTV, regulators may prescribe higher and higher capital. The current LTV cap of 75 per cent on gold loan amounts to a one-size-fits-all approach. It pushes small borrowers back towards informal sources where rules don't apply and constricts product innovations by withdrawing the lender's incentive. Moreover, it is an anomaly that one can borrow any amount without security under personal loans but not when one furnishes liquid security.

Needed, a developed bond market

Does the case against tighter regulations and for greater tolerance of failure mean that we should resign ourselves to more fiascos like IL&FS? Not necessarily. IL&FS had drastic repercussions because India's financial markets are still a work-in-progress and there's a dearth of alternatives to bank funding, especially for the long-term. Over-reliance on short-term funding for long-term lending is always worrying.

Our bond markets are still undeveloped, compelling NBFCs to borrow more from the banking system. Therefore, the imperative is to develop and deepen India's bond markets to free NBFCs from dependence on banks and make the occasional failure less traumatic. A good start will be to have on-tap public issue of bonds directly to investors, enabling NBFCs to raise funds regularly at lower issuance cost. [Business Line, Nov. 1. Views of author are personal.] ■

Bad cheque after Lok Adalat is offence

A cheque issued following a settlement before the Lok Adalat is meant to discharge a liability and if it is dishonoured by the bank, the drawer can be prosecuted again under the Negotiable Instruments Act, the Supreme Court has ruled in its judgment, Arun Kumar vs Anita Mishra. In this case, Arun received a cheque from Anita which was dishonoured. She was prosecuted and sentenced to six months of prison and a fine of Rs 3.3 lakh. Later, the dispute was taken to Lok Adalat. According to the settlement, she was to pay Rs 3.51 lakh on the same day. She gave a post-dated cheque according to the settlement. But it also bounced, leading to a second round of criminal case. When the magistrate dismissed her petition to quash prosecution, she moved the Madhya Pradesh High Court. It set aside the prosecution on the ground that the cheque was not issued to clear a debt or liability towards the payee. It was to fulfil a settlement. The Supreme Court asserted that there was a clear liability on account of the settlement. Moreover, the first round of litigation clearly showed that the cheque was issued on account of liability [Business Standard, Nov. 18]

Presumption of debt in cheque bounce

The Supreme Court has reiterated that once a cheque is issued, it is presumed that it was for consideration and the holder of the cheque received it in the discharge of existing debt. It is a statutory presumption under the Negotiable Instruments Act. The drawer can rebut it to escape prosecution. In this case, Uttam Ram vs. Devinder Singh, an apple grower used ropeways to get his produce to the road. However, the cheque given to the ropeway owner bounced. When a criminal case was filed, the drawer alleged that the amount was higher than due, the cheque book was lost and the number of cartons did not tally. The court did not believe it and asked him to pay double the amount written on the cheque, plus Rs 1 lakh as costs. [Business Standard, Nov. 10]

Cheque bounce case stuck for two decades

A procedural tangle has delayed for two decades the trial in a case of bounced cheques. Vani Agro Enterprises issued four cheques in 1999, all of which bounced. The payee sent one notice to the firm under the Negotiable Instruments Act. The firm contended that all four cases should be consolidated and heard together. This led to interim orders. Even evidence has not been recorded yet. The firm invoked the Criminal Procedure Code to argue that since one notice has been issued, four separate trials should not take place; only one is permissible. The Supreme Court stated the only relief that can be granted to the firm is that the magistrate should fix all the four cases on one date so that it is convenient to both parties to attend the hearing on one date. [Business Standard, 29 Sept.]

IBC resolution does not free guarantor

The liability of a guarantor of a debt of a corporate debtor is not extinguished upon an insolvency resolution plan in respect of the corporate debtor. The Calcutta High Court held so last week in its judgment in Gouri Shankar vs. Punjab National Bank. In this case, the director of a company stood a personal guarantee for bank loans. When the company defaulted, the bank moved the National Company Law Tribunal, Kolkata, which approved a resolution plan under the Insolvency and Bankruptcy Code. The dues were paid according to the plan after a haircut. However, the plan did not deal with the personal guarantee of the director. When the bank turned to the director demanding payment according to the guarantee, he argued that his liability is co-extensive with the debtor and, therefore, he was free from the guarantee. The court dismissed his petition stating that the insolvency code "does not allow personal guarantors to escape their liability". Citing judgments on contracts and insolvency, it said: "The corporate debtor in a proceeding under the code may stand discharged of its liability to its creditors but the same does not absolve the surety of the liability". [Business Standard, Nov. 18]

Supreme Court also held in Essar verdict that lenders right to enforce personal guarantee can be kept outside the resolution of corporate debtor. Now the MCA has also issued guidelines and it will be combination of both (SC judgement and Government guidelines) that could be used. This will fasten the process. [Business Line, Nov.16]

[Resolution of personal guarantors under IBC would complement the insolvency resolution of the corporate debtor and put personal guarantors and corporate guarantors on the same level playing field from Dec. 1]

Company case transferred to NCLT

Merely because the company court had ordered the winding up of a company, it does not follow that it should necessarily be liquidated and dissolved. Other options are available, namely, to resolve or revive the company. They should always be explored for which purpose the National Company Law Tribunal (NCLT) is invested with jurisdiction unless irrevocable steps towards liquidation have already been undertaken, the Delhi High Court stated in its judgment in Action Ispat & Power vs. Shyam Metallics & Energy. While the winding-up petition was pending and a liquidator was appointed, State Bank of India, a secured creditor, sought transfer of the company case to the NCLT. This was allowed by the company judge. Action Ispat challenged it in the Delhi High Court, which dismissed the appeal. The judgment stated that the process under the Insolvency and Bankruptcy Code is meant to find the best possible solution in a given case which is beneficial to the company concerned, as well as its creditors and other stakeholders. Therefore, in the interest of equity and justice, and keeping in mind the special nature of the Code, if the company judge found it fit to transfer the winding-up petition to the NCLT on the application of a secured creditor, the high court would not ordinarily interfere in the order. The company judge rightly recalled the order of appointment of the liquidator since the liquidation was at its initial stage. [Business Standard, Oct. 20]

Chief Judicial Magistrate competent to assist secured creditors to take possession of asset under Sarfaesi Act

Legal Eagle

The Supreme Court has settled differences among various high courts and declared that the chief judicial magistrate (CJM) is competent to assist the secured creditor to take possession of the asset in case of default under the Securitisation (Sarfaesi) Act. The court had to give a decisive ruling as the high courts of Bombay, Calcutta, Madras, Madhya Pradesh, and Uttarakhand had interpreted the law to mean that only the chief metropolitan magistrate (CMM) in metropolitan areas and the district magistrate (DM) in non-metropolitan areas are competent to deal with such a request. [Business Standard, 29 Sept.]

Commercial court isn't for every dispute

Disputes involving high-value transactions cannot be dressed up as commercial suits and taken to commercial courts for speedy disposal. "The very purpose for which the Commercial Court Act was enacted in 2015 would be defeated if every other suit merely because it is filed before the Commercial Court is entertained," the Supreme Court stated in its judgment in Ambalal Sarabhai Enterprises vs. K S Infraspace LLP. [Business Standard, October 13]

SC rules property transfers done through Power of Attorney won't be

To save on stamp duty and registration charges, many individuals, for decades, have sold their properties by giving an irrevocable Power of Attorney (PoA) to the buyer, instead of registering a sale deed. However, the Supreme Court has ruled that property transfers done through a PoA, Will, or sale agreement will not be considered a valid mode of transfer.

The judgment has a bearing on both buyers and sellers. "If someone buys a property from a person with PoA, the earlier owner will still be considered the title holder," says Atul Pandey, partner, Khaitan & Co. Going by the judgement, if the PoA holder resells the property to someone else, the transfer will actually be between the original owner and the new buyer. Transactions done after the court ruling have raised questions on who will pay the tax if the PoA holder further transfers the property to someone else. [Business Standard, Nov. 7] ■

SEBI Board decisions on 20 Nov. meeting

Doubles PMS investment size: SEBI doubled the minimum investment limit for clients of portfolio management services (PMS) to Rs. 50 lakh from Rs. 25 lakh. Existing investments of clients can continue till the end date of the PMS agreement or as specified by the board. The net worth requirement for PMS is raised to Rs. 5 crore from Rs. 2 crore earlier, giving the existing portfolio managers 36 months to meet the enhanced requirement.

Stricter disclosure norms for listed companies on loan defaults: The regulator has set a deadline for listed companies to disclose to the stock exchanges with respect to default. It has set January 1, 2020 as the effective date for the change in these provisions. "SEBI decided that in case of any default in repayment of principal or interest on loans from banks or financial institutions which continues beyond 30 days from the pre-agreed payment date, listed entities, shall promptly, but not later than 24 hours from the 30th day, disclose the fact of such default." The SEBI move was in consultation with the RBI.

Business Responsibility Report from 1000 Companies now: SEBI extended the Business Responsibility Report (BRR) requirement to top 1,000 companies, from 500 presently. As of now, the top 500 listed entities, based on market capitalisation, have to include BRR as part of their annual reports.

Right issue Norms tightened: SEBI tightened the norms for rights issues of listed companies by reducing the timeline for completion of the process to T+31 days from T+55 days. The move is likely to reduce the timeline for the completion of the rights issue. It has introduced dematerialised REs and trading of REs on the stock exchange platform. The regulator also made the ASBA facility mandatory for any investor applying to a rights issue. [Business Today, Nov. 20]

SEBI relaxes buyback rules for listed companies with housing finance, NBFC arms

SEBI has eased its norms for buyback of shares by listed companies, especially those having subsidiaries in housing finance and NBFC segments.

While SEBI takes into account financial statements on standalone as well as consolidated basis for evaluating the buyback thresholds, several issues have been raised in the recent past with regard to considering consolidated financial statements for companies with subsidiaries having higher debt due to their presence in businesses like NBFC and housing finance segments.

SEBI's decision to amend its regulations also follows a notification by the Corporate Affairs Ministry permitting government companies carrying out non-banking finance and housing finance activities to launch buybacks resulting in up to 6:1 debt to equity ratio post the share repurchase. After taking into account the feedback to a public consultation process launched in May, SEBI has decided to continue with the current approach of allowing buybacks resulting in post-buyback debt-to-equity ratio of up to 2:1, except for companies for which a higher ratio has been notified under the Companies Act, based on both standalone and consolidated basis.

However, if the debt to equity ratio on standalone basis does not exceed 2:1, but exceeds this threshold on consolidated basis, buybacks would still be allowed if the consolidated ratio is up to 2:1 after excluding the subsidiaries that are NBFCs and housing finance companies regulated by RBI or National Housing Bank, the regulator said in a notification dated September 19, But, the standalone debt to equity ratio of all such excluded subsidiaries should not exceed 6:1, as per the approved norms, it added. [Live Mint/PTI, 30 Sept.]

SEBI mandates insulating of rating committees from management of rating agencies

As per the new SEBI norms the managing director and Chief Executive Officer of rating agency cannot be a part of the rating committee. The rating committees would report to the chief ratings officer."One third of the board of a CRA shall comprise of independent directors, if the board is chaired by a non - executive director. In case the board of the CRA is chaired by an executive director, half of the board shall comprise of independent directors" said SEBI in the circular. In addition as per SEBI norms the board of the rating agency will have two additional committees - a rating sub-committee and a nomination and remuneration committee. The chief ratings officer will report to the ratings sub-committee.

This is the fifth change in regulations for rating agencies in the last three years for improving transparency and processes, agencies still make abrupt, multi-level downgrades from top ratings to junk, rattling the market. [Live Mint, 04 Nov.] ■

Human Resource Development For NBFCs: Concerted actions by FIDC

The important role being played by NBFCs in providing credit to the unbanked and underbanked segment of the society in rural, semi urban and urban areas has widely been acknowledged by the Government, regulator and the society at large. NBFCs have grown in strength to a level where almost 25% of the total credit needs of the country are being met by the sector.

Professional Development Committee of FIDC:

Human Resource forms the most important part of any entity and therefore the FIDC Managing Committee has given greater attention and focus towards it. An independent sub-committee called "Professional Development Committee" has been constituted which comprises of the HR Heads of the leading NBFCs.

Traditionally, NBFCs have been hiring fresh recruits who hold a Post-Graduate degree/diploma in Business Administration (MBA), with specialization in Finance. It has been the experience of NBFCs that generally these students though being well versed with the banking and allied services, their understanding of the NBFC business model, operations etc. is negligible. In fact, there is even a lack of awareness on the basics of "What is a NBFC?"

As such, these recruits are then trained and groomed by experts in the lending activities/business model of NBFCs, along with the Regulatory framework. This is generally carried out by the NBFCs' in house personnel, thereby incurring substantial cost and resources. The underlying reason for this shortfall is the curriculum that they study in the Business Schools which have a limited specialization to offer - Finance or Banking & Financial Services. Therefore, the need of the hour is to include curriculum that enables them to specialize in NBFCs.

Specialised courses on NBFCs:

It is with this objective that FIDC has initiated dialogue and discussion with some of the leading Business Schools in the country. FIDC pleased to state that Department of Financial Studies at University of Delhi have agreed and approved the idea of conducting short term Certificate Courses on NBFCs for their MBA students. FIDC is shortly going to sign an MoU with University of Delhi to this effect. These shall be Short Term courses offered as an option to the regular MBA students. The leading NBFCs which constitute the Managing Committee of FIDC have agreed to give preference to students undertaking this short term course for Internships and final placements in their respective companies. FIDC is in dialogue with 2 other Business Schools on similar lines.

Programmes on Commercial Credit Reporting with IFC:

International Finance Corporation (IFC), which is an arm of World Bank Group, has collaborated with FIDC and has signed The "Engagement Letter" for training programs for NBFCs to be conducted on "Commercial Credit Reporting" aimed at building capacity of NBFCs to enhanced reporting and enquiring on Commercial Credit Information Data from the Credit Bureaus. These training programs are being conducted at various centers across the country under the guidance of leading consultants from the World Bank Group.

These training programs greatly enhance the awareness, expertise and professionalism of FIDC's member companies, especially; the large number of small and medium sized NBFCs catering to the credit needs in rural and semi urban areas and also facilitates more informed credit appraisals thereby improving the asset quality. Such an engagement with a global development finance institution improves the credibility of NBFC sector thereby boosting the investors' confidence.

The prime objective is to have HR of NBFC specialists, which is the need of the hour considering the growing contribution of NBFCs and challenges being faced by the sector.

Interaction with Knowledge Partners:

FIDC initiates seminars & conferences on specific subjects relating to NBFCs to impart knowledge to NBFCs' professionals. FIDC is also partnering with NIBM, Pune, BQ Global, Elets, Access India, B2B Infomedia, ASSOCHAM and IMC Chamber of Commerce & Industry for their on-going Seminars and Workshops exclusively for NBFCs. FIDC also partners with local and global consultants and utilise their specialised services as knowledge partner in the Seminars and Conferences for NBFCs.

Further, FIDC has been part of Core Group with RBI College of Agricultural Banking, Pune to re-start Training workshops for NBFC Personnel.

Initiative for Data on NBFC operations:

In order to have regular periodical flow of information and data on operations of NBFCs FIDC has formed a tie up with CRIF Highmark. That enables now to compile and publish quarterly segment-wise, state-wise disbursement figures. This is well appreciated by all. [Feedback by FIDC for 'Second National Strategy for Financial Education (NSFE) for the period between 2019-24'.] ■

Periscope

Financial services sector biggest beneficiary from corporate tax cut: CARE study

The industry would be savings of Rs. 41,555 crore, says CARE Ratings

Financial services sector could potentially be the biggest beneficiary of the recent reduction in corporate tax rates, according to a new study by CARE Ratings. The study is based on 2,377 companies from the aggregate sample of 3,170 companies which had positive profit before tax. The cumulative earnings before tax were about Rs. 8.84 lakh crore in 2018-19. Total tax paid by these firms was Rs. 2.37 lakh crore last fiscal with an effective tax rate of 27.5 per cent. "If these companies had paid tax at 25.17 per cent, the industry would see a savings of Rs. 41,555 crore," CARE Ratings said in the report released on Sept. 25.

The study found that banking, finance and insurance companies could see total tax savings of Rs. 17,679 crore. To the extent that these tax savings/ surpluses are transferred to the reserves which are considered when calculating the capital adequacy ratio, the ability to lend for banks would increase, it further noted. Based on 2018-19 data, close to Rs. 12,000 crore would be savings of private banks which can at a CRAR of 10 per cent deliver credit of around Rs. 1.2 lakh crore if fully transferred to reserves with no other conditions changing, the report further said. [Business Line, Sept. 25]

Don't hurt demand enablers of Auto Sector

The automotive sector is the bellwether of discretionary consumer spending, but it significantly depends on access to consumer credit. Here lies one of the major causes that precipitated the recent downturn. Credit crisis from high-capex industrial and real estate companies with overleveraged balance sheets has spilled over to NBFCs who are significant credit providers to the automotive sector across segments—fleet owners (commercial vehicles, construction equipment), farmers (tractors) as well as consumers (cars, two-wheelers).

Tightening of credit lines by NBFCs has been reflective in the significant cut down in loan disbursal, impacting sales volumes. The slowdown is also putting pressure on the MSME balance sheets of dealerships and smaller suppliers, which will aggravate the crisis, as these are funded by NBFCs too. The overall credit availability in the economy has to build back up, perhaps enabled by a faster clean-up of NBFCs' and other financial institutions' balance sheets in the interim.

Lower cost of credit through cheaper loans is another strong enabler. RBI has been softening the policy stance on rates over the last few quarters and has brought down policy repo rate to 5.15% at a time when inflation rates have also moderated. The real test is for financial institutions to pass on this real interest rate arbitrage to the buyers to enable the revival of demand. [Excerpts from an article "6 ways to reignite India's auto industry" by Rajat Dhawan , a senior partner and Brajesh Chhibber, an associate partner at McKinsey and Co., published in Live Mint on Oct. 16]

Lenders step up repossession of commercial vehicles on payment defaults

Stockyards in logistics and transport hubs in various parts of the country are overflowing with repossessed commercial vehicles, as the rising incidence of defaults is forcing financiers to step up the seizure of these vehicles. The data collated from financiers and transporters shows that close to 50,000 commercial vehicles have been seized and are parked in the stockyards. Unlike the two previous slowdowns in 2008-2009 and 2012-13, the worrying aspect of the repossession of vehicles this time is that 40 per cent of them are less than a year old, said S P Singh, senior fellow at IFTRT. Poor economic growth and a slowdown in consumption have impacted freight availability and prevented transporters from increasing freight rates.

Top officials at various NBFCs said that while it is common practice to seize vehicles when an owner fails to meet the repayment obligation, it's always the last resort, as it does not benefit anyone, especially not in a dull market. The decision to repossess a vehicle "is not a mechanical one," said T T Srinivasaraghavan, managing director at Sundaram Finance. Though delinquency in repayment has gone up, every case does not lead to repossession, he added. "It's a tough time and I don't see any magic happening. I see this continuing till September 2020. Road transporters' economy will improve only if the overall economy picks up," he said. [Business Standard, Dec. 16]

Government measures fail to stem slide in NBFC credit

Loan sanctions fell 34% in the September quarter, a year after the NBFC liquidity crisis at IL&FS. Total NBFC sanctions fell to Rs 1.9 lakh crore at the end of September from Rs 2.9 lakh crore during the same period last year, despite government measures to boost bank funding to the sector. This is according to data compiled by the CRIF High Mark credit bureau and the FIDC.

"Liquidity transmission from PSBs (public sector banks) to non-AAA-rated NBFCs remains constricted. The cost of funds has gone up by over 120 bps (basis points) despite 135 bps of repo rate cut. Thus there is divergence of spread of almost 250 bps," said Magma Housing Finance CEO Manish Jaiswal. "NBFCs play a pivotal role driving last-mile credit reach and the government must systemically examine fund flow and cost of funds to non-AAA-rated NBFCs to fix this issue."

While overall sector trends were bleak, a few segments such as consumer durable loans, gold loans and personal loans were in positive territory. On an annual basis, consumer loans grew 7% to Rs 13,114 crore while personal loans grew 22% to Rs. 18,262 crore. Gold loans rose 17%. [Saloni Shukla & Shilpy Sinha, ET Bureau Nov. 29]

Mr. Ramesh Iyer takes over as Chairman, FIDC

Ramesh Iyer
Chairman, FIDC

Mr. Ramesh Iyer has been unanimously elected as Chairman of FIDC. Mr. Ramesh Iyer is the Vice Chairman and Managing Director of Mahindra & Mahindra Financial Services Limited (MMFSL) and is the President – Financial Services Sector and a Member of the Group Executive Board of Mahindra & Mahindra Limited. Mr. Iyer has been associated with MMFSL since 1994. Mr. Iyer is recipient of various prestigious awards, the most recent ones being: The prestigious Asia Pacific Entrepreneurship Award (APEA) 2017 INDIA 'Best CEO – Financial Services Sector Mid Cap' award by Business Today, 'CEO – FINANCIAL SERVICES' at the CEO AWARDs organised by CEO India magazine. Mr. Iyer was also one of the finalists in the CNBC 15th Asia Business Leaders Awards 2016 held in Jakarta, Indonesia and has been recently featured in Business Today magazine in the top 40 BFSI CEOs of India.

"NBFCs have emerged as an important constituent of the financial services sector and the economy. The sector has played a key role in funding first-time borrowers, the unbanked and unbankable customers, thus achieving Financial Inclusion in its true sense", said new chairman of FIDC Mr. Ramesh Iyer. The sector has recently witnessed several challenges, and it is time for us to work collectively towards incorporating higher standards of governance and compliance, to ensure that the concerns of Regulators, Investors and Lenders are well-addressed, he added in a message.

Co-Chairman, FIDC

K. V. Srinivasan
Co-Chairman, FIDC

Raman Aggarwal
Co-Chairman, FIDC

Further, thanking the outgoing Chairman, Mr. Iyer stated, "Raman Aggarwal's tenure as Chairman during the last 4 years has been very challenging as it coincided with one of the most critical phases in the sector. Despite this, I am glad that FIDC, under his stewardship, has established excellent relations with the MOF, Niti Aayog, CBDT and other Central Government Ministries, apart from RBI." Mr. Raman Aggarwal will continue as the additional Co-Chairman of FIDC along with Mr. K V Srinivasan. ■

BSE, NSE issue norms to list commercial papers, bring them under SEBI

Companies, NBFCs, other entities with a networth of at least Rs 100 crore and any other other security specifically allowed by Reserve Bank of India (RBI) are eligible to list commercial papers. Leading stock exchanges BSE and NSE have come out with a framework for listing of commercial papers, a move aimed at broadening investors' participation in such securities. Issuers can now apply for listing of commercial papers (CPs) issued on or after November 27, 2019, the exchanges said in two separate notices. This come after SEBI in October asked exchanges to put in place necessary framework for systems and procedures for listing of commercial papers. "Commercial Papers, by their very nature are short term money instruments and until now, have been regulated primarily by RBI. Listing of CPs will bring them under SEBI's domain as well, leading to a more transparent and better disclosure regime. [Business Standard/PTI, Nov. 17]

Pilot Scheme for Assistance to New Age Fin-Tech NBFCs by SIDBI

Based on the recommendations of the Working Group on FinTech and Digital Banking, SIDBI has designed a Scheme on pilot basis to extend financial assistance to New Age Fin-Tech NBFCs registered as Investment & Credit Company (ICC) with RBI. The scheme is applicable to New Age Fin-Tech NBFCs engaged in financing small businesses and for other income generating activities, as per Micro, Small and Medium Enterprises (MSMEs) as defined under the MSMED Act, 2006. [SIDBI Circular]

Cabinet clears changes to Partial Credit Guarantee Scheme

The Union Cabinet on Dec. 11 approved changes to the partial credit guarantee scheme for NBFCs and HFCs. "This is a vindication of the FIDC's stand. We had requested the finance ministry to open up the scheme for the non-bank lenders with investment grade rating," Raman Aggarwal, Co-Chairman, FIDC said. [ETCFO, Dec. 11] ■

L-R: V P Nandakumar, K V Srinivasan, Smt. Nirmala Sitharaman, Raman Aggarwal, Umesh Revankar, Mahesh Thakkar

FIDC meeting with Finance Minister for key issues being faced by NBFCs

FIDC Managing Committee members had a meeting with Smt. Nirmala Sitharaman, Finance Minister on Nov.11 to thrash out key issues being faced by NBFCs as the sector continues to grapple with availability of funding at reasonable cost even after the measures taken by Ministry of Finance to address the liquidity crunch faced by NBFCs. FIDC appealed for following measures to the Finance minister:

- Need to clearly differentiate the short term retail financing NBFCs from the long term financing players [Infra Financing, HFCs etc], to ensure that all are not painted by the same brush and perceived to be high risk.
- Bank funding to NBFCs should primarily be based on the financials and overall strength of NBFCs, irrespective of their size and credit rating.
- The arrangement of treating bank lending to NBFCs for on-lending to Priority sector to be treated as PSL for banks, should be made permanent and the limit needs to be increased to at least 10% of total PSL by banks.
- NHB may now become the apex refinancing body for the entire NBFC sector and not only HFCs since regulation of HFCs is transferred to RBI. And MUDRA can play an important role in refinancing large number of Small and Medium NBFCs.
- NBFCs be allowed an **on-tap facility for issuance of NCDs** to the retail market by making the offering of NCDs through an easy- to-operate and less costly procedure.
- The Co-origination of Loan Scheme be extended to Deposit Taking NBFCs (NBFC -D).
- Release of data on bank credit to NBFCs may be split into Government owned and Private NBFCs by RBI.

FIDC pleads RBI for granting a 0% risk weight for the guaranteed portion of loans under the CGTMSE scheme

FIDC In Action

FIDC proposed to Reserve Bank to consider giving a 0% risk weight for the guaranteed portion of loans covered under the CGTMSE scheme as such a dispensation is already available to NBFC-MFIs where their loans are guaranteed by Credit Risk Guarantee Fund Trust for Low Income Housing (CRGFTLIH). Typically since 75% of the risk of such loans is guaranteed by the CGTMSE (which is a Sovereign trust), 75% of such assets may carry a 0% risk weight, while the balance could carry the appropriate risk weight as per extant guidelines.

This would provide a huge relief to NBFCs on capital allocated for such pools and encourage NBFCs with a good track record to adopt the CGTMSE scheme, said Mahesh Thakkar, director general, FIDC on Oct. 2.This would encourage further push towards flow of finance to MSMEs and other underserviced sectors, he added.

FIDC Representation on Stressed Assets & IND-AS

FIDC has requested to Shri Injeti Srinivas, Secretary, Ministry of Corporate Affairs on Nov. 8 that the ICAI and the MCA needed to amend the norms under Ind-AS in respect of the stressed loans to [a] enable these to be derecognised as assets by the transferor and [b] account for investments in Security Receipts [SRs] on a fair value basis as "Investments".

This plea was on account of [a] The SARFAESI Act was enacted to provide relief to banks and NBFCs to manage stressed loans in a meaningful manner and such transfers are done under those provisions, [b] The loans being the assets of the ARC, must rightfully be reflected in the ARC's balance sheet and not on the transferor's [c] The risk arising from impairment of the transferred loans passes to the ARC. No credit enhancement/guarantee is provided by the transferor [d] In case the transferor also subscribes to the SRs, they assume the risk of impairment of the SRs as any third party would and hence must be allowed to account for the investment in line with the norms for investment accounting (including provision for impairment) [e] Any loss (or profit) on transfer of the loans to the ARC would have to be accounted for in calculating the transferor's income tax liability.

NBFCs be allowed an on-tap facility for issuance of NCDs to the retail market

FIDC in view of recent liquidity crunch faced by NBFCs that has necessitated diversification of funding sources proposed to SEBI Chairman Shri Ajay Tyagi and Whole Time Director, Shri Ananta Barua seeking their appointments for making bond issuance an on-going process, with increased reporting, more so, since NBFCs are already subject to stringent supervision, both "on site" and "off site.

FIDC Chairman, Ramesh Iyer proposed that NBFCs be allowed an on-tap facility for issuance of NCDs to the retail market by making the offering of NCDs through an easy- to-operate and less costly procedure, but with proper governance to provide investor protection and comfort. The features proposed by FIDC are:

- Bonds/NCDs to be rated minimum BBB- (minimum investment grade). Instruments must be secured and should not fall under the definition of "deposit"
- Company to file umbrella prospectus (valid for one year) with quarterly financial updates. In no event, can the financials be older than 4 months. This document would lay down the overall limits and the type of NCDs to be issued (deep discount/interest bearing etc.)
- Under this, NBFC to be allowed to issue as many NCDs as they wish in whatever frequency they wish to. There should be no need to file an updated prospectus – only updated financials may need to be filed as an addendum.
- There should be no need for a specific issue closure date and issue allotment date. The allotment of bonds to be similar to acceptance of deposits – with tenure being determined from the date of the application.
- NCDs to be marketed similar to deposits. Intermediaries may be allowed
- Tenure may be long term say, 2 or 3 years and upwards

Given that these are secured instruments, there should be no need to maintain SLR.

- Governance under SEBI guidelines, with overall borrowing cap being permitted by RBI.
- Lead Manager to have responsibility of reporting to SEBI & RBI on quarterly basis
- Grievance redressal mechanism similar to deposit acceptance regime; access for investors to SEBI and RBI Ombudsman Minimum investment amount could be low – say, Rs.10,000/- so that greater retail participation is possible.
- Instruments would be listed and tradeable on a recognised stock exchange to provide liquidity to retail investors.

FIDC Launched vibrant & interactive website along with interactive Twitter and Linkedin

The fully reconstructed, updated, comprehensive, informative, vibrant and interactive Website of Finance Industry Development Council (FIDC) http://www.fidcindia.org is launched along with interactive Twitter and Linkedin handles fidcindia. Apart from all FIDC related information, it updates all news, articles and messages pertaining to NBFC Sector on a daily basis. The Members were requested to take full advantage of this and also participate in Social Media handles for positive opinion-making on NBFCs. The Members were welcome to advertise on FIDC Website to reach out to maximum number of people in Finance & Investment fraternity. The links: Website: http://fidcindia.org/; Twitter: https://twitter.com/FidcIndia ; Linkedin: https:// www. linkedin. com/ in/ fidc-india-042043194/

www.fidcindia.org

Published by :

Mr. Mahesh Thakkar, Director General
for and on behalf of
Finance Industry Development Council,
101/103, Sunflower, 1st Floor,
Rajawadi Road No.2, Ghatkopar (East), Mumbai 400 077.
Call: 022 - 21029898/91 9820035553
Email: directorgeneral@fidcindia.org;
maheshthakkar45@yahoo.in
Website: www.fidcindia.org

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 : directorgeneral@fidcindia.org

- Editorial Committee

Printed by : Aditya Print Shop (M) 9825866610