FIDC NEWS

Finance Industry Development Council

(A Representative Body of Assets and Loan Financing NBFCs)

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NBFCS – THE KEY TO ECONOMIC REVIVAL AND BUILDING AN ATMANIRBHAR BHARAT

Ramesh Iyer
Chairman, FIDC

The Covid-19 pandemic, successive lockdowns and job losses have taken a toll on the economic growth of the country. But the good news is, economic recovery is already taking place. The dust over the pandemic-induced slowdown and funding crunch is settling. This provides the perfect opportunity for financial institutions and NBFCs in particular to once again play a pivotal role in further firing up growth engines, supply credit and spearhead economic recovery.

As the lockdown norms ease, with the vaccination drive in full gear, the wheels of the economy are slowly setting into motion. But liquidity continues to remain a concern at an individual and an organization level. Without credit support, it will be difficult for the economy to truly restart. In such a situation, the role of NBFCs becomes more pronounced when it comes to addressing credit gap in the key sectors. The importance of a revival in the economy is clear; however it appears that the rural economy seems to be growing at a faster pace than urban. This is good news for NBFCs catering to niche segments.

The support of NBFC for revival of the economy is extremely important and NBFCs could play this role significantly if they continue to get the liquidity support from the system. There have been various initiatives by RBI and Finance Ministry, however the support for smaller NBFCs needs further attention.

While FIDC will continue to take a pro-active stance on issues concerning the sector and engage in constant dialogue with the Government and the RBI, we have to accept that the Regulator will continue to look at tightening norms. We as an industry should continue to have high discipline and adhere to every changing regulation as has been done by us all the time in the past. It is my belief that with more regulations introduced and if well practiced by all the NBFCs the industry will get stronger at every stage.

A renewed focus on transparency, defining products and services around the needs of the customer will be of paramount importance. Our approach should be one of finding joint solutions as an industry, in consultation with all stakeholders.

FIDC is playing and will continue to play an all important role on this front. I would urge all NBFCs to actively communicate with FIDC, put forth their suggestions and recommendations so that we can collectively make well-informed representations to all industry stakeholders and work with them to revive growth.

It might be recalled that in December 2020, RBI released a discussion paper titled "Revised Regulatory Framework for NBFCs — a Scale-Based Approach". The paper essentially put forth a four-layer pyramid structure with progressive levels of regulation. I am confident that the regulator will continue to provide support and the developmental growth which will enhance the importance of NBFCs in the overall growth of the economy.

However, as we the economy improving, there are certain segments of customers whose businesses have gone through a very difficult time from April '20 onwards and it may be necessary for NBFCs to offer pragmatic solutions and also take up the cause of such consumers with various stakeholders.

The challenges are plenty. But despite these adversities, I would still classify 2020 as a year of opportunities. It encouraged us to take a hard look at the way we live, work and run businesses. It made us un-learn and re-learn our systems and processes. And lastly, it put the spotlight back on innovation and agility. All these lessons will come in handy as we step into the new decade.

One of the key trends that has gained momentum courtesy Covid-19 is the growing acceptance of digital payments and digital medium of doing business. Fortunately, most NBFCs are already built on the foundation of digital platforms. The new decade will witness rapid expansion of NBFCs on the back of their digital dominance, sharp risk-assessment models and innovative financial products and a deep customer knowledge and relationships.

This is important because typically, NBFCs extend credit to those who find it hard to get credit from traditional financial institutions. Suffice to say that NBFCs supplement the organized banking sector by meeting the financial needs of the unorganized sector, MSMEs and small local borrowers. Moreover, NBFCs have the capabilities to provide innovative and flexible financial products that best suit the needs of the consumer.

Such specialization in accessing remote, rural and semi-urban areas and solving their needs for working capital is a key to reviving economic growth in the medium to long term. In this quest, a little help from policy makers and regulators will go a long way in boosting not just the growth of NBFCs, but also providing impetus to financial inclusion – undeniably a key to building an Atmanirbhar Bharat.

For our part, transparency, focus on consumer needs and high governance and ethical practices will go a long way in finding joint solutions with the policy makers, regulators and industry stakeholders.

- Ramesh Iyer, Chairman FIDC, VC & MD, Mahindra Finance

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(A Representative Body of Assets and Loan Financing NBFCs in India)

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REGULATORY PERIMETER

RBI NOTIFICATIONS & CIRCULARS :

Data Format for Furnishing of Credit Information to Credit Information Companies and other Regulatory Measures: RBI/2020-21/106; DoR. FIN.REC.46/20.16.056/2020-21; March 12. [All Non-Banking Financial Companies (including Housing Finance Companies)]

Implementation of Section 51A of UAPA, 1967: Updates to UNSC's 1267/ 1989 ISIL (Da'esh) & Al-Qaida Sanctions List – Amendment of 92 entries: RBI/2020-21/103; DOR. AML. BC. No. 44/ 14 . 06. 001/2020-21; February 24, 2021; [The Chairpersons/ CEOs of all the Regulated Entities]

Implementation of Section 51A of UAPA, 1967: Updates to UNSC's 1267/ 1989 ISIL (Da'esh) & Al-Qaida Sanctions List – Deletion of two entries: RBI/2020-21/101**;** DOR. AML. BC. No. 42/ 14.06.001/2020-21; February 22, 2021**;** [The Chairpersons/ CEOs of all the Regulated Entities]

Investment in NBFCs from FATF non-compliant jurisdictions: RBI/2020-2021/97; DOR.CO.LIC.CC No.119/03.10.001/2020-21; 12.2.2021; Department of Regulation; [NBFCs (including Housing Finance Companies) and Asset Reconstruction Companies]

Risk-Based Internal Audit (RBIA): RBI/2020-2021/88; Ref. No. DoS.CO.PPG./SEC.05/11.01.005/2020-21; 03.2.2021; Department of Supervision; [The Chairman / Managing Director / Chief Executive Officer All deposit taking NBFCs, All non-deposit taking NBFCs (including Core Investment Companies) with asset size of Rs. 5,000 crore and above All Primary (Urban) Co-operative Banks (UCBs) with asset size of Rs.500 crore and above]

Implementation of United Nations Security Council Resolution (UNSCR) - 1518 (2003) Sanctions Committee List – Updated UNSCR 1518 list and Removal of Two Individuals from the Sanctions List: RBI/2020-2021/85; DOR. AML. No. 32/ 14 . 06. 001/2020-21; 25.1.2021; Department of Regulation [The Chairpersons/ CEOs of all the Regulated Entities]

Operationalisation of Payments Infrastructure Development Fund (PIDF) Scheme: RBI/2020-2021/81; DPSS.CO.AD No.900/02.29.005/2020-21 05.1.2021; Department of Payment and Settlement Systems [The Chairman / Managing Director / Chief Executive Officer Card Issuing and Acquiring Banks and Non-banks / Authorised Card Networks]

Small & Medium sized NBFCs to benefit from TLTRO scheme extension

RBI has added NBFCs under the Targeted Long Term Repo Operations (TLTRO) to avail bank funding which will lead to incremental lending. RBI Governor Shaktikanta Das said, "With a view to support revival of activity in specific stressed sectors that have both backward and forward linkages and have multiplier effects on growth, the RBI had announced the TLTRO on Tap Scheme for banks on October 9, 2020. Given that NBFCs are well recognised conduits in reaching out to the last mile in various sectors, it is now proposed to provide funds from banks under the TLTRO on Tap scheme to NBFCs for incremental lending to the specified stressed sectors."

Raman Aggarwal, Co-Chairman, FIDC said, "It is important because for the first time now NBFCs will be able to avail bank funding under TLTRO through the term loan route. Earlier whatever windows were made available there banks used to invest in bonds of NBFCs but on-tap TLTRO includes term loans. In the last policy, the eligible sectors didn't have NBFCs." Aggarwal adds, "Now term loans will be included, so small and medium sized NBFCs can avail the funding under the route." [ETBFSI Feb.5]

RBI permits residents to make remittances to IFSCs under LRS

The Reserve Bank on Tuesday permitted resident individuals to make remittances under the Liberalised Remittance Scheme (LRS) to International Financial Services Centres (IFSCs) in the country. The decision of the RBI is aimed at deepening the financial markets in the IFSCs and providing an opportunity to resident individuals to diversify their portfolios. The RBI, in a notification, said it has reviewed the extant guidelines on LRS and decided to permit resident individuals to make remittances under LRS to IFSCs set up in India under the Special Economic Zone Act, 2005. "The remittance shall be made only for making investments in IFSCs in securities, other than those issued by entities/companies resident (outside IFSC) in India," the central bank said. Further, resident individuals may also open a non-interest bearing Foreign Currency Account (FCA) in IFSCs, for making the above permissible investments under LRS. [PTI, Feb. 16]

RBI tightens norms for investments in NBFCs from non-FATF nations

RBI on Friday tightened the rules governing investments in non-bank lenders originating from countries that are not compliant with global standards on prevention of money laundering. "Investments in non-banking financial companies (NBFCs) from FATF non-compliant jurisdictions shall not be treated at par with that from the compliant jurisdictions," RBI said. Financial Action Task Force [FATF], is the inter-governmental watchdog for global money laundering and terrorist financing. These rules, RBI said, will apply to new investors from or through such non-compliant jurisdictions, whether in existing non-bank lenders on in those seeking registrations. According to the new rules, fresh investors from non-compliant jurisdictions should hold less than the threshold of 20% of the voting power, including potential voting power in an NBFC. However, investors in existing NBFCs holding their investments prior to the classification of the source or intermediate jurisdiction as FATF non-compliant will be able to continue with the investments or bring in additional investments. [Live Mint, 13 Feb.]

RBI tightens internal audit framework for NBFCs, UCBs

RBI on Feb. 2 issued guidelines on risk-based internal audit (RBIA) framework for NBFCs and Primary (Urban) Co-operative Banks (UCBs) which they need to implement by March 31, 2022. The RBIA framework has been specifically mandated for supervised entities (SEs) — all deposit-taking NBFCs; all non-deposit taking NBFCs (including Core Investment Companies) with asset size of Rs.5,000 crore and above; and all UCBs with asset size of Rs. 500 crore and above — to enhance the efficacy of their internal audit systems and processes.

RBI asked the SEs to place the RBIA circular before their Board in its next meeting. The implementation of these guidelines as per timeline specified should be done under the oversight of the Board.RBI observed that the internal audit function should broadly assess and contribute to the overall improvement of the organization's governance, risk management, and control processes using a systematic and disciplined approach. The function is an integral part of sound corporate governance and is considered as the third line of defence.

The regulator wants senior management of SEs to ensure that the RBIA function is adequately staffed with skilled personnel of right aptitude and attitude who are periodically trained to update their knowledge, skill and competencies.RBI emphasised that the internal audit function must have sufficient authority, stature, independence and resources thereby enabling internal auditors to carry out their assignments properly. The Head of Internal Audit (HIA) shall be a senior executive with the ability to exercise independent judgment. The SEs may prepare a Risk Audit Matrix based on the magnitude and frequency of risk. [Business line, Feb. 3]

One nation one ombudsman: RBI to integrate consumer grievance redressal scheme

The RBI had operationalised complaint management system (CMS) portal as one stop solution for alternate dispute resolution of customer complaints not resolved satisfactorily by the regulated entities. "To make the alternate dispute redress mechanism simpler and more responsive to the customers of regulated entities, it has been decided to implement, inter alia, integration of the three Ombudsman schemes and adoption of the 'One Nation One Ombudsman' approach for grievance redressal," Governor Shaktikanta Das said on Feb. 5. The move is intended to make the process of redress of grievances easier by enabling the customers of the banks, NBFCs and non-bank issuers of prepaid payment instruments to register their complaints under the integrated scheme, with one centralised reference point, he said. [Financial Express/PTI, Feb.5]

Discussion paper proposes restrictions on NBFCs' lending for IPOs, real estate deals

A RBI discussion paper on a new regulatory framework for NBFCs has proposed a cap on lending by NBFCs for subscriptions in IPOs and in lending to real estate unless government approvals are obtained. The new norms, which were put in the public domain for discussion on Friday, said the internal ceiling on sensitive sectors for NBFCs should separately disclose capital market and commercial real estate exposures.

- IPO financing by NBFCs: It is proposed to fix a ceiling of Rs.1 crore per individual for any NBFC. NBFCs are free to fix more conservative limits," RBI said.
- It has also suggested a sub-limit within the commercial real estate exposure for financing land acquisition.
- Not to allow NBFCs to provide loans to companies for buy-back of shares/securities and strict restrictions on granting loans and advances to directors, their relatives and to entities where directors or their relatives having shareholding of 10% or more.
- "While appraising loan proposals involving real estate, NBFCs to ensure that the borrowers have obtained prior permission from government / local governments / other statutory authorities for the project, wherever required."
- Responses and suggestions to the norms should be sent to the central bank by February 22.
- The new rules could raise the safety levels but at the same time shrink overall business margins for NBFCs hurting profitability.
- The new rules have proposed a graded system with more severe regulations for the top Tier systematically important NBFCs on par with banks, "Since NBFCs lying in the upper layer have ability to cause adverse systemic risks," RBI said. [ET Bureau, Jan. 23]

[See for the details Box item titled: REGULATING NBFCs: RBI PROPOSES BANK-LIKE NORMS FOR THE TOP 30 and for FIDC feedback in item titled: Regulation and Development must go hand in hand for NBFCs: FIDC]

RBI to look at harmonising regulations for microfinance lenders

Against the backdrop of the Assam Assembly passing a law to regulate microfinance institutions in the state, the RBI on Feb.5 said it will look to "harmonise regulatory frameworks" for such micro-lenders. "In view of the evolving role of the sector, and the need for a robust framework for enhanced delivery of last mile credit and strengthening consumer protection, the RBI will come out with a consultative document harmonising regulatory frameworks applicable to various regulated lenders in the microfinance space," RBI Governor Shaktikanta Das said. [Financial Express/PTI, Feb. 5]

RBI to crack whip on recovery agents, calls for restricting messaging apps

The RBI constituted the working group last week to study "all aspects of digital lending activities in the regulated financial sector as well as by unregulated players so that an appropriate regulatory approach can be put in place".

Digital lending apps lend only a few hundreds or thousands for very high interest rates. But if there is a delay in payment, the telecallers of such lenders frequently send messages to all those in the contact list of the customer, or to close family members, often with sensitive information such as Aadhaar and Pan card scans.

When a digital lending app is installed, it asks for access to the contact list, gallery, and messages. After the access is granted, the lender gets hold of virtually all content in the phone. This is particularly true for the unregulated, shady apps, known as Chinese apps. Many of these were removed by Google from its Play Store last week following complaints by customers and government agencies. However, sources dealing with such complaints said the practice was not only employed by just Chinese apps but regulated entities as well. Often, recovery agents are the same for both sets of entities. [Business Standard, Jan. 19]

RBI considering a uniformly applicable framework to all regulated lenders

The RBI intends to review the regulatory framework for microfinance institutions. "There is a case for having a framework which is uniformly applicable to all regulated lenders in the microfinance space including scheduled commercial banks, small finance banks and NBFC-Investment and Credit Companies, rather than prescribing these guidelines for NBFC-MFIs alone," the RBI said.

To integrate three separate ombudsman schemes for banks, NBFCs and non-bank payment operators into one for better grievance redressal. [BloombergQuint, Feb. 5]

RBI issues master direction to ensure security of digital payments

The Reserve Bank on Thursday came out with a Master Direction for banks and card-issuing entities laying down common minimum standards to ensure security of digital payments. The Master Direction lays down guidelines for internet banking, mobile payments, card payments, customer protection and grievance redressal mechanism. "In view of the proliferation of cyber-attacks and their potential consequences, regulated entities should implement, except where explicitly permitted/ relaxed, multi-factor authentication for payments through electronic modes and fund transfers, including cash withdrawals from ATMs/ micro-ATMs/ business correspondents, through digital payment applications," it said. The provisions of these directions would apply to the Regulated Entities (REs)— Scheduled Commercial Banks, Small Finance Banks, Payments Banks; and Credit card issuing NBFCs. [Business Standard, Feb, 18]

RBI internal panel working on model of central bank's digital currency, decision very soon, says Deputy Governor B P Kanungo

An internal committee within the RBI is taking a close look at the model of the central bank's digital currency and will come out with its decision "very soon", Deputy Governor B P Kanungo said on Feb. 5. "With regard to digital currency, I think we have already released our document. Our digital payment document spells out that digital currency is work in progress in RBI," Governor Shaktikanta Das told reporters on Feb. 5. Kanungo said having a digital currency was an announcement done by the monetary policy committee some time ago. [Financial Express/PTI, Feb. 5]

RBI issues directions for HFCs to maintain liquidity, asset classification

RBI on Wednesday came out with a slew of directions related to maintenance of liquidity coverage ratio, risk management, asset classification and loan-to-value ratio, among others, for housing finance companies (HFCs). RBI said these directions, which shall come into force with an immediate effect.

"All non-deposit taking HFCs with asset size of Rs 100 crore and above and all deposit taking HFCs (irrespective of asset size) shall pursue liquidity risk management, which inter alia should cover adherence to gap limits, making use of liquidity risk monitoring tools and adoption of stock approach to liquidity risk," the RBI said. The board of each HFC would ensure that the guidelines are adhered to.

The RBI issued a Master Direction-Non-Banking Financial Company-Housing Finance Company (Reserve Bank) Directions, 2021, on Wednesday. As per the definition, an HFC is an NBFC whose financial assets, in the business of providing finance for housing, constitute at least 60 per cent of its total assets.

The RBI said HFCs shall maintain a liquidity buffer in terms of liquidity coverage ratio (LCR), which will promote their resilience to potential liquidity disruptions by ensuring that they have sufficient high-quality liquid asset (HQLA) to survive any acute liquidity stress scenario lasting for 30 days. [Business standard/PTI, Feb. 17]

RBI is exploring ways to regulate online loan apps

The Reserve Bank of India has reached out to Google, Digital Lenders Association, fintech association FACE and several NBFCs for inputs on ways to regulate digital lenders. [ET Tech/Alert, March 13]

Extension of Cheque Truncation System (CTS) across all bank branches in the country

To leverage the availability of CTS and provide uniform customer experience irrespective of location of bank branch, it has been decided by RBI to extend CTS across all bank branches in the country to remove hardships due to longer time taken and cost involved in collection of cheques. To facilitate this, banks shall have to ensure that all their branches participate in image-based CTS under respective grids by September 30, 2021. [RBI Notification, March 15]

RESOURCE MOBILISATION BY NBFCs TO OVERCOME TWIN CHALLENGES

NBFCs remained well capitalised with resilient asset quality vis-à-vis that of SCBs. In H1:2020-21, green shoots were visible as loans and advances rebounded.

NBFCs mobilise resources largely via debentures and bank borrowings. With the IL&FS default and the related downgrade cascade, market access shrank and NBFCs' reliance on banks for funds continued to rise. In 2020-21 (up to September), market confidence revived and NBFCs' borrowings from banks and FIs accelerated, buoyed by various policy measures taken by the Reserve Bank and the government to combat COVID-19 impact (Table-1).

Table-1 : Sources of Borrowing of NBFCs

(Rs. Crore)

Items	At end-March 2019	At end-March 2020	At end-September 2020	Percentage Variation	
				2018-19	2019-20
1	2	3	4	5	6
1. Debentures	9,19,314	9,40,499	9,15,293	3.4	2.3
	(43.6)	(41.2)	(38.9)		
2. Bank Borrowings	6,26,495	7,08,035	7,34,322	50.3	13.0
	(29.7)	(31.0)	(31.2)		
3. Borrowings from FIs	40,759	73,811	1,16,443	27.2	81.1
	(1.9)	(3.2)	(4.9)		
4. Inter-Corporate Borrowings	75,805	78,288	81,044	33.1	3.3
	(3.6)	(3.4)	(3.4)		
5. Commercial Paper	1,59,158	70,066	89,065	9.5	-56.0
	(7.5)	(3.1)	(3.8)		
6. Other Borrowings	2,89,254	4,09,642	4,16,276	25.9	41.6
	(13.7)	(18.0)	(17.7)		
7. Total Borrowings	21,10,785	22,80,341	23,52,444	19.3	8.0
	(100.0)	(100.0)	(100.0)		

Notes :
1. Data are provisional.
2. Figures in parentheses indicate share in total borrowings.
Source : Supervisory Returns, RBI.

Amidst pervasive risk aversion, bank borrowings by NBFCs continued to grow at a robust pace as compared to market borrowings. As the Reserve Bank required NBFCs to adopt a Liquidity Risk Management Framework from December 2020, NBFCs gradually swapped their short-term borrowings for long-term borrowings with the aim of maintaining adequate liquidity. In 2020-21 (up to September), share of both market and bank borrowings inched up.

Bank Borrowing: Amongst scheduled commercial banks (SCBs), public sector banks (PSBs) remained the dominant [64.4%] lender to NBFCs, followed by private sector banks (PVBs) [29.7%]. The latter expanded lending to NBFCs in H1:2020-21. PVB advances to NBFCs between March and September 2020 was spurred by various measures taken by the Reserve Bank and the Government to address the disruptions caused by COVID-19.

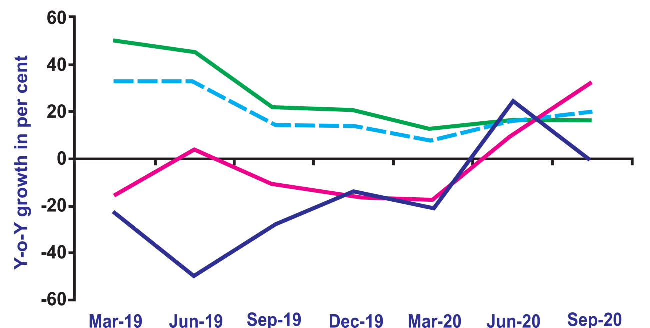
Banks lend to NBFCs directly and also subscribe to debentures and commercial paper (CPs) issued by NBFCs. In 2019-20, however, banks' subscription to NBFCs' debentures and CPs declined on risk aversion. In H1:2020-21, overall bank exposure to NBFCs continued to grow due to higher direct lending by banks as well as their investment in debentures, the latter shored up by ample liquidity and return of market confidence with the Partial Credit Guarantee Scheme (PCGS), Targeted Long-Term Repo Operations (TLTRO) and Special Liquidity Scheme (SLS). Growth in lending via CPs to NBFCs was in negative territory in September 2020 following a pick-up in Q1:2020-2021(Chart-1a and b).

Against the backdrop of low investor confidence, resource mobilisation via issuance of non-convertible debenture private placements (NCD) declined marginally during Q4:2019-20. This was reversed in Q1:2020-21 with surplus liquidity in the system. This space is largely occupied by highly rated, well-functioning NBFCs.

Coupon rates of AAA rated NBFCs softened considerably during Q4: 2019-20. With regaining of market confidence in Q1: 2020-21, the coupons and spreads softened as compared to their levels in Q4:2019-20.

Instruments of Bank Lending to NBFCs

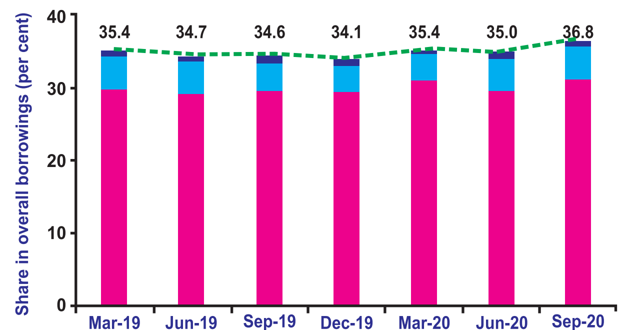
Chart-1(a) Growth



Bank's direct lending — Bank lending via debentures — Overall Bank exposure in total borrowing — Bank lending via CP

Instruments of Bank Lending to NBFCs

Chart-1(b) Share



Bank lending via CP — Bank lending via debentures — Bank's direct lending — Overall Bank exposure in total borrowing

Note : Data are provisional.
Source : Supervisory Returns RBI.

While the share of CPs declined in 2019-20 in the borrowing mix of NBFCs, they still formed nearly one-third of the total CP issuances. In the immediate aftermath of the lockdown imposed due to COVID-19, CP issuances by NBFCs fell drastically in April 2020, attributable partially to a few big companies raising lower amounts than in the corresponding period in 2019 but more so to a spike in borrowing rates due to risk aversion. The period April-May 2020 witnessed a widening of spreads between non-government NBFCs' CP rates and Treasury Bills (T- Bills) rates (Chart-2b). Subsequently, an easing in rates was observed with concomitant increase in issuances from July 2020 on account of policy interventions by the Reserve Bank as well as the Government to restore normalcy and revive investor confidence in the sector.

Borrowing from Mutual Funds: The waning confidence of mutual funds in NBFCs' papers continued in 2019-20 and 2020-21 (up to June 2020). However, their investment were largely limited to few large and well-rated NBFCs. Growth in mutual funds' subscription to NCDs of medium NBFCs declined from the second half of 2019-20. In the case of CPs, mutual funds' confidence was dampened by prevailing market pessimism and liquidity stress. While mutual funds held only a minuscule share of NCDs and CPs of small NBFCs, they exited in March 2020 and June 2020 due to heightened risk aversion in the aftermath of COVID-19.

External Commercial Borrowings: Foreign liabilities of the sector continued to rise, especially via bonds and debentures. The Reserve Bank's policy of easing external commercial borrowings

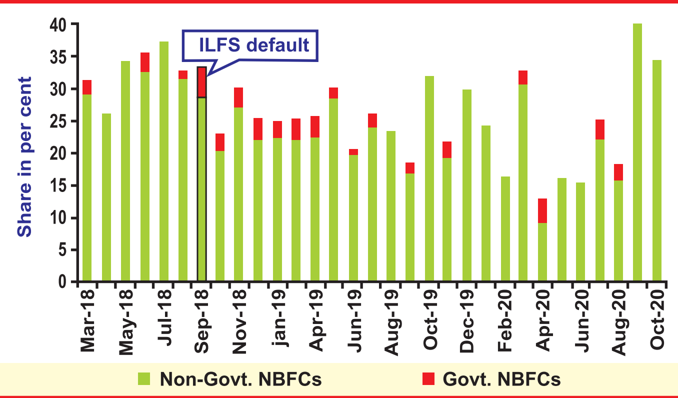


Chart-2(a) Share of Non-Govt. NBFC and Govt.-NBFC in Total CP Issuances

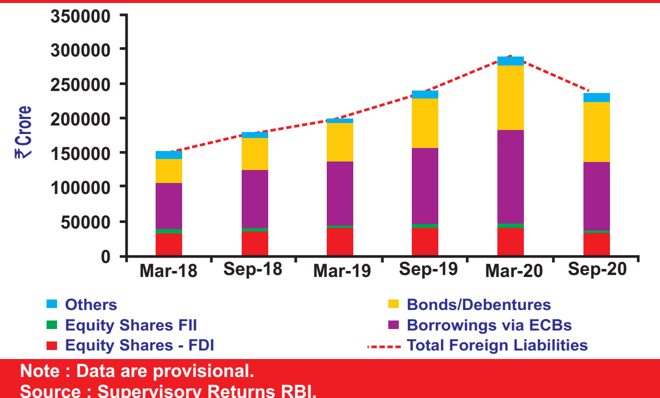


Chart-4 : Foreign Currency Liabilities of NBFC Sector

Note : Data are provisional.
Source : Supervisory Returns RBI.

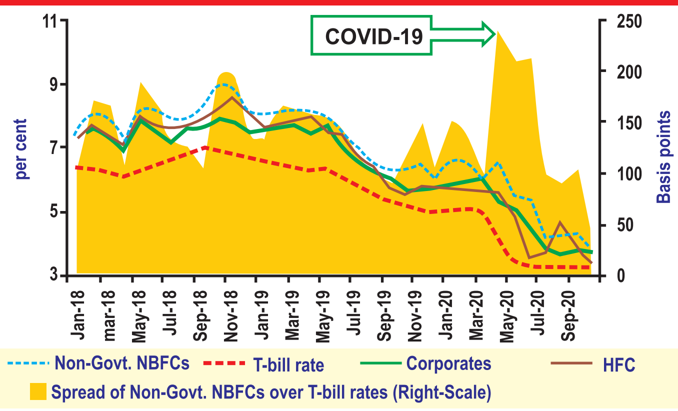


Chart-2(b) CP and T-Bill Rates

Sources : 1. Supervisory Returns, RBI.
2. Database on Indian Economy, RBI.

(ECB) norms also helped NBFCs access funds via the ECB route. Foreign investors' interest was spurred by the higher yields offered by NBFCs, while lower overall costs, including for hedging, might have induced NBFCs to utilise this window. In the first half of 2020-21, however, foreign liabilities witnessed a fall partly due to muted appetite for ECBs (Chart-4).

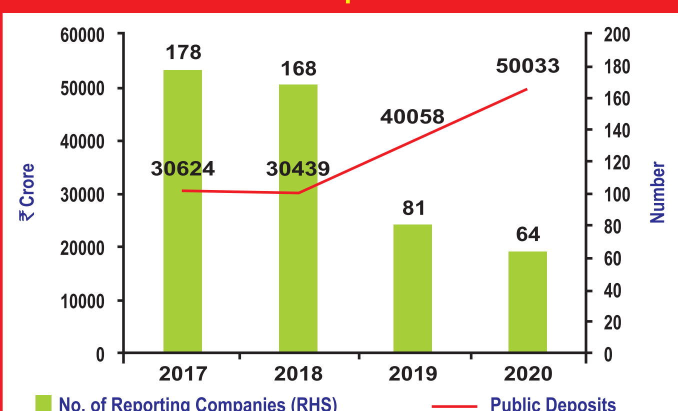


Chart-3 : Public Deposits of NBFCs-D

Note : Data are provisional.
Source : Supervisory Returns RBI.

NBFCs-D: Deposits: Deposit mobilisation by NBFCs progressed at a robust pace, even though the number of companies authorised to accept deposits came down from 168 in 2017-18 to 81 in 2018-19 and 64 in 2019-20 (Chart-4). NBFCs-D largely raised fixed deposits in the 1-3 year maturity buckets, which bodes well for their ALM profiles. NBFCs-D space is populated by a few large entities- 87.5 per cent of NBFCs-D raised only 1.2 per cent of total deposits and all these entities were below the Rs. 250 crore deposit thresholds.

Asset Sales and Securitisation: Banks are main players in both asset sales and securitisation undertaken by NBFCs. Asset purchases from NBFCs help banks in diversifying their balance sheets while NBFCs are benefitted by higher cash flows without further leveraging of their balance sheets. Loan sales volume of NBFCs-ND-SI was higher than securitisation volumes during Q4:2019-20. Asset sales and securitisation dipped in Q1:2020-21 due to subdued demand for pooled assets as repayments were hit on account of loan moratorium; there was a revival in Q2: 2020-21 (Chart 5a and b).

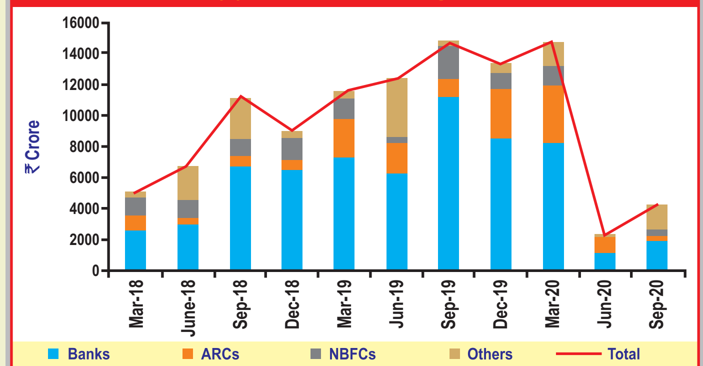


Chart-5(a) Loan Sales during the quarter

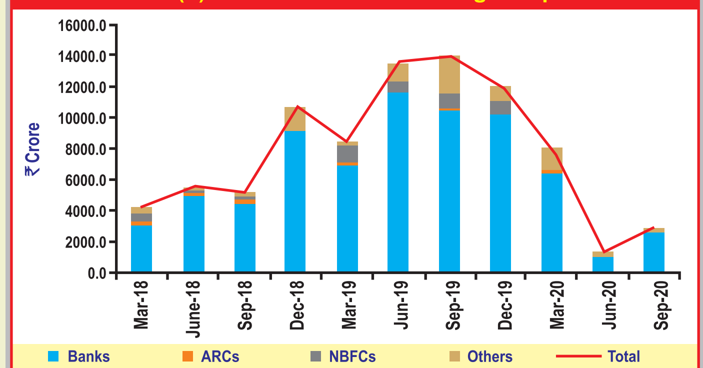


Chart-5(b) Loans Securitised during the quarter

Asset Liability Profile of NBFCs: NBFCs have gradually changed their borrowing profile and swapped short-term borrowings for long-term borrowings, as alluded to earlier. In order to mitigate the temporary liquidity mismatches of NBFCs/ HFCs, the Partial Credit Guarantee Scheme (PCGS) was announced in the Union Budget 2019-20. PCGS aimed at providing government guarantee to public sector banks for purchase of pooled assets from financially sound NBFCs/ HFCs limited to first loss of up to 10 per cent of the fair value of assets or Rs. 10,000 crore, whichever is lower. NBFCs had higher share in purchase of pooled assets by PSBs under PCGS vis-à-vis HFCs and mostly assets that had AA rating were purchased while the scheme allows for purchase of pooled assets having a rating up

to BBB+. Compared to previous periods, March 2020 witnessed asset-liability mismatches in the short-term maturity windows- between one month and 6 months- attributable to persistent risk aversion and compounded by COVID-19. The Reserve Bank and the Government provided policy support to help NBFCs manage asset liability mismatches. While TLTRO specifically support banks' investment in investment grade paper of NBFCs of one to three year maturity, the Rs.30,000 crore liquidity scheme launched by the Government facilitated acquisition of short-term debts through a Special Purpose Vehicle. Large, well rated NBFCs have garnered the bulk of funds via the TLTRO route (Box- 1). Under the Special Liquidity Scheme (SLS), Rs. 7,126 crore was disbursed, mainly via CPs, of which 53 per cent went to NBFCs and rest to HFCs. As in the case of TLTRO, investments via the SLS route were also in well-

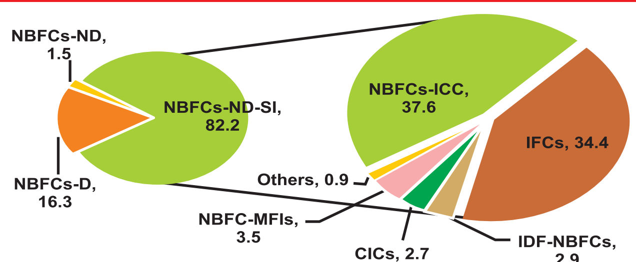
BOX-1 : Distribution of TLTRO Funds

In order to address disruptions caused by COVID-19, the Reserve Bank undertook Targeted long-term repo operations (TLTRO) aimed at providing system level-liquidity as well as targeted liquidity to sectors and entities experiencing liquidity constraints and restricted market access,

A study of the distribution of TLTRO funds reveals that ? 76,843 crores* have been requested by NBFCs and HFCs, four-fifth of which has been disbursed. NBFCs garnered 60 per cent of the total disbursement. Non-deposit taking NBFCs, particularly NBFCs-ND-SI, have been major beneficiaries (Chart 1a), Within NBFCs-ND-SI, Investment and Credit companies (NBFCs-ICC) and Infrastructure Finance Companies (IFCs) cornered 88 per cent of the funds. Furthermore, a rating-wise analysis shows that these firms were also well-rated, with AAA and AA rated firms accessing 88 per cent of disbursements (Chart 1b).

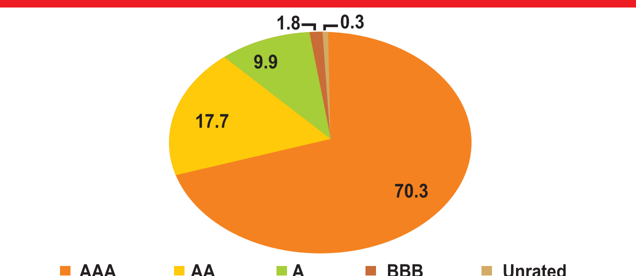
NBFCs-ND-SI, which accessed TLTRO funding, constitute 57.4 percent of the NBFC universe. These firms also had lower GNPA ratios and were better capitalised than other NBFCs-ND-SI (Chart 2). TLTRO has proved to be a valuable tool in the Reserve Bank's arsenal in tackling the disruptions caused by COVID-19 and improving the resilience of the NBFC sector.

Chart-1(a) : Distribution of TLTRO Funds amongst Categories of NBFCs (per cent)



Source : Staff calculations based on supervisory data.

Chart-1(b) : Rating-wise Share of NBFCs in Total Disbursement (per cent)



Source : Staff calculations based on supervisory data and Prime Database.

rated CPs and NCDs. Partial Credit Guarantee Scheme (PCGS) 2.0 was launched in May 2020 as part of Aatmanirbhar Bharat Abhiyan by the Government to address temporary liquidity mismatches of otherwise solvent NBFCs/HFCs/MFIs to obviate distress sale of their assets while making available additional liquidity to them. These schemes greatly aided in ameliorating the liquidity position of NBFCs in September 2020.

FINANCIAL PERFORMANCE OF NBFCS

NBFCs' income growth decelerated in 2019-20, but they continued to grow on the back of fund income of NBFCs-ND-SI. On the other hand, their expenditures plummeted as businesses cut costs to trudge through the slump. Net profits of NBFCs-ND-SI witnessed a sharp revival, attributable to low base effects in the aftermath of the IL&FS crisis and moderation in their cost to income ratio. Conversely, NBFCs-D experienced a moderation in their income, coupled with ballooning interest payments and operating expenditures, which led to a decline in their profits.

NBFCs-D fared better than NBFCs-ND-SI in terms of asset quality. They exhibited a marginal decline in their GNPA ratio in 2019-20, aided by steady growth in disbursements. Their NNPA ratio also remained stable. In 2020-21 (up to September), their asset quality registered further improvement.

Capital Adequacy: The system-level capital to risk-weighted assets ratio (CRAR) of NBFCs dipped marginally due to an uptick in NPAs in 2019-20. However, they remained well-capitalised, maintaining Tier-1 capital of 16 per cent at end-March 2020, much higher than the regulatory stipulation of 10 per cent.

OVERALL ASSESSMENT: Growth in NBFCs' balance sheets decelerated considerably in 2019-20; however, NBFCs remained well capitalised with resilient asset quality vis-à-vis that of SCBs. In H1:2020-21, green shoots were visible as loans and advances rebounded. Challenges faced by the sector were exacerbated by the COVID-19 pandemic, causing funding constraints and triggering asset-quality concerns. The Reserve Bank and the Government undertook various liquidity and regulatory measures to augment liquidity and restore market confidence.

Due to loan moratoria and asset classification standstill, asset quality shored up. However, many NBFCs have made additional provisioning as per expected credit loss (ECL) norm; and bolstered their capital position by ploughing back dividends. Going forward, profitability of NBFCs may be dampened due to loan impairment, lower credit demand and a tendency to preserve cash. Though economic activity is expected to remain muted in FY 2020-21, strong NBFCs maintain a 'cautiously optimistic' view and are expected to perform well as many have reported strong revival, almost to pre-COVID levels, in disbursements and collections. The Reserve Bank, on its part, remains steadfast and resolute in maintaining the sector's long-term resilience and preserving financial stability. *[Extract from Reserve Bank of India Report on trend and progress of banking in India, released on Dec. 29]*

WORDS OF WISDOM FROM A VETRAN FINANCIER

The NBFC business is not a business for cowboys. Here, words like prudence and conservativism are really the things that should be valued. Glamourous and glitzy are not words that fit well in this business. The one thing that I keep sharing with my team is that their primary role is that of a custodian of public money."

T T Srinivasaraghavan, Chairman Emeritus, FIDC

TLTRO on Tap Scheme – Inclusion of NBFCs

Given that NBFCs are well recognised conduits in reaching out to the last mile in various sectors, it is now proposed to provide funds from banks under the TLTRO on Tap scheme to NBFCs for incremental lending to the specified stressed sectors.

Shri Shaktikanta Das, RBI Governor

FIDC message

Dear Members,

At the outset, we at FIDC expresses our gratitude for your association with us. We would like to draw your kind attention towards the rapidly emerging virtual space i.e. Social Media. It holds all the power to reach a great section of the target audience and increase awareness about the objectives, goals and work of an organization.

We see a great opportunity here for us to enhance awareness about our mission to support Financial Inclusion.

Hence, we would like to request you to support FIDC boost its social media presence by Liking, Sharing, and Commenting on posts across the platforms including Facebook, Twitter, Linkedin and Instagram.

Also, get all details about NBFC Sector from our Website.

We would also like to suggest you to increase your presence on these platforms.

We have plans to acknowledge the highly active member/members in the form of a special token of appreciation.

Thanks & Regards

MAHESH THAKKAR
DIRECTOR GENERAL

IT IS A FANTASTIC BUDGET, THIS BUDGET CAN PUT ECONOMY ON THE PATH

Raman Aggarwal

Setting up of DFI will make banks & NBFCs to focus on retail lending

Raman Aggarwal, Co-Chairman, FIDC has said the creation of a asset reconstruction company and setting up a development financial institution is the move in right direction and enable banks and NBFCs to focus on doing more retail lending.

Raman Aggarwal, Co-Chairman at FIDC thinks it is a fantastic budget, instead of giving tax ops, it is better that the government spends that money. Huge focus is laid on the infra which was the need of the hour. If everything goes as planned and the implementation is successful, this budget can put economy on the path.

He said, "The national ARC is a very bold step taken, the legacy of the NPAs and stressed assets have been plaguing the financial sector for quite some time and particularly the public sector banks. Long time when public sector banks went into PCA and then post child affairs. Even NBFCs had a lot of issues relating to not only liquidity and asset quality to some extent. I think it's the right move because once we need to clean those balance sheets to ensure that lending does not stop. If a bank is carry a baggage of NPAs their lending capacity reduces unless they're capitalised."

He added, "It is very important to see how this new proposed ARC and AMC plan is shaped and implemented and how soon it happens. The thought process is brilliant, the planning is excellent and done keeping in mind the need of the hour, everything now depends on the implementation."

He also believes there was always a need to create a separate institution to look into the financing in infrastructure and big ticket size long term funding so that the bank and NBFCs can focus more on other aspects like retail lending. So through that perspective the idea is absolutely correct.

According to him one of the historic steps taken by the FM is privatisation of 2 public sector banks other than IDBI and one general insurance company. "This is something that has never happened in the history of India," he concluded. [ET BFSI, Feb. 1]

FIDC hails budget measures for NFBCs

FIDC heartily welcomed very encouraging remarks on the NBFC sector and announcing removal of debenture redemption reserve on NBFCs' issued public bonds as well as allowing tax deductibility of the provision made under section 43D of IT Act by the Finance Minister in her budget speech on February 1. Granting of these long pending demands will result in level-playing field and bringing down the cost of operations for the sector.

On the much talked about Liquidity crunch, though the measures announced may not address the issue substantially, but the fact that Govt of India shall offer First Loss guarantee on the NBFC pool of assets, indicates the importance and confidence that the Govt has in the sector,

Amendment of Factoring Regulation Act and allowing all NBFCs will channelise substantial amount of working capital to MSIVIE sector, FIDC said. The Finance Minister has also empowered the Reserve Bank of India to take several positive measures to address the liquidity headwinds faced by the industry in the last few months and this augurs well for the sector, FIDC further added. [FIDC Press release, July 5]

Loan recovery: Ministry gives more power in the hands of NBFCs

The Finance Ministry has operationalised a budget announcement that lowered the minimum loan size eligible for debt recovery by NBFCs under the SARFAESI law to Rs. 20 lakh from the existing level of Rs.50 lakh.This move could come in handy for large NBFCs with a minimum asset size of Rs.100 crore for making loan recovery under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act 2002. [Business Line, Feb. 13] ■

Shri T T Srinivasaraghvana
Chairman Emeritus of FIDC

Chairman Emeritus

Mr.T T Srinivasaraghvana, Founder Chairman of FIDC and Managing Director, Sundaram Finance Ltd. is appointed as the **"Chairman Emeritus"** of FIDC for life with effect from 1st April, 2021. He has been the Torch-bearer of NBFC Sector during good times and bad times. His contribution to NBFC Sector is immense. **Hearty congratulations Sir.**

Hearty congratulations to New Co-chairmen of FIDC

Mr. Umesh Revankar
Managing Director,
Shriram Transport Finance Co. Ltd

Mr.Sanjay Chamria
Managing Director,
Magma Fincorp Ltd.

Hearty Congratulations to New Director of FIDC

Mr. Kamlesh Gandhi
Founder Chairman and Managing Director,
MAS Financial Services Ltd.

Heartfelt Condolences on sad and shocking demises of

Late Shri Mukesh Gandhi
Director, FIDC
on January 19

Late Shri S D Chug
Governing Council Member
on March 7

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BANK-NBFC CO-LENDING: AN IDEA YET TO FIND ITS FEET

- Ridhima Saxena

Presently, the model is working mainly for home loans, gold loans and vehicle loans. Co-lending could help NBFCs create an asset-light and funding-light growth model.

Co-lending, a model touted by the Reserve Bank of India as a way for NBFCs and housing financiers to lend in partnership with banks, has not found many takers yet. This, as the model, continues to face teething troubles over technology integration and risk and reward-sharing arrangements between banks and non-bank lenders. "There have been a lot of discussions and engagements between NBFCs and banks, but a significant number of arrangements are not in yet. They are all in various stages and while a few engagements have started, there has not been a considerable pick-up," said Krishnan Sitaraman, senior director at Crisil Ratings.

How It Works? Under the co-lending model, non-bank lenders can originate loans independently and later sell them down to their partner banks on a back-to-back basis, while retaining a minimum of 20% share of individual loans on their books. The loan is offered to the customers at a blended interest rate, often a weighted average of rates offered by both lenders. The model slightly differs from direct assignment as it does not require NBFCs to season their loans for a certain period. It also has some features of co-origination as partner lenders are required to maintain each individual borrower's account for their respective exposures, while all transactions (disbursements/ repayments) are routed through an escrow account maintained with the banks to avoid intermingling of funds.

"There was not much traction in the earlier (co-origination) arrangement as there were issues on the technology front, but co-lending is an extension of direct assignment with no minimum holding period. Presently, the model is working mainly for home loans, gold loans and vehicle loans," Sitharaman said. A number of co-lending arrangements have been announced but no official data is available on the extent of lending under such arrangements so far.

Banks active with Model: On Friday, PNB Housing Finance announced its partnership with Yes Bank for co-lending retail home loans. Under a similar arrangement, IIFL Home Finance extends home loans with Standard Chartered Bank, and Bank of Baroda facilitates loans with Edelweiss Financial Services. State Bank of India, too, has a two-year-long tie-up with Paisalo Digital for income generation loans. In February, Bank of Maharashtra entered a co-lending arrangement with Pune-based NBFC LoanTap Credit Products for financing micro, small and medium enterprises. "The co-lending model has not achieved a significant size or scale yet, mainly because of the initial teething challenges over the execution of co-lending arrangements," said Jinay Gala, senior analyst at India Ratings and Research. The issues faced are largely on the "legal and technology front and over the risk-sharing arrangement at the time of on boarding the customer" he said.

Too Complex? NBFCs have not completely warmed up to the co-lending model yet, mainly as they seek more clarity on legal and technological linkages required for such lending.

Take Indostar Capital Finance for example. The NBFC specialises in used and new commercial vehicle financing and has a long-term arrangement with ICICI Bank, through which it has built close to 7% of its assets under management of independently originated CV finance loans, which are disbursed entirely by its partner bank. In return, Indostar earns a portion of interest income while acting as the front-end for all its customer needs. "While co-lending has a lot of potential, we find our existing model favourable in which we act as an originator of loans for our partner bank, as this removes the need for investing in aligning the technology infrastructure or having any complex arrangements over disbursements. Ours is a much simpler model," said Amol Joshi, chief financial officer at Indostar Capital. Some banks share that view.

"It is easier to have NBFCs as loan originators ensuring customer service, while the disbursement could happen entirely through the bank. It also removes the fear for NBFCs that their borrowers may shift their loyalties to partner banks," said CVR Rajendran, managing director and chief executive at CSB Bank that has arrangements with some NBFCs for sourcing gold loans.

What Bankers say?: The co-lending partnership model, according to Rajkiran Rai G, managing director and chief executive of Union Bank of India, has taken time due to issues over technology integration with partner NBFCs. "We are still working on technology linkages, such as putting in processes for real-time sanctioning loans sourced by the partner NBFCs, along with putting in a mechanism to share collections on a daily basis. Further, the loan account statement for customers also needs to be consolidated," he said. While these integrations are taking time, the bank may be able to announce few co-lending partnerships for MSME loans by April.

The co-lending solution also does not adequately solve the issue of funding constraints for smaller NBFCs. This, as banks prefer to form co-lending partnerships with the larger non-bank lenders. "It is the smaller NBFCs facing funding constraints that really need the co-lending solution, as the larger ones can originate and service their loans independently," Joshi said.

Rai of Union Bank said the lender is talking to large to medium-sized NBFCs as it is easier to integrate its systems with them but will look at smaller ones in the future. Nirmal Jain, founder and chairman of IIFL Group, agreed that banks look for partnerships with NBFCs of a certain scale and size because of their evolved technology architecture and greater reach. Even there, the pick-up is slow so far.

"The co-lending model has just started for us and transactions have begun, but it is still not a significant portion of our book. However, we expect it to grow rapidly. We are in discussions with our banking partners on how to smoothen the processes to make it work seamlessly for both of us," said Jain. "There are issues regarding technology infrastructure alignment and integration of workflows, but once that is done co-lending could form close to 50% of our book over the next three years," he said.

A Model for the Future? Even as co-lending faces teething challenges, once those are ironed out, the model could see a significant uptake among lenders, said Gala. "As we move forward there could be a decent ramp up, and even new NBFCs can crop up with business models formed around co-lending," he said. While traditional NBFCs are taking time to iron out the technology alignment issues with their partner banks, Paisalo Digital, a non-deposit taking NBFC and one of the early adopters of the co-origination model, has found co-lending most favourable for its business.

"No form of direct assignment will work for an NBFC like ours as the market we serve is largely under- or unbanked, and if we were to originate those loans independently and later sell them down to partner banks, it will create an unnecessary hassle of funding them at the time of origination. Instead, we prefer to co-originate and co-lend these loans with our banking partners," said Santanu Agarwal, deputy chief executive officer at Paisalo Digital that has both co-lending and co-origination partnerships with the State Bank of India since 2019 for Rs 1 lakh or below loans. The company, he said, took two months to align its technology infrastructure with SBI and is in the process of forming similar partnerships with other public-sector lenders. "For processing large volumes of loans below Rs. 1 lakh under the co-lending partnership, a large part of the credit workflow, from know-your-customer requirements to disbursements, needs to be automated. Once that process is digitized, the sky is the limit for co-lending," he said. Currently, Paisalo has close to 4% of its Rs. 2,300 crore total loan book under the co-lending model, and is looking to increase its assets under management to Rs. Rs. 8,000 crore under the model over the next three years.

"Considering many NBFCs have faced funding challenges post the IL&FS collapse and during the ongoing pandemic, co-lending could help them create an asset-light and funding-light growth model in which their assets under management will grow but they don't need to borrow so much, resulting in a higher return on assets," said Sitaraman.

Having a portion of co-lending on their books also prepares NBFCs for future funding challenges as they can then rely on their co-lending partnerships to keep the business going. "Non-bank lenders can continue to do 15-20% of their business under the model as it will help them broad base their funding profile and insulate them against any future black swan events," he said. [Bloomberg, March 9]

SC upholds laws protecting new owners of bankrupt firms

In a verdict that could pave way for faster resolutions of bankruptcies, the Supreme Court on Jan. 19 upheld laws that protect new owners of insolvent companies from charges filed against the previous management. “A bankrupt company and its assets cannot face criminal proceedings once it is sold to new owners,” the SC said, dismissing petitions challenging the rules. The former management of the firms will face prosecution, according to the norms. A three-judge bench headed by Justice Rohinton F. Nariman said: “There is imperative need to attract resolution applicants who would not shy away from offering reasonable and fair value.” “Extinguishing criminal liability will help the new management to make a clean break with the past and start on a clean slate,” the bench added. The verdict holds importance for potential investors looking to buy into one of the world’s biggest piles of bad loans. India’s central bank forecasts soured assets will almost double to 13.5% of total advances in the year through September as the pandemic slams businesses. The court on Tuesday also upheld curbs disallowing individual homebuyers from initiating bankruptcy against builders. The new law requires at least 100 buyers or 10% in a project to initiate a bankruptcy case. [Live Mint, Jan. 19]

Pay before Appeal, Supreme Court tells borrowers

In a positive development for lenders, the Supreme Court has held that borrowers will have to deposit the outstanding debt before filing appeals at the Debt Recovery Appellate Tribunal.

The requirement of pre-deposit cannot be done away with, the apex court has held. A three-judge bench overturned a Delhi High Court order that had set aside the requirement and allowed the appeal to proceed at the DRAT. The ruling will make it difficult for borrowers to file frivolous appeals and wasting the court’s time, Bishwajit Dubey, partner at Cyril Amarchand Mangaldas, said. The top court bench examined Section 21 of the Recovery of Debts and Bankruptcy Act, 1993 which provides for depositing the amount of debt due on filing the appeal. The section, the court noted, said an “appeal shall not be entertained”. Therefore, according to the apex court, the DRAT by law is injuncted from entertaining an appeal by a borrower who has not deposited with it 50% of the amount of debt due. The deposit amount, the apex court said, can be reduced up to 25% but the appellate tribunal will have to give reasoned orders when it chooses to do so. [Bloomberg, Feb. 22]

Pledge of shares does not make a lender the ‘financial creditor’ under IBC: SC

Interpreting the definition of “financial creditor” in the Insolvency and Bankruptcy Code, the Supreme Court ruled on February 3 that pledge of shares did not amount to guarantee of disbursement of any amount against consideration. In the judgment, Phoenix Arc Ltd vs Ketulbhai Patel, L&T Financial lent an amount to Doshion Ltd. The latter gave an undertaking to L&T that it would not dispose of its holding in Gondwana Engineers Ltd so long as any amount was payable to L&T. Later, L&T assigned all its rights in the matter to Phoenix. The trouble started when Doshion defaulted and recovery action was launched. Bank of Baroda took the matter for IBC resolution and a resolution professional was appointed. He rejected the claim of Phoenix that it was a financial creditor. The NCLT, the appellate tribunal and the Supreme Court rejected its claim interpreting Section 5(8) of IBC. It rejected the argument of Phoenix that liability of the corporate debtor, who is surety, is co-extensive with that of the debtor and the creditor has full right to pursue his liability against the surety even before the creditor. [Business Standard, Feb. 12]

Supreme Court rules against extending moratorium on bank loan repayments

The Supreme Court of India has ordered a waiver of compound interest for all borrowers that availed a loan moratorium last year under the RBI’s Covid-related relief measures. The top court did not find any rationale for extending the waiver of compound interest or interest on interest only for loans up to Rs 2 crore, it said in a judgment delivered on 23rd March. During the hearing of the case, the central government had agreed to absorb the cost of interest on interest for small ticket loans of up to Rs 2 crore each across eight categories of borrowers. The total cost borne by the government then was estimated to be Rs 6,500 crore. Now the top court has said compound interest for all borrowers availing a moratorium, irrespective of loan amount or category, is to be waived and has ordered that the amounts already recovered as interest on interest for the moratorium period must be adjusted by the banks. “As per our estimates, the compounded interest for six months of moratorium across all lenders is estimated at Rs 13,500-14,000 crore,” said Anil Gupta of ICRA Ltd. The Supreme Court has also lifted the stay granted on classification of non-performing assets by banks. Interim relief granted earlier to not declare accounts of respective borrowers as NPA stands vacated. [Bloomberg, March 23]

Arbitration Agreement Independent of Commercial Contract, Says Supreme Court

Just because a commercial contract is unstamped doesn’t mean that the arbitration clause in it will become invalid, a three-judge bench of the Supreme Court of India has held. It is a significant decision that will be welcomed by arbitration practitioners as well as various segments of the business community, particularly financial institutions, who have found themselves unable to even get an arbitrator appointed in cases where the main contract is insufficiently stamped, said Kingshuk Banerjee, partner at Khaitan & Co. In two previous two cases, the apex court took a contrary view. The earlier rulings held that if an agreement is unstamped, it will not be possible to bifurcate the arbitration clause contained in such an agreement. This difference of opinion will now be resolved by a constitution bench. A five-judge bench will now determine whether a contract, on which stamp duty hasn’t been paid, renders the arbitration clause in it unenforceable as well pending payment of stamp duty, according to the apex court’s last week order. The situation on this issue right now will be in limbo until the constitution bench settles the question, Shaneen Parikh, partner at Cyril Amarchand Mangaldas, said. “But I do think the position laid down by the Supreme Court last week is correct and hope the constitution bench will affirm it.” [Bloomberg, Jan. 19]

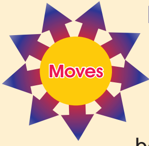
Limitation of Time for filing cases is back

The time limits prescribed under various laws for an aggrieved person to approach courts will come into effect again. The Supreme Court has ended the extension of the limitation period which it had ordered last year due to the Covid-19 pandemic. In the order, the SC bench passed the following directions:

1. The time between March 15, 2020, and March 14, 2021, shouldn’t be counted while calculating the limitation period. For instance, if a cheque bounce event occurred on October 3, 2020, then the period of limitation within which legal recourse should have been taken would be counted from March 15, 2021.
2. If the period of limitation for any case would have expired between March last year and 2021, there shall be a further limitation period of 90 days or the actual time left for filing of cases, whichever is higher. This will be counted from March 15, 2021. For example, if the deadline to approach the court for a property dispute was ending between March 15, 2020, to March 14, 2021, the person aggrieved will have another 90 days or the actual time left for filing the case, whichever is higher, to approach the court.
3. Limitation period restrictions will also kick in for certain provisions under Commercial Courts Act, arbitration law and cheque bounce proceedings. For these, March 15, 2021, will be the day from which the computation of the day from which the computation of the limitation period will start. [Bloomberg, March 10]

Centre lets ‘one Person Company’; small firms file abridged annual returns

On the heels of budget proposals to encourage formation of ‘small company’ and ‘one person company’, the Ministry of Corporate Affairs has come up with an abridged version of annual return for such companies. Besides revising the definition of a small company in the recent budget, it had also allowed NRIs to incorporate one person company. These changes are to come into effect from April 1. As per the amendment effected for definition of small company, the government has now stipulated that the paid-up capital cannot exceed Rs.2 crore and turnover Rs.20 crore. This move is seen as yet another effort by the government to ensure ease of doing business for companies and attract foreign investments. [Business Line, March 8]



Massive spending commitment for infra; new DFI to be created

The creation of a development finance institution (DFI) will meet one of the major demands of the infrastructure sector. This will not be the first time such an institution will be created for meeting the long-term financing needs of the sector. Union Finance Minister Nirmala Sitharaman announced that a new law will be enacted to create the institution, which will be a provider, enabler, and catalyst for infrastructure financing. Sitharaman said the government's National Infrastructure Pipeline (NIP) — that lays specific targets — will require a major increase in funding, both from the government and the financial sector. She planned to tackle this by creating institutional structures, monetising assets, and by enhancing the share of capital expenditure in central and state budgets.

To begin with, Rs 20,000 crore has been provided this year to capitalise the proposed DFI, even though the minister said the plan was to have a lending portfolio of at least Rs 5 trillion for the DFI in three years. To further plug holes in debt financing of infrastructure investment trusts (InvITs) and real estate investment trusts (REITs) by foreign portfolio investors, the government plans to make amendments to the relevant legislation. This will further ease access of finance to InvITs and REITs, thus, augmenting funds for infrastructure and real estate sectors. [Business Standard, Feb.1]

Proposal to creating permanent framework for buying corporate bonds

"To instill confidence among the participants in the corporate bond market during times of stress and to generally enhance secondary market liquidity, it is proposed to create a permanent institutional framework. The proposed body would purchase investment grade debt securities both in stressed and normal times and help in the development of the bond market," Sitharaman said in her speech.

There weren't too many details about the framework. "The proposed institutional framework for corporate bonds is a concrete step taken in this budget. In times of stress, if there is a permanent institutional framework to buy bonds and infuse liquidity in the market, it may take away a lot of uncertainty and stress from the markets. However, finer details remain to be seen about mechanisms for the same," said Pankaj Agrawal, Director, AK Capital. [Business Standard, Feb.1]

FinMin seeks feedback on rationalisation of compliances under various DFS Acts

The Finance Ministry has sought feedback from key stakeholders in the financial system on whether compliances under major Acts administered by the Department of Financial Services (DFS) can be rationalised. Further, the ministry wants the stakeholders to provide inputs on each interface, where a citizen has to interact with the respective institution and whether this can be simplified. This exercise is aimed at making the regulatory framework simple and to rationalise the compliance burden for citizens and business.

Key objective: The ministry, which sought feedback from banks, insurance companies, microfinance institutions and a couple of large non-banking finance companies, said the key objective of this exercise is to provide services in a time-bound, transparent, and predictable manner with minimum human interface.

Major Acts: The major Acts administered by the DFS that are being considered for rationalisation of compliances are: the Reserve Bank of India (RBI) Act, 1934; the Banking Regulation (BR) Act, 1949; the Insurance Regulatory and Development Authority of India (IRDAI) Act, 1999; the Insurance Act, 1938; the Credit Information Companies (Regulation) Act, 2005; and the National Housing Bank (NHB) Act, 1987. The ministry observed that although the list of some compliances under major Acts that has been prepared is not exhaustive, it requested financial sector business entities/ industry associations to examine the matter from the point of view of compliances required to be fulfilled by the industry and the public whom the industry serves. [Business Line, Jan 1]

Govt to set up intelligence unit to tackle pesky calls, financial frauds

The telecom ministry will set up an intelligence unit and a consumer protection system as part of continuing efforts to tackle the menace of pesky calls as well as to take strict action against financial frauds perpetrated using telecom resources. The move follows a direction from telecom minister Ravi Shankar Prasad, who chaired a high level meeting to look at ways to address rising concerns of consumers over unsolicited messages on mobile phones, repeated harassment through SMSes promising loan transactions through fraudulent ways. It is also aimed at making digital transactions more safe and secure. In the meeting, the Minister of Communication directed officials to take strict action against erring telemarketers and individuals involved in harassment of telecom subscribers. [Business Standard, Feb. 16]

Unified Single Securities Market Code

It is proposed in the Union Budget to consolidate the provisions of SEBI Act, 1992, Depositories Act, 1996, Securities Contracts (Regulation) Act, 1956 and Government Securities Act, 2007 into a rationalised single Securities Markets Code. Currently, all the existing regulations operate independently. There are issues of common nature, but being dealt by different laws and different authorities, which makes the decision making tough. The proposed change will not only streamline multiple laws and regulations but also the processes to make it efficient. Additionally, this will avoid any possible conflicts arising due to differences in the various regulatory frameworks. However, it will be critical to understand if SEBI would be the nodal agency responsible for the same.

Gold Exchanges: In the Budget of 2018-19, the government had announced its intent to establish a system of regulated gold exchanges in the country with SEBI as the regulator. SEBI's oversight as the watchdog will set in place an appropriate framework for the gold exchanges. [Economic Times, Feb. 2]

SEBI proposes to separate KYC and account opening process

Capital markets regulator SEBI on Wednesday proposed that KYC and account opening process should be separated in order to standardise the process and avoid duplication. It has been suggested that KYC should be done through stock exchanges, depositories and KYC Registration Agencies(KRAs), and documentation for opening of account for entering into transaction would continue to be the responsibility of concerned registered intermediaries. At present, KYC of clients in the securities market is conducted by registered intermediaries — stock brokers, depository participants, RTAs — and then Registered Intermediaries (RIs) upload KYC records in the KRA system. [Business Standard, Jan. 13]

SEBI proposes New Norms for Independent Director Appointment, Removal, Remuneration

The securities market regulator has proposed a slew of changes in the regulations dealing with appointment, removal and remuneration of independent directors and their role in the audit committees of a listed entity. Key among them is a dual vote on appointment of independent directors, giving public shareholders a stronger voice. The consultation paper, published by the Securities and Exchange Board of India on its website on Mar. 1, also recommends that independent directors' resignation letters be fully disclosed to stock exchanges. SEBI said the proposals were prompted by continuing concerns around efficacy of independent directors and the need to strengthen their independence and effectiveness in order to protect minority investors. [Bloomberg, March 1]

SEBI comes out with disclosure format under insider trading rules

Capital markets watchdog SEBI on Tuesday came out with a new format for disclosures to be made under the insider trading norms. In light of amendments to the PIT Regulations affecting the inclusion of members of the promoter group, and designated person in place of employee and on the basis of feedback received from market participants and exchanges, the relevant disclosure formats have been suitably revised, SEBI said in a circular.

Under the new format, details of securities held upon becoming a member of the promoter group of a listed company and immediate relatives of such persons need to be disclosed, besides, any change in shareholding also needs to be disclosed. In September, SEBI had decided to implement system-driven disclosures for members of the promoter group, directors and designated persons of a listed company. [Business Standard, Feb. 9]

SEBI extends Central KYC Registry to legal entities

SEBI on March 10 asked Regulated Entities [REs] to upload 'Know Your Customer' data pertaining to accounts of legal entities (LEs) opened on or after April 1, onto the Central KYC Registry (CKYCR). REs have already been uploading the KYC data pertaining to all individual accounts opened on or after August 1, 2016, onto CKYCR. "Since CKYCR is fully operational for individual clients, it has been decided to extend CKYCR to legal entities as well," the SEBI said in a circular. The regulator has also comes out with a template for legal entity in this regard. [Business Standard, March 11]

India's digital economy will go from prepaid to post-paid in the new decade: Nandan Nilekani

India's digital economy will go from a prepaid to post-paid in the new decade, driving a huge cycle of consumption and growth, said Nandan Nilekani. "As people get to digital payments, credit histories, digital transactions they will be ready for credit. Therefore, the move of the digital economy from a prepaid to postpaid is going to drive a huge cycle of consumption as well as growth," said Nilekani.

Nilekani said the western countries build the Internet private sector on advertising revenue, leading to the creation of Google and Facebook. However, India does not have a large advertising model with only about $2-3 billion being spent on digital ads a year, he said.

"Because we have this transaction economy and the ability to do high volume, zero cost, payment transactions using auto-debit, embedded lending, our future will be driven by a transaction led boom," he added. "Credit will go from given to a few people who abscond onto London, it will go to millions of small consumers and be democratised. That is the wave that is now going to start." Nilekani said right now is a "decisive moment" in the digitalisation of India, and all the investment in technology infrastructure and policy the country has done is now poised for takeoff.

"Digital transformation of the world could be driven in some sense by India," Nilekani said. "India could be a great place for future software-as-a-service (SAAS) companies. India could be a digital transformation agent for the world and at this point, a much more trusted company where people will play by the rules." [ET Bureau, January 09]

NBFCs have made adequate provisions; do not expect a quantum jump in bad loans'

NBFCs have already made provisions for non-performing assets and do not expect a sharp spike in bad loans following the Supreme Court verdict. "All of us were prepared and we don't see a significant quantum jump or change happening to that extent," said Raman Aggarwal, FIDC, and Independent Director, Paisalo Digital, on March 24. At a virtual press meet by FIDC, NBFCs said they have made provisions for NPAs, but hope the additional relief is provided from the Centre. Most NBFCs and lenders have already applied for the earlier round of relief that was given to borrowers, they said, adding that they are yet to get it. "It is an ex-gratia relief, we have filed our claims," Aggarwal explained. Meanwhile, NBFCs also reported improvement in collections and continued demand post the Covid-19 pandemic and lockdown.

"NBFCs are adequately capitalised, although there may be some pressures on smaller firms," said Ramesh Iyer, Chairman, FIDC, VC and MD, Mahindra Finance, adding that collections have also improved on a month-on-month basis. FIDC has also given suggestions on the discussion paper by the RBI on revised regulatory framework for NBFCs.

"FIDC welcomes the tiered approach," said KV Srinivasan, Director and CEO, Profectus Capital, adding that it has highlighted the issue of smaller NBFCs and minimum capital requirement. [Business Line, March 24, 2021]

NBFCs may have lower bad loan ratios than banks yet challenges remain

NBFCs appear to be better placed in terms of asset quality when compared to banks with their aggregate bad loan ratio being projected to rise to 8.4% even under extreme stress. Their capital adequacy is expected to remain well above the regulatory minimum of 15%.

Bad loans for banks may rise to 14.8% under severe condition, RBI said. NBFCs' bad loan ratio was 6.8% at the end of September 2020 while that for banks was at 7.5%. "Asset quality is expected to deteriorate further due to disruption of business operations caused by the pandemic, especially in the industry sector, one of the major recipients of NBFC credit," RBI said in its financial stability report.

NBFCs are the largest net borrowers of funds from the financial system, with gross payables of Rs 9.37 lakh crore at the end of September 2020 with more than half of their funding from banks. The COVID-19 pandemic caused fund shortage for NBFCs, especially for small and mid-sized ones because banks have their risk appetite reduced for low rated and unrated exposures. The situation worsened due to redemption pressure overshadowing the mutual fund industry. On the demand side, it became difficult for NBFCs to find creditworthy projects and borrowers to lend to as a result of the pandemic induced stress.

Their credit grew at a tepid pace of 4.4% year-on-year as compared with 22% growth a year ago. [Economic Times, Jan. 11]

Government announces details of vehicle scrappage policy

Union minister for road transport and highways Nitin Gadkari announced the details for the country's long-awaited vehicle scrapping policy in Parliament, explaining that the absence of a fitness certificate will mean an automatic cancellation of registration for commercial vehicles that turn 15, and that the registration of a private vehicle will be for 20 years, with renewal requiring proof of fitness. The minister added that the government plans to incentivise owners of old vehicles to scrap these through registered scrap centres. The policy, which also recommends the mandatory scrapping of all government vehicles over 15 years old, applies only to four-wheeled vehicles.

India has 17 lakh medium and heavy commercial vehicles that are older than 15 years without any valid fitness certificate, 51 lakh light motor vehicles older than 20 years and 34 lakh light motor vehicles older than 15 years, according to the transport ministry. The average age of commercial vehicles is over 10 years and the private ones, 10-15 years. [Hindustan Times, March 19]

DFI to get support from Government Guarantee, RBI windows

The soon-to-be-set up National Bank for Financing Infrastructure and Development will get government guarantee support and direct access to liquidity from the RBI as it looks to kick-start infrastructure financing in the country. The National Bank for Financing Infrastructure and Development Bill, 2021 was introduced in the Lok Sabha on Monday. In addition to setting up the government backed Development Finance Institution, the bill also allows for private infrastructure financiers with the approval of the RBI. In order to help the organisation, which will be 100% government owned at the start, raise low cost funds, its borrowings can be guaranteed by the government, the Bill says. Unlike other non-bank financial companies, the DFI will get direct access to the RBI's funding facilities.

The DFI shall lend or invest, directly or indirectly in infrastructure projects located in India, or partly in India and partly outside India, "with a view to foster sustainable economic development in India." It may also refinance existing loans and set up investment trusts. It will also coordinate with the central and state governments, regulators, financial institutions, institutional investors and others to support the development of long-term non-recourse infrastructure financing in India. It can acquire shareholding in other infrastructure financing and development agencies. [BloombergQuint, March 22]

The lockdown compounded the slowdown of Bank's credit growth to NBFC sector

NBFC sector serve as an alternative channel of finance to the commercial sector. The credit growth extended by SCBs to this sector moderated during the last decade and almost halved in 2017-18 as compared to 2007-08. Credit growth to this sector declined substantially from November 2016, though the sector witnessed an uptick in 2018-19. The credit growth extended by the SCBs to this sector moderated in 2019-20 due to the liquidity stress and rating downgrades faced by the NBFCs in the aftermath of the Infrastructure Leasing and Financial Services (IL&FS) crisis in August 2018 with banks turning cautious over funding to this sector. Consequently, NBFC sector witnessed a decelerated credit growth in March 2020. The lockdown compounded the slowdown with credit growth to this sector further decelerating in November 2020. The Reserve Bank has taken a number of steps to address the liquidity issues faced by this sector, including recent introduction of targeted long-term repo operations (TLTROs) aimed at liquidity support to NBFCs, especially smaller ones, and micro-finance institutions (MFIs). The inclusion of NBFCs in TLTRO on tap scheme by the Reserve Bank in its monetary policy statement of February 5, 2021 is expected to facilitate lending by NBFCs to various sectors of the economy. [Sectoral Deployment of Bank Credit in India: Recent Developments, RBI Bulletin, Feb. 21] ■

Regulation and Development must go hand in hand for NBFCs: FIDC

The RBI on January 22, 2021 had put out a discussion paper on scale based regulation for the NBFCs. The paper had suggested regulating the NBFCs in different categories like base layer, middle layer and top layer, depending on their size. The paper suggested different regulation for different layers with certain extension of regulatory arbitrage with base layer and middle layer NBFCs and bank-like regulation for NBFCs in the upper layer. FIDC have sought some clarification and suggested few measures to the RBI over the scale based regulation.

On the NBFC-UL (Upper layer), NBFCs have sought clarification on the road map for NBFCs to convert themselves into banks and the level of governance expected for them to adopt for the transition towards a bank. It has also asked the central bank to allow greater flexibility for these entities on various matters such as deposit acceptance, raising of funds through ECB, setting up of subsidiaries overseas.

For the middle layer NBFCs the same guidelines would continue to be applicable. FIDC said, “NBFCs falling in this bucket would constitute a significant portion of the total assets of the NBFC sector and hence a special focus on availability of funding for such companies may kindly be brought in… Such companies continue to face fundraising challenges.”

On the base layer, the paper has suggested an increase in net-owned-fund (NOF) requirement from Rs 2 crore to Rs 20 crores. NBFCs say, “this could severely hurt the small NBFCs in tier 3 to 5 cities, especially as they emerge from the COVID pandemic. This steep increase will cause severe doubts on their survival as they may not be able to find sources to increase their NOF to Rs 20 crores even over a three year timeframe.”

FIDC has suggested the RBI to increase the NOF requirement to Rs 10 crore and provide a five year timeframe. For NPA recognition norm from 180 days to 90 days FIDC has recommended making this shift over a period of 3-4 years from 180 days to 150, 120 and then to 90 days.

FIDC has sought from the RBI that ‘NBFCs Must Also be Given Benefits that are Currently Available to Banks and FIs’. There are taxation and recovery related matters where NBFCs have been denied benefits. FIDC has requested RBI to take up the same with the Ministry of Finance and ensure that the same are made available to NBFCs also. FIDC also represented about need for refinance arrangement, differential risk weightages, need to develop the liability side of the balance sheets for NBFCs etc. [ETBFSI Feb. 16]

FIDC suggestions on declaration of dividends by NBFCs

RBI has issued a draft circular indicating restrictions on declaration of dividend by NBFC-ND-SI from year commencing 1st of April 2020. FIDC pleaded that NBFCs are bound by the provisions of Companies Act, 2013 hence no further restrictions are needed. Moreover such NBFCs creditors are institutions which impose their restrictions on dividend payment contractually. Additionally, debenture holders are protected as in all debenture trust deeds in terms of Form No. SH-12 prescribed by the Companies Act Rules 2014 restricting dividend payment when the installments of principal and interest are due on the debentures.

The proposed restrictions by RBI on dividend payments by NBFCs over and above those prescribed by the Act could seriously jeopardise investor interest and capital raising ability of the NBFCs, as requirement for declaration of dividend only from current year profits is stipulated which makes it impossible for an NBFC-ND-SI to distribute dividend from other sources from which such declaration is permitted under the Act such as gains arising out of sale of investments through Other Comprehensive Income (a Reserve Item). The presence of non-performing assets (“NPAs”) and the provision taken as per Indian Accounting Standards (Ind AS) in any case adjusts profits downwards and reduces the distributable profits available. A further cap based on NPAs being a certain percentage is not necessary or desirable. Making applicability of restrictions from current year is akin to giving retrospective effect to the guidelines and hence the request should be for the guidelines to take effect only from April 1, 2021, i.e. for dividend from financial year 2021-2022 onwards.

FIDC urged the RBI to exempt NBFCs from the restriction imposed on opening of current accounts by banks

NBFCs borrow from banks mostly as term loans, and the percentage of borrowing as cash credit is low. An NBFC may operate its main collection/disbursement account with a bank from which it does not have a cash credit facility but only a term loan, for reasons of better service levels or branch strength in the geographical, area served by the NBFC, unlike the manufacturing industry which borrows term loans for specific projects (and therefore direct disbursement to suppliers is possible. NBFCs create a loan portfolio and then avail of term loans for refinancing their existing loan portfolio, Direct disbursement to “suppliers is not possible in such a scenario. There are existing regulations governing borrowing and end-use of funds by NBFCs which are practical, and provide a strong framework of governance and control. All banks seek NOCs from existing banks while opening current accounts of NBFCs. We, therefore, request you to please exempt NBFCs from this regulation on the restriction of opening of current accounts and on the stipulation of remitting term loans to “suppliers”.

FIDC In Action

FIDC's NEW INITIATIVES

FIDC with its top team proposes to hold the **Media Interaction/Panel discussion** on “Significance of the NBFC sector, challenges faced and growth outlook for the future” with various Business Channels.

FIDC at the behest of Chairman proposes to make a List **of State-wise NBFC Members** and write to the Leader among them to furnish local issues, which FIDC and its Committees can look into and represent.

Mr. Raman Aggarwal, the Chairman of The Professional Development Committee of FIDC is to make a proposal for FIDC to tie up with various Universities, Colleges and Institutions and draw **the NBFC-specific courses and Trainings** with a view to professional development, trainings and upgrading the skill-set for young students looking for job opportunities in NBFC Sector. . FIDC may also work on publishing one Book on Code of Conduct, Systems Manual and Standardisation of Practice for NBFCs to follow ideal standards of corporate governance. Moreover Book on Compilation of all Court cases concerning NBFCs over the years can be prepared.

FIDC urged the RBI to provide to the NBFCs full access to the CRILC website

While all NBFCs are mandated to report the relevant credit information on a quarterly basis in the prescribed formats given in Annex I to CRILC, RBI has established the XBRL mechanism for reporting of all data for NBFCs. However, presently the NBFCs don’t have access to the data on their own customers or prospective customers through the CRILC portal. FIDC urged the RBI to provide to the NBFCs full access to the CRILC website. The measure will go a long way in further improving the vitality and viability of the NBFCs by assisting in credit risk management. [FIDC letter March 3] ■

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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.in

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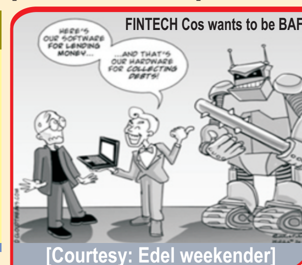

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