FIDC NEWS

Finance Industry Development Council

(A Representative Body of Assets and Loan Financing NBFCs)

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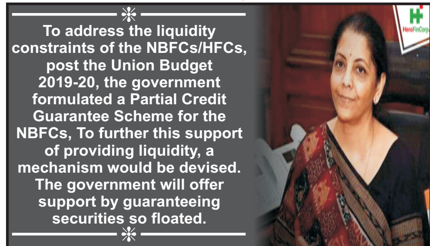
Budget 2020 reforms for the NBFCs sector, Its impact & other key takeaways



In the second budget of the second term of the Prime Minister Narendra Modi-led government, Finance Minister Nirmala Sitharaman has had a tough job of striking a balance between meeting fiscal deficit targets and shaking up economic growth. Though the budget has primarily focused on areas like agriculture, infrastructure, individual taxpayers, foreign investors and domestic manufacturing, it has also announced reforms to boost liquidity for the NBFC sector and enable it to provide extra support to other sectors that can drive growth.

Here are the main reforms announced in Budget 2020 for the NBFC sector.

Reform 1: Reduced Limits for NBFCs under SARFAESI Act

Giving more power to NBFCs, the budget has reduced the asset size of NBFCs from Rs 500 crore to 100 crores to become eligible for debt recovery under the SARFAESI Act.

Also, NBFCs can now pursue debt recovery under the SARFAESI Act for loans starting at Rs 50 lakh, which was earlier Rs 1 crore.

Impact: This will help check the rise of Non Performing Assets ratio of NBFCs (GNPA has increased to 6.3% in September 2019 from 6.1% in March 2019), and strengthen the recovery process.

In the long term, it will also help NBFCs to comply with minimum capital risk adequacy ratio (CRAR) mandated by RBI. The CRAR of the NBFC sector stood at 19.5% at the end of September 2019 and has been falling for the last 5 years.

Reform 2 : Sovereign Credit Guarantee for the NBFC

Nirmala Sitharaman's 2019 budget had formulated a partial credit guarantee scheme to tide over the liquidity crisis in the NBFC sector. Her 2020-21 budget further supports this by guaranteeing securities on stressed assets of NBFCs.

Impact: As the NBFCs' stressed assets will now be backed by government-issued bonds, banks will become less risk-averse towards lending to NBFCs. This will help improve the current liquidity crunch in the system and boost credit growth.

The system is similar to the US TARP (Troubled Asset Relief Program), a program that was launched in 2008 to prevent the trickle-down effect in the economy and maintain liquidity.

Reform 3: Invoice Financing by NBFCs

Another move that is expected to massively help the micro, small and medium sector is the proposal to make amendments in the Factor Regulation Act 2011, which will enable NBFCs to extend invoice financing to MSMEs through TReDS.

Impact: This move will greatly reduce one of the top pain points of MSMEs - timely access to credit and working capital. With greater accessibility to capital, MSMEs will be able to explore a lot more opportunities, thus gaining financial stability. It will also add a new source of business for NBFCs, thus helping the sector control negative credit growth.

Other Major Takeaways from the Budget

In order to meet an ambitious target of making India a $5-trillion economy by 2024, the budget has announced these key reforms that is intended to put the spark back in the faltering economy.

- Investment up to a tune of Rs 2.83 lakh crore has been planned for the rural economy while Rs 1.7 lakh crore has been announced for infrastructure development in the country.
- In order to boost Agri finance, Sitharaman has proposed to expand the NABARD refinance scheme to cover NBFCs and cooperatives that are active in the agriculture sector. The finance minister has set agriculture credit availability at Rs 15 lakh crore for FY 2021.
- The budget also proposes an optional new personal tax structure with tax cuts of 5 to 10 percent across various income levels. The new tax structure is aimed at simplifying income tax calculations for individuals.
- Budget 2020 has abolished Dividend Distribution Tax (DDT) aimed at benefiting all tax players in the country. Dividend income from shares and mutual funds will now become taxable at the recipient front, as per their respective income-tax slabs.
- An extension of Rs 1.5 lakh interest benefit on affordable housing loans, by another year to March 2021, has also been proposed.
- The government has raised healthcare budget allocation to Rs 69,000 crore, proposing to build hospitals in Tier II and Tier III cities under the PPP model. New medical colleges and skill development programs have also been proposed to improve the supply of medical practitioners.
- The government has also widened the fiscal deficit to 3.8% of GDP in the current year against the target of 3.3%. Fiscal deficit for FY 21 is pegged at 3.5% of GDP, which will give enough room for economic growth.

Conclusion

The proposals made in the budget for the NBFC sector can be termed as one of

[Continued on page-4]

AT A GLANCE

- Budget 2020 reforms for the NBFCs sector, Its impact & other key takeaways........ Editorial Team 1
- Regulatory Perimeter........ 2
- Fall in Borrowing Costs Shows NBFC Crisis is likely to Ease........ Divya Patil 3
- Fifth Pillar of Supervision........ Shri Shaktikanta Das, Governor, RBI 3
- Nextgen NBFCs: Survival of The Fittest and Fastest........ Sabyasachi Rath & Arti Somani 4
- They [NBFCs] Have Been Able to Raise Funds in International Markets They Have Been Able To Raise Funds In Equity Markets........ Rajnish Kumar, Chairman of The State Bank of India 4
- Performance of NBFC Sector in FY 2018-19 and 1st half of 2019-20........ RBI 5
- India's About to Hand People Financial Data Americans Can Only Dream of........ Saritha Rai 7
- Moves........ 8
- Legal Eagle........ 9
- SEBI MOVES........ 10
- FIDC Gearing for New Decade........ Ramesh Iyer, Chairman, FIDC 10
- Periscope........ 11
- FIDC - Social Media........ 11
- FIDC IN ACTION........ 12

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REGULATORY PERIMETER

RBI NOTIFICATIONS & CIRCULARS :

Lending against security of single product – Gold jewellery: RBI/2019-20/148; DOR.NBFC (PD).CC.No.108/03.10.001/2019-20; January 21, 2020**;** [All Non-Banking Financial Companies (excluding Primary Dealers)]

Micro, Small and Medium Enterprises (MSME) sector – Restructuring of Advances: RBI/2019-2020/160; DOR.No.BP.BC.34/21.04.048/2019-20; 11.2.2020; Department of Regulation;[All banks and NBFCs regulated by the Reserve Bank of India]

Amendment to Master Direction (MD) on KYC: RBI/2019-20/138**;** DOR.AML.BC.No.27/14.01.001/2019-20**;** January 9, 2020**;** [The Chairpersons/ CEOs of all the Regulated Entities]

Extension of relaxation on the guidelines to NBFCs on securitisation transactions: RBI/2019-20/131; DOR. NBFC (PD) CC.No.107/03.10.001/2019-20; December 31, 2019. [All NBFCs]

Implementation of Indian Accounting Standards: RBI/2019-2020/170: DOR (NBFC). CC. PD. No. 109/22.10.106/2019-20: 13.3.2020: Department of Regulation; [Non-Banking Financial Companies and Asset Reconstruction Companies implementing Indian Accounting Standards]

COVID-19- Operational and Business Continuity Measures: RBI/2019-2020/172; DoS. CO. PPG. BC.01/11.01.005/2019-20 16.3.2020; Department of Supervision; [All NBFCs]

RBI has decided to align its financial year with the Government

The central board of the RBI, in its meeting in New Delhi on 15 February, decided that the fiscal year 2021-22 for the central bank will begin from April 1. Fiscal 2019-20 will end on June 30, 2020 while fiscal year 2020-21 will begin on July 1, 2020 but ends on March 31, 2021. Thereafter, all fiscal year will start on April 01 every year. [Business Standard, Feb. 15]

Banks' lending to NBFCs: RBI may extend validity of circular

The RBI may extend the validity of its circular that allows banks' lending to non-banking finance companies (NBFCs), which on-lend to specific segments — agriculture, micro and small enterprises (MSEs) and housing — to be classified as priority sector lending (PSL) beyond March-end.

The reason: By doing so, banks will be encouraged to keep the funding tap open for NBFCs to meet their PSL target. And NBFCs (especially the mid- and small-size ones) can use the funds, which became tough to mobilise after the IL&FS and DHFL debt default crisis, to originate fresh loans and stay in business.

The circular on lending by banks to NBFCs (other than micro finance institutions) for on-lending to specified segments within PSL — agriculture, MSEs and housing — was issued on August 13, 2019. The instructions contained in the circular are valid up to March 31, 2020 and are slated for review thereafter. [Business Line, Feb. 20]

NBFCs, HFCs may get 1 year extension for restructuring loans: Report

Financially sound NBFCs and housing finance companies (HFCs) may be next in line to be permitted extension of the date of commencement of commercial operations (DCCO) of project loans for commercial real estate by another one year without downgrading the asset classification. Official sources said that the Reserve Bank of India (RBI) extended this facility to banks after the recently concluded meeting of the Monetary Policy Committee on February 6 and NBFCs and HFCs may now be included in the scheme to allow completion of a larger number of viable real estate projects that are delayed for reasons beyond the control of promoters. [Business Standard, Feb. 23]

RBI allows NBFCs to pool jewellery for sale

RBI has allowed NBFCs to pool gold jewellery from different branches in a district and auction it at any location within the district, subject to the condition that the first auction has failed. In its circular on 'Lending against security of single product – Gold jewellery', the RBI said the NBFC shall ensure that all other requirements of the extant directions regarding auction (prior notice, reserve price, arms-length relationship, disclosures, etc) are met. The central bank said non-adherence to the above conditions will attract strict enforcement action. [Business line, Jan. 21]

RBI extends NBFC securitization relaxations till 30 June

RBI has extended, for another six months, existing relaxations for securitization of assets by non-banking financial companies (NBFCs). The move is expected to provide NBFCs with some more breathing space to repair their broken balance-sheets by selling assets and improving liquidity. In November 2018, the Reserve Bank of India (RBI) had first relaxed the minimum holding period (MHP) requirement for originating NBFCs, for loans of maturity above five years, to six months from 12 months earlier. The relaxation was originally given for six months till May 2019. The central bank then extended this relaxation till 31 December, 2019. "On a review, it has been decided to extend the relaxation provided therein till 30 June, 2020," said RBI. [Live Mint, Jan. 1]

RBI should act as lender of last resort, provide liquidity to NBFCs : SBI

With difficulties in NBFC sector continuing, economists at SBI on January 17 pitched for the Reserve Bank to play its role as the lender of last resort, something the central bank has avoided since the start of troubles in 2018. In its report on Budget expectations, the economists said RBI should "seriously think" of providing liquidity to NBFCs against the assets held by the lenders."Given the crisis of confidence in the financial markets, it is imperative that central banks don't forget their primary function of being the lender of the last resort," they said.

So far, RBI has refused to play its role as the lender of last resort, terming the problem at select NBFCs as one created because of asset-liability mismatches, where entities depended on short-term liabilities to fund long-term assets and found the going difficult with hike in rate. A slew of analysts have blamed the slowdown in lending by the liquidity-starved NBFCs for the fall in consumption, which is among the factors resulting in dip in GDP growth.

The SBI report included help for NBFCs as part of its fiscal policy suggestions ahead of the February 1 Budget. It suggested a formal arrangement can be worked out wherein the Government of India can commit to adjust the haircuts that come banks' way by settling it with RBI's dividend transfers. [PTI/ @ moneycontrol.com, Jan. 17]

RBI goes beyond rates to make loans cheaper

On Feb. 6, the central bank introduced a direct incentive framework to boost credit growth, even as the monetary policy committee (MPC) kept benchmark rates unchanged because of uncertainty in the inflation outlook. However, RBI governor Shaktikanta Das said. "It has to be kept in mind that the central bank has several instruments at its command that it can deploy to address the challenges the Indian economy faces."

To improve credit flow, RBI temporarily removed the cash reserve ratio (CRR)—which requires banks to set aside 4% of their deposits—for every new retail loan made to finance automobiles, homes, and to small businesses. This move, while making it attractive for banks to lend to retail and small businesses, essentially translates into a short-term cut in cash reserve ratio. This scheme will be available for new loans given till 31 July.

In addition, the central bank will now conduct one-year and three-year term repo auctions to inject up to Rs. 1 trillion into the banking system, giving lenders the opportunity to raise money at current rates. When viewed in the context of elevated headline inflationary pressures, this is another incentive for banks to lock medium-term funding at current low rates. "This should encourage banks to undertake maturity transformation smoothly and seamlessly so as to augment credit flows to productive sectors," the statement read. [Live Mint, Feb. 6]

RBI extends debt recast window for small borrowers by 9 months

RBI on Feb. 6 extended the deadline for a one-time restructuring scheme of small business loans by another nine months to 31 December.

According to the central bank, it decided to extend the benefit of one-time restructuring because the process of formalization of the MSME sector has a positive impact on financial stability and this process is still underway.

This will not only benefit small businesses which could not be restructured under the earlier guidelines but also those that have become stressed since then."It is reemphasized that this is a one-

time regulatory dispensation," said RBI.

"More than five lakh MSMEs have benefitted from restructuring of debt permitted by RBI in the last year," Nirmala Sitharaman, Finance Minister said. [Live Mint, Feb. 6]

Bank cheque clearing process to get quicker

The RBI on Feb. 6 said that the Cheque Truncation System (CTS), which is currently operational at the major clearing houses of the country, will be made operational across India by September 2020. "The Cheque Truncation System (CTS) has stabilised well and it has made large efficiency gains. In view of this, a pan India CTS will be made operational by September 2020," the RBI said. Cheque truncation removes the need to move the physical instruments across bank branches, other than in exceptional circumstances for clearing purposes.

Instead of movement of cheques across banks, an electronic image of the cheque is transmitted to the paying branch through the clearing house, along with relevant information like data on the MICR band, date of presentation, presenting bank, etc. This effectively eliminates the associated cost of movement of the physical cheques, reduces the time required for their collection and brings elegance to the entire activity of cheque processing. [Live Mint, Feb. 6]

Banks to get 5-year CRR relief for lending to auto, housing, MSMEs

RBI on Feb. 10 said banks would not be required to maintain the cash reserve ratio (CRR) for five years on their deposits for an amount equivalent to loans given to the MSME (micro, small, and medium enterprises), housing and vehicles sectors between January 31 and July 31. Banks currently maintain 4 per cent on their deposits as CRR.

However, the RBI said it would allow relaxations on this for loans given to the three productive sectors as they could have "multiplier effects to support growth impulses". Therefore, banks were told that they could carve out an amount equivalent to what they lent to these three sectors in the six months from their total deposit base, and go for five years without maintaining the CRR on that amount.

While home finance can stretch over a longer period, and vehicle finance loans can reach seven years, analysts say five years is a good enough window for banks. [Business Standard, Feb. 11]

RBI introduces video-based identification process for KYC

The Reserve Bank said it decided to permit video based Customer Identification Process (V-CIP) as consent based alternate method of establishing the customer's identity, for customer on boarding with a view to leveraging the digital channels for Customer Identification Process (CIP) by REs.

As per the circular, the reporting entity should capture a clear image of PAN card to be displayed by the customer during the process, except in cases where e-PAN is provided by the customer. The PAN details should be verified from the database of the issuing authority. "Live location of the customer (Geo-tagging) shall be captured to ensure that customer is physically present in India," it said.

Further, the official of the reporting entity should ensure that photograph of the customer in the Aadhaar/PAN details matches with the customer undertaking the V-CIP and the identification details in Aadhaar/PAN should match with the details provided by the customer. [Live Mint, Jan. 10]

Reserve Bank lists NPR letter as a valid document for KYC

Banks might soon accept a letter from the National Population Register (NPR) as part of the Know Your Customer (KYC) process. A letter from the NPR is now included under the list of Officially Valid Documents (OVDs), the Reserve Bank of India (RBI) said in its Master Direction on KYC norms.

"OVDs include passport, driving license, proof of possession of Aadhaar number, Voter's Identity Card issued by the Election Commission of India, job card issued by NREGA duly signed by an officer of the state government and letter issued by the NPR containing details of name and address," the Master Direction states. The Master Direction was last updated on January 9, 2020, as per the banking regulator's website. [moneycontrol.com, Jan 15]

Covid-19 threat: Devise strategy and monitoring mechanism: RBI to banks, NBFCs

RBI has issued an advisory asking banks and NBFCs to devise a strategy and monitoring mechanism concerning the spread of novel coronavirus disease (Covid-19) within the organisation, take stock of critical processes and revisit their business continuity plan in the emerging situations/scenarios, and encourage customers to use digital banking facilities as far as possible. It also wants the supervised entities to assess the impact on their balance sheet, asset quality and liquidity arising out of potential scenarios such as further spread of Covid-19 in India and its effect on the economy, contagion from wider disruption in the global economy, and the global financial system. Based on these studies, they should take immediate contingency measures to manage the risks and inform the RBI. As the situation requires to be monitored closely, both from a business and social perspective, banks and NBFCs may constitute a quick response team. [Business Line, March 16] ■

FIFTH PILLAR OF SUPERVISION

"In addition to the four pillars of supervision viz. on-site inspection, off-site surveillance, market intelligence and reports of Statutory Auditors (SAs), a fifth pillar of supervision in the form of periodic interaction with all the stakeholders – including statutory auditors, credit rating agencies, credit information companies, mutual funds and banks having large exposures to NBFCs – has been instituted to have a clearer understanding of the emerging risks and developments in the sector so that critical information is available, whenever required."

- Shri Shaktikanta Das
Governor, RBI

FALL IN BORROWING COSTS SHOWS NBFC CRISIS IS LIKELY TO EASE

- Divya Patil

The borrowing costs for India's top-rated NBFCs declined last month, indicating that the nation's prolonged credit crisis may be seeing some improvement. Premiums that investors seek to buy AAA-rated five-year bonds of non-bank lenders over government notes with similar maturities narrowed to a 16-month low in January, helping a gauge measuring bond spreads to strengthen. Three other indicators compiled by Bloomberg covering areas, including liquidity and share performance, were stuck in the same position as the previous month, with two at levels indicating strength.

Economic growth

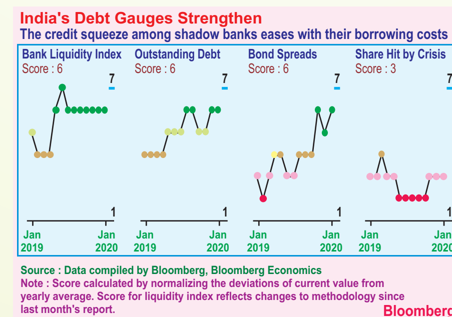
A recovery in the health of the nation's non-banking companies, which lend to everyone from small merchants to business titans, indicates that the steps taken by policy makers to soothe the sector are bearing fruit. Supporting these financiers is essential to Prime Minister Narendra Modi's efforts to jump-start credit flow and revive an economy that is set to expand at the weakest in more than a decade this fiscal year.

Banking-system liquidity remained buoyant, and the total outstanding debt at 50 firms impacted by the crisis stayed high. But a custom gauge measuring the share performance of 20 such companies was stagnant.

Fund at Pre-crisis level

"The worst seems to be over for NBFCs that have survived one of the longest credit crises in India," said Madan Sabnavis, chief economist at Care Ratings Ltd. "They have started to access funds at pre-crisis levels."

Even for some companies that were less affected by the credit-market freeze, the slowing economy is eroding their financial health. With the fallout from the deadly corona virus likely to hurt global expansion, it will be harder for many of these firms to bolster credit profiles.



The scores attached to each of the indicators have been calculated by Bloomberg by normalising the deviation of the latest value of the indicator from its yearly average and have been assigned on a scale of 1 to 7, with 1 implying weakness and 7 showing strength. [Bloomberg/Business Line, Feb.7] ■

NEXTGEN NBFCS: SURVIVAL OF THE FITTEST AND FASTEST

Sabyasachi Rath & Arti Somani

NBFC sector is at the forefront in driving new credit disbursals for the country's underserved retail and MSME market playing a key role in India's march towards financial inclusion. The NBFC sector in India has gone through a significant turmoil and transformation over the past few years. NBFCs play a key role in credit delivery constituting to 18 percent in the overall composition of total credit. NBFCs have pursued aggressive business growth by building distribution capabilities across new, untapped and under-penetrated geographies and customer segments. Although the sector has now come to be recognized as systemically important component of the financial system and was growing quite consistently year-on year, it has taken a beating with defaults and liquidity challenges, specifically related to one large NBFC and the domino effect faced by other NBFCs in the sector. Although the problem seems isolated, it has concerned regulators due to the risk of contagion effect and the overall governance in the sector.

Due to the significant risk involved the sector is now being imposed by new compliance measures by the regulator, lending slowdown and potential consolidation by larger players. Additionally, 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 high standards for customer experience. In the wake of these developments, it has become imperative for NBFCs to get their act together and gear themselves to be the NextGen NBFC. To be the NextGen NBFC the NBFCs need to focus on below.

Leveraging AI and Machine Learning

Artificial intelligence (AI) and Machine Learning (ML) are at the peak of its hype cycle now. From advanced scorecards to computational power to understanding natural language to recognizing visual objects, AI brings a multitude of capabilities and augments human intelligence multifold times. Financial industry is also leveraging AI to automate lending, create customer centric products, create new efficiencies, reduce turnaround time and support decision making. Frauds are another pressing issue for the financial institutions.

AI and machine learning could be leveraged by FI's to detect frauds and any outlier activity. Globally financial-services firms are undergoing digital transformations and trying to innovate a centuries-old service model. Existing providers are being encouraged as well as threatened by external investors to innovate and reinvent use of technology in financial services. While banking sector has had a history of resisting or delaying deployment of modern methodologies—agile development, open source, cloud computing, platforms—leveraging artificial intelligence is one area that the industry appears to be readily embracing.

NBFCs should leverage such synergies and thereby achieve their ultimate goal.

Developing Customer-Centric Operational Model

Achieving customer centricity is no longer a differentiator. In the digital age it has become a matter of survival. To hit a customer's sweet spot with a tailored product, NBFCs must invest in powerful machine learning solutions that automatically collect and analyze data including financial transactions and account details, real-time and historical market data, as well as information mined from social media for a 360-degree view of a prospective customer. E.g. your lending app could provide a personal saving/financial planning tool and help customer setting a savings goal, develop a personal spending plan based on his budget, which would help him to avoid getting overleveraged.

Also a smart visual of loan offer could be sent to customer from time to time. Customer centricity is not only a growing trend but a winning strategy for any organisation that is trying to attract and retain prospects, foster loyalty, and improve its bottom line in this process. Customer-centricity gets a boost when a chatbot or digital assistant takes up routine, mundane tasks while the relationship manager's time is freed up for more complex tasks that may require human interaction and emotion.

Conclusion

Clearly, NBFCs have begun to dance to the tune of technology. Automation does not mean fewer jobs. No!, robots cannot replace humans fully. It just means the replacement of certain old or mundane jobs with newer profiles and more time to spare for quality services for customers. It is imperative for modern workforces to upskill and reskill themselves to keep pace and step into the future. It is ideal that we empower ourselves with knowledge of new technologies such as data analytics, artificial intelligence and machine learning to step into a world where it's no longer physical vs. digital but a beautiful amalgamation of both leading to PHYGITAL! The faster we adopt the above, the fitter we become to face and survive the future. [The Banking & Finance Post, Feb. 6. Both authors are with Essel Finance Business Loans Ltd.] ■

[Continued from page-1] **Budget 2020 Reforms....**

the most balanced approach towards addressing the current situation of the NBFC sector. The reduction in limits under SARFAESI Act and sovereign credit guarantee for stressed assets will help improve the asset quality and CRAR, while invoice financing will help bring in more business from the MSME sector.

Pursuing a broad theme of wealth creation, the Union budget of 2020 ensures more social spending and higher disposable income in the hands of the middle class. This move is aimed at reviving the consumption cycle, improving credit growth and reversing the effects of the slowdown in the economy. [By Editorial Team, Herofincorp.com, Feb. 2020] ■

They [NBFCs] have been able to raise funds in international markets, they have been able to raise funds in equity markets

Rajnish Kumar
Chairman of the State Bank of India

"My assessment is ... we're much more confident than we were six months ago."

"In the last two years, we have been doing clean-up and clean-up. So we are coming out of that," Kumar told CNBC's Karen Tso at the World Economic Forum in Davos, Switzerland earlier this week.

"Some (NBFCs) which may be weak or facing solvency issues, that may still be a cause of concern and that needs to be washed out. But today, we're in a much better position," he said.

Non-bank lenders dished out long-term loans to companies and fund them by taking short-term loans from banks and mutual funds. But many of those companies that borrowed money from the NBFCs defaulted on payments, and left the NBFCs unable to service loans they took from the banks and mutual funds.

One high-profile case was when the government took over operations at a financing firm, called Infrastructure Leasing and Financial Services, after they defaulted in 2018. Another company — Dewan Housing Finance — had multiple defaults on interest payments last year, citing cash flow problems.

That led to India's central bank warning last year that the collapse of a large Indian non-bank financial company could inflict as much damage as that of a commercial bank.

Now NBFCs are becoming more strategic in raising funds, according to Kumar.

"They have been able to raise funds in international markets, they have been able to raise funds in equity markets. I don't think that we need to take such a gloomy view, but I would not say that we just don't keep an eye or don't be watchful," he said. "My assessment is ... we're much more confident than we were six months ago."

India's banks have also been laden by debt and are said to have the highest exposure to bad loans. But the government has pumped billions of dollars to help those troubled lenders, in exchange for them implementing reforms.

Those reforms are set to strengthen the sector over the next few years, analysts have said.

Last December, the Reserve Bank of India said that India's financial system "remains stable" even as domestic growth is weakening. It said the resilience of the bank sector has improved following a restructuring of public sector banks. [CNBC, January 22] ■

PERFORMANCE OF NBFC SECTOR IN FY 2018-19 AND 1ST HALF OF 2019-20

The consolidated balance sheet of the NBFCs expanded at a slower pace in 2018-19 and in the first half of 2019-20 in the aftermath of IL&FS default and rating downgrades of a few companies. NBFCs credit growth continued, supported by bank borrowings. Although GNPA ratio showed an uptick, their capital position remained stable. The Reserve Bank and the government have taken several measures to address these challenges by enhancing systemic liquidity and strengthening the governance and risk-management framework of NBFCs, including HFCs.

NBFCs are government/public/private limited companies, which specialise in delivering credit to a wide variety of niche segments, ranging from infrastructure to consumer durables. Following article based on Reserve Bank's Report on Trend and Progress of Banking in India released on 24th December 2019.

The NBFC sector is dominated by 234 non-Government NBFCs- ND-SI, which constitute 86.3 per cent of the total asset size of the sector. 80 NBFCs-D accounted for only 13.7 per cent of the total assets of the NBFC sector at the end of March 2019, with 89.7 per cent of all NBFCs-D assets held by non-government companies. Since NBFCs cater to niche areas, they are also categorised on the basis of activities they undertake. Till February 21, 2019, NBFCs were divided into 12 categories. Thereafter, these categories were harmonised in order to provide NBFCs with greater operational flexibility. As a result, asset finance companies (AFCs), loan companies (LCs) and investment companies (ICs) were merged into a new category called Investment and Credit Company (NBFC-ICC). As per the regulatory guidelines, only those NBFCs with a minimum net owned fund (NOF) of Rs. 2 crore are allowed to operate. As a result, 2018-19 saw a record number of cancellations of registration of 1851 NBFCs. The number of NBFCs registered with the Reserve Bank declined from 9,856 at the end of March 2019 to 9,642 at the end of September 2019.

Balance Sheet of NBFCs

Although the NBFC sector grew in size from Rs. 26.2 lakh crore in 2017-18 to Rs. 30.9 lakh crore in 2018-19, the pace of expansion was lower than in 2017-18 mainly due to rating downgrades and liquidity stress in a few large NBFCs in the aftermath of the IL&FS event. This slowdown was witnessed mainly in the NBFCs- ND-SI category, whereas, NBFCs-D broadly maintained their pace of growth. However, in 2019-20 (up to September) growth in balance-sheet size of NBFCs-ND-SI as well as NBFCs-D moderated due to a sharp deceleration in credit growth

NBFC Categorywise Performance

Amongst NBFCs-ND-SI, ICCs and IFCs together account for 85.6 per cent of the total asset size of the segment at end-March 2019. Despite liquidity stress faced by the sector, there was expansion in asset size of IFCs. Balance sheets of micro finance institutions or NBFCs-MFI also expanded on the back of strong growth in their loans and advances, especially to the agriculture sector. For other categories of NBFCs, excluding CICs, however, the growth of loans and advances moderated during 2018-19.

NBFCs-D largely comprise AFCs and LCs; since merged into a new category called ICC. In both these categories, moderation in credit expansion led to the share of investments in total assets rising from 3.5 per cent in 2017-18 to 5.7 per cent 2018-19. On the liabilities side, LCs and AFCs witnessed a spurt in deposit growth in 2018-19 and 2019-20 (up to September), augmenting their resource base.

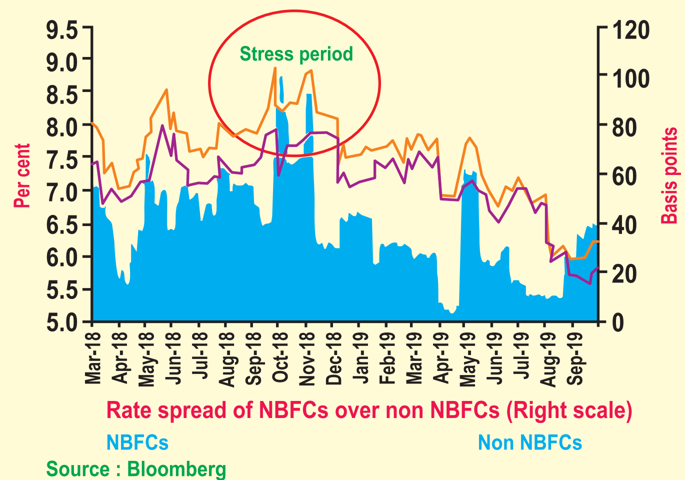
Sectoral Credit of NBFCs

Credit extended by NBFCs continued to grow in 2018-19. Industry is the largest recipient of credit provided by the NBFC sector, followed by retail loans and services. Credit to industry and services was subdued in relation to the previous year. However, growth in retail loans continued its momentum.

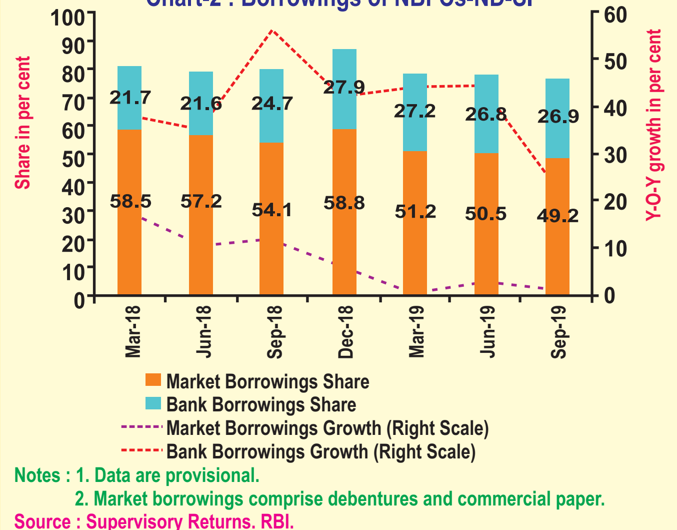
Over 40 per cent of the retail portfolio of NBFCs are vehicle and auto loans. The slowdown in auto loans in 2018-19 could be attributed to a slump in aggregate demand, exacerbated by postponement of vehicle purchases in anticipation of the implementation of BS-VI norms, the sharp increase in insurance costs in case of passenger vehicles and two wheelers, and sizeable enhancement in permissible axle load for commercial vehicles. In the consumer durables segment, a decline in credit extended was observed, reflecting muted consumer demand. NBFCs' credit to commercial real estate decelerated in 2018-19, reflecting their risk aversion in light of the slowdown in real estate sector despite expansion of bank credit to the sector. On the other hand, credit to agriculture and allied activities saw a significant increase in 2018-19, partly attributable to the policy measure of September 2018 enabling co-origination of loans for lending to priority sector by banks and NBFCs.

Resource Mobilisation

NBFCs-ND-SI mobilise around 70 per cent of their resources through bank borrowings and debentures. As investor confidence in the sector waned in 2018-19 and raising money through debentures became costlier, the reliance on bank borrowings increased. In fact, debenture issuances remained stagnant in 2018-19 whereas bank borrowings grew at a robust pace. The share of CPs declined marginally and CP issuances also decelerated in 2018-19. This happened even as the 3-month CP rates of NBFCs have been declining in the post IL&FS period barring occasional spikes (Chart-1). In spite of the low borrowing costs, the attractiveness of CPs as a source of borrowing for NBFCs diminished, owing to NBFCs preference for term-borrowings for better asset-liability management.



A slew of measures have been taken by the Government of India and the Reserve Bank to alleviate the liquidity stress and strengthen confidence in the sector. Amidst generalised risk aversion affecting various categories of investors, banks had emerged as a stable funding alternative for NBFCs in 2018-19. In 2019-20 (up to September), bank lending to NBFCs decelerated in light of defaults by and rating downgrades of a prominent HFC and a NBFC. However, share of bank borrowings in total borrowings of NBFCs-ND-SI increased to 26.9 per



cent at end-September 2019 from 24.7 per cent a year ago (Chart-2). While banks lend to NBFCs directly, they also subscribe to the debentures and CPs issued by NBFCs. However, given the prevailing risk-aversion, bank subscription to debentures and CPs issued by NBFCs-ND-SI has fallen in 2018-19. In 2019-20 (up to September),

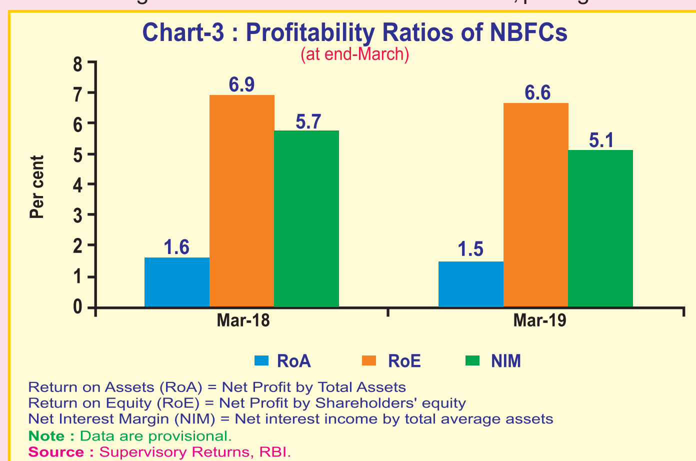
direct lending by banks grew at 21.9 per cent.

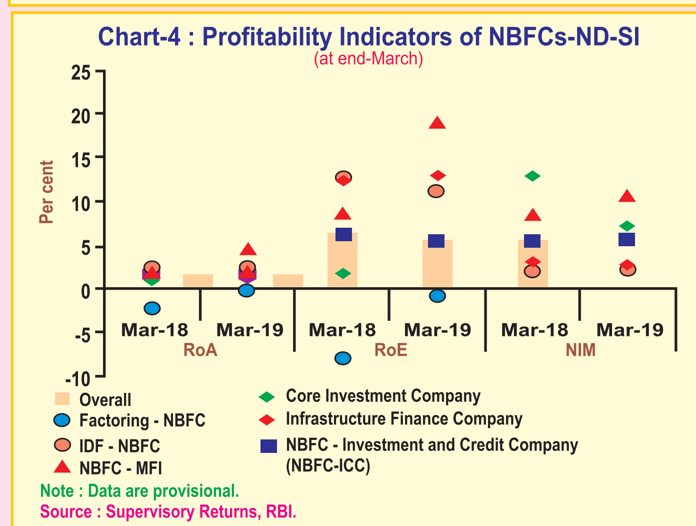
NBFCs-D: Deposits

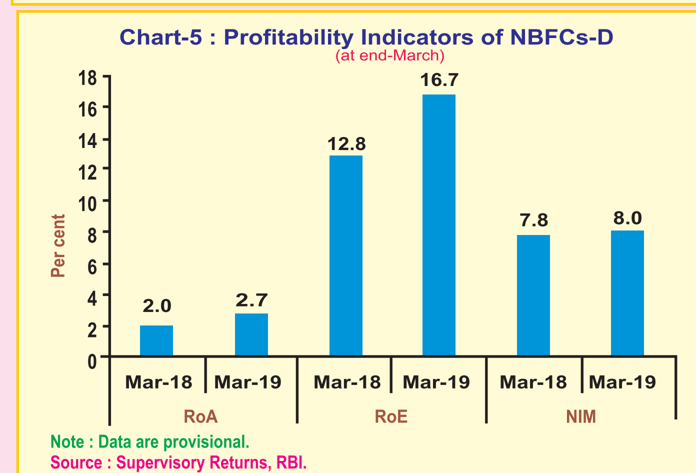
Deposit mobilisation by NBFCs progressed at a robust pace of 31.6 per cent in 2018-19 even though the number of companies authorised to accept deposits came down from 168 in 2017-18 to 88 in 2018-19 and 82 at end- September 2019.

Financial Performance of NBFCs [Chart-3]

NBFCs' profitability deteriorated in 2018- 19[Chart-4], attributable to the NBFCs-ND-SI segment. Their operating expenditures and interest payments grew significantly, as reflected in their higher cost-to-income ratio. With growth in expenditure outpacing income growth, net profit remained stagnant. For NBFCs-D on the other hand, profit grew robustly





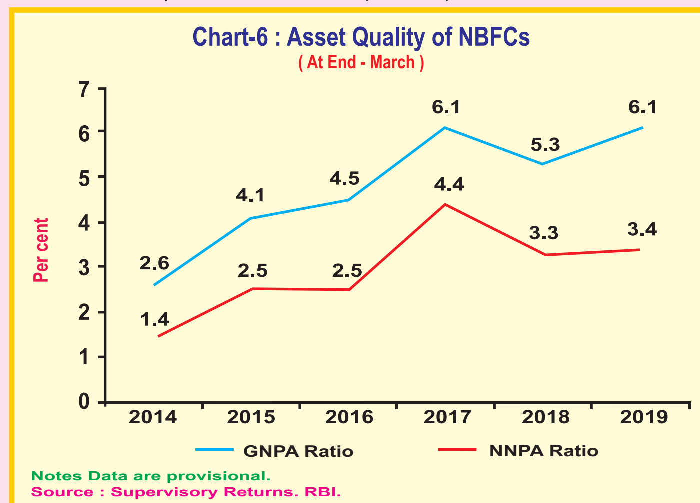


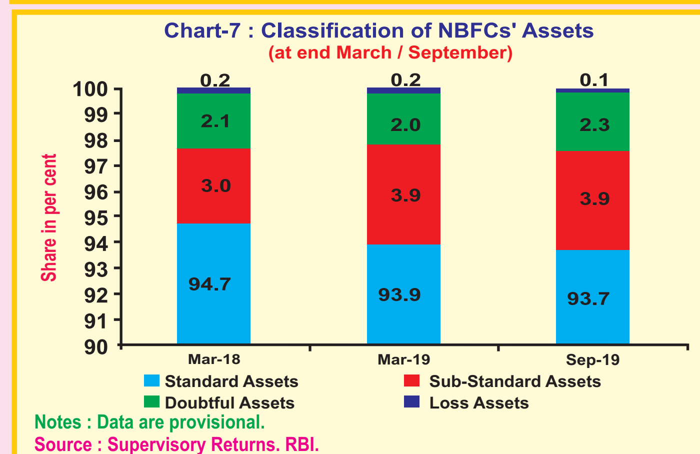
in 2018-19 [Chart- 5], on the back of fund-based income, with substantial decrease in operating expenditure.

Asset Quality

In 2018-19, NBFCs registered a deterioration of asset quality. While the gross non-performing assets (GNPAs) ratio increased, net non-performing assets (NNPAs) ratio edged up marginally, reflecting sufficient provision(Chart-6). In 2019-20 (up to September), asset quality of the sector showed deterioration with a slight increase in GNPA ratio.

In terms of asset composition, the proportion of standard assets declined, part of it being downgraded to the substandard category in 2018-19. In H1:2019-20, while the proportion of sub-standard assets remained unchanged, an increase in proportion of doubtful assets was observed in the period under review (Chart-7).





In 2018-19, GNPA ratio of NBFCs-ND-SI deteriorated across all categories, except NBFCs-MFI, which reported significant improvement in the GNPA ratio. The improvement in the GNPA ratio of the NBFCs-MFI may be attributed to write offs of aging loans. The NNPA ratio for NBFCs-ND-SI edged up marginally, reflecting the maintenance of adequate buffers, especially by MFIs and IFCs. On the other hand, there was a small increase in the NNPA ratio of ICCs. In 2019-20 (up to September), the GNPA ratio of NBFCs-ND-SI exhibited an increase, while, the NNPA ratio registered no change.

The risk aversion among NBFCs-ND -SI coupled with their inability to mobilise adequate resources was reflected in the decrease in credit growth in spite of a fall in stressed assets ratio[3]. However, for the services sector, stressed assets rose, reflecting the built-up stress in the real estate segment, where NBFC exposures are significant.

In the case of NBFCs-D, decline in the GNPA was aided by buoyant growth in assets. On the other hand, the NNPA ratio showed a deterioration, pointing to inadequate provisioning.

Capital Adequacy

NBFCs are generally well capitalised, with the system level capital to risk-weighted assets ratio (CRAR) remaining well above the stipulated norm of 15 per cent, including in 2018-19 when they experienced an increase in non-performing as(Chart-8). At the end of September 2019, the sector maintained the capital position although there was a deterioration in asset quality.

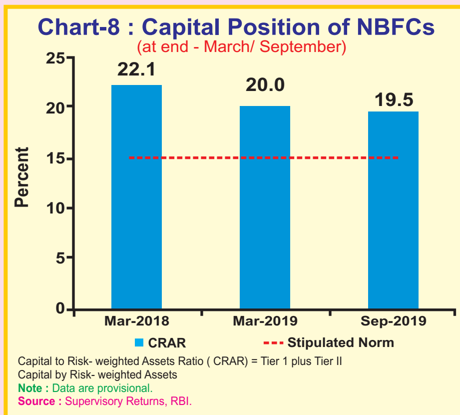


Chart-8 : Capital Position of NBFCs
(at end - March/ September)

Capital to Risk- weighted Assets Ratio (CRAR) = Tier 1 plus Tier II Capital by Risk- weighted Assets
Note : Data are provisional.
Source : Supervisory Returns, RBI.

The CRAR for all categories of NBFCs-ND-SI except NBFCs-MFI and IDF-NBFCs, decreased from 2017-18 levels, but it remained above the regulatory norm. For NBFCs-MFI, the CRAR improved with rising profitability. The CRAR for NBFCs-D registered a marginal improvement as growth in own funds outpaced expansion in loans and advances. At end-September 2019, CRAR of NBFCs-ND-SI and NBFCs-D remained above the stipulated norm despite divergent trends.

Exposure to Sensitive Sectors

Capital market, real estate and commodities have been categorised as sensitive sectors by the Reserve Bank as prices of these assets are prone to fluctuations that may pose a risk to financial stability. By the end of March 2019, the capital market exposure of NBFCs had decreased compared to March 2018, even as real estate exposure edged down. As a result, an overall decrease in sensitive sector exposure.

Overall Assessment

Although the balance sheet size of the NBFCs constitutes 18.6 per cent of SCBs, it has emerged as an important pillar of the Indian financial system. The sector, which had witnessed a robust expansion in 2017-18, experienced headwinds in 2018-19 and 2019-20 (up to September) as market sentiments turned negative post-IL&FS event and recent defaults by some companies. The Reserve Bank and the government have taken several measures to restore stability in the NBFC space. The Reserve Bank took measures to augment systemic liquidity, buttress standards of asset-liability management framework, ease flow of funds by relaxing ECB guidelines and strengthen governance and risk-management structures. The government provided additional support through the partial credit guarantee scheme, encouraging PSBs to acquire high-rated pooled assets of NBFCs. Furthermore, the Finance Bill 2019 through amendments in the RBI Act, 1934 conferred powers on the Reserve Bank to bolster governance of NBFCs. These measures are geared toward allaying investors' apprehensions and aiding NBFCs in performing their role better. Going forward, the Reserve bank will continue to maintain constant vigil over NBFCs and take necessary steps to ensure overall financial stability.

[Source: Report on Trend and Progress of Banking in India released on 24th December 2019 by RBI]

INDIA'S ABOUT TO HAND PEOPLE FINANCIAL DATA AMERICANS CAN ONLY DREAM OF

- Saritha Rai

Backed by the Reserve Bank of India, it's an ambitious approach that combines privacy protection with credit reporting: if it works, it could unlock the credit market for millions of Indians while offering new levels of data security and consumer control.

India has more than 560 million internet users, all generating data by the terabyte. Soon they'll have an unprecedented amount of control over their digital financial footprints, with the ability to decide what to share, with whom, and for how long.

India's top banks are getting ready to roll out a system that gives consumers access to a wide swath of their financial data and allows them to share it instantly. Backed by the Reserve Bank of India, it's an ambitious approach that combines privacy protection with credit reporting: if it works, it could unlock the credit market for millions of Indians while offering new levels of data security and consumer control.

India's effort is one of a handful of initiatives around the globe to return control of data to consumers, notably with the "open banking" movement in Europe and Australia. India's approach is unique — it relies on third parties to mediate the often complicated process of information sharing — and so is its target population, which is predominantly poor and, as of now, excluded from the formal banking system.

"**Only India has a solution for such a scale,"** said Infosys chairman Nandan Nilekani, who's been an adviser to this initiative and other major tech reforms. "This is the future."

How it works

The "account aggregator" system will be offered by banks and licensed by India's central bank, which will also regulate the data collection and sharing. By logging into authorized apps, users will be able to pull together all kinds of financial data — spending patterns, bill repayment, tax returns, business transactions — that they can then choose to share instantly and temporarily in pursuit of loans, investment products or even insurance.

A prospective borrower might, for example, release part of his goods-and-services tax filings to convince a lender of credit-worthiness. A vegetable vendor without collateral to back a loan might share a cash-flow statement or use a mobile phone repayment history to demonstrate reliability.

India's newly established digital rules and practices lay the groundwork for this kind of system. The central bank now requires financial data to be reported in a standard, machine-readable format, which means it's easier to automatically slice and share. India also has a history of collecting and protecting massive personal data sets, including biometric and payments information.

A different approach

The new system will help lenders serve millions of small Indian companies that need to borrow an estimated 1.5 trillion rupees ($21 billion) a month, said BG Mahesh, co-founder of Sahamati, a non-profit collective of account aggregators.

"Small banks can compete in this newly-leveled playing field by giving out sachet loans to businesses which have no assets other than cash flow," he said.

Regardless, Indian users will have new, immediate access to their own financial information, and they'll control who sees what and when. It's a marked contrast with what happens in the U.S., where three big credit reporting agencies collect — and resell — a limited array of consumers' financial data directly from the banks, with only cursory consent.

It's also a different approach to data collection and privacy than Europe's new General Data Protection Regulation, which strengthened consumers' rights but still lets individual companies track users data.

India's "account aggregators" are part of a broad push to comply with a 2017 Supreme Court ruling that designated privacy as a universal human right. Later this year, the Indian Parliament will renew debate on the Personal Data Protection Bill, which places new requirements on companies doing business in the country.

Encouraging users

The Reserve Bank of India has provisionally licensed over half a dozen account aggregators, including Jio Information Solutions, part of Mukesh Ambani's Reliance Group, and NESL Asset Data, an entity set up by a consortium of the country's biggest banks. Several have completed trials on the system already.

At the same time, Sahamati is working to convince financial institutions to embrace the new system. Later this month, it's scheduled a demonstration to encourage tech startups to develop compatible apps. Already the State Bank of India, ICICI Bank, Kotak Mahindra Bank, and Axis Bank have signed on and are testing the system. So have the country's leading financial regulators.

They also need to make sure people use it. India's credit rating system is relatively new and covers only a tiny fraction of the population. The paperwork and documentation required to apply for a loan has deterred both small borrowers and prospective lenders. The account aggregators solve that problem — potentially.

"We have to ensure that hundreds of millions of Indians with varying levels of education and literacy properly understand consent," said V.R. Govindarajan, co-founder and CEO of financial data verifier Perfios, which has received an account aggregator license. "It's a work in progress and for the system to gain mass adoption, we need to evangelize."

[Bloomberg , Jan. 13]

NBFCs: 'Health Score' can sound an alert: Economic Survey

This diagnostic tool can be used as an early warning system to anticipate liquidity crisis

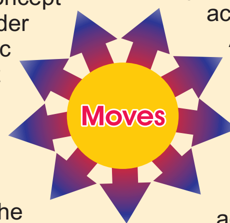
Government has, through the Economic Survey, mooted the concept of 'Health Score' as a measure of health of an NBFC. This diagnostic tool can be used as an early warning system to anticipate liquidity crisis, according to the Survey. The Survey has through analysis established that firms in the NBFC sector are susceptible to "rollover risk" when they rely too much on the short-term wholesale funding market for financing their investments in the real sector.

The Survey has suggested a slew of policy initiatives that can be employed to arrest financial fragility in the NBFC system. It has suggested that regulators can employ the Health Score methodology to detect early warning signals of impending roll-over risk problems in individual NBFCs. Downtrends in the Health Score can be used to trigger greater monitoring of an NBFC.

When faced with a dire liquidity crunch situation, as experienced recently, regulators can use the Health Score as a basis for optimally directing capital infusions to deserving NBFCs to ensure efficient allocation of scarce capital, the Survey has suggested.

Health Score can also be used to set prudential thresholds on the extent of wholesale funding that can be permitted for firms in the shadow banking system. This norm would be consistent with macro-prudential regulations that are required to internalise the systemic risk concerns arising due to an individual NBFC's financing strategy. These norms could be counter-cyclically adjusted because the seeds of a liquidity crunch are sown during the good times, the Survey has suggested.

EXPERT TAKE: FIDC Co-Chairman, Raman Aggarwal, said the idea of a health score is a good one. The suggestion that the Government should fund deserving NBFCs based on the Health Score is broadly in line with what the FIDC has been saying. However, the concept and methodology of calculating the score needs wider discussion. "This needs discussion because the basic premise that NBFCs are over dependent on liquid debt mutual funds is something that we don't agree with", Aggarwal said. [Business Line, Jan. 31]



Govt approves 72 amendments to Companies Act to decriminalise offences: FM

The government on March 4 cleared more amendments to the companies law, including decriminalising various offences. As many as 72 changes to the Companies Act 2013 have been approved by the Cabinet. Briefing reporters, Corporate Affairs Minister Nirmala Sitharaman said the priority is to "decriminalise" provisions in the Act.

As many as 23 offences would be recategorised out of 66 compoundable offences under the Act. Besides, seven compoundable offences would be omitted, she said. Sitharaman said the government would remove provisions of imprisonment in various sections and also reduce penalties in case of various compoundable offences. She also said that companies having CSR obligation of less than Rs 50 lakh would not have to constitute a CSR committee. Companies spent Rs 11,867 cr on CSR activities in FY19; highest so far. [Business Standard, March 4]

Auditor's Report Revamped: Now required to report 'fraud noticed'

The Ministry of Corporate Affairs (MCA) has come out with the revamped companies (Auditor's Report) order (CARO) 2020 which in its salient features states that auditors are required to report any fraud reported or noticed on the company. The CARO, 2020 will be applicable for the audit of financial statements commencing on or after April 1, 2019. The auditor also has to follow a specific format, as prescribed by the central government, to report the period and the amount of default by the company in repayment of loans, other borrowings or in the payment of interest to any lender. The auditor is to report if the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the RBI Act.

CARO is applicable for companies with paid-up capital of more than Rs.100 lakhs; companies with the borrowing of more than Rs 1 crore from any bank and financial institution at any point of time during the financial year; companies which are a subsidiaries or holding company and which have a total revenue exceeding Rs 10 crore during the financial year. [ETCFO.com, Feb. 27]

No unnecessary action against independent directors without strong evidence of wrong doing: MCA

The Ministry of Corporate Affairs on Monday said prosecution proceedings will not be initiated against independent and non-executive directors unless there is strong evidence of their complicity in frauds committed by the companies. Against the backdrop of instances of independent and non-executive directors coming under the scanner for alleged corporate misdoings, the ministry has sent out a circular to its Regional Directors, Registrars of Companies (RoCs) and official liquidators with respect to prosecution proceedings.

"In case, lapses are attributable to the decisions taken by the Board or its Committees, all care must be taken to ensure that civil or criminal proceedings are not unnecessarily initiated against the Independent Directors or the Non-Executive Directors, unless sufficient evidence exists to the contrary," the communication said. [Devdiscourse.com, March 2]

Government is mulling quarterly or half-yearly financial reporting norm for unlisted companies

PTI reported citing a government official that the corporate affairs ministry is planning a regulation which will soon require unlisted companies to file their financial statements to government on a half-yearly or quarterly basis. The purpose was to have more updated financial details about systemically-important companies that are not listed. Currently, unlisted companies are mandated to file financial statements on an annual basis. [PTI, Jan. 6]

Govt notification on treatment of third-party assets when FSPs undergo IBC process to boost securitisation

The government notification on the treatment of third-party assets during insolvency proceedings of Financial Services Providers (FSPs) will give a boost to the domestic securitisation market, which is expected to exceed Rs. 2-lakh crore in FY2020, an all-time high, according to credit rating agency ICRA.

As per the notification issued on 30 January, for securitisation transaction or lending arrangement where a FSP is contractually obligated to act as a servicing or collection agent on behalf of third parties, the administrator shall continue to discharge these obligations of the FSP. The administrator is required to ensure the receivables collected are deposited in a separate account and transfer the same in accordance with the terms of such contracts. Similarly, for third-party assets held by the FSP (such as a cash collateral maintained for a securitisation transaction), the administrator has to ensure that such assets are maintained in a distinct manner identifiable contract-wise, and transfer such assets entitled to receive it as per the terms of the contracts. [Business Line, Feb. 4]

I-T Dept to give SEBI data of taxpayers for fraud probe

The Income-Tax Department will share all taxpayers' data, such as PAN information, with the SEBI in order to help the capital market regulator in its probe against various entities, including those involved in 'stock market manipulation', an official order has said. The Central Board of Direct Taxes (CBDT), which frames policy for the Tax Department, had issued an order in this context on February 10 under Section 138 (1) of the I-T Act.

The sharing of information will be under three broad heads: Request-based exchange of data, suo moto, and automatic. The two organisations are expected to ink a memorandum of understanding (MoU) soon in this regard and chalk out the modalities of exchange of data, maintenance of confidentiality, mechanism for safe preservation of data and weeding out after usage.

The CBDT said under the suo moto mode, information such as list of scrutiny cases marked 'evasion' or 'violation related to stock market manipulation' and any other information considered necessary for SEBI will be provided.

Under the request-based exchange, the order said, the Tax Department will share all PAN information. Name and PAN of partners in partnership firms and LLPs, KYC information in I-T returns, IP address on the acknowledgement of the filed I-T returns, financial particulars of the business, as filed in ITR and tax audit report, including income from trading in securities, will also be provided. Under the automatic route, information in Form 61 (declaration filed by a person having only agricultural income) will be provided by the taxman. [Business Line, Feb. 12]

The burden of proof in bounced cheques cases

The Supreme Court has reiterated that once the issuance of a cheque and the signature on it have been admitted, there's always a presumption that it was issued to satisfy a legally enforceable debt or liability. This presumption can be rebutted by the drawer by leading evidence, as prescribed under Section 139 of the Negotiable Instruments Act. The court stated so while allowing the appeal case, Aps Forex Services vs Shakti International Fashion Linkers. The trial court and the Delhi High Court had acquitted the partners in a firm but on appeal, they were convicted and sentenced to three months' jail and fine. The accused argued that they had issued the cheque as security in their business dealings and there was no debt. It was accepted by the courts below. But the Supreme Court stated that repeated issuance of the cheque showed that there was a liability and the onus on them was not discharged in this case. [Business Standard, Feb. 23]

Cheque Bounce Case: You will have to deposit 20 percent amount for appeal, says SC

The Supreme Court has held that the accused shall deposit 20 per cent of the amount in question to appeal against order in a cheque bounce case. The apex court Bench of Justices Ashok Bhushan and MR Shah has also reiterated that Section 148 of the Negotiable Instruments Act can be applied with retrospective effect. Under this section, courts can order defaulters to deposit an amount during pendency of a cheque bounce case.

The appellants in the case were partners in an infrastructure company. The Respondent No.1 was also a partner of the firm. When the respondent retired, a check of Rs 45,84,915 was issued to him by the firm against the part payment of the retirement dues. As many as 63 other cheques were issued by the appellant in favour of the respondent. All of these cheques were dishonoured. The respondent filed 28 complaints under Section 138 of the NI Act before the Judicial Magistrate, 1st Class, Panchkula, which held the appellants "guilty for the offence punishable under Section 138 of the NI Act." [Financial Express, Jan. 11]

Pre-deposit in cheque cases valid

A stay on the sentence of punishment for issuing a cheque without sufficient balance in the bank account can be subjected to a condition to pay part of the amount, the Supreme Court stated last week in its judgment, Surinder Singh vs. Virender. Surinder and another person were partners in an infrastructure firm, along with Virender. Virender retired later. The firm issued 64 cheques to Virender as retirement dues. All of them bounced, leading to 28 complaints before the magistrate. The two partners were convicted and sentenced to two-year imprisonment. They were also asked to pay the full dues. The drawers of the cheque appealed to the sessions judge and sought a stay on the punishment. It was granted on condition that 25 per cent of the compensation was paid. It was not paid and they moved the high court and later the Supreme Court without success. Then there was a second round of litigation; again their appeals were dismissed by the Supreme Court affirming the sentence. [Business Standard, Jan. 12]

Bank guarantee must be complied with

If the demand to encash the bank guarantee is in terms of the contract, it is not open for a bank to determine whether the invocation was justified. It cannot decide on its own whether there was a fraud, irretrievable injustice or special equities, the Supreme Court stated in its judgment, Standard Chartered Bank vs. Heavy Engineering Corporation. The dispute arose with regard to two bank guarantees furnished on behalf of Simon Carves India by the bank in favour of the corporation "as advance against supply of plant and equipment". Simon failed to supply equipment and the work had to be abandoned causing huge losses. Therefore, the corporation demanded the encashment of the guarantees. When the bank refused, the dispute reached the Calcutta High Court, which allowed the encashment. The bank's appeal was dismissed by the Supreme Court, which stated in the absence of fraud or irretrievable injustice, "it is not even open for the court to interfere with the encashment of the bank guarantee." [Business Standard, Jan. 12]

Supreme Court sets aside RBI circular that curbed cryptocurrencies in India

The Supreme Court has set aside the RBI's 2018 circular that barred banks and other financial institutions from facilitating transactions involving cryptocurrencies. The bench quashed the central bank's circular on grounds of disproportionality. The judgment noted that the RBI has failed to show "at least some semblance of any damage suffered by its regulated entities'' to back its decision to effectively bar cryptocurrencies in India. The petitioners had challenged the circular by arguing that it had put an end to the industry by taking it out of the formal economy, even though there is no ban on cryptocurrencies in the country. The RBI's move will deny the industry access to banks and move such transactions into cash. By doing so, regulators and law enforcement agencies will find it even tougher to monitor virtual currencies in India, the petitioners argued. While the Supreme Court did not accept the petitioners' argument that the RBI's decision was ultra vires and in violation of fundamental rights, it ruled that the restrictions put in place by the RBI are disproportionate. [BloombergQuint, March 4]

Corporate debtor's assets taken over

The Supreme Court last week set aside the order of the National Company Law Appellate Tribunal (NCLAT) in the appeal case, Maharashtra Seamless (MSL) vs. Padmanabhan, and directed the resolution professional to take physical possession of the assets of the corporate debtor, United Seamless Tubulaar, and hand it over to MSL. The police and administrative authorities were directed to assist the resolution professional to enable him to carry out these directions. Indian Bank was the initiator of the resolution process before the tribunal in Hyderabad and the issues involved term loans given by DB International (Asia) and Deutsche Bank, Singapore. [Business Standard, Jan. 26]

Sale of repossessed vehicles expedited

The Delhi High Court has removed a hurdle in the sale of vehicles seized by banks for non-payment of instalment by the borrower. The suits are stuck in long litigation and adjournments easily granted hurt the financiers. In its judgment in ICICI Bank vs. Priya Baveja, the court set a deadline of 60 days for disposing of the bank's applications to sell the vehicle which it took possession according to the agreement of hypothecation. The judgment noted that a large number of such applications are pending in trial courts and banks' applications are merely getting adjourned at different stages of the proceedings. Several borrowers do not appear in the court at all. "No useful purpose would be served by leaving the vehicle to deteriorate and letting the bank incur further charges to store and preserve the vehicle," the judgment said. Narrating the facts of the case, it allowed the bank to sell the vehicle, observing that "the car has a limited life value, which deteriorates with each passing day. The bank ought to be permitted to sell the car to recover whatever amount it can to satisfy the decree." [Business Standard, Jan. 26]

TDS default: Independent director not responsible for TDS default

TDS Payment Rules 2020: An independent director of a company, who is not responsible for running the day-to-day operations of a company, is not liable for criminal prosecution in case of TDS default, a session court in Mumbai held last month. He can be held responsible only if his day-to-day involvement in the business of the company is established in the complaint. In the Eckhard Garbers vs. DCIT case, the Sessions Court set aside the previous order of a lower court that had allowed criminal complaint against an independent director of a company, along with others, in case of TDS defaults.

The Deputy Commissioner of Income Tax had filed a criminal case against several persons of a company, alleging the company had deducted Income Tax by way of TDS from the several parties and the total amount for the financial year 20162017 was Rs 1,87,18,459. However, said Income Tax amount was not credited to the Central Government immediately. The amount was subsequently credited to the government with delays between 1 month to 11 months. The Deputy Commissioner said that this was an offence punishable under Section 276B r/w. 278B of the Income Tax Act, 1961. [Financial Express, Jan. 14] ■

SEBI MOVES

SEBI comes out with new framework to check non-compliance of listing rules

SEBI on January 22 put in place a stricter mechanism to deal with non-compliance of listing conditions under which stock exchanges will have powers to slap penalties up to Rs. 50,000 for certain violations. At present, a stock exchange is allowed to charge a maximum amount of Rs. 10,000 for each violation of listing norms that need to be complied with by companies.

According to a SEBI circular, exchanges can impose a fine of Rs. 50,000 per instance for non-compliance with respect to obtaining in-principle approval of bourses before issuance of securities. The bourses can levy a fine of Rs. 25,000 each in cases of non-disclosure of dividend distribution policy in annual reports and on the websites of the entities. [Live Mint, Jan. 22]

SEBI embraces new-age tools for information to prevent insider trading

SEBI is going all out to embrace new age tools and technologies to analyse large-scale data to prevent market manipulation such as insider trading. SEBI has drawn up a four-year road-map for beefing up its technological prowess with Rs 500 crore budget. It is looking at building a “data lake”, a vast repository of both structured and unstructured data, and creating data modelling and analytical capabilities on top of it through the use of AI and Machine Learning. A tender to this effect was launched last November. [Business Standard, Feb. 6]

SEBI rolls out system to detect misuse of client securities by brokers

SEBI on 13 Feb. introduced a system to monitor and detect misuse of client securities by stock brokers, following the debacle at Karvy Stock Broking Ltd. Under the new system, an online register will record brokers’ holdings of client securities, a SEBI press statement said. The system will club all the information of client securities collected by exchanges, depositories and clearing corporations pertaining to all types of trades such as auction trades, corporate actions, and off-market trades. [Live Mint, Feb. 13]

SEBI tightens IPO norms; companies under investigation could face delays

SEBI on Feb. 5 set rules under which it could hold back approvals for proposed share sales by companies that are under investigation for possible violations. The capital markets regulator has said that for current investigations, “observations” on the draft offer may be kept in abeyance for 30 days from filing of the draft offer. If SEBI is unable to conclude its investigation, the document may be kept in abeyance for a further 30 days. If the delay is on account of conduct of the entities under investigation, the document may be kept in abeyance till such time the enquiry is concluded.

Issuance of observations regarding the offer documents by SEBI is akin to getting the green light to conduct the share sale. The rules apply to issuers or promoters, directors, and group companies against whom an investigation, enquiry, adjudication, prosecution, disgorgement, recovery or other regulatory action is pending, the SEBI chairman said in a general order. [Business Standard, Feb. 6]

SEBI to tighten open offer norms, proposes 10% interest in case of delay

SEBI has proposed that in case of delay of an open offer, the revised offer price may be calculated after addition of ten per cent interest rate. According to market participants, the regulator has made the proposal in light of minority shareholders, along with SEBI, moving Supreme Court seeking implementation of open offer by IHH for Fortis Healthcare’s takeover. [Business Standard, Feb. 3]

SEBI proposes enhanced protection for Debenture Holders

In a discussion paper, SEBI has noted the difficulty in enforcing security of underlying bonds/debentures issued by NBFCs in the event of a default. Secured debentures issued by manufacturing companies carry a fixed charge on tangible assets such as plant and machinery. But in the case of secured bonds issued by NBFCs, the charge is floating—created on loan receivables, which are dynamic and intangible in nature and often include the entire balance sheet of the company. In the event of a default, debenture trustees, that safeguard the interests of debenture holders, enforce the security. This is easier to do for manufacturing companies but has proven to be complicated in the recent past for NBFCs due to the lack of an identified security, the SEBI paper said. [Bloomberg, Feb. 26] ■

FIDC GEARING FOR NEW DECADE

RAMESH IYER
Chairman, FIDC

New Vision and Mission of NBFC Sector and FIDC proposed by Chairman

The Chairman Mr. Ramesh Iyer proposed new Vision & Mission for Medium and Long-term positioning of the NBFC Sector and FIDC:

a. Regular communication with RBI and GOI may be done on a monthly basis to inform them about business outlook and performance of the NBFC Sector and the significant development, if any. This may be then released to Media after proper editing.

b. Repositioning FIDC in the eyes of Regulators, Media, Investors etc., as being the sole Industry Representative body, Pro-active and positive in representations, educating and training Medium and small NBFCs, trying to unify systems, practices and governance standards among all NBFCs and working in co-ordination with all constituents of the Financial Sector.

c. Like Handbook on Repossession, FIDC may come out with more such publications e.g. Booklet on importance of ALM. .

d. Big NBFCs and their HODs to act as Mentors for small NBFCs and this task may be further taken up by Professional Development Committee.

e. To conduct 2-hours Training Session on Supervision and Inspection and to invite RBI Officers as Faculties for this.

f. More and bigger NBFCs be encouraged to finance small NBFCs on soft terms and reasonable rates.

g. To indulge more with OEMs like SIAM, FADA etc.

h. To work out with more credit bureaus and collect, compile and analyse the data in more details.

FIDC makes suggestions to Nirmala Sitharaman

FIDC Director General Mr. Mahesh Thakkar Live on ANI TV Channel on Budget 2020-21 at IMC Chamber of Commerce and Industry, Churchgate, Mumbai on 1ST February 2020

Among the many participants, Raman Aggarwal, the co-chairman of FIDC also attended the session and put across his ideas to boost India’s economy. In an exclusive chat with ETBFSI, Aggarwal said that he made three suggestions to the Ministry of Finance.

Raman Aggarwal sought reduction of over dependence on banks by diversifying funding sources. “There is a need to create a re-finance mechanism. Now that NHB’s regulatory function has been transferred to RBI, its prime role is to refinance. It should now refinance Non NDSI NBFCs,” he added.

He also suggested that the priority sector lending (PSL) window of bank lending to NBFCs for on-lending to priority sector should be extended beyond March 31st, 2020 and that the cap should be increased to 10%.

Lastly, to achieve the Modi-government’s $5 trillion economy target by 2024, Aggarwal insisted on the need for massive capital investment in assets. “For this there is a crying need to promote Leasing of Movable Assets as is the case across the world. This should be done by exempting interest component of Finance Lease from the levy of GST,” he added. [ET BFSI.com, Feb. 14]

Skilling for growth of NBFCs

Memorandum of Co- operation signed between FIDC and FINX on December 17, 2019 to collaborate on an initiative to engage in the implementation of skilling/up-skilling/ capacity building programs for sustainable growth of the NBFC sector. The Professional Development Committee was authorised to take this up further at the next level.

The MOU signed with WBG on conducting joint Information Workshops on “Commercial Credit Reporting”. It was decided to hold 3 more Training sessions at Mumbai, Jaipur and Kerala before the end of the current Financial Year. ■

India Inc set to beat last year's external commercial borrowings record

Raises ECBs to the tune of $32.7 billion in first 3 quarters; financial firms lead surge

Indian corporates raised external commercial borrowings (ECBs) of $32.74 billion in the first three quarters of the current financial year. In value terms, the borrowing is close to 80 per cent of the total ECBs raised in FY19, when external borrowing touched a historic high of $41 billion. From the looks of it, that record will be broken this year.

"Overseas lenders are willing to back highly rated Indian borrowers. The RBI's liberalised overseas borrowing norms have helped expand this avenue of liquidity," said Rajesh P, Managing Director of Mumbai-based GrowTrust Ventures Consultancy. Year-on-year, India Inc's ECBs grew nearly 40 per cent during the April-December period. Domestic entities raised close to $23.66 billion in the first nine months of FY19.

The financial services sector, which was severely hit by the liquidity crisis after the IL&FS fiasco, continues to be the major borrower of offshore loans. The sector raised about $14.35 billion, or 44 per cent of the total ECBs in the April-December period. Borrowers under this category include NBFCs, HFCs and MFIs. [Business Line, Feb. 10]

Rating agencies move RBI, SEBI over new rule on loan default disclosures

Credit-rating agencies (CRAs) have approached SEBI and RBI, raising the red flag over the new norms on disclosures of bank loan defaults by listed companies. Sources said CRAs highlighted the differential disclosure norms for bond and bank-loan defaults could lead to information asymmetry and affect the rating process, leaving scope for manipulation.

At present, any default of interest or principal repayment in the case of bonds is reported immediately. However, in the case of bank loans, companies are given a 30-day grace period before the disclosure norms kick in. "To ensure smooth implementation, there has to be uniformity between bank- and bond-default disclosure norms. The discrepancy between the two could lead to complications for rating agencies, who are expected to take cognizance of any kind of default and immediately take rating action," said an official with a rating agency. Rating agencies fear they could be pulled up if their rating action changes 30 days after the default when a company makes the disclosure. Industry players said SEBI and the RBI would have to come together to iron out these issues. [Business Standard, Jan. 29]

Govt allows companies to list global depository receipts on Gujarat IFSC

Indian companies now have the option to list their global depository receipts at the international financial services centre in Gujarat, with the government amending the rules. The move would help companies in having another avenue for raising funds. The corporate affairs ministry has amended the Companies (Issue of Global Depository Receipts) Rules, 2014, permitting listing of Global Depository Receipts (GDRs) at Gujarat International Finance Tec-City (GIFT).

As per the changed rules, proceeds from a GDR issue can be remitted in an International Financial Services Centre Banking Unit (IBU). An IFSC enables to bring back to India the financial services and transactions that are currently carried out in offshore financial centres by Indian corporate entities and overseas branches or subsidiaries of financial institutions. [Business Standard, Feb. 16]

Household financial savings dip to 6.5% of GDP despite new RBI methodology

Financial liabilities, on the other hand, had risen sharply after demonetisation after people heavily stashed cash in bank deposits, insurance schemes, and MFs

Net financial savings by Indian households dropped to 6.5 per cent of gross domestic product (GDP) in 2018-19 (FY19) — the lowest in at least eight years. The drop has been fuelled by both a drop in gross financial savings as well as a rise in liabilities, shows the data recently released by the National Statistics Office (NSO). [Business Standard, Feb. 5]

FIDC - Social Media

The LINKS: PARTICIPATE ACTIVELY

http://fidcindia.org/
https://twitter.com/FidcIndia
https://www.facebook.com/fidcindia/
https://www.linkedin.com/in/fidc-india-042043194/

FACE BOOK

FIDC India: January 23

FIDC has taken some new initiatives in the form of changing gears from playing a "reactive" role to a "proactive" role. Currently, in the process of initiating dialogues & meetings with all stakeholders with a common agenda of creating a system of regular engagement with them. #FIDC #Finance #GoI #Loan

FIDC India: February 10

FIDC has been invited from time to time to present at leading national and International Conferences/Conventions and has also been invited by the RBI to address senior state govt. and state police officers.

TWEETER

Apart from being headquartered at Mumbai, FIDC has affiliated associations all over India which cater to the local issues of the NBFC sector. FIDC INDIA@ fidc india

Raman Aggarwal shared views on "Challenges andOpportunities in Financing by NBFCs" at the "Automobile Finance Summit" organized by Society of Indian Automobile Manufacturer (SIAM) on 10th Feb, 2020 at Export Mall, Greater Noida, as part of Auto Expo 2020.

Mr. Satish Mehta, Consultant to WBG and the Founding Managing Director of CIBIL addressing IFC (World Bank Group) and FIDC Workshop on "Commercial Credit Reporting" on Wednesday, 19th February, 2020 at Jaipur

FIDC Director General Mr. Mahesh Thakkar addressing at Banking Frontier Finnoviti Awards 2020 on 10th February, 2020 at Hotel Sahara Star, Mumbai

Practical difficulties faced by NBFCs in Appointment of Arbitrator and enforcement of awards

While thanking the Government for taking many important measures in revamping the arbitration mechanism in India, FIDC in a representation on January 22 to Minister of Law and Justice drew his attention towards practical difficulties faced by NBFCs in appointment of arbitrator and enforcement of awards.

FIDC said that although the process as arbitration is the faster and cheaper mode of litigation in India a very large number of arbitration cases are pending which are initiated by the NBFCs. Clause 22 of Schedule V provides that an Arbitrator should not have been appointed on two or more occasions in the past three years by one of the parties or an affiliate of one of the parties. This has practically made arbitration impossible for an NBFC as an NBFC cannot find out such huge number of arbitrators in its panel. This will drive the NBFCs to approach the courts under Section 11 of the Act which will again burden the courts with lakhs of cases and since arbitrations are more retail in nature for which NBFC will not be in a position to spend much either by approaching High Court under Sec. 11 of the Act or by having a clause for institutional arbitration, said Mahesh Thakkar, director general.

FIDC therefore recommended for inclusion of NBFC sector in exempted category under the provisions of Schedule V of the Act and preserve the party autonomy in appointment of arbitrators.

There are millions of Execution Petitions pending before various courts for recovery of the amount adjudicated by the Arbitral Tribunal to be recovered from the Borrower and the Guarantors. As there are no stringent norms in disposal of the Execution Petitions pending before the courts, the courts are not giving top priority for the same which results in stagnation of execution cases resulting in slow down of the recovery of the legitimate amounts due to the NBFCs. The defaulting borrowers take advantage of this. Banks in the form of Debt Recovery Tribunal (DRT) have benefit which has not been extended to the NBFCs.

FIDC pleaded for setting up a separate tribunal or special court dealing only with the conduct and disposal of the execution petitions filed by the NBFCs for recovery of awarded/decreed amount.

Offset to NDTL for the purpose of calculating CRR for banks

While thanking for the Reserve Bank's move in recent monetary policy to increase credit flow to the retail and MSME sectors by allowing banks to deduct incremental lending to these sectors from the calculation of Net Demand & Time Liabilities (NDTL) for the purpose of calculating Cash Reserve Ratio [CRR] requirements, FIDC pleaded that "the RBI may kindly consider including the incremental loans given by banks to NBFCs for the purpose of on-lending to the retail and MSME sectors as a deduction from NDTL for the aforesaid purpose." This would significantly boost credit delivery to these deserving sectors and also aid in boosting the ability of NBFCs to provide credit to these sectors said Mahesh Thakkar, director general, FIDC.

FIDC further requested the RBI to "remove the artificial limit of Rs 20 lakhs per borrower while considering priority sector status for loans given by banks to NBFC for on-lending to the priority sector." This would help banks in fulfilling priority sector obligations and also give a boost to co-origination of priority sector loans by NBFCs and banks.

FIDC seeks exemption from issuance of e-invoicing

FIDC through a representation on behalf of NBFC Sector to the Principal Commissioner, GST, Policy Wing has sought an exemption for the NBFC industry from issuance of e-invoices or making the same optional so that the NBFCs which operate through branches and those NBFCs which operate in remote/ rural areas with limited/ patchy internet connectivity and erratic electricity supply are not put through undue hardships. It may be recalled that Notifications nos. 68/2019 to 71/2019-Central Tax dated 13th December 2019 on E-invoicing are proposed to be implemented with effect from 1st April 2020 from (A) Outward Supplies and (B) On Procurements.

On behalf of FIDC Mahesh Thakkar, director general highlighted that "many NBFCs operate in remote/ rural areas with limited/ patchy internet connectivity and erratic electricity supply. Therefore, obtaining an IRN approved on real time basis from GST portal seems to be a hindrance and while on one side would mean increased turn-around time for customers, on the other it may result in loss of business". He further added that "most of the customers, falling in B2C category, do not obtain input credit of these invoices. Therefore, this segment of customers do not benefit from e-invoicing".

Raman Aggarwal, Co-Chairman, FIDC said, "We are pleased to inform that our request was placed before the GST Council in their meeting held on 14th March, 2020 at New Delhi and the GST Council has EXEMPTED banks, NBFCs, Insurance companies and other FIs from issuing E-Invoices."

FIDC sought several clarification on IND AS from RBI

FIDC on February 12 sought several clarifications from Reserve Bank regarding IND AS as MCA (Ministry of Corporate Affairs) has notified it and made applicable from April 01, 2018 for NBFCs but RBI has not issued any Guidelines for RBI disclosures under IND AS. Many terminologies like Provision of Standard assets, Gross NPA, Net NPA which are not applicable under IND - AS still continue under Existing RBI disclosures. DPD Concept for classification of NPA in Substandard assets, Doubtful assets and loss assets are not available under IND AS – 109. Financial instruments, provision is done on ECL (Expected credit loss) model which depends upon the staging of the assets (Stage 1, stage 2 and stage 3). More over explanation on treatment of securitized assets in CRAR calculation is not given by RBI. Also, RBI Return format has not been revised in line with IND AS. Existing RBI returns are still under IGAAP.

RBI has merged three categories of NBFCs for harmonization of different categories of NBFCs. But existing return does not allow the selection of new category for submission of returns. Sr. No. 14 of the Statutory Audit Report SAC format is also not in line with RBI circular on Harmonisation of different categories of NBFCs. Although, NBFC-D are required to submit CRILC-Main Report on monthly basis but the existing excel utility available does not allow us to select month except June, September, December and March. Currently NBFCs are required to file the data in CRILIC platform; however the access of data from CRILIC is not available for NBFCs which is available to Banks. The access for the same needs to be provided for NBFCs also, said Mahesh Thakkar, FIDC director general.

RBI has on 13 March notified guidelines on Implementation of Indian Accounting Standards.

FIDC & FINX signed MoU

FIDC (FINANCE INDUSTRY DEVELOPMENT COUNCIL) and FINX (AV FINANCIAL EXPERT NETWORK PVT. LTD.) Signed a memorandum of cooperation (MOC) on 17th December 2019, to collaborate on an initiative of up-skilling and capacity building for sustainable and responsible growth of NBFC sector

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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

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