FIDC NEWS

Finance Industry Development Council

(A Representative Body of Assets and Loan Financing NBFCs)

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THERE ARE HUGE OPPORTUNITIES FOR GROWTH FOR NBFCs

"NBFCs play a very important role. There are sectors in the economy which banks are not able or willing to lend to, which NBFCs do very efficiently."

RAMESH IYER

Vice-Chairman & Managing Director, Mahindra Finance

"At no point in time have NBFCs breached any of the regulatory norms. As an industry, we are one of the best re-payers to banks"

RAJIV SABHARWAL

Managing Director & CEO, Tata Capital

"When you are trying to get a customer to move to you, you will have to make the experience better and better for him. Digital technology is allowing us to do that"

KEKI MISTRY

Vice-Chairman & Chief Executive Officer, HDFC

"Securitisation can be seen globally as a model where NBFCs which have the assets could package them and raise money against them. The volume could go up over time"

UMESH REVANKAR

Executive, Vice-Chairman, Shriram Finance

"What is most important is the kind of customers we are servicing. If we mostly service under-banked and unbanked sections, being an NBFC, you have the flexibility to service them "

RAKESH SINGH

Managing Director & CEO, Adity Birla Finance

"On liabilities, every four or five years there is a question mark over the NBFC sector. It is only because of a stressed environment that this happens, like the global financial crisis"

'One has to look at what you want to do as a bank, versus what you are doing as an NBFC'

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The panel discussion, Is becoming a bank still a dream for non-banking finance companies?, featured chief executives of leading non-bank finance companies (NBFCs), and included Keki Mistry, vice-chairman (VC) and Chief Executive Officer (CEO), Housing Development Finance Corporation (HDFC); Ramesh Iyer, VC & Managing Director (MD), Mahindra Finance; Umesh Revankar, Executive VC, Shriram Finance; Rajiv Sabharwal, MD & CEO, Tata Capital; and Rakesh Singh, MD & CEO, Aditya Birla Finance.

The panellists talked about a host of issues. The broad message was that NBFCs are happy in their current form, have a great future, and are not keen to become banks. Edited excerpts:

Moderator: I would request the panellists to first make opening remarks on the issues of challenges, regulation and technology, and then address the question: Is the dream of NBFCs to become banks coming close or not?

Keki Mistry: There have been times when the NBFC sector has come under stress. The regulatory response each time was strong, and apart from IL&FS, not a single NBFC had to fold up. NBFCs play a very important role. There are sectors in the economy which banks are not able or willing to lend to, which NBFCs do very efficiently.

On regulation, they have broadly matched up. There were differences in regulations which over a period of time have been sorted out.

On technology, fintech companies have a role to play. In our (HDFC's) business, we have some of the largest fintech players as distributors.

Umesh Revankar: Most NBFCs have come in as specialist lenders for specific asset classes, such as vehicle loans, gold loans or housing loans. Some have later moved into multiple asset classes. So, NBFCs are evolving.

On the asset side, we are very strong. On the liabilities side, there are some challenges, because we depend on wholesale funding from banks, and many NBFCs do not have access to retail deposits.

As for fintechs, they are enablers and I do not see them as competition, or as disruptive. If you are able to engage with them, it helps everyone to improve services and reach out to more customers.

Ramesh Iyer: The NBFC model is a retail model. Therefore, understanding customers' needs and the ability to design products to suit them becomes important. Whenever there has been a challenge, we have bounced back more strongly. At no point have NBFCs breached any regulatory norms. As an industry, we are one of the best re-payers to banks.

I do not think any one of us wants to become a bank just because NBFCs do not have a future. If you are not well-run, you may not even survive as a bank!

Moderator: Well said. We will come back to that. You said regulations are not a problem.

Iyer: Ultimately, both consumers and lenders adjust to changing regulations and come out stronger. Regulations only make the balance sheet stronger.

Rakesh Singh: About issues of solvency after the crisis in 2018, there have been similar examples of banks as well. It is not NBFCs alone that have gone through this. It is a governance and compliance issue. So, prudent regulations are important.

The guidelines for digital lending came from the RBI recently. These are important regulations, because once the economy becomes large, it will create systemic risk.

Moderator: NBFCs don't want to be banks, but remain as NBFCs. The problem is not on the asset side, but liabilities. What is your take on the scheme of things?

Rajiv Sabharwal: What makes an institution or manufacturing house fail is either governance, poor risk management, or the business model. That can happen to banks or NBFCs.

The regulator brought in scale-based guidelines, with clear directions on how they want the sector to progress. They take into account the needs of customers and companies, and have improved governance levels and capital requirements.

On technology and digital, in India, every industry is competitive. When you are trying to get a customer to move to you, you will have to make the experience better and better for him. Digital technology allows us to do that.

Moderator: Sabharwal and Singh talked about refinancing problems. What can be done within the current policy framework?

Singh: On liabilities, every four or five years there is a question mark over the NBFC sector. It happens only in a stressed environment (like the global financial crisis in 2008). Banks have a refinance window where the RBI is the last-resort lender. NBFCs have none. You have to depend on banks and market institutions like mutual funds to borrow. There is a need.

Moderator: Mr Mistry, what should be done to address the refinancing option problem?

Mistry: Banks have some form of access. NBFCs have no such window. Securitisation can be seen globally as a model where NBFCs who have the assets could package them and raise money against them. This avenue is being explored. Maybe the volume could go up over a period of time.

Imagine that restrictions on corporate and industrial houses owning banks are diluted or removed. How many NBFCs would be keen to become banks?

Mistry: There are certain other conditions, like ownership of an entity in a bank can't be more than a certain percentage. Some industrial houses may not want their ownership in the bank to be below that level.

Revankar: What is most important is the kind of customers we are servicing. If we are mostly servicing the under-banked and unbanked, being an NBFC, you have flexibility to service them. NBFCs have to take a call on what is the best vehicle for them to service customers.

Iyer: One has to look at what you want to do as a bank, versus what you are doing as an NBFC. If you want to continue to do what you are doing, I am not sure if a bank is the right format.

Sabharwal: We have to work within the regulatory framework. I do not know if daydreaming is good. We are very happy where we are. We feel there is a huge opportunity for NBFCs as well as housing finance companies to grow, and we should tap that opportunity. [Business Standard, March 24]

Aadhaar-based e-KYC: Govt onboards NBFCs, fintechs

The government, which has been looking to expand the coverage of Aadhaar to the private sector, has onboarded several small and mid-sized NBFCs and fintech companies that are now using the Aadhaar based e-KYC for onboarding customers.

Using the Aadhaar based e-KYC process enables easy onboarding and authentication of customers by businesses and also brings down the cost of customer acquisition.

"Some 300-400 NBFCs have come forward and this has happened only in the past six to eight months. We hope to look at more such use cases. Services that a person needs are not necessarily only available from the government. There are large number of services which companies operating under the guidelines of RBI, Sebi, IRDA and PFRDA provide. Any private provider helping in the ease of living should be able to use Aadhaar for authentication purposes," a senior government official said.The Unique Identification Authority of India (UIDAI) is seeking to add credibility to the Aadhaar ecosystem through upgradation of technology and adding new security features. On an average, over 200 crore Aadhaar-based authentications take place every month. [TNN, Mar 23]

REGULATORY PERIMETER

RBI NOTIFICATIONS & CIRCULARS :

Implementation of Section 51A of UAPA,1967: Updates to UNSC's 1267/ 1989 ISIL (Da'esh) & Al-Qaida Sanctions List: Amendments to 102 entries: RBI/2022-2023/185; DOR. AML. REC.106/14.06.001/2022-23; 17.3.2023; Department of Regulation. [The Chairpersons/ CEOs of all the Regulated Entities]

Designation of 1 individual and 2 organisations under Section 35(1) (a) and 2(1) (m) of the Unlawful Activities (Prevention) Act,1967 and their listing in the Fourth and First Schedule of the Act- Reg.: RBI/2022-2023/183; DOR. AML. REC. 105/ 14. 06. 001/ 2022-23; 28.2.2023; Department of Regulation; [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 (Amendments to 29 entries): RBI/2022-2023/172; DOR. AML. REC.100/14.06.001/2022-23; 03.2.2023; Department of Regulation; [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 (Amendments to 29 entries): RBI/2022-2023/172; DOR. AML. REC.100/14.06.001/2022-23; 03.2.2023; Department of Regulation; [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: Addition of 1 entry: RBI/2022-2023/171; DOR. AML. REC. 99/ 14. 06.001/2022-23; 30.1.2023; Department of Regulation; [The Chairpersons/ CEOs of all the Regulated Entities]

Designation of 3 individuals as 'Terrorists' under Section 35 (1) (a) of the Unlawful Activities (Prevention) Act (UAPA), 1967 and their listing in the Schedule IV of the Act-Reg.: RBI/2022-2023/170; DOR.AML.REC.98/14.06.001/2022-23 24.1.2023; Department of Regulation; [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: Addition of 1 entry: RBI/2022-2023/ 167; DOR. AML. REC. 97/14. 06.001/2022-23;17.1. 2023; Department of Regulation; [The Chairpersons/ CEOs of all the Regulated Entities]

Designation of two individuals and one organisation under Section 35(1) (a) and 2(1) (m) of the Unlawful Activities (Prevention) Act,1967 and their listing in the First and Fourth Schedule of the Act; RBI/2022-2023/166; DOR. AML. REC. 96/ 14. 06.001/2022-23;17.1.2023;Department of Regulation; [The Chairpersons/ CEOs of all the Regulated Entities]

RBI to issue guidelines on Climate Risk and Sustainable Finance

The Reserve Bank of India, on Wednesday, said it will issue guidelines on broad framework for acceptance of Green Deposits, disclosure framework on Climate-related Financial Risks, and guidance on Climate Scenario Analysis and Stress Testing.

The central bank will issue the guidelines, which will be based on feedback received on its Discussion Paper (DP) on Climate Risk and Sustainable Finance, in a phased manner.

Climate-related risks refer to the potential risks that may arise from climate change or from efforts to mitigate climate change, their related impact and the economic and financial consequences.

It can impact the financial sector through two broad channels — physical risks and transition risks, per the DP.

Being a full-service central bank with financial stability as part of its mandate, the Reserve Bank recognises that climate change can translate into climate-related financial risks for Regulated Entities (REs), which can have broader financial stability implications, RBI said.

Further, the Reserve Bank will have a dedicated webpage on its website which will consolidate all instructions, press releases, publications, speeches and related RBI communication on climate risk and sustainable finance. [Business Line. Feb. 08]

RBI to allow lending, borrowing of G-Secs

The RBI is planning to permit lending and borrowing of Government Securities (G-secs) as part of its ongoing endeavour to further develop the G-Secs market. The central bank said this will provide investors with an avenue to deploy their idle securities, enhance portfolio returns, and facilitate wider participation.

"This measure will also add depth and liquidity to the G-sec market, aid efficient price discovery, and work towards a smooth completion of the market borrowing programme of the Centre and States," per RBI statement.

RK Gurumurthy, Head-Treasury, Dhanlxmi Bank, said: "The G-Sec market should see improving liquidity with the announcement of lending/borrowing of G-Secs.

SBI's economic research department, in a report, said RBI green signal to permit lending and borrowing in G-Secs should be having far reaching consequences for major domestic players as also overseas investors, subject to norms.

"At present Government Securities are borrowed/lent through CROMS platform. Further, G-Sec held by insurance companies and duration mutual fund are not available for short sellers to cover shorts (since lending stock in repo means borrowing by them which is not permitted). The proposed development will allow G-sec holders to deploy idle G-Sec to generate higher returns. [Business Line, Feb. 8]

Amount under default to be the ceiling on which penal charges can be levied: RBI on digital loans

The Reserve Bank of India(RBI) said the amount under default for digital loans shall act as the ceiling on which the penal charges can be levied. The central bank made the clarification in its frequently asked questions (FAQs) on Digital Lending Guidelines.

According to the RBI, the borrowers may be conveyed at the time of sanction of a digital loan, the name of empanelled agents authorised to contact them in case of loan default. However, if the loan turns delinquent and the recovery agent has been assigned to the borrower, the particulars of such recovery agent assigned must be communicated to the borrower through email/SMS before the recovery agent contacts the borrower for recovery.

Further, penal charges such as cheque bounce/mandate failure charges, which are necessarily levied on a per instance basis may not be annualised. However, these charges must be disclosed separately in the Key Fact Statement (KFS) under 'Details about Contingent Charges'.

The RBI said reasonable one-time processing fee can be retained if the customer exits the loan during cooling-off period. This, if applicable, should be disclosed to the customer upfront in KFS. However, the processing fee has to be mandatorily included for the computation of Annual Percentage Rate (APR).

The central bank clarified that even if some physical interface with a customer is present in the lifecycle of a digital loan, the lending will still fall under the definition of digital lending.

The RBI emphasised that the phrase 'largely by use of seamless digital technologies' has been used in the digital lending definition to accord operational flexibility to REs in 'digital lending'.

Therefore, even if some physical interface (relating to customer acquisition, credit assessment, loan approval, disbursement, recovery, and associated customer service) with the customer within the (digital) loan lifecycle is present, the lending will still fall under the definition of digital lending. However, while doing so, the regulated entities (REs) should ensure that the intent behind the guidelines is adhered to.

The RBI said only if a lending transaction qualifies under the definition of 'Digital Lending', will the service provider (to whom RE has outsourced some of its credit intermediation activities) facilitating such lending be designated as Lending Service Provider (LSP). LSP is an agent of a RE who carries out one or more of the lender's functions or part thereof in customer acquisition, underwriting support, pricing support, servicing, monitoring, recovery of specific loan or loan portfolio on behalf of REs in conformity with extant outsourcing guidelines issued by the RBI.

The central bank said only those LSPs which have an interface with the borrowers would need to appoint a nodal Grievance Redressal Officer. It reiterated that the RE shall remain responsible for ensuring resolution of complaints arising out of actions of all LSPs engaged by them.

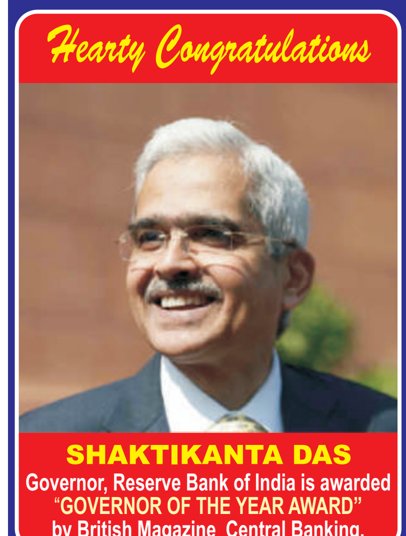
The RBI noted that EMI programmes on credit card are governed specifically by Master Direction on Credit Card and Debit Card – Issuance and Conduct, 2022. Such transactions shall not be covered under the guidelines on digital lending. However, other loan products offered on credit cards which are not covered/envisaged under the aforesaid Master Direction shall be governed by the stipulations laid down under the guidelines on digital lending.
Further, the guidelines will also be applicable to all loans offered on debit card, including EMI programmes.

Floating rate loans: In case of floating rate loans, APR may be disclosed at the time of origination based on the prevailing rate as per the format of Key Fact Statement (KFS). However, as and when the floating rate changes, only the revised APR may be disclosed to the customer via SMS/ e-mail each time the revised APR becomes applicable.
RBI said insurance charges shall be included in the computation of APR only for the insurance which is linked/integrated in loan products as these charges are intrinsic to the nature of such digital loans.

Delinquent loans: In case of delinquent loans, the RBI said REs can deploy physical interface to recover loans in cash, where absolutely necessary.
In order to afford operational flexibility to REs, such transactions are exempted from the requirement of direct repayment of loan in the RE's bank account.
However, any recovery by cash should be duly reflected in the borrower's account. Further, REs shall ensure that any fees, charges, etc., payable to LSPs are paid directly by them (REs) and are not charged by LSP to the borrower directly or indirectly from the recovery proceeds.
Referring to exemption granted from direct disbursal to the bank account of the borrower to the extent of flow of money between REs in the case of co-lending transactions, the RBI said this exemption can be extended for non-PSL (priority sector loans) loans.
This is subject to the condition that no third party other than the REs in a co-lending transaction have direct or indirect control over the flow of funds at any point of time.
In certain cases, such as loan products involving advances against salary, REs should ensure that LSPs do not have any control over the flow of funds directly or indirectly in such transactions, per the FAQs. It also has to be ensured that repayment is directly from the bank account of the employer to the RE. [Business Line, Feb. 14]

RBI to share whitelist of digital loan apps soon

The Reserve Bank of India (RBI) will soon publish a list of "white-listed" digital lending apps and encourage people to use only those for all monetary transactions, especially while availing loans, people aware of the development told ET. White-listing will denote a seal of approval by the central bank and specify the apps that operate within the purview of the regulator, they added.
The move is expected to provide the much-needed clarity to consumers following the emergency ban imposed on some 94 digital loan apps by the ministry of electronics and information technology (MeitY) earlier this week.
"This will be done to avoid confusion. There will always be apps and portals which function illegally and are outside the purview of the banking regulator. We are working on steps to curb their influence as well," said a senior government official.
Legal experts are of the view that the RBI's whitelist will mention the digital lending platforms which work within its regulatory framework. They could also have a tie-up with a non-banking financial company or with a scheduled bank. This will improve user confidence in the ecosystem and direct them to authentic apps, they added.
Ban order issued after several warnings
"Whether that list (will) now certify them as the only entities who can do digital lending is not clear as yet. We will have to wait for that," said a senior lawyer who works with NBFCs. He was speaking on the condition of anonymity.
Earlier this week, the finance ministry told the Parliament that the banking regulator had furnished a list of digital lending apps with necessary regulatory approvals to offer loan services to customers.
This list was shared with technology companies such as Google and Apple as well as with the MeitY, with a view to ensure that only the apps with approved licences were operational on their respective app stores.
These developments followed in the wake of the IT ministry's orders to block 138 betting and gambling apps on Sunday. It has also banned 94 quick loan-providing apps on an "urgent" and "emergency" basis for "improper data storage and transfer" to other countries as well as on the charges of money laundering.
Sources said that the apps which had been barred by the government had been given "multiple warnings" to put in place corrective and preventive measures to prevent fraudulent practices on their platforms.



"Following user complaints, we sent them reminders to ensure that it does not happen through their portal. When we did not get satisfactory responses from them, we had to use emergency powers," said one official directly in the know of the matter.
The Union IT ministry's tough stance on loan apps comes after several users complained against alleged predatory lending practices. These apps have also been accused of charging users compounded interest of up to 3,000% per annum.
Though the RBI and the IT ministry hold workshops for user awareness, there are several apps which function outside the purview of the banking regulator without necessary legal approvals, said another official.
"There is not much we can do about such fly-by-night operators. Even if we issue orders to take down 50 such apps, another batch of 50 comes up in no time. Most of the lending that takes place through these portals is outside the purview of any regulator or even law enforcement agencies," he added.
In response to a question in the Rajya Sabha on Friday, the minister of state for electronics and information technology Rajeev Chandrasekhar said the government does not ban apps based on their jurisdiction. The objective of such app bans is to ensure that if there is any instance of safety or trust violation, user harm or criminality on part of the app, the committee takes action and blocks them under Section 69 of the IT Act.
"The apps are on boarded by the operating environment such as iOS and Android, which are outside the government domain. But whenever a nodal officer reports an application that causes harm or is illegal, or causes any other criminal impact, under Section 69 of the IT Act, the committee takes an action to block those applications immediately," Chandrasekhar said. [ETtech, Feb. 11]

RBI has prepared Draft Bill for National Financial Information Registry, Says DEA Secretary

Economic Affairs Secretary Ajay Seth has said that the Reserve Bank of India has prepared a draft bill for setting up a National Financial Information Registry with a view to improve accessibility and affordability of loans.
The proposal to set up a credit repository was discussed by Finance Minister Nirmala Sitharaman at the meeting of the Financial Stability and Development Council in September, he said.
The RBI has already prepared the draft bill, which is currently being deliberated upon, Seth told PTI in a post-budget interaction.
The objective is to build a public infrastructure for credit-related information and right information can be made available by the NFIR to lending agencies.
An NFIR will serve as the central repository of financial and ancillary information. This will facilitate efficient flow of credit, promote financial inclusion, and foster financial stability, the finance minister had announced in her first budget speech.
A new legislative framework will govern the proposed credit public infrastructure and it will be designed in consultation with the RBI, she had said.

Apart from having information about loans, Seth said the proposed NFIR would be a repository for ancillary information like tax paid and electricity-consumed patterns.
"If a creditor or a potential creditor doesn't have adequate information, it will put a risk and thereby the interest rate will go up. On the other hand, if risks are well understood, then there can be finer pricing of the credit," he said.
He said the institution would help in appropriately pricing of loans and bring down risk for all stakeholders.
As far as comprehensive review of financial sector regulators are concerned, Seth said it has to be seen in the larger perspective or government efforts that each part of the government and regulators should look at, making things simpler, making doing business easier and reducing the cost of compliance.
To promote ease of doing business, the government has removed 39,000 compliances without diluting anything.
RBI is doing it after two decades, he said, adding: "They (RBI) did their review. They came out with a report in early part of 2022 and I believe some more is happening. Other regulators have been doing it... they will take it to their respective boards (for approval after review)." [BQ Prime, Feb. 5]

Fintechs must organise under SRO model to monitor misconduct, says RBI DG Jain

DG Jain flagged risk of fintechs processing unsecured loans through machine learning models. (IE)

Indian fintechs should attempt to organise themselves under a self-regulatory organisation (SRO) model to monitor misconduct of entities and protect consumer rights and high governance standards, Reserve Bank of India deputy governor MK Jain said in a speech on Friday.
"Role of such an SRO can include setting the standards for conduct as well as acting as a bridge between the sector and regulators," DG Jain said at the International Research Conference on FinTechs in Ahmedabad.
Fintechs should design robust customer-centric products that avoid company induced losses to customers, such as those from cybersecurity breaches, technical glitches and frauds. They should also ensure customer suitability and appropriateness and refrain from mis-selling or imprudent lending, DG Jain said.
"As far as governance is concerned, the importance of adopting and adhering to good governance cannot be overemphasised. Mis-governance is at the root cause of several failures…," Jain said, adding that the board of fintechs must be empowered to assert its role as the balancer of conflicting interests.
The board must also have adequate experience and independence.
DG Jain flagged risk of fintechs processing unsecured loans through machine learning models.
"…effectiveness of these models for delinquency has not been fully established, especially during an economic downturn. Any significant failure of these models will not only be limited to new entrants but will also impact regulated entities with exposure to them, "he said.
The RBI's norms on NBFC–Account Aggregator framework of 2016, NBFC -Peer to Peer lending guidelines of 2017 and recent Digital Lending Guidelines are examples of adaptive regulation intended to address emerging risks, he added. [Financial Express, March 11]

'RBI will prescribe timelines wherever they're not there'

The Reserve Bank of India (RBI) will prescribe timelines for decisions on applications under various regulations wherever they are not prescribed in line with FY24 budget announcements, governor Shaktikanta Das said Saturday.
The Reserve Bank of India (RBI) will prescribe timelines for decisions on applications under various regulations wherever they are not prescribed in line with FY24 budget announcements, governor Shaktikanta Das said Saturday.
"Wherever timelines are not there, they will be prescribed," he told reporters after the customary post-budget board meeting with the finance minister in New Delhi.
Das said the regulator had to carry out fit-and-proper checks on entities applying for licences and it may have to consult regulators and agencies, including those abroad if they have an overseas presence.
"That at times can take time… It will be our endeavour to adhere to timelines, but sometimes there is delay because we do not get inputs, particularly from overseas regulators or agencies," he said.
On pre-consultation, he said the RBI was already doing that and will continue to do so.
"Even in the last Monetary Policy Committee (MPC) announcement, we have made an announcement relating to penal interest. There too, we also made an announcement of a draft circular," he said.
Asked about the proposed National Financial Information Registry, he said the idea was to create a 360-degree information system to the extent possible, while taking privacy issues into account, that will be readily available to lending institutions to speed up credit flow.
"I think the draft bill is getting ready and it should be getting finalised soon. The idea is to quicken the process of credit sanction and flow to borrowers," he said.
On loan pricing, Das said the market will decide lending and deposit rates as that's a deregulated segment. Real interest rates have just moved into positive territory, he said, adding that negative interest rates had prevailed in the last three years.
"The continuation of negative interest rates for too long can create instability in the financial system," he said. "So the interest rates have just now moved into the positive territory. Negative interest for a long time has a lot of risks which have to be avoided." [ET Bureau, Feb 12]

The RBI has begun implementing more stringent supervisory checks on lenders

The Reserve Bank of India has started increasing supervisory scrutiny of banks and non-bank finance companies, as it seeks to avoid instances of institutional failure, two people aware of the developments said.
In its bid to better regulate entities, the central bank is now focusing on efficacy of the systems put in place, rather than just compliance, the people said on the condition of anonymity. The RBI is reviewing whether tools such as early warning system, fraud detection and reporting mechanisms are doing what they were designed to do. The increased scrutiny is likely to raise the regulatory cost for banks and non-banks.
These efficiency tests will also be married to better usage of artificial intelligence and machine learning at RBI, the first of the two people quoted above said. Alongside, the regulator is also increasing its supervisory bench strength by adding a higher count of 500-1,000 new officers every year, the second person said. The RBI has over 13,000 employees currently.
The central bank is also stepping up training for these officers, with workshops being organised every month to better learn the use of AI and ML tools, the second person quoted above said. The RBI is inviting international experts to these sessions to train its officers, the second person said.
As part of the increased supervisory scrutiny, the RBI is also closely reviewing large data dumps from banks and NBFCs. In a recent assessment of a sample of a few banks, the RBI collected data including divergences, provisions, know your customer and anti-money laundering compliance, the first person quoted above said.
The aim of this increased scrutiny is for the RBI to catch vulnerabilities at institutions much before they become serious, both the people quoted above said. This will not only curb any serious non-compliance, but will also avoid systemic issues in the financial system.
The RBI had first announced creation of a separate supervisory cadre in May 2019.
In November 2019, the central bank reorganised its supervisory division to better manage system health. At the time, there were three separate supervisory departments focusing on banks, non-banks and urban cooperative banks. Under the reorganisation plan, the RBI merged these three departments and formed the Department of Supervision. It was tasked with activity-based supervision of regulated entities against the previous approach of focusing on a segment.
The RBI was criticised for its supervisory capabilities after the Nirav Modi scandal broke in 2018. Instances such as the Yes Bank Ltd.'s reconstitution, Lakshmi Vilas Bank merger, Punjab & Maharashtra Cooperative Bank scandal and the insolvencies of Dewan Housing Finance Corp., Reliance Capital Ltd. and Srei Group's non-bank companies have further complicated the regulatory arena.

According to a former RBI deputy governor, who is part of the supervisory training and spoke on the condition of anonymity, the regulator is keen on avoiding any such instances in the future. [BQ Prime Daily, 28 Feb.; Vishwanath Nair]

Scope of TReDS platform will be expanded

The Reserve Bank of India said the scope of activities of the Trade Receivables Discounting System (TReDS) platform will be expanded to provide insurance facility, allow entities undertaking factoring business as financiers, and enable secondary market operations.

This will provide further impetus to TReDS platforms, which facilitate the financing of trade receivables of MSMEs. These measures will help in further improving the cash flows of MSMEs, said the RBI.

The central bank observed that insurance facility will now be permitted on TReDS. This will encourage financing / discounting of payables of buyers irrespective of their credit ratings.

Accordingly, insurance companies will be permitted to participate as a "fourth participant" on TReDS, apart from the MSME sellers, buyers and financiers.

All entities / institutions eligible to undertake factoring business under the Factoring Regulation Act will be permitted to participate as financiers in TReDS.

Secondary market operations will now be enabled on TReDS platforms. This would allow financiers to offload their existing portfolio to other financiers within the same TReDS platform, if required, RBI said.

Prakash Sankaran, MD & CEO, Invoicemart, observed that TReDS volumes have doubled in the last 2 years and increase in liquidity on the platforms is critical for scale up.

"With insurance companies being allowed to participate as fourth participant on TReDS we expect appetite for a large segment of moderately rated corporates to increase.

"The secondary market for financiers to sell their TReDS portfolio will free up capital to finance fresh transactions on the platform," he said.

Sundeep Mohindru, Promoter and Director, M1xchange, said the announcement relating to insurance facility on TReDS will support lot of SMEs doing business with medium sized firms, which don't have good rating.

"If there's any default by the buyer, the bank can recover through insurance cover. This is a progressive step that will help thousands of MSMEs to get their invoices discounted. "Provision of Rediscounting on TReDS will further enhance liquidity for MSME invoice discounting on TReDS," Mohindru said.

Financiers will be able to sell their portfolio of invoices discounted on TReDS to other financiers thereby freeing up the liquidity for supporting the MSMEs further, he added. [Business Line, Feb. 8]

RBI launches mission to make every citizen a user of digital payment

While digital payments have skyrocketed during the past few years, a significant portion of the population still does not use digital payments for day-to-day transactions. In order to bridge this gap, Reserve Bank of India (RBI) governor Shaktikanta Das on Monday launched a mission — "Har Payment Digital" – with the aim of making every citizen in the country a user of digital payments as part of Digital Payments Awareness Week (DPAW) 2023.

The theme of the awareness week is "Adopt digital payments and Teach others also".

"Over the past few years, usage of digital payments in India has seen exponential growth. Citizens of the country have embraced digital payments for the speed, convenience, and security that it offers. However, a significant portion of the population is still not aware of digital payments or is not using them despite being aware," the central bank said in a statement.

Forty-two per cent of 90,000 respondents in an RBI survey said that they had used digital payments; 35 per cent said they were non-users though aware of digital payments, while 23 per cent weren't aware of digital payments.

Considering the benefits that digital payments bring to the country, it is necessary to create more awareness and further increase the usage of digital payments, RBI said. Hence, the RBI has been observing a targeted campaign – DPAW — every year as part of the continuous efforts towards increasing financial awareness.

The central bank will launch "Har Payment Digital" (HPD) mission that would run till the period of Vision 2025, with an intention to convert the non-users into users of digital payments. Vision 2025 has its theme as "E-Payments for Everyone, Everywhere and Every time".

From this week onwards, RBI in collaboration with the banks and other stakeholders of the payment systems will carry out a multimodal campaign covering print, television, radio and social media during the week around the theme — "Adopt digital payments and Teach others also".

Through the campaign, the users of digital payments will be encouraged to teach non-users about the ease, safety and convenience of digital payments to fulfil the mission of every citizen a digital payments user, the central bank said.

RBI has planned various campaigns which will be undertaken to deepen the reach of digital payments in the country.

Among various other things, RBI regional offices will conduct "Jan Bhagidari" or mass scale people involvement programmes to enhance awareness on a large scale about the mission and the theme of the campaign and to encourage adoption of digital payments in the process. Further, payment system operators will adopt 75 villages across the country to convert them into digital payment enabled villages. These villages would be distinct from those in the districts covered under the Digital Banking Units (DBUs); Expanding and Deepening of Digital Payments Ecosystem (EDDPE); and the Aspirational Districts Programme.

The central bank also intends to partner with appropriate agencies to reach out to villages across the country to propagate the campaign theme message "Digital Payment Apnao, Auron ko Bhi Sikhao" by sharing videos and teaching villagers about ease, safety, convenience and usage of digital payments. [Business Standard, March 6]

Periodic Updation of KYC

The Reserve Bank on January 5, 2023 rationalised KYC related instructions taking into account the available technological options for enhancing customers' convenience within the framework prescribed under the Prevention of Money Laundering Act, 2002 (PMLA) and rules framed thereunder.

As per the present guidelines, a self-declaration to that effect from an individual customer is sufficient to complete the re-KYC process, if there is no change in KYC information. The banks have been advised to provide facility of such self-declaration to the individual customers through various non-face-to-face channels such as registered email-id, registered mobile number, ATMs, digital channels (such as online banking/internet banking, mobile application), letter, etc., without need for a visit to bank branch. Further, if there is only a change in address, customers can furnish revised/updated address through any of these channels after which, the bank would undertake verification of the declared address within two months. [Monetary and Credit Information Review, RBI, Jan. 31]

RBI asks DoT to tighten KYC, Create Number Database to curb Cyber frauds

The Reserve Bank of India has asked the Department of Telecommunications to consider tightening the know-your-customer norms for replacement SIM cards and maintain a hotlist database of phone numbers to contain rising digital frauds, according to a person in the know of the development.

As per an assessment by the RBI on data on cyberfrauds, a major chunk of these was detected to have been perpetrated in cases of fraudulent issuance of replacement SIMs, the person told BQ Prime on the condition of anonymity. In other cases, even when a number had been used for a fraud, there was no centralised database available that could be used to block these numbers. That allowed such numbers to be used to commit more frauds, the person said.

The RBI has asked DoT that there must be a much higher KYC requirement when a replacement SIM is sought. That will prevent fraudsters from using this SIM to access one-time passwords and perpetrate frauds from bank accounts linked to that number, the person said.

Separately, the RBI is also suggesting that DoT maintain a centralised website which will have details of hotlisted numbers that have been used to perpetrate frauds that will then act as a base for telecom providers to block such numbers. This should be a public

database so that there is scope for even customers to check hotlisted numbers, and ensure they avoid interacting with them.

Such a database can be linked and integrated into systems of financial institutions, too, for their own fraud detection mechanisms to throw up alerts and advisories to customers and thus prevent fraud.

An additional suggestion that has been made is that a phone number that has been used to perpetrate a cyberfraud must not be re-issued by any telecom provider for at least a period of six months, the person quoted above said.

The RBI would like this period to be six months, and DoT is suggesting a shorter cooling period of around three months, the person said. This is still work in progress and discussions are on, he said.

The RBI discussions with DoT come at a time when the rise in digital transactions has also been accompanied by misuse of online access by fraudsters to perpetrate frauds on many bank and non-bank customers.

The central bank has also started a digital literacy campaign 'RBI Kehta Hai' across the media that aims to educate customers of methods used by fraudsters, along with suggesting best practices for avoiding such frauds. [BQ Prime, March 1]

RBI lifts ban on M&M Finance for outsourcing recovery, repossession agents

The Reserve Bank of India (RBI) has lifted the ban on Mahindra & Mahindra Finance for outsourcing recovery and repossession agents with immediate effect, the non-banking finance company (NBFC) informed the exchanges.

On September 22, the regulator barred Mahindra Finance from carrying out any recovery or repossession activity through outsourced agents, after reports that a woman was crushed to death in Jharkhand's Hazaribagh district, while she was trying to stop a loan recovery agent working on the company's behalf from seizing her father's tractor over loan dues.

Mahindra Finance said the ban was lifted after the company assured the RBI to strengthen recovery practices and outsourcing arrangements.

"Based on the submissions made by the company and its commitment to strengthen its recovery practices and outsourcing arrangements, tighten the process of onboarding third party agents and strengthen accountability framework as per its Board approved action plan, the RBI, vide its letter dated 4th January 2023, has informed the Company of its decision to lift the aforementioned restrictions imposed on the Company with immediate effect," the notification to the exchanges said.

In an interview to Business Standard, Mahindra Finance MD & CEO Ramesh Iyer had said it was not possible to completely do away with repossession agents. "These are specialised people. We believe repossession is a specialised act," Iyer had said.

Separately, the NBFC, while sharing its business update for the September-December quarter, said the momentum continued on the back of a positive macroeconomic environment. "The Q3 disbursements at approximately Rs 14,450 crore registered a growth of 80 per cent YoY. The YTD disbursement of approximately Rs 35,750 crores registered a YoY growth of 95 per cent," it said. In December itself, disbursements were Rs 4,650 crore.

The collection efficiency was at 98 per cent for December 2022. The current quarter's collection efficiency was similar to that of last year at 95 per cent, the company said. [Business Standard, Jan. 5]

Nine NBFCs may fall below minimum capital requirement in baseline scenario

As many as nine non-banking finance companies (NBFCs) from a sample of 152 could see their capital adequacy ratio fall below the regulatory minimum requirement, under the baseline scenario of Reserve Bank of India's (RBI) stress testing, where it assesses the resilience of the sector to credit shocks, the financial stability report of central bank revealed.

The tests were carried out under a baseline and two stress scenarios – medium and high risk, with an increase in slippage ratio by 1 standard deviation (SD) and 2 SDs, respectively, RBI said. The baseline scenario is projected for one year ahead, based on assumptions of business continuing under usual conditions.

According to RBI's report, under a medium risk shock of 1 SD increase in the slippage ratio, the gross non-performing assets (GNPA) ratio of the NBFC sector would increase to 6.9 per cent and the resultant income loss and additional provisional requirements would reduce the Capital to Risk-Weighted Assets Ratio (CRAR) by 58 bps.

The capital adequacy ratio of the sample NBFCs in September 2022 stood at 26.0 per cent and the GNPA ratio at 4.0 per cent.

Under the high-risk shock of 2 SDs, the capital adequacy ratio of the sector would decline by 85 bps relative to the baseline to 22.6 per cent.

The number of NBFCs that would fail to meet the minimum regulatory capital requirement of 15 per cent would increase to 10 and 13 under medium and severe stress scenarios, respectively, the report said.

As far as liquidity risk is concerned, RBI's stress test shows, the number of NBFCs which would face negative cumulative mismatch in liquidity over the next one year in the baseline, medium and high risk scenarios stood at 8, 26, and 47 (24.0 per cent), respectively. [Business Standard, Dec. 30]

Market hours extended for the G-Sec market

As part of the RBI's gradual move towards normalising liquidity and market operations, it has decided to restore market hours for the G-Sec market to the pre-pandemic timing of 9 am to 5 pm from February 13.

The trading hours for various markets regulated by the Reserve Bank were amended with effect from April 7, 2020, in view of the operational dislocations and elevated levels of health risks posed by Covid.

Restoration of market hours in a phased manner was commenced with effect from November 9, 2020, and market hours in respect of call/notice/term money, market repo and tri-party repo in government securities, commercial papers, certificates of deposit and rupee interest rate derivatives traded outside the recognised stock exchanges have since been restored to pre-pandemic level. [Business Line, Feb. 8]

Loans on debit cards to be governed by digital lending guidelines: RBI

Loans offered on debit cards, including equated monthly instalment (EMI) programmes, would be governed under the digital lending guidelines of the Reserve Bank of India, the central bank clarified on Tuesday.

EMI programmes on credit cards would continue to be governed by rules laid down in the master direction on credit card and debit card issuance (2022). But loan products other than the EMI programmes offered on credit cards, which are not covered under the master direction on credit and debit card issuance, would have to adhere to the digital lending guidelines of RBI.

Responding to the frequently asked questions (FAQs) on digital lending guidelines, RBI said, "EMI programmes on credit cards are governed specifically by …'Master Direction on Credit Card and Debit Card – Issuance and Conduct, 2022'. Such transactions shall not be covered under the guidelines on digital Lending".

"However other loan products offered on credit Cards which are not covered/ envisaged under …the Master Direction shall be governed by the stipulations laid down under the guidelines on digital Lending. Further, the guidelines will also be applicable to all loans offered on debit cards, including EMI programmes", the central bank said.

The digital lending guidelines mandate that the regulated entities have to provide a key fact statement (KFS), which shall contain the details of annual percentage rate (APR), the recovery mechanism, details of grievance redressal officer designated specifically to deal with digital lending matter and the cooling-off/ look-up period. Further, all loan disbursements, servicing, repayment, etc., has to be executed by the borrower directly in the RE's bank account without any pass-through account/ pool account of any third party, except in case of flow of money between regulated entities (REs) for co-lending transactions.

"The exemption can be extended to co-lending arrangements between REs for non-priority sector loans (PSL) subject to the condition that no third party other than the REs in a co-lending transaction should have direct or indirect control over the flow of funds at any point of time", the RBI said.

Meanwhile, RBI has also clarified that entities offering only payment

aggregator (PA) services would remain out of the ambit of digital lending guidelines, but any PA also performing the role of a lending service provider (LSP) must comply with those guidelines.

Further, RBI has said that at the time of sanction of loan, the borrower needs to be conveyed the name of empanelled agents authorised to contact them in case of loan default. However, if the loan turns delinquent and the recovery agent has been assigned to the borrower, the particulars of such a recovery agent must be communicated to the borrower through email/SMS before the recovery agent contacts the borrower for recovery. [BS Reporter, Feb. 14]

Ahead of ban order, RBI gave a list of apps working with NBFCs to Government

The Reserve Bank of India gave a list of apps, which were working with non-bank lenders registered with the central bank, to the government ahead of the ban imposed on some apps earlier this week, officials said on Wednesday.

"We have given a list of apps which work with NBFCs (non-banking finance companies) to the government. On that basis, the government has taken this step," Governor Shaktikanta Das told reporters here.

Earlier this week, the Ministry of Electronics and Information Technology banned 94 loan apps, which included entities not connected to China as well. It included some apps involved in what reports described as predatory lending with unfair terms, which led to a debt trap for the borrowers.

The list of banned apps includes 'Buy Now Pay Later' (BNPL) apps such as LazyPay and Kissht.

Das said the RBI sought a list of apps the NBFCs registered with it work with, adding that this was done because "there are many illegal and illegitimate apps" which promise to lend by sending messages on mobiles even though no NBFC has appointed them.

Deputy Governor M Rajeshwar Rao said the RBI has not suggested imposing ban on any of the digital lending apps, and the central bank's role is limited to sharing the list of apps used by entities registered with the RBI.

"The ministry has requested the play stores to remove these apps which are not what you call operated by the regulated entities from the play stores," he added. [Business Standard, Feb. 8]

RBI keeping close watch on top 20 conglomerates

The RBI, also the banking sector regulator, is closely monitoring profitability and other financial performance measures of these conglomerates and their companies besides parameters such as the quantum of debt raised from other sources like external commercial borrowings or bonds for any signs of stress.

The Reserve Bank of India (RBI) is keeping a close watch on the top 20 business houses that have the largest borrowings from banks to identify risks in advance, said people with knowledge of the matter.

This increased vigilance is in addition to the routine monitoring of systemically important financial intermediaries and the Central Repository of Information on Large Credits (CRILC).

The RBI, also the banking sector regulator, is closely monitoring profitability and other financial performance measures of these conglomerates and their companies besides parameters such as the quantum of debt raised from other sources like external commercial borrowings or bonds for any signs of stress.

"A monitoring system was put in place to catch any build-up of stress so that preventive steps can be taken to prevent its transmission to banks' balance sheets in the future," said one of the persons cited. The central bank is keen to deepen supervision.

Top Finance Imperatives in 2023

It wants to identify any debt-servicing issues so that preventive measures can be undertaken swiftly.

"A deep dive is undertaken into the data and information available to study their business models and loan portfolio along with various performance parameters," the person added.

The gross non-performing assets (NPAs) of all scheduled commercial banks dropped to 5.8% of gross advances at the end of March 2022 from 11.2% at the end of March 2018.

The banking regulator had swiftly issued a statement after US-based short-seller Hindenburg Research made several allegations against the Adani Group in a report on January 25.

"There have been media reports expressing concern about the exposures of Indian banks to a business conglomerate," the RBI said in a statement on February 3, adding that the banking sector remains resilient and stable. "As the regulator and supervisor, the RBI maintains a constant vigil on the banking sector and on individual banks with a view to maintain financial stability.

The RBI has a Central Repository of Information on Large Credits database system where the banks report their exposure of Rs 5 crore and above which is used for monitoring purposes." The Adani Group has denied the allegations.

The banking regulator had in 2019 set up a separate vertical for supervision and regulation to improve oversight for banks and non-banking finance companies (NBFCs) after a series of bank frauds as well as the IL&FS default.

It also put in place a Platform for Regulated Entities for Integrated Supervision and Monitoring, which is a web-based end-to-end work ow automation system aimed at strengthening compliance of supervised entities (SEs). [ET Bureau March 06, Deepshikha Sikarwar]

RBI asks banks to review contracts with fintechs

Objective is to ascertain whether banks are in full charge of the customer risk

Nearly seven months after introducing the digital lending norms, the banking regulator is asking banks to furnish a report on the agreements they have with fintech outfits. According to highly placed sources, the purpose of this report to pinpoint certain critical aspects of the contracts, such as which entity has the ultimate ownership of the customer, whether the full responsibility of assessing the customer credit worthiness lies with the bank, fintech, or split between the two, and who is ultimately bearing the credit risk of the contract. In short, the objective is to ascertain whether the bank has full control of the underwriting process before onboarding the customer and would bear the credit risk in full, in case of defaults.

"Though not like past NPA level, but the book sourced though fintechs are still not performing exactly like how the in-house sourced book of the bank is performing in terms of credit quality. Hence the RBI wanted to get a hold of who has ultimate underwriting and risk management responsibilities on portfolio sourced though fintechs," said a highly placed source aware of the matter. Sourcing loans through fintechs is particularly popular for payday loans, personal loans and credit card. Of the three, credit cards, in particular, are gaining traction, especially among smaller banks. Further with some of the fintechs operating in the sourcing side are yet to establish their credentials and don't have an operational history or proven track record yet to justify their domain expertise. Sources say that this is another factor which the regulator isn't very comfortable with.

Guidelines: The Reserve Bank of India introduced guidelines for digital lending in August last year. These norms were targeted at homogenizing guidelines in the digital lending space, where banks collaborate with fintechs. While the regulations seem to have improved the level of transparency and data protection from a customer standpoint, with respect to underwriting credit risk, it still seems to be bit of a grey area. To put things in context, while the industry was anticipating well coded guidelines on whether banks and fintechs (operating through licensed NBFCs) can have an FLDG or first loss default guarantee arrangements, the August 2022 circular remained open ended on this aspect. While as an initial reaction to the circular, some banks suspended the sourcing contracts with fintechs, industry experts observe that partnerships with fintechs have increased significantly in the last six months. "Since it's clearly the most cost effective customer acquisition mode, banks cannot stay away from such partnerships for long," said a business head of a technology company. [Business Line, March 14; Hamsini Karthik]

'INDIA A BRIGHT SPOT IN WORLD ECONOMY': IMF MD GEORGIEVA

'Bright spot in world economy': IMF MD Georgieva says, India to contribute 15% of global growth in 2023.

Kristalina Georgieva
International Monetary Fund Managing Director

According to Georgieva India has taken "a very brave step with the digital ID" that put the foundation for digitalization on the scale we see today.

India continues to remain a relative "bright spot" in the world economy, and will alone contribute 15 per cent of the global growth in 2023, International Monetary Fund (IMF) managing director Kristalina Georgieva said.

While digitisation pulled out the world's fifth-largest economy from pandemic lows, prudent fiscal policy and significant financing for capital investments provided in the next year's budget will help sustain the growth momentum.

"India's performance has been quite impressive. For this year, we expect India to retain a high growth rate, 6.8 per cent for the year that ends in March. For FY 2023/24 (April 2023 to March 2024) we project 6.1 per cent, a bit of slow down like the rest of the world economy, but way above the global average. And in that way, India is providing about 15 per cent of global growth in 2023," Georgieva told PTI in an interview.

That is the fastest growth rate among major economies.

India remains a bright spot at a time when the IMF is projecting 2023 to be difficult with global growth slowing down from 3.4 per cent last year to 2.9 per cent in 2023, she observed.

"Why is India a bright spot? Because one, the country has done really well to turn the digitalization that has been already moving quite well into a major driver of overcoming the impact of the pandemic and creating opportunities for growth and jobs," the Managing Director noted.

Responsive Fiscal Policy: "Second, because India's fiscal policy has been responsive to economic conditions. We have seen the new budget presented, and it signals the commitment to fiscal consolidation, while at the same time provides significant financing for capital investments. And three, because India didn't shy away from learning the lessons from the pandemic and to implement very strong policies to overcome what has been really a difficult time for a number of months," she said.

Responding to a question, Georgieva said she is impressed by two things in the latest annual budget presented by Union Finance Minister Nirmala Sitaraman. "Overall, a very, very thoughtful work done by the Minister of Finance."

"The first one is how much care is placed on balancing development needs with fiscal responsibility in India. So, you have a budget that is realistic on the revenue side with a focus on growth-supporting spending. And secondly, the investment in capital expenditures, that is there to provide the long-term foundation for growth," she said.

Sitharaman in the budget for FY24 announced one of the biggest-ever increases in capital spending to create jobs but shunned outright populism in the last full budget ahead of the general election due in 2024. Capital investment is being increased steeply for the third year in a row by 33 per cent to Rs 10 lakh crore.

The capital spending increase, which would amount to 3.3 per cent of gross domestic product (GDP), will be the biggest such jump after an increase of more than 37 per cent between 2020-21 and 2021-22.

"I particularly noticed how much attention India is paying on investing in the green economy, including renewables with potential to shift the country towards clean energy and keep growth going. What we see as potential for the future is to translate this fiscal responsibility into a medium-term framework that gives an even stronger anchor to India's public finances," Georgieva said.

A very brave step with the digital ID: According to Georgieva India has taken "a very brave step with the digital ID" that put the foundation for digitalization on the scale we see today. And COVID played the role of a trigger for advancing digitalization because it made it both necessary and possible to deliver public support to households and to businesses using digital platforms, she noted.

"What is unique about India is the fact that this public digital infrastructure is built in a very agile and welcoming manner. So private initiatives can tap into this public infrastructure and benefit themselves as well as support growth and employment in India. What is replicable is this concept of open, holistic approach to digitalization using key building blocks.

"And of course, India's G-20 presidency provides an opportunity for India to share this experience, more broadly, especially with the developing world, so other countries can leapfrog the way India, did it with this thoughtful approach to digitalization," she said.

Responding to a question, she said what the international community has learned through the shocks of the pandemic, of the war in Ukraine is that countries with strong fundamentals withstand these shocks much better, the same way people with strong immune systems have been withstanding the heat of Covid-19.

Great progress in revenue collection: "What it means for India is to continue to build this strong fundamental. What we have seen in the last year is great progress in revenue collection. The fact that India worked on their tax administration, persevered with the goods and services tax and is starting to broaden the personal income tax, made it a much more effective and fiscally better position country.

"I cannot praise enough what India is doing to open up space for entrepreneurs. That is visible in the digital space. India put in place public digital infrastructure that is so well attuned for private initiatives to blend in to take advantage of this infrastructure," she said.

Legal framework is advantageous for women to participate: The results are not only impressive for India but also have generated interest from other countries as well. "And last but not least, India does have young population. 15 million people are added to the labour force every year. When you have strong investment climate that generates jobs, that is a great advantage. And India has underutilized in the past, its women. Prime Minister Modi is very clear. Women can be a fabulous driver for India's growth," she said.

"And what is being done there? I can only say that is the direction to travel, make sure that the legal framework is advantageous for women to participate in the labour force. That access to education for women is the same as for men. That there is a lot of attention paid to security, so women can go to work," Georgieva said.

Then she gave a personal experience in India. "I had a chance in Mumbai to ride in a woman-only car on a train. Women told me that the safety provided to them makes a huge difference. They go to work; they go to study. So many of the reforms in India go in a direction of taking advantage of the strength of the Indian economy, youthful population, and reservoir of talent for innovation." [Financial Express/PTI, Feb. 22; Sub-titles added]

[Continued from Page-14]

existing MLDs held for LTCG benefit to be redeemed on or after 1 April 2023, will lead to higher tax outgo (10% to 30% in case of HNIs). Hence, the Government should introduce grandfathering provisions to protect the investments in MLD upto 31 March 2023. In absence of such provisions, investors would now be under a pressure to sell off their investments by 31 March 2023 to tap the existing benefit of a lower tax rate of LTCG. It would also lead to shifting investments into debt mutual funds schemes.

Further, NBFCs may have borrowed money for investing in MLDs. Since the gains shall now be taxable as STCG as against business income earlier, any loss arising on MLD will be deemed as short-term capital loss and will be restricted to set off against STCG/LTCG only. PP MLDs were a great choice due to their principal protection feature and potential for high returns. Due to a lower post-tax return now, MLDs may no longer be viewed as an instrument for tax arbitrage by investors. [Financial Express, Feb. 25; By Pranay Bhatia, Partner – Tax & Regulatory Services, BDO India. Views expressed are author's own.]

Non-Banking Financial Companies (NBFCs) Continue to Recover : Eco. Survey

They (NBFCs) built up financial soundness during FY22, marked by balance sheet consolidation, improvement in asset quality, augmented capital buffers and profitability. -Economic Survey 2022-23 presented to the Parliament by Finance Minister

4.21 The growing importance of the NBFC sector in the Indian financial system is reflected in the consistent rise of NBFCs' credit as a proportion to GDP as well as in relation to credit extended by SCBs. Supported by various policy initiatives, NBFCs could absorb the shocks of the pandemic. They built up financial soundness during FY22, marked by balance sheet consolidation, improvement in asset quality, augmented capital buffers and profitability.

Chart-1: Increasing credit disbursed to and by NBFCs

Aggregate Credit by NBFCs | Credit to NBFCs (% of GDP, RHS)

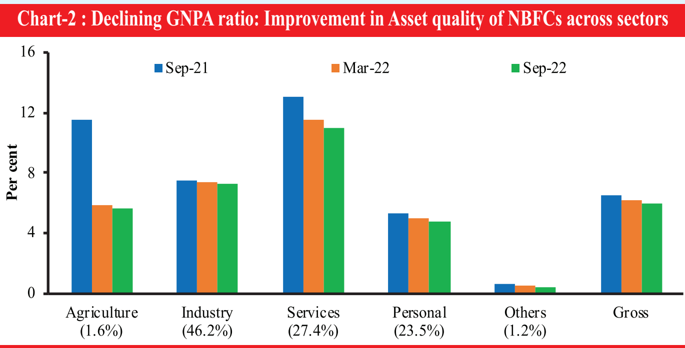
₹ Lakh Crore | Per cent

FY13 FY15 FY17 FY19 FY21 H1:FY23

Source: RBI
Note: Credit to NBFCs (per cent of GDP) for FY23 (H1) is estimated based on NSO's 1st AE for FY23 and credit by NBFCs as of September 2022.

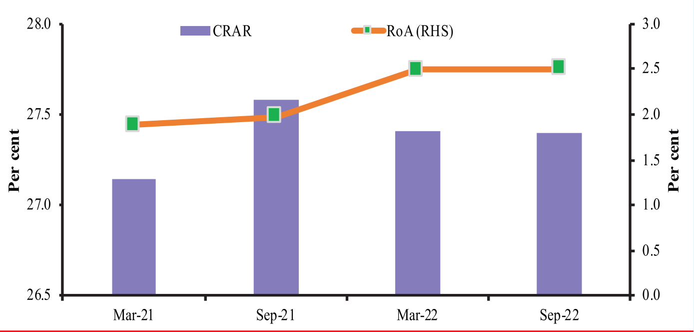
4.22 The continuous improvement in asset quality is seen in the declining GNPA ratio of NBFCs from the peak of 7.2 per cent recorded during the second wave of the pandemic (June 2021) to 5.9 per cent in September 2022, reaching close to the pre-pandemic level. Although this softening was observed across sectors, the GNPA ratio of the services sector remains in double digits.

Chart-2 : Declining GNPA ratio: Improvement in Asset quality of NBFCs across sectors



Source: RBI
Note: Numbers in bracket represents sectoral shares in GNPA in Sep-22.

Chart-3 : NBFCs Performance: Recouping RoA with robust capital position

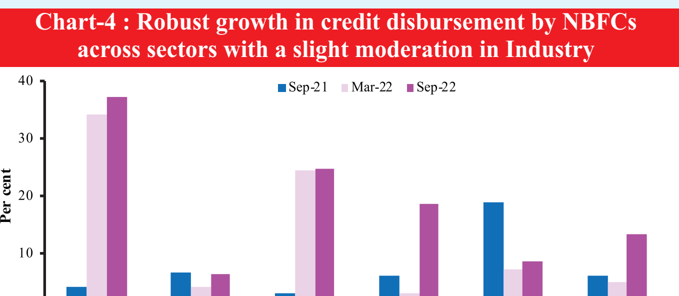


Source: RBI

4.23 With the decline in GNPAs, the capital position of NBFCs also remains robust, with a CRAR of 27.4 per cent in end-September 2022, slightly lower than 27.6 per cent in March 2022. However, it remains well above the regulatory requirement. The decline of 20 bps was mainly because of an increase in RWA as lending picked up. The RoA has recouped over successive half-years. RBI's stress test to assess the resilience of the NBFC sector to credit risk shocks for a sample of 152 NBFCs reveals that the number of NBFCs that would fail to meet the minimum regulatory capital requirement of 15 per cent stood at 8 per cent under the baseline scenario. It increases to 10 per cent and 13 per cent under medium and severe stress scenarios, respectively.

4.24 Credit extended by NBFCs is picking up momentum, with the aggregate outstanding amount at ₹ 31.5 lakh crore as of September 2022. NBFCs continued to deploy the largest quantum of credit from their balance sheets to the industrial sector, followed by retail, services, and agriculture. Loans to the services sector (share in outstanding credit being 14.7 per cent) and personal loans (share of 29.5 per cent) registered a robust double-digit growth.

Chart-4 : Robust growth in credit disbursement by NBFCs across sectors with a slight moderation in Industry



Source: RBI
Note: Numbers in the bracket corresponds to sectoral shares in outstanding loans in Sep-22

[Source: Summary of Economic Survey 2022-23, Released on January 31, 2023 by Ministry of Finance]

INDIA'S INCLUSIVE GROWTH

The Survey emphasises that growth is inclusive when it creates jobs. Both official and unofficial sources confirm that employment levels have risen in the current financial year, as the Periodic Labour Force Survey (PLFS) shows that the urban unemployment rate for people aged 15 years and above declined from 9.8 per cent in the quarter ending September 2021 to 7.2 per cent one year later (quarter ending September 2022). This is accompanied by an improvement in the labour force participation rate (LFPR) as well, confirming the emergence of the economy out of the pandemic-induced slowdown early in FY23.

In FY21, the Government announced the Emergency Credit Line Guarantee Scheme, which succeeded in shielding micro, small and medium enterprises from financial distress. A recent CIBIL report (ECLGS Insights, August 2022) showed that the scheme has supported MSMEs in facing the COVID shock, with 83 per cent of the borrowers that availed of the ECLGS being micro-enterprises. Among these micro units, more than half had an overall exposure of less than Rs10 lakh.

Furthermore, the CIBIL data also shows that ECLGS borrowers had lower non-performing asset rates than enterprises that were eligible for ECLGS but did not avail of it. Further, the GST paid by MSMEs after declining in FY21 has been rising since and now has crossed the pre-pandemic level of FY20, reflecting the financial resilience of small businesses and the effectiveness of the pre-emptive government intervention targeted towards MSMEs.

Moreover, the scheme implemented by the government under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) has been rapidly creating more assets in respect of "Works on individual's land" than in any other category. In addition, schemes like PM-KISAN, which benefits households covering half the rural population, and PM Garib Kalyan Anna Yojana have significantly contributed to lessening impoverishment in the country.

The UNDP Report of July 2022 stated that the recent inflationary episode in India would have a low poverty impact due to well-targeted support. In addition, the National Family Health Survey (NFHS) in India shows improved rural welfare indicators from FY16 to FY20, covering aspects like gender, fertility rate, household amenities, and women empowerment.

So far, India has reinforced the country's belief in its economic resilience as it has withstood the challenge of mitigating external imbalances caused by the Russian-Ukraine conflict without losing growth momentum in the process. India's stock markets had a positive return in CY22, unfazed by withdrawals by foreign portfolio investors. India's inflation rate did not creep too far above its tolerance range compared to several advanced nations and regions.

India is the third-largest economy in the world in PPP terms and the fifth-largest in market exchange rates. As expected of a nation of this size, the Indian economy in FY23 has nearly "recouped" what was lost, "renewed" what had paused, and "re-energised" what had slowed during the pandemic and since the conflict in Europe. [Source: Press Release-PIB 31 Jan.]

BANKERS' SENTIMENTS ON CREDIT DEMAND – POST PANDEMIC RECOVERY

- Haridwar Yadav and Supriya Majumdar

The Bank Lending Survey provides sentiments of banks on loan demand, loan terms, and their outlook in the near term across major sectors which acts as a lead indicator for actual credit growth. This article studies the evolution of bankers' sentiments in India during the pandemic. Even though bankers' sentiments on lending conditions were significantly impacted by the pandemic, especially during the first and second waves (April-June 2020 and April-June 2021), respectively, it exhibited a quick improvement thereafter. Lenders' sentiments also co-move significantly with credit growth and borrowers' perceptions in the manufacturing sector.

Introduction

Outlook on credit demand is an important input for policy making in a bank dominated economy like India. Bank credit depends on several factors like macroeconomic outlook, liquidity conditions, borrowers' creditworthiness, uncertainty associated with the concerned sector, expected return including risk premium, portfolio mix and risk management abilities, among others. Many of these are directly observable and therefore bankers' perceptions on credit demand, and terms and conditions, collected through the dedicated Bank Lending Survey (BLS), is usually supplement the information on bank credit. The BLS provides lender's perspective on credit market conditions qualitatively, especially the impact of changing economic or financial conditions on loan demand and loan terms and conditions set by the banks for different sectors of the economy.

Policy measures to help Quick Turnaround: In order to mitigate the impact of the COVID-19 crisis, central banks across the globe undertook a range of credit measures / schemes to support firms and households. The Reserve Bank of India (RBI) announced several measures, such as, reduction in policy rate and cash reserve ratio (CRR), increase in marginal standing facility (MSF) borrowing from 2 per cent of statutory liquidity ratio (SLR) to 3 per cent, special refinance facilities to NABARD, SIDBI and NHB, increase in borrowing limit of the states from 3 per cent to 5 per cent of the gross state domestic product (GSDP) among several other measures. These policy measures helped the economy to stage a quick turnaround in employment and consumption which also led to an increase in credit demand.

Bank lending surveys, which play a crucial role in policy making, were used by a majority of the central banks to capture sentiments of banks and financial institutions on credit demand and terms and conditions during these challenging times when there were lacunae in credible data. The survey facilitated the measurement of the impact of the pandemic as well as evaluation of the timing and pace of the expected recovery process as perceived by the banks. In this article, we look at how the bankers' sentiments evolved during the pandemic across successive waves.

The survey tracks outlook of banks for two quarters – assessment of credit demand and terms and conditions for the current quarter in which the survey is conducted vis-a-vis the previous quarter and expectations for the ensuing quarter vis-a-vis the current quarter. Initiated in 2017, the survey completed its 22nd round with its recent data release in February 2023.

Key Survey Findings

1 Loan Demand Conditions

First Wave of COVID-19: During Q4:2019-20 (January-March 2020), the round before the first wave of COVID-19, banks had indicated lower optimism on credit demand for all sectors (Chart-1). The usual survey for January-March 2020 was carried out much before imposition of lockdown on March 25, 2020 in India and thereby, banks did not anticipate the shrinkage in the economy in advance as they could not foresee the full impact of the severe and unexpected nature of the pandemic witnessed later.

The first wave of COVID-19 during Q1:2020-21 (April-June 2020) resulted in a significant shrinkage in loan demand across all sectors, which had led to a drastic decline in the sentiments among Indian banks in terms of assessment. The Net Responses (NRs) for all the sectors were negative in the assessed quarter. However, in terms of expectations it largely remained unaffected.

In Q2:2020-21, bankers assessed a quick recovery of loan demand across the sectors. While mining and quarrying and infrastructure sectors recorded lower optimism as compared with other sectors, maximum recovery was observed in personal loans segment which had earlier witnessed the sharpest drop. Banks also expected a continued improvement in loan demand during Q3:2020-21. Thus, while assessments mirrored the overall economic conditions during the first terms and conditions in these sectors. For infrastructure and mining and quarrying sector, however, more banks reported some tightening of loan terms. The sentiments on loan terms and conditions for all the sectors indicated easing in Q2:2020-21. Bankers also expected further easing in loans' terms and conditions during Q3:2020-21.

(ii) Second Wave of COVID-19 Even though the bankers' sentiments on loan terms deteriorated during the second wave as reflected in a fall in value of NRs for all loan segments, it remained in positive territory during the second wave of the pandemic, indicating easier terms and conditions in comparison with the first wave. Furthermore, easing in the sentiments on loan terms and conditions was recorded by banks in the next quarter Q2:2021-22 for all the major sectors.

Relationship of BLS with Official Statistics and Other Surveys

This section compares the survey results with trends in actual credit as well as other surveys to understand whether information available from these surveys can provide lead information to policy makers.

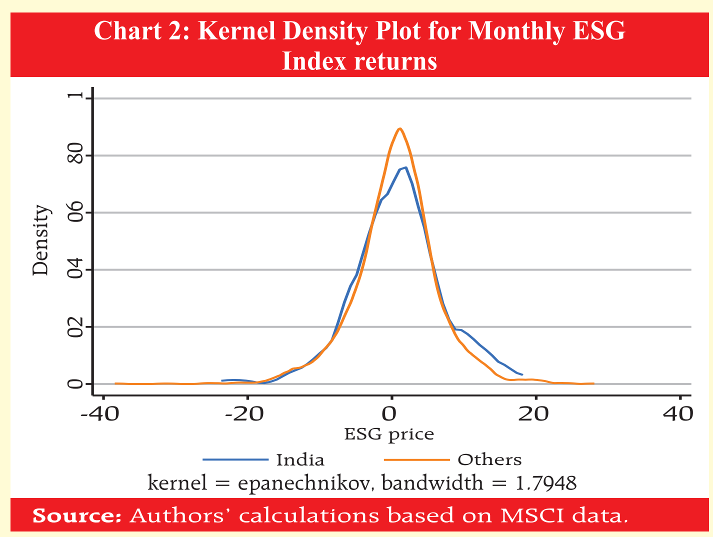
IV.1 Bank Lending Survey and Actual Bank Credit

Bankers' assessment of changes in loan demand in terms of net responses closely tracks the growth in actual credit extended by SCBs. Bankers' perceptions of loan demand broadly capture turning points in credit growth cycle. However, compared to the assessment, their expectations have generally been more upbeat (Chart 2).

Chart 1: Compound Average Annual Return: Sep 2010-Aug 2021: ESG Leader Index (Per cent)

Source: Authors' calculations based on MSCI data.

Chart 2: Kernel Density Plot for Monthly ESG Index returns



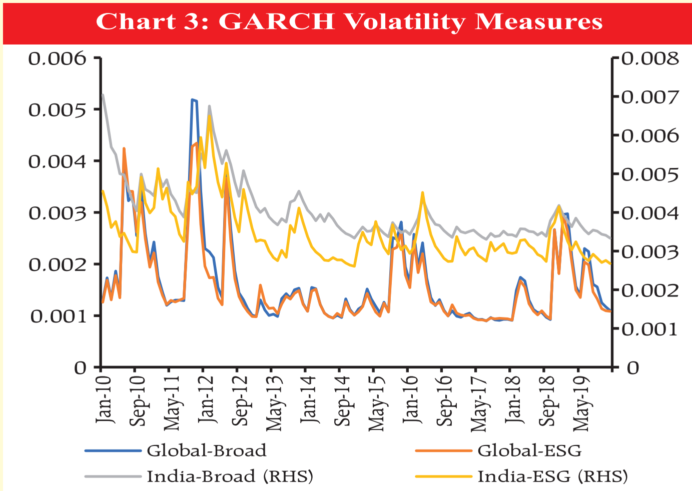
Source: Authors' calculations based on MSCI data.

The correlation coefficient between the NRs for assessment and the actual credit growth is 0.49 whereas it is 0.23 between the NRs for expectations and the actual credit growth.

IV.2 Manufacturing Sector - Assessment of Credit Conditions by Borrowers and Lenders

The BLS captures lender's perspectives (supply side view) of loan demand and its terms and conditions whereas RBI's quarterly Industrial Outlook Survey (IOS) pursues manufacturers' demand side perspectives on availability of finance from banks and other domestic sources. The IOS collects assessment and expectations on availability of finance on a 3-point scale (improve / worsen / no change) and results thereof are presented in the form of net responses. Loan demand from manufacturing sector assessed by bankers in the BLS and availability of finance from banks and other sources assessed by manufacturer in the IOS indicate similar directional changes across the study period (Chart 3).

Chart 3: GARCH Volatility Measures



Source: Authors' calculations based on MSCI data.

Bankers' assessment of loan terms and conditions for manufacturing sector is generally in line with manufacturers' sentiments on availability of finance (Chart 9). Co-movement of the Net Reponses stemming from the two surveys indicates that the loan officers' assessments are largely in line with industry expectations.

Perception of Banks on Post-COVID Recovery

1 Cross Country Experiences

As the bank lending surveys play an important role to support monetary policy decisions, major central banks used these surveys as instruments to capture the sentiments of the banks on the COVID-19 impact. The Federal Reserve of New York in their April 2020 Round of the Survey reported - "Many banks also provided written comments about the coronavirus (COVID-19) pandemic in addition to answering the standardised survey questions. In these comments, banks reported that the changes in standards and demand across loan categories reported for the first quarter occurred late in March as the economic outlook shifted when news emerged about the rapid global spread of COVID-19." The euro area bank lending survey results showed that sentiments on credit demand and loan terms and conditions reached a trough in the first quarters of 2020-21 and 2021-22, similar to the first and second wave of COVID-19 in India. The Bank of Japan's Senior Loan Officer Opinion Survey on bank lending practices at large Japanese banks also reflected that sentiments of the banks reached to lowest levels during various waves of the COVID-19 pandemic. The Bank of England in its Credit Condition Survey reflected that banks' sentiment on secured as well as unsecured loan demand reached to a trough during the second quarter of 2020 before reviving in the next quarters.

2 The Indian Context

Since Q1:2020-21 survey round, a separate block was introduced for assessing the banks' outlook on credit and its terms and conditions for two more subsequent quarters. Thus, data on expectations were collected for a total of three quarters which became extremely useful for policy decisions during the uncertain times. Moreover, expectations were also captured for the same quarter over successive survey rounds, enabling policy makers to observe the change in expectations in response to dynamically evolving pandemic and economic scenario. Using this additional block, we look at the expectations on credit demand and loan terms and how they shaped up during post-COVID recovery.

(i) Credit Demand Conditions

Stimulus packages and measures announced by the Government of India and the Reserve Bank boosted the recovery in banks' sentiments on credit demand during the first two waves of the pandemic. Though the sentiments began firming up after the first wave, these were again clouded due to the second wave, though they reverted quickly. The banks' sentiments were also observed to be in sync with the SCBs actual credit growth. It is observed that bankers tend to be more optimistic in terms of two- and three-quarter ahead expectations and the one quarter ahead expectations were able to capture the actual credit growth more closely.

Turning to the recent period, we observe that bankers are highly optimistic of credit demand across all the main sectors in the coming quarters, viz., Q4:2022-23 to Q2:2023-24, as reflected in their higher NRs.

(ii) Loan Terms and Conditions

In terms of loan terms and conditions, after decline during the first wave, expectations indicated easing of credit terms and conditions. However, the sentiments were down again due to the second wave, though there was a quick revival. Data for more recent period indicated bankers are expecting easier terms and conditions for loans, going forward.

Conclusion

This article looks at the results of the Bank Lending Survey over successive rounds to understand how the sentiments responded to various shocks during the pandemic period. We find that assessment of lending conditions reacted to the pandemic in a pessimistic way, both during the first and second waves. However, the assessment of credit conditions improved significantly within a quarter indicating that policy measures were effective in instilling confidence during uncertain times. Among sectors, outlook on retail/personal loans were the most severely hit during both the waves of the pandemic, but they recorded a sharper recovery exhibiting fast catch-up.

Information from the Bank Lending Survey tracks actual credit growth with reasonable accuracy and captures the turning points. Hence, it could be a useful tool for policymakers to gauge the underlying trends in credit market, as the survey results are available in advance by almost one quarter ahead. Also, the lenders' perception in the BLS broadly corroborates with the borrowers' perceptions in the Industrial Outlook Survey, which indicate that the suppliers' assessment is in sync with the demand side of the credit conditions, again proving its usefulness. Going forward, bankers are positive on credit demand in the ensuing quarters. Expectations on terms and conditions for loans also point to easing in successive quarters. [RBI Bulletin, February. The authors are from the Department of Statistics and Information Management. The views expressed in this article are those of the authors and do not represent the views of the Reserve Bank of India.]

RBI survey captures loan officers' assessment of credit parameters and expectations

The RBI conducts the survey among major 30 scheduled commercial banks (SCBs), which together account for over 90% of credit by all banks.

Bankers are optimistic on the loan growth in Q4FY23, as per a survey conducted by the Reserve Bank of India (RBI). However, lenders are expecting some moderation in growth in manufacturing and personal loans in Q4FY23. Bankers also see robust credit growth in the first half of FY24.

The RBI conducts the survey among major 30 scheduled commercial banks (SCBs), which together account for over 90% of credit by all banks. The latest round of the survey was conducted during Q3FY23 and collected senior loan officers' assessment of credit parameters and expectations. [Financial Express, Feb. 9] ■

SECURITISATION OF NPAs RAISES MANY CONCERNS

- Barendra Kumar Bhoi

In its current form, there are many loose ends making it an inefficient mode for resolution of NPAs. There's scope for misuse, too

The RBI recently came out with a Discussion Paper on the Securitisation of Stressed Asset Framework and has sought public comments on several issues by end-February.

The RBI introduced securitisation of standard assets (SSA) in 2006 and revised the guidelines in 2012 and 2021. However, India does not have an active securitisation market for several reasons. First, banks and financial institutions (FIs) do not like to securitise high-quality standard assets.

Second, India's special purpose entities (SPEs)/asset reconstruction companies (ARCs) are reluctant to acquire standard assets that are likely to become NPAs (non-performing assets) quickly, such as special mention accounts, unless a deep haircut is allowed.

Third, both asset acquirers (SPEs/ARCs) and asset managers (asset management companies (AMCs)) should be under unified regulation. In India, while SPEs/ARCs are regulated by the RBI, AMCs are registered with SEBI.

Fourth, market discipline is yet to develop in India to have a retail investor base for credit derivatives, who can actively trade such instruments in the secondary market.

Discussion Paper

The RBI recently came out with a Discussion Paper on the Securitisation of Stressed Asset Framework (SSAF) and sought public comments on several issues by end-February 2023. The objectives of SSAF are not well-defined. If the purpose of SSAF is to develop a vibrant securitisation market, it is most unlikely to pick up.

Except for generating some business for rating agencies and resolution managers (RMs), SSAF would face severe valuation problems like SSA leading to hidden risks and financial instability. As the secondary market for the securitised market in India is underdeveloped, SPEs/ARCs have to hold the securitised NPAs till all possibilities of recovery are exhausted. If the purpose of SSAF is the resolution of NPAs, it is better to strengthen resolution mechanisms by modifying the the Insolvency and Bankruptcy Code (IBC), 2016 and SARFAESI Act, 2002.

The securitisation of standard assets is currently not allowed for revolving credit, restructured loans and advances, loans with refinance exposures, short-term loans with residual maturity of less than one year, loans with bullet payments etc., which may also be applicable to the securitisation of NPAs.

The underlying pool of NPAs that are eligible for securitisation can be grouped under two categories — retail loans (mortgages, unsecured personal loans and small loans to MSMEs) and corporate loans. Shifting NPAs from one balance sheet to another through securitisation is not a good resolution mechanism. If banks cannot amicably restructure the loans how can the SPEs do it? Ultimately, if NPAs reach the dead-end through liquidation, the existing IBC/SARFAESI Act may be preferred over the securitisation of NPAs.

Retail investor base

In the absence of a retail investor base in India, the SPEs are the initial and final investors, who may exercise due diligence about the valuation of NPAs through RMs for a fee. If RMs are engaged by

[Continued on Page-15]

ROLE OF AI AND ANALYTICS FOR NBFCS: FROM ONBOARDING CUSTOMERS TO LOAN COLLECTION

Banks have streamlined operations such as onboarding new consumers, credit risk monitoring and its back-end loan processing through Conversational AI solutions while also connecting massive amount of fragmented data points.

The technological developments are happening at a rapid pace in the BFSI sector with major transformation happening. The sector has long suffered from inefficient administration and operations which is being overcome with the technological upgradation of the system.

From fax machines to calculators, and now standalone computers, the speed of change of BFSI has been very rapid.

Amid the technological advancements, a key sector in the BFSI space – the NBFC – is also experiencing the upgradation rapidly.

Rashi Gupta, Chief Data Scientist, Rezo.ai believes that Conversational AI solutions have been a key player in the technology revolution in the BFSI sector.

"Real-time integration and usage of structured and unstructured data are challenging problems being faced by all traditional lenders. Because of the dynamic CX there is a need of real-time data processing and a personalised approach. AI and analytics are helpful in filling such gaps," she said.

Banks have streamlined operations such as onboarding new consumers, credit risk monitoring and its back-end loan processing through Conversational AI solutions while also connecting massive amount of fragmented data points.

AI and analytics in loan recovery

Being a sensitive section of the operations, the loan recovery has been largely untouched by AI and analytics. Here, still the cumbersome manual handling is in practice.

Rashi opined that the tightening of regulatory norms around using conventional loan recovery methods has made it necessary for BFSI to have an effective Conversational AI-powered communication tool to remind borrowers in their preferred language and dialect and make the process hassle-free for the lender as well as the borrower.

How can it contribute?

Conversational AI and analytics are already freeing the NBFCs of cumbersome Manual Handling of loan recovery and making the process more efficient and tactful, Rashi believed.

AI-driven human-like conversations with the ability to handle multiple languages and dialects have made the process more hassle-free for the lender as well as the borrower.

AI in loan collection analyses every borrower's profile and payment delay reasons to classify them based on the future risk of missing payments.

By analysing the reasons behind missed payments, it can also predict the delinquency pattern of borrowers. AI can then devise different types of highly innovative and tailored customer conversations and create a unique customer journey for each & every borrower.

"Borrowers have varied reasons for missing payments – from lack of funds at the moment to forgetfulness to wilful payment default. Addressing each reason requires using a different type of customer conversation and creating a unique customer journey. This AI-powered personalised approach to loan recovery fills that same need gap in the loan collection segment. AI and ML empower banking and non-banking financial businesses to clearly distinguish between conventional and behavioural data," she said.

"Conventional data have relatively little use for analysing the borrower's real capacity to pay when compared to behavioural data which gives more insights into the behavioural patterns of a borrower." [ETBFSI, March 10; Vikas Kumar]

MARKET-LINKED DEBENTURES: END OF TAX ARBITRAGE

- Pranay Bhatia

Budget 2023 seeks to insert a new section 50AA in the Act to provide that irrespective of the holding period, gains from MLD shall be taxable as short-term capital gains (STCG) at applicable rates

Market Linked Debentures (MLD) are a type of non-convertible debt instrument wherein the returns are determined by the performance of their underlying indexes like Government yield, equity indexes, etc. There is no regular coupon pay-off and the returns are paid at the time of maturity. MLDs are issued for 13 to 60 months by entities having a net worth of at least INR 1000mn. The minimum investment in MLD is INR 100mn. MLDs are a popular instrument for investment among Non-Banking Financial Companies (NBFCs) and High Net-worth Individuals (HNIs). In India, the Securities and Exchange Board of India (SEBI) recognises only principal-protected (PP) MLDs, wherein repayment of the principal amount is guaranteed.

Budget proposals

MLDs are hybrid instruments having combined features of plain vanilla debt securities and exchange-traded derivatives. To align the tax treatment of MLD with derivatives, Budget 2023 seeks to insert a new section 50AA in the Act to provide that irrespective of the holding period, gains from MLD shall be taxable as short-term capital gains (STCG) at applicable rates. It is proposed that 'Market Linked Debentures' be defined as 'a security by whatever name called, which has an underlying principal component in the form of debt security and where the returns are linked to the market returns on other underlying securities or indices, and includes any security classified or regulated as a market-linked debenture by the Securities and Exchange Board of India'. Interestingly, on a plain reading of the Budget Memorandum, it seems, that the Government intends to tax gains on listed MLD as STCG. However, in the Finance Bill, there is no such specific mention. Hence, the amendment may be applicable to both listed/unlisted MLD.

Whether taxation of MLD as STCG justified?

Let us analyse the taxation of MLD and each of its components separately:

Plain vanilla debt securities, e.g.: bonds: Interest payments on a regular bond are taxable at slab rates as Income from other sources (IFOS). Gains on redemption if any, are taxable as either STCG/LTCG (long-term capital gain) depending upon the holding period.

Derivatives: Transactions in derivatives are invariably short-term transactions and are generally done either for speculation/hedging purposes. The net income from trading in derivatives is taxable at slab rates as business income.

MLD: Listed MLD: Return is taxed as LTCG at 10% without indexation/20% with indexation, as per the investor's choice if the holding period is more than 12 months and at slab rates, if it is less than 12 months.

Unlisted MLD : The taxation is the same as for unlisted debt securities. The return is taxed as LTCG if the holding period is more than 36 months at 10% without indexation for non-residents and 20% with indexation for residents. If the holding period is less than 36 months, STCG is taxed at slab rates.

Based on the above, it is pertinent to note that returns in the form of interest on plain vanilla debt securities and in terms of profit on derivatives, both are taxable at slab rates either as IFOS/business income. Therefore, the returns of MLD should also ideally be taxed at slab rates like that of its individual components (debt + derivatives). Further, in the case of listed MLDs, by increasing the holding period to more than 12 months, the gains were taxable as LTCG at a lower tax rate of 10%. The Government took cognisance of this and hence, brought in deeming provisions to tax the gain on MLD as STCG at slab rates and removed the tax arbitrage.

Impact on Investors

Since the provisions shall be applicable from FY 2023-24 onwards,

[Continued on Page-9]

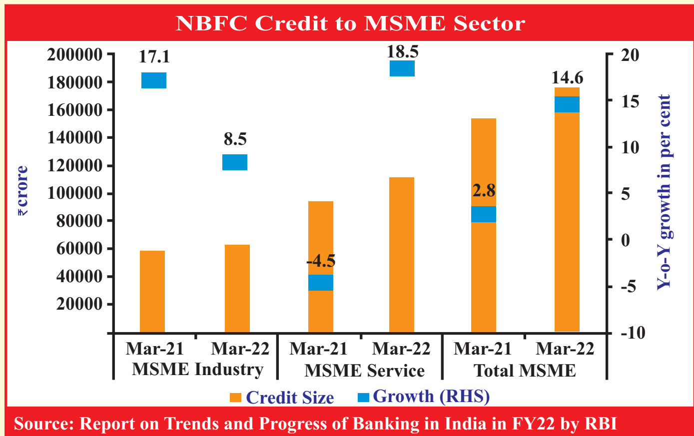
NBFC LOANS TO MSMES JUMP 14% IN FY22 FROM 2.8% IN FY21: RBI REPORT

- Sandeep Soni

Growth in NBFC credit to MSMEs came on the back of ECLGS while the co-lending model also contributed to the growth.

Credit and finance for MSMEs: Amid an overall increase in bank credit to MSMEs in the financial year 2021-22, non-banking finance companies (NBFCs) also had a noticeable growth in the previous fiscal. The credit to MSMEs by NBFCs in FY22 grew by 14.6 per cent with around more than Rs 1.75 lakh crore extended in comparison to 2.8 per cent growth with around Rs 1.55 lakh crore extended in FY21, according to the provisional data from the Reserve Bank of India (RBI), indicating disbursements under schemes such as the Emergency Credit Line Guarantee Scheme (ECLGS).

"NBFCs play a crucial role in bridging the credit needs of MSMEs, primarily those engaged in services. The ECLGS helped MSMEs to access enhanced credit. The co-lending model introduced by the Reserve Bank in November 2020 also improved the flow of credit to the MSME sector," the central bank noted in its annual Report on Trends and Progress of Banking in India released on December 27, 2022.



Source: Report on Trends and Progress of Banking in India in FY22 by RBI

The growth was higher among MSMEs in the services segment. While NBFC credit to industrial units registered 8.5 per cent growth in FY22, NBFC credit to service units saw an 18.5 per cent jump in FY22. The credit extended to services units through NBFCs increased from around Rs 90,000 crore in FY21 to more than Rs 1.10 lakh crore while to industrial MSMEs, the credit grew from nearly Rs 60,000 crore in FY21 to only around Rs 62,000 crore in FY22.

Meanwhile, overall growth in credit outstanding to the MSME sector by scheduled commercial banks in FY22 stood at 12.73 per cent with Rs 20.11 lakh crore across 2.64 crore loan accounts in comparison to Rs 17.83 lakh crore across 4.20 crore loan accounts in FY21.

Through ECLGS, as of November 30, 2022, 1.19 crore loans involving 71 per cent or Rs 3.58 lakh crore of the Rs 5 lakh crore ECLGS limit were sanctioned while 57 per cent or Rs 2.85 lakh crore loans were. Out of the total sanctioned amount, 66 per cent were extended to MSME borrowers while 95.17 per cent of loans sanctioned also belonged to MSMEs, according to government data.

Importantly, NBFC credit to MSMEs is expected to further grow up as large NBFCs will be looking to diversify into unsecured loans including credit to SMEs and consumer loans, secured SME loans and used vehicle loans next fiscal amid high competition from banks and a rising interest rate environment, according to credit rating agency Crisil.

"Competition from banks will remain intense and the rising interest rate environment will exert pressure on margins and limit competitive ability, especially in the largest traditional segments of home loans and new vehicle finance, said Gurpreet Chhatwal, Managing Director, CRISIL Ratings had said in a Crisil report in November 2022. [Financial Express, Dec. 29]

'NBFCS NEED TO BE WARY OF RISING BORROWING COSTS AS FINANCIAL CONDITIONS TIGHTEN,' RBI REPORT

With strong capital buffers, adequate provisions, and sufficient liquidity, NBFCs are poised for expansion.

While non-banking finance companies (NBFCs) have weathered the pandemic reasonably well, they have to be mindful of the rising borrowing costs they face in the wake of tightening monetary policy measures, the Reserve Bank of India (RBI) said in its Trend and Progress Report for 2021-22.

"With strong capital buffers, adequate provisions, and sufficient liquidity, NBFCs are poised for expansion. Nevertheless, going forward, NBFCs need to be wary of rising borrowing costs as financial conditions tighten," the RBI said.

NBFCs had increased their borrowing from banks, which is one of the largest funding sources for these lenders, in the wake of the benign interest environment. Since May, the RBI has raised the benchmark policy rates by 225 basis points to tackle rising inflation.

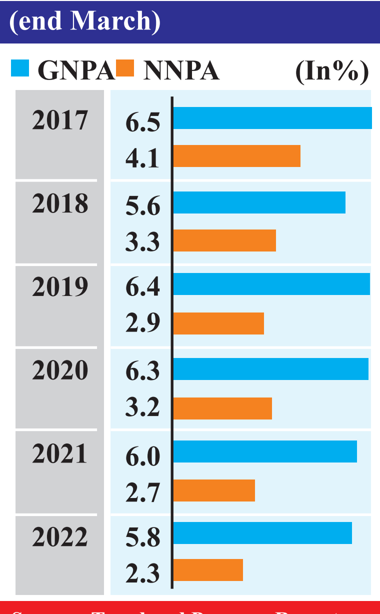
However, as banks have not passed on the entire rate in their marginal cost of funds-based lending rate (MCLR) portfolio so far, NBFCs have not felt the pinch of higher borrowing cost as they have been able to pass on most of the rate hikes to their end borrowers. But going forward, the scenario may change.

The balance sheet of NBFCs grew at a subdued pace in 2021-22, due to weak demand and risk aversion amid disruptions caused by the second wave of Covid-19 pandemic.

They also faced headwinds from banks, especially in the retail space where NBFCs have had a stronghold — vehicle loans and gold loans.

Having said that, these lenders maintained comfortable liquidity buffers, adequate provisioning, and a strong capital position. The asset quality of the NBFC sector improved as gross non-performing assets (NPAs) and net NPAs declined in 2022 (March end). According to the RBI data, gross NPAs of NBFCs declined to 5.8 per cent in March 2022 from 6 per cent a year ago, and net NPAs fell to 2.3 per cent from 2.7 per cent during the same period a year ago.

While business conditions improved, the deferment in NPA upgradation norms, better recovery, and lower fresh accretions facilitated the decline in NPAs during the period. An increase in provision coverage ratio (PCR) from 56.7 per cent at the end of March 2021 to 60.7 per cent at the end of March 2022 suggests enhanced resilience, the RBI said.



NBFCs need to be mindful of rising borrowing costs, says RBI report.

Asset quality has further improved for the sector till September. And, according to the RBI's assessment, it will continue to improve going forward. "Sharper regulatory oversight, realignment in asset quality classification and prompt corrective action norms will further entrench stability," the RBI said.

"On the regulatory front, scale-based regulation is expected to strengthen the NBFCs in step with the growing scope for organic consolidation in the sector," it said.

In H1 2022-23, net profits of NBFCs improved mainly by a turnaround in fund-based income. While there was steep growth in operating expenses, provisions against NPAs, and decreases in interest expenses on bank loans and inter-corporate deposits meant that there was a sizable growth in net profit.

Meanwhile, the central bank has asked the NBFCs to be cautious of the fast-growing digital lending ecosystem as it poses novel challenges such as unethical recovery practices and data privacy issues.

Hundreds of digital lending apps mushroomed during the pandemic to offer short-term credit to consumers who were facing hardships due to the pandemic and the lockdown. These players often charged usurious interest rates to borrowers and adopted unethical ways of recovery, resulting in harassment of borrowers.

In the wake of the unfortunate incident that happened in Jharkhand where a young lady lost her life due to unethical recovery practice adopted by a third-party agent of a NBFC, the RBI has advised the sector to strengthen their oversight of outsourced activities to prevent undue harassment of their customers by third party applications. The RBI, on its part, has endeavoured to address these issues proactively and has provided timely regulatory guidance, it said. [Business Standard, Dec. 28; Subrata Panda]

[Continued from Page-13]

SPEs, undervaluation of NPAs is inevitable, which banks/FIs may reject. If RMs are engaged by banks/FIs, overvaluation of NPAs would dissuade the SPEs to accept the deal.

If both originator and acquirer maintain an arm's length relationship with RMs, who would finance the due diligence exercise? If RMs have access to finance from a third party for the evaluation of NPAs, a collusion of either originator or acquirer with RMs cannot be ruled out. For risk sharing, if a minimum retention ratio for RMs is prescribed, they would be tempted to undervalue NPAs to benefit from the deal. The regulatory framework relating to SPEs and RMs is difficult to formulate.

Three categories

The underlying pool of NPAs under asset-backed securitisation is visualised under three categories — senior tranche (AAA-rated), mezzanine tranche (AA to BB-rated), and junior tranche (not rated). Banks/FIs may like to retain most of the senior tranche assets as the quality of available collaterals is good and may be adequate to recover the loan. Therefore, securitisation in this category may be limited.

Unless haircuts are deep for the other two tranches, SPEs may find them unattractive. Moreover, credit enhancement, if allowed, may not be available in these two categories and therefore SSAF may remain a non-starter. Issues relating to capital charge/write-up/risk weight may not pose problems as originators are well-regulated.

After the Global Financial Crisis, the BIS tightened regulations, including the securitisation of assets, to avoid the recurrence of regulatory failures leading to the financial crisis. Although the Basel Committee on Banking Supervision (BCBS) issued guidelines on the securitisation of NPAs in November 2020, which became effective from January 1, 2023, the capital requirement and risk weights for exposures to NPA securitisation are stringent.

If regulation is stringent, innovations may not proceed further; if light-touch regulation is prescribed it may lead to financial instability. The recent trend has been to preserve financial stability rather than promote innovations that are potentially disruptive.

There are several loose ends, which the RBI has posed as questions in the Discussion Paper and sought comments from the stakeholders. Unless those issues are addressed upfront, there is a high probability of misuse, which may lead to undue litigations and overburden the grievances redress system. [Business Line, Feb. 22; The writer, a former Head of the Monetary Policy Department of RBI, is currently RBI Chair Professor at Utkal University. The views are personal.]

PERSONAL LOANS: WHAT MAKES THEM POPULAR AMONG INDIANS?

Personal loans provide individuals financial means to meet short-term fund requirements, without any obligation to specify the purpose for which the loan proceeds will be used

Borrowers are taking three elements into account—convenience, cost and trust—while deciding on the lender

Saral Credit, a fin-tech platform, has recently conducted a survey to understand the key behavioural factors fuelling personal loans in India. Personal loans provide individuals financial means to meet short-term fund requirements, without any obligation to specify the purpose for which the loan proceeds will be used.

The following four charts provide significant insights into the results of Saral Credit's survey, which was conducted on 512 respondents.

The rush for personal loans

Personal loans are most sought-after by individuals to meet short-term fund requirements in India. The following chart establishes this fact.

A 2.2x growth in originations by volume and 1.4x growth in originations by value in FY22 over FY21 show the growing popularity of personal loans.

Back in Demand, After a dip

	Person loan originations volume (lakh)	Person loan originations volume (lakh crore)
FY18	82	2.15
FY19	151.8	2.88
FY20	401.6	3.76
FY21	286	3.59
FY22	633.9	5.24

Why are personal loans taken?

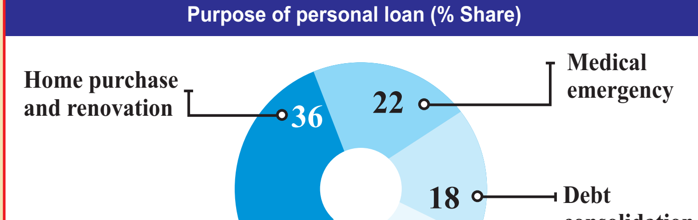
Since it is a cash transfer into the borrower's account, one cannot ascertain the end use of loan proceeds. Borrowers take personal loans to meet fund requirements for various purposes.

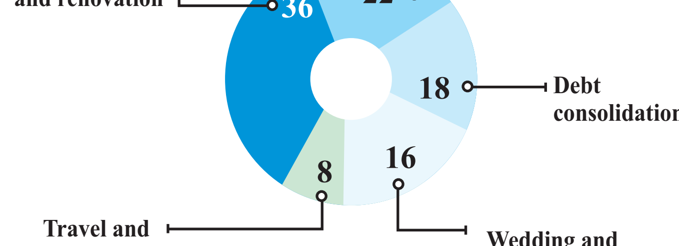
Surprisingly, 36 per cent of respondents said that they are taking personal loans for home purchase or renovations.

The fact that nine per cent of respondents took personal loans for travel and vacation needs is a new insight. This trend indicates that today's working class is ready to pay high interest rate for funds meant for gaining new experiences.

Home buys, medical emergency main reasons

Purpose of personal loan (% Share)



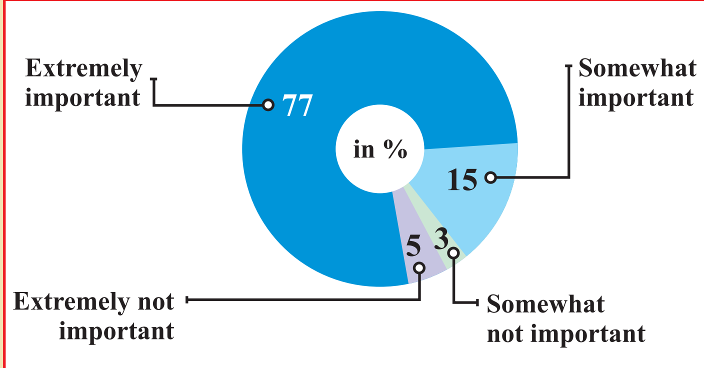


Is interest rate a major determinant

Indians in general are perceived to be cost sensitive. The following chart is testimony to this behavioural pattern.

Majority of loan seekers (77 per cent) mentioned that the rate of interest is extremely important for them. Another 15 per cent said the interest rate is 'somewhat' important.

Interest rate, the biggest deciding factor in personal loans



How popular are e-financial marketplaces for loans?

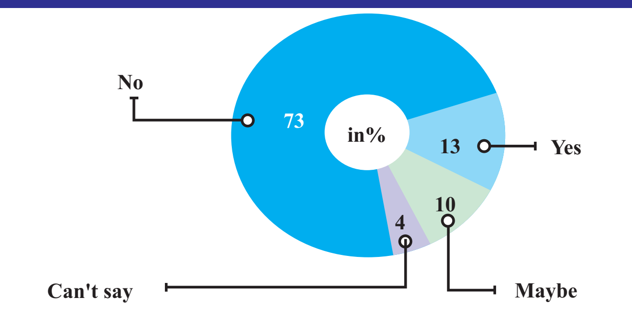
Financial marketplaces have reported extraordinary growth over the past decade. It has been presumed that these platforms will become a go to place for comparison and applying for a loan. However, some interesting facts are confirmed in the following chart.

57 per cent of respondents have taken a loan from a channel other than the marketplace. Only 32 per cent of respondents have availed a loan using the marketplaces.

There still seems to be some ambiguity in understanding the difference between a marketplace and other direct lending platforms.

Online financial marketplaces, not the go-to option for loans

Have you taken a loan from online financial marketplace ?



Source : Saral Credit survey based on 512 responses from various parts of India

The popularity of personal loans will continue as those without any formal education are opting for this product.

It seems that borrowers are taking three elements into account—convenience, cost and trust—while deciding on the lender.

All lending institutions, barring the scheduled banks, have a long way to go before they could penetrate into this segment. The data on challenges faced by borrowers are indicative that there is a need for constant upgradation of online processes. [Business Line, Feb. 23; By KUMAR SHANKAR ROYBL RESEARCH BUREAU]

FIXING DELAYED PAYMENTS TO MICRO, SMALL ENTERPRISES

BL CHANDAK, Ex-DGM, SIDBI

Interconnections between GSTN, IT and Udyam Registration portals should help ease payment issues faced by micro and small units.

Many firms are harmed by escalating credit indiscipline, protracted payment delays, fear of opportunistic behaviour, and reduced trade credit flows

The government has undertaken various initiatives to promote and ensure timely payments to micro and small enterprises (MSEs). In line with these, Budget 2023 seeks to cover payments made to MSEs under Section 43B of the Income Tax Act, 1961 (ITA).

It envisages that any payment towards purchases from MSEs beyond the payment time limit specified in Section 15 of MSME Act will be allowed as deduction only on actual payment basis. Otherwise, the entire amount will be considered as income under ITA.

As per the existing provisions, buyers are required to make payments to MSEs within the maximum period of 45 days. Any delay would entail penal interest. There are a variety of well-intended legal and regulatory provisions, as well as supervisory and institutional infrastructure, to curb the intractable issue of late payments to MSEs.

These include disallowing penal interest paid for delayed payment to MSEs as deductible expenditure, disclosure of overdue payments and interest thereon in audited accounts of companies, furnishing of half-yearly report by the companies regarding amount of overdue to MSEs and reasons for the same, Samadhan portal for registering complaints of delayed payments and online Trade Receivables Discounting System [TReDS].

Despite these efforts, payment delays persist on a large scale. A survey by Dun & Bradstreet and Global Alliance for Mass Entrepreneurship (May 2022) estimated that Rs. 10.7-lakh-crore is annually struck in delayed payments to MSMEs, with 80 per cent of this amount related to MSEs.

Further, median debtor days beyond the 45-day regulatory payment period was 195 days for micro units and 68 days for small units in FY2021. These disturbing statistics and miniscule number of Samadhan cases clearly show the serious limitations of the remedies envisioned by these rules and the institutional infrastructure.

Limited recourse

The asymmetry of power between small suppliers and large purchasers coupled with the fear of losing business in the event of late payment complaint, lead to non-reporting, manipulation and circumvention of the provisions. Often, auditors take an escape route through a general disclaimer note stating that MSE data are unavailable with the client.

In addition, the remedies involve time-consuming administrative hassles and a less effective enforcement mechanism, both of which discourage delayed payment complaints filing.

The proposed provision of 43B(h) appears to be comparable to the present regulation on the non-deductibility of penal interest on late payments as expenditure. Some leeway for payment delays under Section 43B(h) also arises out of tax declaration being done at the end of a financial year. In order to improve protection against such leeway, manipulations and non-reporting, it is suggested that the provisions of 43B(h) be linked to the GSTN system.

It enables automatic digital monitoring of late payments in real time. As the Udyam Registration Portal is integrated with both the Income Tax and GSTN systems, it will simplify record sharing with income tax site. Further, the Budget proposes GSTN to join the account aggregator network which will help in data sharing.

Inclusive remedy

For an integrated payment system which provides an economy-wide comprehensive solution to late payments and defaults in the entire trade credit ecosystem, the new provision needs to be extended to all credit-based GST transactions.

Many firms are harmed by escalating credit indiscipline, protracted payment delays, fear of opportunistic behaviour, reduced trade credit flows, higher follow-up cost and lower turnover. The proposed remedy can effectively address these issues. This will create a win-win ecosystem for firms of all sizes, banks, government and overall economic growth.

There could be graded auto-action against a payment delaying or defaulting firm by affecting its credit rating (CIBIL score), banking relationship and market reputation:

i) Automatic red flagging of trade debtor's GST account after a 10-day overdue;

ii) Second red alert if account remains overdue beyond 20 days; and

iii) Third red flag on the 30th day with digital reporting of late payment to borrower's bank, CIBIL, Ministry of Corporate Affairs and stock exchanges. [in the case of listed firms].

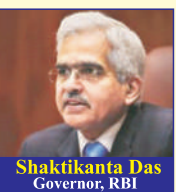
In due course, GSTN may implement a trade credit rating system for firms.

In the light of the Budget proposal, a slightly modified version of the aforementioned idea is suggested.

In the fight against late payments, the interconnections between GSTN, IT and Udyam Registration portals and proposal for inclusion of GSTN system in account aggregator network could be a game-changer.

Initially, some flexibility in the 45 days payment period may be required to stabilise payment system. Without this, some firms may bypass direct purchases on credit from MSEs to escape the regulation. In this, we need to consult with trade and industry to find a practical way-out. [Business Line, March 02]

E-PAYMENTS FOR EVERYONE, EVERYWHERE, EVERYTIME


Shaktikanta Das
Governor, RBI

Going forward, the achievements of payment systems in India present more exciting opportunities for us. Having successfully implemented so many payment systems domestically on such a large scale, time has come to expand our reach overseas. With the Indian economy getting increasingly integrated with the global system, cross-border payments have assumed greater significance. Our home-grown payment products, UPI and RuPay network, are enhancing their global footprint. Launch of UPI linkage with Singapore's PayNow is a major step forward. In future, such linkages with other countries will make cross-border payments simple, affordable and real-time. QR code-based merchant payments through UPI apps are already enabled in Bhutan, Singapore and UAE. All these would also help project India's soft power at the global level.

To conclude, I would like to say that a lot has been achieved but a lot more can and should be done in the days ahead. Payments and settlements are serious businesses with potential downsides, should anything go wrong. Our effort should be to mitigate such downsides and capitalise on the upsides. This is something all market participants must recognise and constantly remind themselves. Every failed transaction, every fraud attempted or actually carried out, every complaint that is not satisfactorily addressed should be a cause of concern and must invite a detailed root cause analysis. It would do well to remember that like the batsman on the cricket field, you are only as good as the last ball faced.

We must together make sure that no one in the country is left behind in the digital payments journey. Under Reserve Bank's Payments Vision 2025, we stand committed to the core theme of 'E-Payments for Everyone, Everywhere, Everytime' (4Es). We must seize every opportunity to internationalise our payment products. This will open up a new world of opportunities for our country. This is the year of Indian Presidency of the G20. Let us present the India story to the global audience. Let us work together; let us innovate together. This PSO Conference will provide ample opportunities to deliberate on all these issues. With your active participation, I am sure we will achieve more and stride forward with greater conviction and responsibility. [Inaugural Address by Shri Shaktikanta Das, Governor, Reserve Bank of India at the Payment System Operators (PSO) Conference, Kochi, March 18, 2023]

UNIQUE FACTORS AT WORK TO ENSURE INDIA BECOMES 3RD-LARGEST ECONOMY

MD Ranganath, Chairman of Catamaran Ventures, and
Chirag Jain, Associate at Catamaran Ventures

Digital competitiveness, mega public investment in infrastructure, a concerted effort to ensure development of a dominant manufacturing base, steps to reduce dependence on external energy supplies and political stability.

India's trajectory towards becoming a developed economy is a widely discussed topic. Many target statistics have been quoted to drive home this point. We have taken a different approach by looking at the primary drivers shaping India's economic ascent in the next decade - and we believe some of these are unique to India.

1. Digital competitiveness

India has a strong digital advantage with its 900 million working-age population having affordable internet access at $2.5/month and 650 million smartphones, all running on the India Digital Stack. This has led to deeper inclusion and new demand for financial services, consumer goods, healthcare, and education. The unbanked population has reduced to under 20%, per capita data consumption is among the highest in the world at 17 GB and e-commerce is already at 7%.

India has an unparalleled base of technology skills. Technology services exports crossed $150 billion in FY22 and continue to be relevant in an ever-digitising world. There are 1,500 global capability centres in India, set up by many of the Fortune 500. With 5 million employees, the sector accounts for 40% of the global technology workforce. IT exports essentially pays for India's oil import bill.

With one of the fastest growing innovation ecosystems of the world, India has jumped 41 places on the Global Innovation Index to 40th in just 7 years. India's demographic and digital dividend is a key factor in this progress with a large, aspiring, digitally connected population and a growing number of young risk-taking entrepreneurs. India ranks 3rd in the world for number of start-ups and unicorns.

	India GDP ($ trn)	India's global GDP rank
2000	$0.5 trn	13th
2010	$1.7 trn	9th
2020	$2.7 trn	6th
2030P	$5-$6 trn	3rd

Source: World Bank

2. Transformative public infrastructure investment

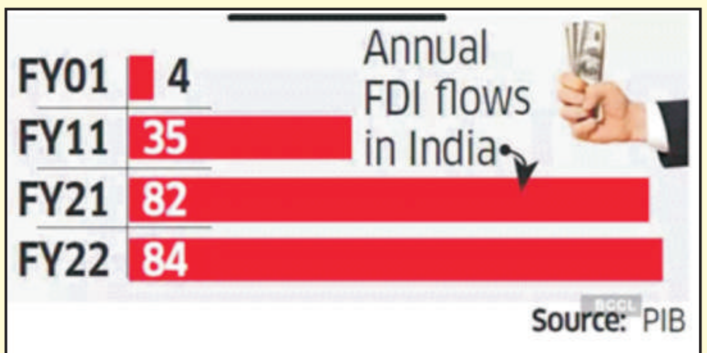
	Smartphone users (mn)	Average price of 1GB of data ($)	Ecommerce penetration
India	650	0.2	7%
USA	250	5.6	17%
China	910	0.4	25%

Source: Newzoo, Cable.co.uk, GroupM

India has among the best metro airports in the world and is the third largest air traffic market having grown at a CAGR of 17% pre-Covid. Investments in airport infrastructure are providing deeper access to remote areas. Similar investments in ports, railways and highways are creating a world-class transportation network that will enable the creation of an efficient and integrated ecosystem for manufacturing, logistics and exports. The government of India has set a plan to increase port handling capacity by 4x to 10,000 MMTPA by 2047.

3. Unique opportunities and incentives for the development of a dominant manufacturing base

The Indian government is working to increase the manufacturing sector's share of GDP from the current 15% by introducing multiple programs, such as the phased manufacturing program and the production linked incentive scheme and by reducing and simplifying tax regimes. They plan to achieve $600 billion of manufacturing exports by FY26, increase India's export share from 2% to 10% by 2047 and promote 100 Indian brands as global champions. The biggest success so far in the PLI scheme has been in mobile phone manufacturing, where exports have increased from $0.1 billion in FY17 to ~$9 billion this year.



One of the tailwinds is the diversification of global supply chains away from China, where the median age is 38 and the labour supply continues to get tighter. India's demographic dividend can step in to fill the gap.

4. Initiatives to reduce external energy dependence

	India renewable capacity (GW)	Indian railways electrification (km)
2000	27	16,000[1]
2010	54	21,000
2022	166	54,000

1. Data as of 2002

Source: Ministry of Power, Indian Railways

India is working to achieve energy independence by 2047 and reduce the $100 billion spent annually on energy imports by increasing investments in renewable energy and green hydrogen. The government has set a goal of 500 GW of renewable capacity by 2030, requiring $300 billion in investments. India is making progress, such as achieving 83% electrification in railways and aiming to reach 100% by 2024.

5. Political stability and innovative public policy

India has a stable political climate which has led to consistency and predictability in policies in the last decade promoting efficiency and agility in doing business. GST, for example, has made tax

[Continued on Page-20]

AN IDEA WHOSE TIME HAS COME: WILL NFIR BE A GAME-CHANGER FOR INDIA?

The proposed financial registry will kill information asymmetry, and change the dynamics for every stakeholder in the economy for the better.

Finance Minister Nirmala Sitharaman made a major announcement in her Budget speech: "A national financial information registry (NFIR) will be set up to serve as the central repository of financial and ancillary information. This will facilitate the efficient flow of credit, promote financial inclusion, and foster financial stability."

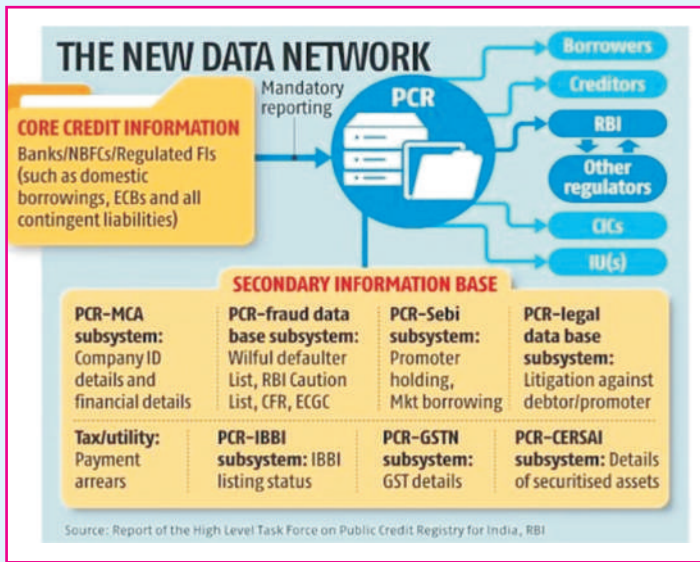
When operationalised, the NFIR will be a game-changer in ways not imagined. Sitharaman has given life to a long overdue idea flagged by the high-level task force on a Public Credit Registry (PCR) for India (2018), headed by the late Y M Deosthalee (ex-chairman and managing director of L&T Finance Holdings). The NFIR will do away with the current information asymmetry even as it betters visibility on all matters — financial and beyond.

A complete dashboard

What will the emerging architecture look like? "We will have to wait for more details on its structure and form. As varied data-sets get created, it will be important to understand the construct, form, sources and access to this data in order to gauge its prospective impact," says Rajesh Kumar, managing director and chief executive officer, TransUnion CIBIL.

The NFIR will also reduce large companies' proclivity to binge on credit. Former RBI deputy governor Viral Acharya had said it "can enable the writing of contracts that prevent over-pledging of collateral by a borrower."

Data now resides in silos — credit bureaus (CBs), the Central Registry of Securitisation Asset Reconstruction and Security Interest, and the Reserve Bank of India's Central Repository of Information on Large Credits (CRILC). Then there are Information Utilities (IUs) that store data to ascertain defaults and verify claims to enable settlements under the Insolvency and Bankruptcy Code (IBC).



IUs are a key pillar of the IBC ecosystem — the National Company Law Tribunal, Debt Recovery Tribunals, the Insolvency and Bankruptcy Board of India, and insolvency professionals. The NFIR will sweep in the capital markets — and, who knows, even the Goods and Services Tax Network.

Acharya was the first to flesh out the need for a PCR. It will help, he said, in several ways: Credit assessment and pricing by banks; risk-based, dynamic and counter-cyclical provisioning at banks; supervision and early intervention by regulators; understanding if transmission of monetary policy is working, and if not, where the bottlenecks are; and how to restructure stressed bank credit effectively.

"One of the reasons credit information is termed a 'public good' is its utility to the credit market at large and to the society in general," Acharya had said in a speech in 2017. "In the absence of a central database of credit information, creditors are restricted to the information they have about their clients based only on their limited transactions or interactions with the clients, and this could lead to suboptimal outcomes."

Even in its limited avatar (it has now been imagined as a "financial registry"), the PCR's potential would have been unimaginable.

Take consortium banking. The Aditya Puri Committee Report (Data Format for Furnishing of Credit Information to Credit Information Companies, readied in 2014) had this to say on derivatives: "Borrowers have, in general, not been forthcoming in sharing such information with lenders, particularly with banks that are not part of the consortium".

Then again, a major area of concern is the non-uniformity in processes to identify red-flagged accounts (RFA) based on an indicative list of early warning signals, which is not uniform across banks. In several cases, banks were unable to confirm RFA-tagged accounts as frauds or otherwise within the prescribed period of six months. This creates a bad-loan mess which has to be cleared by taxpayers in the case of state-run banks.

In September 2018, the RBI deputy governor, M K Jain, gave banks an earful: "Some of the weaknesses and irregularities observed have been recurring in spite of the averments made by bank managements (about) having carried out remediation." He added, "it will not be an exaggeration to say that some of the big losses suffered by banks on account of frauds could have been avoided if a good compliance culture was ingrained in the respective banks".

Aniket Dani, director of research at CRISIL Market Intelligence & Analytics, believes that the move to set up the NFIR has to be read along with other measures in the Budget — like the risk-based KYC, Digital Public Infrastructure for Agriculture, and Entity DigiLocker.

"The focus on digitalisation programmes of various ministries will help increase demand, and making available anonymised data to startups through the National Data Governance Policy will help in new product development," says Dani. In the long term, as income and KYC documentation become available digitally, "the efficiency of the industry should improve and bring credit costs down".

Simply put, we are seeing the birth of a mega information-storing architecture.

The strategic aspect

"This is a significant step from the point of view of data localisation. The CBs are predominantly foreign-owned, and there's a need to have an Indian entity," says Saurabh Tripathi, global lead (fintech & payments) at Boston Consulting Group. "It will be a foundational agency. Over time, CBs will also offer more value-added services."

However, some old wounds will also open up. How will foreign-owned CBs like TransUnion CIBIL or Experian react to the NFIR? Recall the initial resistance over credit-card data localisation from Visa and MasterCard, and the US pushback over the Personal Data Protection Bill (2019).

While it's too early to speculate on the shape the NFIR will take, the structure mooted by the Deosthalee Committee was to have a PCR that will centralise all credit information reporting, and then allow stakeholders to access information, per the allowed access level. The long-term view is for the PCR to be a single window for lenders to access all factual credit information stored within and other linked sub-systems.

It's time we have an entity which gives a complete view on the risks throughout the life-cycle of customers, from onboarding to exit for credit, saving, payments, or any financial product or service," says Navin Surya, founder, FinTech Convergence Council, and chairman emeritus of the Payments Council of India.

He believes that the NFIR "can not only mitigate risks under the PMLA (Prevention of Money Laundering Act, 2002) and fraud, but also drive sustainable growth and financial inclusion".

Sitharaman's thirty-five words signal that we are on the cusp of an idea whose time has come. [Business Standard, Feb. 12; Raghu Mohan]

In the long term, as income and KYC documentation become available digitally, the efficiency of the industry should improve and bring credit costs down

ANIKET DANI
Director, Research,
CRISIL Market Intelligence & Analytics

As varied data-sets get created, it will be important to understand the construct, form, sources and access to this data in order to gauge its prospective impact

RAJESH KUMAR
Managing Director & CEO,
TransUnion CIBIL

Draft Bill on Credit Information Registry to be finalised soon, says RBI Governor

RBI Governor Shaktikanta Das said that a draft bill on the national financial registry that will serve as database of all types of credit information is expected to be finalised soon. The bill is under preparation and is being discussed between regulators and the government, Das told reporters on Saturday during a post budget media interaction with the Finance Minister Nirmala Sitharaman in attendance. "The idea is to quicken the process of credit sanction and flow to borrowers." The National Financial, among the budget announcements, is aimed at building public infrastructure for credit-related information for lenders. [BQ Prime, Feb. 11]

[Continued from Page-18]

compliances easier by automating them and reducing the need for multiple returns. Similarly, the Jan Dhan Yojana has resulted in $40 billion savings through direct transfer of subsidies to bank accounts.

GST	Average monthly GST collection (₹ Cr)	Average monthly UPI transactions (mn)
FY18	89,700	76
FY20	1,01,850	1,043
FY23	1,48,300	6,610

Source: PIB, NPCI

Two additional drivers are India's continued dominance as a food basket to the world and its resilient banking system. It is the largest producer of milk, pulses, and spices, and second largest in fruits, vegetables, tea, farmed fish, cotton, sugarcane, wheat, and rice, supporting 17.8% of the world's population. India's financial institutions have shown resilience with a substantial decrease in NPAs (11% in FY18 to 5% currently) and capital adequacy (17%) to support credit growth.

India is a strong investment destination due to its diverse economy, growing middle class, and stable political environment. Its expanding technology sector and economic liberalisation offer many opportunities for businesses and investors. The nation's democratic institutions also provide a reliable foundation for long-term investment and hope for a prosperous future. [ETCFO, Feb. 22]

TWO WHEELER LOAN

HOUSING LOAN (MRHMFL)

SALARIED PERSONAL LOAN

MICRO ENTERPRISE LOAN

COMMERCIAL VEHICLES LOAN

USED CAR LOAN

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Prospects remain healthy for NBFCs, bank credit shows a strong trend

While rising interest rates and tighter liquidity are giving negative signals for the financial sector, increasing economic activity could mean higher business volumes for lenders.

Liquidity in the banking system has moved from Rs 8 trillion surplus into a deficit of Rs 33,000 crore over the 2022 calendar year. By the end of November, bank credit had grown 17.5 per cent YoY (year-on-year). Policy rates have risen by 225 basis points (bps).

What is the impact on non-banking financial companies or NBFCs? They have higher cost of funds compared to commercial banks and their lending patterns are on the whole, riskier.

However, bank credit to NBFCs is showing a strong trend and the NBFC liquidity environment continues to remain comfortable. As of October, bank lending to NBFCs is up 16 per cent year to date or YTD (up 7 per cent month-on-month or MoM). Moreover, top-rated NBFCs have been able to issue bonds to the tune of about Rs 30,000 crore per month.

So NBFCs are not likely to be cash-strapped if demand for credit rises. The spread above G-sec rates for NBFC AA and AAA bonds remains quite low, at around 50-60 bps. As such, the topline growth should outweigh the NIM (net interest margin) pressure.

Two of the key markets are vehicle finance and mortgages, comprising approximately 28 per cent and 40 per cent, respectively, of total disbursals for NBFCs.

One key market — commercial vehicle (CV) hypothecation — has seen strong growth due to replacement buying, increased mining, infrastructure and e-commerce activities, unlock trades, and stabilising freight rates. While fuel prices are elevated, they are also showing signs of stabilising. Further pick up in the cycle for CVs should lead to an even higher demand.

While both banks and NBFCs will face NIM compression, since borrowing costs have increased, there will be volume growth in the vehicle finance market.

Along with CVs, the passenger vehicle market has also picked up due to festival season demand, though it remains to be seen how this sustains. Tractor sales have improved on good monsoon and hopes of a good Rabi season. Auto financiers are confident that H2 (second half of the 2022-23 financial year or FY23) will be better, in terms of growth, as activities have increased, in mining and construction.

NBFCs such as Shriram Finance (earlier Shriram Transport), M&M Finance, Cholamandalam, Sundaram Finance should all do well. Since this vehicle market is largely fixed rate, the ability to pass on future rise in cost of finance could be limited.

In the mortgage market, banks have to abide by the EBLR (external benchmark lending rate) which has risen sharply as policy rates were hiked, and hence, bank mortgage rates have also gone up. This gives NBFCs in the housing finance market a competitive edge. HDFC for example, is offering rates that are around 20 bps lower than ICICI Bank, State Bank of India, etc. The other major NBFC in the housing market — LIC Housing Finance — is in the process of trying to convert from fixed rate to floating rate in its offers, and this could lead to a lower volume growth. Fixed rate loans are generally at a premium of 300-350 bps over current floating offers with a 3-year reset format.

A third key market – microfinance — will generate around 18 per cent of the NBFC portfolio, dropping in share from around 27 per cent last year. The sector has been deregulated, which allows players to hike rates to compensate for rising cost of finance. As such, MFI players like CreditAccess Grameen could see higher NIMs. [Business Standard, Dec. 28]

NBFCs' collection efficiency to remain strong even after rate hike: ICRA

A day after the Reserve Bank delivered another rate hike, a domestic ratings agency on Thursday said the increases will not impact collection efficiencies for non-bank lenders. This is so primarily because of the collaterals given by borrowers and the priority they accord to repayments, Icra Ratings said.

The RBI has hiked rates in five consecutive policy reviews since May 2022 in order to curb inflation, which has led to an overall jump in the interest rates in the system.

The agency said typically housing loans and loans against property pools carry interest rate risks. "... the continuation of rate hikes will not have a significant bearing on the collection efficiencies given the association of the borrower with the underlying collateral (residential properties) and the priority given by borrowers to repay such loans," it said.

The agency added that the collection efficiency is expected to remain robust on the back of strong outlook for majority of the sectors though impact of the uncertain global environment is difficult to ascertain at present.

It said non-bank finance companies (NBFCs) and housing finance companies are reporting collection efficiencies of 97-105 per cent for the first nine months of the fiscal, as per an analysis of retail pools securitised by such lenders.

Securitisation is the bunching together of retail loans to form a pool which is passed on to another entity for upfront payments.

The healthy collections are on improved economic activity, a favourable operating environment and non-banks returning to normalcy after two years of interrupted operations during the pandemic, the agency said.

"Collection efficiencies have remained robust throughout FY2023 so far in spite of the global uncertainties, inflationary pressures and rising interest rates. The strong domestic growth has supported the cashflows of individuals and businesses as they emerge from the stress seen during the Covid period," its group head for structured finance ratings, Abhishek Dafria, said.

Pools originated post pandemic have reported a strong performance with healthy collections and low delinquency build-up, he said, adding tighter underwriting adopted by non-banks coupled with a curated pool selection criterion by investors has resulted in better quality of retail pools at origination. [Business Standard, Feb. 9]

STATE OF NBFC SECTOR

NBFCs' liquidity situation comfortable; bank credit shows strong trend: Report

Bank credit to NBFCs is showing a strong trend and the NBFC liquidity environment continues to remain comfortable. As of October, bank lending to NBFCs is up 16 percent year to date or YTD (up 7 percent MoM), said the report.

At a time when the hikes in interest rates and tighter policy are raising concerns for the financial sector, an increase in economic activity could drive higher business volumes for lenders, noted a report by Business Standard.

According to the report, the liquidity in the banking system has moved from a surplus of Rs. 8 trillion to a deficit of Rs. 33,000 crore over the 2022 calendar year. Bank credit has grown 17.5 percent YoY (year-on-year) while the policy rates have risen by 225 basis points (bps).

As stated by the report, NBFCs have a higher cost of funds compared to commercial banks and their lending patterns are, on the whole, riskier.

"However, bank credit to NBFCs is showing a strong trend and the NBFC liquidity environment continues to remain comfortable. As of October, bank lending to NBFCs is up 16 percent year to date or YTD (up 7 percent month-on-month or MoM). Moreover, top-rated NBFCs have been able to issue bonds to the tune of about Rs. 30,000 crore per month," stated BS, adding that this could imply that NBFCs are not likely to be cash-strapped if demand for credit rises.

The two of the key markets of NBFC – vehicle finance and mortgages – comprise approximately 28 percent and 40 percent, respectively, of total disbursals, as per the report.

While commercial banks and NBFCs both will face NIM compression owing to a rise in borrowing costs, there will be volume growth in the vehicle finance market, said the report. The festival season demand has led to a pickup in CVs as well as passenger vehicle sales.

Auto financiers told BS that they are confident that H2 (second half of the 2022-23 financial year or FY23) will be better, in terms of growth, as activities have increased, in mining and construction.

"In the mortgage market, banks have to abide by the EBLR (external benchmark lending rate) which has risen sharply as policy rates were hiked. This gives NBFCs in the housing finance market a competitive edge," the report added. [Mintgenie, 29 Dec. Anushka Trivedi]

Strong macroeconomic trends improve credit quality of finance cos: S&P

The credit quality of Indian finance companies will continue to improve owing to the country's strong macroeconomic trends, said S&P Global Ratings.

The improvement in credit profiles of finance companies will be far from uniform, said S&P Global credit analyst Deepali Seth Chhabria.

"Stronger companies will likely gain market share, given their better funding access. Meanwhile, weaker players could resort to originate-and-distribute business models to tide over the liquidity stress," Chhabria said.

Higher inflation or interest rates than expected remain key risks to S&P Global's forecasts.

Rising interest rates are likely to push up borrowing cost for Indian finance companies.

Companies with strong governance and parentage are likely to fare better than others. Emerging co-lending models are easing the liquidity stress.

"We expect bank borrowings to dominate incremental funding in 2023," S&P Global said.

The outlooks on most rated finance companies are stable, reflecting their strong earnings, capitalization, and improving asset quality. [Business Standard, March 13]

Surge in credit to NBFCs takes service sector loans past those to industry

NBFCs are now pursuing growth opportunities in a risk-calibrated manner.

Higher credit offtake by non-banking finance companies (NBFCs) has seen credit to the service sector surpassing the quantum of loans from banks to the industrial sector, shows Reserve Bank of India's latest sectoral deployment data for November 2022.

According to the latest data, as of November 18, outstanding loans to the services sector amounted to Rs 33.15 trillion while those to industry stood at Rs 32.94 trillion. On a year-on-year (YoY) basis, the credit to services sector grew by 21.3 per cent in November 2022 as compared with 3.2 per cent a year ago. Similarly, credit growth to industry accelerated to 13.1 per cent YoY last November from 3.4 per cent in November 2021.

Within the services sector, credit to NBFCs grew by 33 per cent YoY in November 2022, compared to a meagre 5 per cent during the same month in 2021.

According to ICICI Securities, 52 per cent of the incremental accretion of Rs 5.81 trillion in the services vertical over the past 12 months was accounted for by NBFCs and 22 per cent by other services.

And among NBFCs, loans to public financial institutions (PFIs) were up 87.9 per cent YoY and 29.9 per cent year-to-date (YTD), while those to housing finance companies were up 16.1 per cent YoY, and 9.1 per cent YTD.

"After running down high-risk assets and consolidating for a while, NBFCs are now pursuing growth opportunities in a risk-calibrated manner. Consequently, we expect bank lending to them to rise in FY23 unlike the slowdown/deceleration seen in the recent past," analysts at ICICI Securities said.

RBI's recently released Trend and Progress Report said NBFCs have increased their borrowings from banks, which is one of the largest funding sources for these lenders, in the wake of the benign interest environment.

NBFCs owed close to 59 per cent to banks, followed by mutual funds (16.2 per cent) and insurance companies (17.4 per cent). The share of banks has continued to rise with yields having hardened in the bond market.

"The share of MFs and insurance companies has been consistently declining for the last several quarters. This is due to a mix of higher interest rates in the bond markets, led by higher long-term G-Sec rates, and the risk aversion in the debt capital markets restricting funding availability for NBFCs rated lower than the highest categories," said Care Edge in its report.

At the end of H1FY23, overall credit extended by NBFCs grew by 13.1 per cent to Rs 31.5 trillion, data showed. "With strong capital buffers, adequate provisions, and sufficient liquidity, NBFCs are poised for expansion. Nevertheless, going forward, they need to be wary of rising borrowing costs as financial conditions tighten," RBI said in its Trend and Progress Report.

An analysis of sectoral deployment shows that retail credit growth continued to outperform overall credit growth. Of the monthly incremental retail credit accretion of Rs 30,000 crore in November, 60 per cent was accounted for by housing, 38 per cent by other personal loans, and 22 per cent by vehicle loans, while there was a decline in credit cards. [Business Standard, Jan. 3; Subrata Panda]

NBFC-bank divide will shrink going forward: Yes Bank ED

The typical divide between banks and non-banking financial companies (NBFC) will shrink, according to Yes Bank executive director Rajan Pental.

"I think the typical divide between NBFC and bank is going to shrink. Earlier, there was a clear demarcation that NBFCs will be in the deeper markets and will play at a high interest rate, whereas banks will be in their own areas of expertise. But, banks are now going deeper and NBFCs are coming into urban areas. That price difference is finally shrinking," he said.

Pental added that everybody has their own clientele and their own price points. "Ultimately, the customer is interested in the service that is being rendered. I do not think the bank or NBFC should go beyond it. We sell a loan requirement and not the product," he said.

"There are certain client profiles that banks would not have the appetite to touch while NBFCs would have the appetite and expertise to lend to these customers. That gap may still remain but nothing beyond that." [Financial Express, Feb. 14]

Rethink the resolution process for NBFCs

What is happening at Reliance Capital is a bit funny and hard to fathom. A group known for anything but financial services is willing to go for an upfront all-cash deal for a business, and we don't know if there are more worms waiting to pop out of the can.

Meanwhile, just when the group is declared the final bidder, an industrial house rooted across commercial vehicles and the banking sector, isn't willing to let go without a fight. In another instance, at the SREI Group, a similar situation is brewing, and this leads to one question – did the Reserve Bank of India think through adequately while amending the Banking Regulation Act, when it allowed an administrator be appointed to supersede the board of a NBFC in case of mismanagement, including a situation of near bankruptcy?

With banks the RBI has been very careful dealing with such situations. A Plan B is in always in place before invoking the BR Act. The administrator is adequately prepped up on the further course of action, and things happen as planned. But with NBFCs the resolution process is quite messy. Whether DHFL or now RCap, the bid war is fought in the public and suddenly from a dud company with not-so-great assets, the distressed names get projected as some kind of shining stars. People are willing to pay whatever it takes to own it.

The moot difference in the approach for resolution is understandably depositors' money – banks are the custodians of depositors, while NBFCs, even if deposit-taking, aren't seen through that lens.

To that extent, the regulator's approach of 'let the best bid win', makes sense. But what justifies the near 2x jump in the initial bid price and final price is beyond fathomable. And if truly the NBFC is so value-accretive, the RBI is well within its powers to change the top management and/or the board of the NBFC, instead of auctioning it out over multiple rounds.

Alternatively, why not initiate a portfolio sell-out and action against the erring promoters, management teams and/or the boards of the entity in question? The current process is just handing out the upside from the dud assets to the best bidder while the questionable people are left free. It's neither resolving an issue nor fixing responsibilities, but rather just a street fight for some bad loans.

It's still on the depositors to heavy lift the cost of an NBFC's default because they ultimately feed on bank money. [Business Line, Jan. 16; BY Hamsini Karthik]

PAG bets big on Indian real estate as NBFCs go slow on developer loans

PAG — an alternative investment firm focused on Asia-Pacific (APAC) — has taken a liking to Indian real estate, entering into multiple debt deals with property developers in the country. This comes at a time when most domestic non-banking companies (NBFCs) are going slow on lending to property developers.

PAG loaned about Rs 3,000 crore last year, said a senior real estate executive, adding it had become one of the single largest lenders to developers in 2022

PAG granted about Rs 8,000 crore in recent years prior to 2022 when most lenders, such as Edelweiss, Indiabulls and Piramal, were dawdling on lending to real estate developers in the aftermath of the NBFC liquidity crunch activated by the Infrastructure Leasing & Financial Services' financial collapse.

Kanak Kapur, partner and managing director, credit and markets, PAG, said, "We have funded several transactions in India in 2022, and cannot comment on individual investment. Each transaction is undertaken based on its strength, not based on the relative value of transactions versus other market participants. It will not be right to compare these with any other participant. We are focused on making high-quality investments and assessing opportunities on an individual basis."

Last month, it collaborated with Shapoorji Pallonji Real Estate (SPRE), Indiabulls Housing Finance, and Lokhandwala Kataria Construction for reviving the Minerva Towers luxury project in South Mumbai.

It also gave Rs 750 crore to SPRE in 2020. Last year, it advanced Rs 900 crore to Elan Group for acquisition and growth.

PAG is one of the biggest investors in Asia. As of June 30, 2022, it managed $50 billion in assets for nearly 300 institutional fund investors from around the world. It has mainly three divisions: private equity (PE), credit and markets, and real assets.

"It has done deals that cannot be done through normal banking channels like lending for buying land or taking over a stressed asset," said an investment banking executive.

About half of PAG's $2.6-billion debt fund it raised in December last year is expected to come to Indian real estate, said the banking executive quoted earlier. The fund is touted to be the biggest debt fund raised in APAC so far.

To this, Kapur said: "We don't comment on our country allocations by the fund. However, we do believe India's real estate sector currently presents us with good risk/reward, and we will continue to focus on and invest in this market." The executive quoted earlier said PAG has also lowered its rates in recent deals. [Business Standard, Feb. 7; Raghavendra Kamath]

MFIs find liquidity a challenge

Getting refinance from institutions like NABARD and SIDBI is a "major challenge," said R S Isabella, CMD, Repco Microfinance, at a conference on financial inclusion. Diwakar Hegde, Managing Director of NABFIMS, a subsidiary of NABARD, who shared the dais with Isabella, disagreed with her, noting that small institutions typically had governance issues and hence could find raising finance difficult.

Addressing a panel discussion, 'Contribution of microfinance in financial inclusion: Micro & Macro perspectives' at the South India Conference on financial inclusion organised by the Sa-Dhan, a self-regulatory body for MFIs, Isabella complained that liquidity had become an issue with MFIs because development finance institutions had tightened lending norms. The panel discussion was moderated by Raghuvir Srinivasan, Editor, The Hindu business Line.

Observing that SIDBI and other commercial banks, on which all MFIs depend for resources, also stipulate a nonperforming assets (NPA) ratio of five per cent while the industry average is above 10 per cent, Isabella called upon the development finance institutions to also look at the promoter group and the experience of the micro-lenders and not just take NPA ratios as a metric, while refinancing MFIs.

Her co-panelist, Hegde, however, noted that fundraising was "purely a market game", which depended on several factors. "Big players are still able to mobilise funds at cheaper rates but some small institutions have governance issues and are hence facing problems in resource raising."

He said MFIs should also look inwards and adopt technology so that they can improve their efficiency and reduce operational cost.

Diversified borrowing

Kalpanaa Sankar, MD, Belstar Microfinance, said MFIs need to diversify their borrowing sources by exploring market-linked debentures, non-convertible debentures, and external borrowings to have a good funding mix. She also added that the ultra-poor, farmers, and single women are often left out of the MFI due to high-interest cost which goes up to 24 per cent per annum. "If NABARD can give us loans at 8 per cent then we can lend it to the poor at 12 per cent."

In his remarks, BN Raveendrababu, MD, Asirvad Microfinance, said there is an abundance of funds available and investors are ready to invest in microfinance provided the institutions' proper accounts, transparency in the system, and technology in place. "During the Covid-19 pandemic itself, so many people have raised capital," he said.

[The panel discussion, 'Contribution of microfinance in financial inclusion: Micro & Macro perspectives' at the South India Conference on financial inclusion organised by the Sa-Dhan, a self-regulatory body for MFIs, was moderated by Raghuvir Srinivasan, Editor, The Hindu Business Line Feb.23; BY BL CHENNAI BUREAU]

India Ratings revises MFI sector outlook to 'improving' from 'neutral'

India Ratings and Research has revised its outlook on the microfinance (MFI) sector to 'improving' from 'neutral' as it expects growth momentum for the sector to continue in FY24 and credit costs to normalise. For FY24, the rating outlook has been maintained at 'stable'.

While the pandemic took a heavy toll on MFIs, much of the impact has been absorbed as of December 2022 even as disbursements are expected to further pick-up, aided by the removal of prescriptive cap on lending rates in March 2022.

"The new regulations are positive for the sector and provide all microfinance practitioners with the ability to price in risks while providing a level playing field for NBFC-MFIs in terms of applicable regulations," the ratings agency said in a note.

Credit costs: NBFC-MFIs incurred cumulative credit costs (credit cost to average AUM) of 11.1 per cent over FY21-H1FY23, with nearly 9 million borrowers estimated to be in default during the pandemic. However, delinquencies and credit costs are expected to now normalise, as bulk of the portfolio has post-covid disbursements and collection efficiencies are steadily improving.

India Ratings pegs credit costs for the sector to improve to 1-3 per cent in FY24 from 1.5-5 per cent in FY23, with the expectations of improved operating buffers resulting in higher profitability. It expects the sector to grow at 20-30 per cent in FY23 and FY24.

"With the regulator wanting banks to implement expected credit loss models, they may reduce the direct exposure to the end-borrowers of this segment and this may prove beneficial to NBFC-MFIs. MFIs could see a higher proportion of unique borrower additions in FY23 and possibly FY24 as the Covid-19 impact continues to wane," the note said.

On the other hand, it cautioned against two key risks over the next 12-18 months – inflation and elections which may impact the cashflows of a segment of borrowers in FY24 and H1FY25. [Business Line, Feb. 15]

Bank credit sees growth on increased NBFC borrowings

Growth in bank credit in the 2QFY23 (July-September) was mostly driven by a shift in non-banking finance companies (NBFCs) borrowings to banks from other avenues, according to a Kotak Securities report.

Bank lending to NBFCs (non-banking finance companies) increased by 31 per cent in 2QFY23 (9.3 per cent of overall bank credit), driving overall credit growth for banks.

Bank credit (excluding NBFCs) was up 14.4 per cent.

"Notably, RBI data for bank lending to NBFCs likely does not include loans to PFC (Power Finance Corporation)/REC (Rural Electrification Corporation).

"On adding back, bank loans to PFC/REC, growth in overall bank loans to NBFCs would be lower at 27 per cent," per the report put together by analysts Nischint Chawathe, M B Mahesh,Abhijeet Sakhare, Varun Palacharla and Ashlesh Sonje.

Moderate growth in NBFC loans:

Bottom-up analysis by the analysts suggests 11 per cent yoy (year-on-year) loan growth for Housing Finance Companies (HFCs); rundown/slowdown at select wholesale-focused HFCs led the weakness.

Overall private sector NBFC growth (including HFCs) was hence

moderate at 10 per cent in 2QFY23.

"Growth in overall NBFCs AUM (assets under management) is not yet alarming.

"Our bottom-up analysis (comprising about 75 per cent of NBFC credit and over 95 per cent Housing Finance Company/HFC credit) suggests sluggish growth for gold loans and government-owned NBFCs, while vehicle, microfinance institutions/MFIs and select diversified NBFCs are growing the fastest," the analysts said.

While overall loan growth has been moderate till now, the analysts said they are watchful about pockets of stress.

'NBFCs disbursements are growing at brisk pace; the trend if it continues, will lead to further acceleration in loan growth.

"Apart from increased disbursements in core segments, NBFCs are expanding into new segments and making co-origination partnerships with fintechs as well," the report said. [Business Line, Jan. 2]

Digital lenders spend more to shore up tech defences

A recent survey conducted by the Fintech Association for Consumer Empowerment pegged the threat to data privacy and cybercrime as among the biggest risks for the digital lending ecosystem. Both lenders and non-lenders took part in the survey. Digital lenders' expenses on technology have multiplied as cybercrime and the threat to data privacy emerged as the foremost risks, according to people in the industry.

In its 2022 guidelines on digital lending, the Reserve Bank of India (RBI) too has asked banks and non-banking lenders to ensure that they comply with various technology standards on cybersecurity.

"Data will be the new gold for next generation. So, it is super important to ensure that it is protected because now people are more conscious about data sharing," said Credit Wise Capital founder Aalesh Avlani.

"As a fintech, we are responsible for providing loans to people across the country as we are in a consumer-facing business. So, we have to ensure that we are right up there when it comes to ensuring data protection," he said, adding the spending on technology has multiplied on year-on-year basis.

"There are a couple of reasons for this. Firstly, you are in a lending business regulated by the RBI. So, you are under strict watch. You do not want to give the RBI any reason to sniff you out. If a customer takes a loan from us for the first time and there is a breach in data, I have scarred this customer from ever taking a loan from us again," he said.

"Ultimately, customer experience and security is of utmost importance," he added.

The prevalence of unscrupulous lenders is also mentioned as a key risk. Earlier this week, the Ministry of Electronics and Information Technology banned 94 loan applications for reportedly engaging in predatory lending.

"Our cybersecurity framework is different from that of a bank or an NBFC. We adhere to the broad guidelines that are laid out in terms of the best practices that an IT system should have," said Viswanath Kommalapati, chief technology officer of Niro. "There is always an authentication and authorisation that happens," he added.

Some lenders have also partnered with external entities and ethical hackers to ensure that their information technology systems is fool-proof.

"Nothing is implicitly trusted. We do continuous monitoring of our infrastructure like employee laptops so that we are able to catch any viruses or ransomware that can come through those means. If there is any port or access open on any machine that is hosted on cloud, we get to know about this on the day-to-day basis," Kommalapati said.

Indifi Technologies chief technology officer Animesh Sharma said, "We have started spending significantly on data security, information security and different compliances that we need to adhere to."

He said they are "planning to spend Rs 7.5 million next year on information technology". "So far, we have seen a 50% increase in hosting charges, 30% increase in information security compared with last year. We are expecting 50-60% further increase next year in light of compliance with the Reserve Bank of India (guidelines)," he added.

"From a data security or information security point of view, it is a journey. You keep looking for things where you see that there is a leakage or there are possible vulnerabilities in the system either for external hackers or from an internal perspective," he said, adding that user data is very critical to him. "I have millions of customer data sitting with me," he added. [Financial Express, Feb. 15]

After two challenging years, good prospects for housing finance NBFCs

After two bad years, the housing finance market overtook pre-Covid-19 (2018-19) levels of disbursement of Rs 2.42 trillion with Rs 2.59 trillion of disbursements in the 2021-22 financial year (FY22).

As of FY22, mortgage penetration stands at 13 per cent of GDP, with expectations that India would double home loans to $600 billion by 2027. In other Asian economies, mortgage to GDP ratios range between 20-30 per cent. Hence, India could see exponential growth.

By November, the banking sector had seen housing finance (HF) loans up 9.5 per cent (in terms of year-to-date). It's estimated that NBFCs in housing finance had seen disbursements up by around 10 per cent. The largest opportunities are in the affordable home finance segment.

The average ticket size of loans is around Rs 15-16 lakh, which underlines this assessment. There's focus on home ownership by millennials, owing to work from home ultimately leading to higher demand in tier II and tier III cities.

In the recent past, and the next few quarters, certain trends are visible. Momentum in disbursements continued in second sector (Q2) of FY23 with year-on-year (YoY) as well as month-on-month (MoM) and quarter-on-quarter (QoQ) uptick in disbursements. Growth was seen in affordable housing as well as high-end properties.

The interest rate regime has switched from flat with high liquidity and low real rates to rising, with tight liquidity and higher rates. This means higher cost of finance for housing finance companies (HFCs). Most HFCs prefer floating rate offers but then it's a question of how fast HFCs adjust lending rates without impacting volume or causing distress to existing customers. LIC Housing Finance (LICHF) is also trying to shift fixed rate customers to floating rate, which has resulted in NIM (net interest margin) fluctuations. Maintaining NIMs in this situation is a delicate balance. HFCs have raised rates in Q2FY23 and in Q3FY23 as well. However, the quantum of rise is not the same as repo rate hikes.

Aavas has increased its PLR (prime lending rate) by 75 basis points (bps) in the first half of FY23 and hiked it by 50 bps in October. Aptus has not hiked its lending rates yet (Nov 2022). HDFC has increased benchmark lending rates by 50 bps in Oct 22, after hikes in H1FY23. Home First has raised PLR by 25 bps in Q2FY23. LICHF has raised PLR by 115 bps from Oct'22 over and above 60 bps hike in Jul'22. Repco hiked its lending rates by 35 bps in Q2FY23.

Most HFCs across affordable and high-end segments have been able to moderate credit costs, which implies lower delinquencies. Stage-3 assets improved QoQ for HDFC, LICHF, Home First, Aptus and PNB Housing while it was broadly stable QoQ for Repco and Aavas.

Provisions as a percentage of AUM (QoQ) are mixed. For Q2FY23, PNB Housing had the highest credit cost at 224 bps, followed by LICHF at 131 bps, Aptus at 95bps, Repco at 63bps, Home First at 49bps, HDFC at 42bps and Aavas at only 5bps.

Overall, expected credit losses (ECL) provisions (as percentage of outstanding loans) fell for HDFC (individual) to 0.70 per cent, Aavas to 0.64 per cent, Home First to 0.9 per cent, while it rose for PNB Housing at 3.74 per cent, Repco at 4.28 per cent, LICHF at 2.49 per cent and 1.01 per cent (0.92per cent QoQ) for Aptus. [Business Standard, Jan. 3]

How Digital Escrow Solutions Are Helping NBFCs Optimize Their Collections

Digital escrow services have helped NBFCs revolutionise the lending industry by accessing unserved and underserved areas and meeting the varied financial demands of enterprises, particularly micro and small businesses services.

Digital escrow solutions allow NBFCs to use an existing account or open a new one specifically for the borrower NBFC with the help of all major banks.

Financial intermediation by NBFCs has increased significantly in recent years, contributing to the financial services sector's explosive growth. The expansion of access to financial services, boosting

competition, and diversification of the financial industry are all made possible by non-banking financial companies (NBFCs). As they can absorb shocks and disperse risks during times of financial difficulty, they are increasingly seen as an important component of the banking system.

Digital escrow services have helped NBFCs revolutionise the lending industry by accessing unserved and underserved areas and meeting the varied financial demands of enterprises, particularly micro and small businesses services. The NBFCs have been helped by digital escrow solutions to offer financial services instantly to businesses. Fintech and microfinance have grown significantly in India in recent years. According to Inc42's most recent report, "State of Indian Fintech Ecosystem Q3 2022," the size of the digital lending market is expected to witness an exponential growth from $270 Bn in 2022 to $670 Bn between 2022 and 2030 at a CAGR of 22%.

Digital escrow aiding challenges faced by NBFCs

The main difficulty that lending NBFCs encounter is ensuring that the loan money is utilised for the desired purpose by the borrowing NBFCs. The way in which the borrowers use their borrowed money is hidden from and beyond the lenders' awareness and control. The on-lending proceeds are frequently mishandled by the borrowing NBFCs. Rather than disbursing loans to borrowers, they use the borrowed money for operations costs, and as a result, the lending NBFCs' security coverage is under collateralized.

Similarly, the co-lending concept entails the cooperation of two or more NBFCs to provide loans to borrowers. According to a ratio decided upon by both parties, they co-lend the loan. However, here, handling disbursals and repayments for various co-lending use cases emerges as a significant difficulty.

Digital escrow offers a solution in these situations by combining disbursal & collecting accounts on a single platform. It manages various LSP disbursements and repayment through a single account and dashboard and provides partner NBFCs with easy access and data. The fund disbursal is also accelerated as under digital escrow financial services, there is no dependency on a single bank. Digital escrow enables NBFCs to profile their consumers and confirm and validate their identities before approving a loan by performing real-time government data checks and identification checks using KYC and e-KYC.

Digital escrow solutions allow NBFCs to use an existing account or open a new one specifically for the borrower NBFC with the help of all major banks. Access to the disbursal statement, balance, and reconciliation information for the borrower NBFCs is also made available. Further, digital escrow services give NBFCs control over the collecting path with split repayment flexibility.

Advantages of digital lending

NBFCs have benefited from the use of digital escrow solutions in tackling MSME credit-related issues. The quickness of loan acceptance is one of the most evident benefits. Particularly for small-ticket loans, which are most popular among MSMEs with little or no credit history, digital loans have much faster turnaround times than traditional loans. An unsecured digital loan can be approved in as little as a day, with a turnaround period of just a day or, in some cases, minutes.

With digital loans, the procedure is more simplified and effective for both NBFCs and borrowers because manual form filling is replaced with digital data capture, automated account analysis, and in-person visits are unnecessary. Further, to improve credit underwriting knowledge, digitally accessible data provided and analysed by digital escrow technologies offers MSMEs a more realistic picture of a borrower's creditworthiness and related risk. The granularity and completeness of bank statements have increased with growing formalisation and digitization, allowing lenders to produce far more in-depth insights about borrower behaviour.

To conclude

NBFCs play a significant role in emerging nations like India, where access to bank financing remains difficult for a sizable portion of the population and enterprises. Due to higher risk and lower profits, commercial banks do not provide services to certain market groups which are aided by nonbanking financial institutions, including NBFCs. Digital escrow solutions have turned out to be a beneficial force for NBFCs, not just because of the fast services offered but also due to their compliance with the new norms of digital lending guidelines.

Furthermore, the growth of digital escrow providers has supplemented in enabling funds to MSMEs through NBFCS by offering integrated stacks like trusteeship services, instant identity checks, seamless transaction processing & management, etc. [Financial Express, Feb. 22]

[By Ashwin Chawwla, Founder & Managing Director, Escrowpay) [This could be the Author's marketing endeavour. Readers may use their discretion]

Umbrella entity for urban co-op banks to soon approach RBI for registration as NBFC

RBI had accorded regulatory approval to NAFCUB in June 2019 for formation of an UO for the UCB sector.

The National Federation of Urban Co-operative Banks and Credit Societies Ltd (NAFCUB) expects the Umbrella Organisation (UO) for Urban Co-operative Banks (UCBs) to soon approach the Reserve Bank of India for registration as a non-banking finance company.

Though financial commitments from UCBs and National Co-operative Development Corporation (NCDC) for the minimum capital of Rs. 300 crore for starting the UO, which has been christened the National Urban Co-operative Finance and Development Corporation (NUCFDC), are in place, to begin with, for registration as an NBFC only ¹ 10 crore is required, according to Jyotindra Mehta, President, NAFCUB.

Mehta said co-operative entities such as IFFCO and multilateral institutions could be the other investors in NUCFDC so that no entity holds more than 20 per cent stake.

RBI had accorded regulatory approval to NAFCUB in June 2019 for formation of an UO for the UCB sector. The approval inter-alia permits UCBs to subscribe to capital of the UO on voluntary basis.

The UO, apart from extending liquidity and capital support to its member UCBs, is expected to set up Information and Technology (IT) infrastructure for shared use of members to enable them to widen their range of services in the wake of advances in information and communication technology at a relatively lower cost. The UO can also offer fund management and other consultancy services. [Business Line, March 13]

Loan sanction by NBFCs witness decline in Q3FY23, says FIDC-CRIF data

As per the data, the primary reason for the shrinkage is lower home loans sanctions, which was reduced by 2% YoY and 11% QoQ.

The loan sanctioning by the Non-Banking Financial Company (NBFC) has witnessed a decline in the Q3FY23, data shared by the FIDC-CRIF said.

In an analysis shared by the FIDC of NBFC loan sanctions for Q3 FY 23 as compared to Q3 FY 22, and Q2 FY 23, overall sanctions shrank by 2% YoY and 9% QoQ.

It further said that the primary reason for the shrinkage is lower home loans sanctions, which reduced by 2% YoY and 11% QoQ.

Performance of other areas

The Gold Loan sector witnessed a YoY shrinkage of 19% with long and medium term loans down YoY by 22% and 10% respectively.

As per the data, the consumer loans were down YoY by 5%.

This was partly compensated by robust growth in Commercial Vehicle loans which was up YoY by 14%, Commercial Equipment loan by 32% You, Auto loan witnessing increase YoY of 17%.

It further said the Two Wheeler loans was up by 32% YOY, while the Personal Loans sector was up by 28% YOY. Unsecured business loan was up by 18% and LAP up by 30%.

"The impact of home loans is very high considering its weightage in overall loans sanctioned and hence the overall reduction," it said.

Except for housing loans, which were perhaps impacted by the RBI rate increases, other sectors have shown overall improvement. [ETBFSI, March 14]

FM Nirmala Sitharaman presenting Union Budget

How India plan to overhaul its financial sector regulations

Finance Minister Nirmala Sitharaman promised to carry out a comprehensive review of existing regulations of all financial sector regulators.

"the current regulatory architecture is fragmented and is fraught with regulatory gaps, overlaps, inconsistencies and arbitrage".

In a remarkable coincidence, both China and India have outlined plans to refashion their financial sector regulations in 2023.

Those plans have become even more significant in the wake of the convulsions expected in the global financial market with the sudden collapse of the Silicon Valley Bank (SVB).

Typically, India has given a lead time for the plan, which is also expected to be incremental and spread out over more than a year.

At a far modest scale, in her Budget speech on February 1, this year Indian Finance Minister Nirmala Sitharaman promised to carry out a comprehensive review of existing regulations of all financial sector regulators.

She said her plan was to "simplify, ease and reduce cost of compliance...For this, they (the regulators) will consider suggestions from public and regulated entities. Time limits to decide the applications under various regulations will also be laid down".

The last time, the government of India decided to review the working of the regulators was more than a decade ago in 2011. It appointed a commission under justice B N Srikrishna to comprehensively review and redraw the legislations which governs India's financial system. A large part of the report of the Financial Sector Legislative Reforms Commission (FSLRC) was encapsulated in the Indian Financial Code that rewrote the powers of the Reserve Bank of India (RBI), the Securities and Exchange Board of India (SEBI) and the other regulators of the Indian financial sector landscape.

There was intense pushback from especially the RBI to the Code that stalled its implementation. It did, however, create an opinion in favour of a monetary policy committee as the rate-setting committee in the RBI which came into being in 2016. But further changes to separate the monetary policy and the role of managing the banks into separate organisations as recommended by the FSLRC was shot down by the RBI.

In India, by contrast, the push to update the laws governing the financial sector has been on for some time. Beginning with the RBI Act of 1934 which has been amended several times since then, the other acts to set up the SEBI, the Insurance Regulatory and Development Act of India and the Pension Fund Regulatory and Development Act of India have all come up since then.

A commentary by Parliament think-tank PRS Legislative Research noted that the FSLRC described "the current regulatory architecture is fragmented and is fraught with regulatory gaps, overlaps, inconsistencies and arbitrage". The draft Code was supposed to overcome these problems through a "non-sectoral, principles-based law bringing together laws governing different sectors of the financial system".

Since the budget announcements, the finance ministry has not issued any further comments on the new plan. The Budget itself has made provision for setting up a National Financial Information Registry to serve as the central repository of financial and ancillary information. The minister noted, "This will facilitate efficient flow of credit, promote financial inclusion, and foster financial stability". It is expected that the review whenever it is done will in some respects be like the FSLRC exercise in the sense that a committee headed by a judge will be set up. Since the general elections are due, latest by April 2024, the timelines for the report of such a committee and its implementation can only happen after the elections. [Business Standard, March 14; Extract from the article titled: "Here's how China, India plan to overhaul their financial sector regulations" by Subhomoy Bhattacharjee]

Moving towards less cash economy: FM

"The mission of the government is to move towards a less cash economy to reduce generation and circulation of black money and to promote digital economy," Sitharaman said.

The currency in circulation in India more than doubled to Rs. 31.34 trillion in March 2022 from Rs. 13 trillion in 2014, finance minister Nirmala Sitharaman informed the Lok Sabha on Monday. She said digital or e-rupee worth over Rs. 130 crore was in circulation on a pilot basis as of February 28, 2023.

"The mission of the government is to move towards a less cash economy to reduce generation and circulation of black money and to promote digital economy," Sitharaman said.

Between March 2016 (the note ban exercise was undertaken in November 2016) and March 2022, the notes in circulation rose from Rs. 16.42 trillion to Rs. 31.36 trillion. This means it grew from the pre-demonetisation level of 10.7% of GDP in FY16 to 13.1% in FY22.

Even though UPI (Unified Payments Interface) transactions are rising at scorching pace, Indians' penchant for cash still remains intact. The dominance of cash is partly driven by limitations of digital payments on the supply side, including inadequate dispute resolution mechanism, transaction failures and limited accessibility in rural areas.

With UPI making its debut in cross-border person-to-person payment facility recently, Prime Minister Narendra Modi said India's digital transactions will soon overtake cash transactions.

The Reserve Bank of India (RBI) launched pilots in digital rupee in the wholesale segment on November 1, 2022, and in the retail segment on December 1, 2022.

Nine banks, viz., State Bank of India, Bank of Baroda, Union Bank of India, HDFC Bank, ICICI Bank, Kotak Mahindra Bank, Yes Bank, IDFC First Bank and HSBC, have been participating in the digital rupee wholesale pilot, Sitharaman said.

"As on February 28, 2023, the total digital rupee – Retail and digital rupee – wholesale in circulation is Rs. 4.14 crore and Rs. 126.27 crore, respectively," Sitharaman said.

The e-rupee is in the form of a digital token that represents legal tender. It is being issued in the same denominations that paper currency and coins are currently issued. [Financial Express, March 14; Nidhi Mittal]

Moves

Companies must have audit trail of transactions from next financial year

Will also have to maintain edit log of changes made in books of accounts; experts say no firm will be able to delete an entry, will only be able rectify it

In a move designed to improve transparency in financial reporting and prevent tampering of accounting entries, the Ministry of Corporate Affairs has made it mandatory for companies to ensure that their accounting software records the audit trail of transactions, April 1, 2023 onwards. The notification, which was first issued two years ago, would come into effect in two weeks' time after getting pushed forward twice.

MCA has also made it mandatory for companies to maintain the edit log of changes made in the books of accounts.

A senior chartered accountant explained that companies would not be able to delete an entry, only rectify it. "Account keeping will change. Given all these bank failures and a push to digitisation government would like to push this now having deferred it already," the senior CA said.

"Considering the date of implementation of such software is approaching, companies will have to immediately gear up their accounting software in order to ensure compliance with the said requirement," said Harish Kumar, Partner, Luthra and Luthra Law Offices India.

Companies would be required to record an edit log of each change made in books of account along with the date when such changes were made. "This is to ensure that the audit trail cannot be disabled," said Ankit Singhi, partner corporate professionals.

Industry experts said that the accounting software has these features to maintain an audit trail but companies usually disable it.

For instance, if companies want to enter a back-dated transaction then the date of any such change will be recorded and could be questioned as well.

"Usually these transactions are to hide something from users, bump up your sales and revenues. It is an irregularity. Now in search and seizure operation companies can just be asked to show the edit log," said Rajat Mohan, senior partner, AMRG & Associates said.

[Business standard, March 15]

Finance Ministry tightens definition of beneficial ownership under PMLA

As per the changes, "reporting entities" - such as banks, other financial institutions and companies engaged in real estate and jewellery sectors - must collect information about any individual or group that has a 10% ownership in their clients.

'The government has tightened the definition of beneficial ownership under the anti-money laundering law and made it compulsory for non-profit organisations to maintain the records of all their financial transactions.

The finance ministry notified changes to rules related to maintenance of records under the Prevention of Money Laundering Act this week.

As per the changes, "reporting entities" - such as banks, other financial institutions and companies engaged in real estate and jewellery sectors -must collect information about any individual or group that has a 10% ownership in their clients.

Earlier, the threshold to be considered as a beneficial owner was 25%. Under the anti-money laundering law, the reporting entities also include intermediaries in casinos and crypto or virtual digital assets.

"The newly extended record-keeping requirements would go a long way in discovering money-laundering activities, which taint the social and economic fabric of the country," said Sandeep Jhunjhunwala, M&A tax partner, Nangia Andersen LLP.

He said the reduction in the ownership threshold to 10% will bring more indirect participants within the reporting net.

The latest amendment has also expanded the due diligence requirement that was earlier limited to obtaining the basic KYC details of clients, such as registration certificates, PAN card copies and documents of officers holding an attorney to transact on behalf of the client.

Under the amended rule on beneficial ownership, intermediaries will have to submit details such as the names of people holding senior management positions, names of partners, names of beneficiaries, trustees, settlors and authors, depending upon the legal form of organisations. The reporting entities will also have to give details of the registered office address and the principal place of business submitted by clients. They must maintain a record of all transactions, including the record of cash transactions of more than Rs 10 lakh.

The amendment widened the definition of "non-profit organisation", which will now include any entity or organisation constituted for religious or charitable purposes referred to in Section 2(15) of the Income-tax Act, 1961; or registered as a trust or a society under the Societies Registration Act, 1860 or any similar state legislation; or a company registered under Section 8 of the Companies Act, 2013.

A bank, financial institution or intermediary that has business relations with an NGO must register details of the NGO on the Darpan portal of Niti Aayog. 'They must also maintain the registration records for five years from closure of the business relationship or closure of account, whichever is later.

Cryptos Under PMLA

Crypto exchanges and intermediaries dealing with virtual digital assets will now be required to perform KYC of their clients and users of the platform.

As per the latest change, an entity dealing in virtual digital assets will now be considered a 'reporting entity' under the Prevention of money laundering Act (PMLA). [ET Bureau, March 10]

Union Budget announcements to boost credit offtake for rural, MSME-focused lenders

Revamped credit guarantee scheme for MSMEs will be effective April 1 through infusion of Rs. 9,000 crore

The slew of positive announcements for the MSME sector in the Budget are expected to boost credit growth for rural and MSME-focused lenders such as PSU banks, mid-sized private banks, and NBFCs.

FM Nirmala Sitharaman, on Wednesday, announced that the revamped credit guarantee scheme for MSMEs will be effective April 1 through the infusion of Rs. 9,000 crore. This will enable additional collateral-free guaranteed credit of Rs. 2-lakh crore and reduce their cost of the credit by around 1 per cent.

In addition to increasing credit flow to the fund-starved MSME sector, which is still reeling from pandemic-induced challenges and high commodity prices, this move will also give comfort to banks that are reluctant to lend to MSMEs in the absence of proper collateral, said Shantanu Bairagi, co-founder of Artfine.

Other initiatives such as promoting timely payments to MSMEs, building a digital public infrastructure for farmers, digitisation of documents for MSME lending, computerisation of agriculture co-operatives, encouraging agri-based start-ups, and helping boost value-added crop production, are also expected to support the lagging rural and agriculture economy, thus improving demand for credit.

"MSMEs have a lot to gain from this budget. Agriculture and rural development have been given detailed attention which should boost the rural economy and consumption. The announcements will trigger a pick-up in credit off take for small enterprises, the consumption-driven two-wheeler business and lending to transportation," said Umesh Revankar, Executive Vice-Chairman, Shriram Finance.

However, others said that only 7-8 per cent MSMEs have access to credit under the credit guarantee scheme, which is currently only being used by banks. Thus, more is needed to support smaller lenders and credit access for MSMEs.

The coverage of CGTMSE is limited to term loan products. Expanding the same to include supply chain finance products such as inventory funding, bill discounting, and factoring can make it more impactful for both lenders and MSMEs, said Arun Poojari, Co-founder and CEO of Cashinvoice.

"The demand of NBFCs from the finance minister was to advance hassle-free credit access and the government has given a much-needed boost to the MSME sector," said Shachindra Nath, Vice Chairman and MD of U GRO Capital, adding that while these measures will enable better underwriting of credit to MSMEs, an active liquidity support system for NBFCs still remains a request. [Business Line, Feb. 1]

Government setting up $4 billion fund to backstop corporate debt market

India is setting up a fund worth 330 billion rupees ($4 billion) to provide liquidity to its corporate debt market during bouts of stress, to help stem panic selling and ease redemption pressures, an SBI Mutual Fund executive told Reuters.

The government will provide 90% of the money for the fund, and other asset managers would contribute the rest, deputy managing director D.P. Singh said.

SBI Mutual Fund, a unit of India's largest state-owned lender, State Bank of India, has been tasked with administrating the backstop fund, which was first proposed by the Securities and Exchange Board of India (SEBI) in 2020 after high-profile defaults rocked the domestic debt market.

"We have seen in the past that whenever there is a credit event, there is a run on the funds for redemption which in turn creates pressure on liquidity," said Singh in an emailed response to questions from Reuters.

"This fund is being created to avoid such a situation in the future and meet the redemption pressure in any such event."

During times of stress, the backstop fund could step into the market to buy relatively illiquid investment grade bonds.

The need for a buyer and seller of last resort for corporate bonds was highlighted by Franklin Templeton India's move to stop redemptions from six debt funds in April 2020 as investors withdrew money and the fund house was unable to sell debt investments in the market.

"This backstop facility fund comes out of Indian market peculiarity that the bonds are investment grade and still illiquid," said Anubhav Shrivastava, partner, Infinity Alternatives, an alternate investment fund (AIF).

"The market for secondary corporate bonds is thin which is why we need the buyer and seller of last resort; the backstop fund will do this."

Finance Minister Nirmala Sitharaman announced last year that the government had taken up SEBI's proposal for the fund, without giving details.

The fund will be operational within three months, a person familiar with the plans told Reuters on condition of anonymity as they were not allowed to speak to the media.

The fund is small relative to 39 trillion rupees ($471 billion) Indian corporate bond market, but its size could be increased later, the source said. [Moneycontrol, REUTERS, Feb. 17]

All govt. depts. to integrate with national single window system by Dec

All the states, union territories and 32 central government departments will integrate with the National Single Window System (NSWS) by December this year, through which companies can seek all approvals and clearances for their businesses, a top official said on Thursday.

So far 19 states/UTs and 27 central government departments are already onboarded, including Andhra Pradesh, Bihar, Goa, Gujarat, Himachal Pradesh, Jammu & Kashmir, and Karnataka, the Secretary in the department for promotion of industry and internal trade (DPIIT) Anurag Jain said here. He was speaking at a joint meeting of the India-Japan business cooperation committee meeting.

The system is aimed at reducing duplicity of information submission to different ministries, reduce compliance burden, cut gestation period of projects, and promote ease of starting and doing business.

NSWS enables the identification, applying and subsequent tracking of approvals for all integrated states and central departments.

"Going forward we are targeting that by December 2023 all 36 states and UTs will be onboarded and all 32 departments of the central government will be onboarded We are trying to bring the whole of the government on one single screen," Jain said.

He said that both the centre and state governments will be there, so that it will be truly transformational for ease of doing business in the country. [Business Standard, Feb. 9]

Alignment of NBFC categorisation done in Union Budget 2023

- Section 43B of the IT Act states that any sum payable by the taxpayer as interest on any loan or borrowing from:
  - A Deposit taking Non-Banking Financial Company ('NBFC-D'); and
  - A Systemically Important Non-Deposit taking Non-Banking Financial Company ('NBFC-ND-SI).

shall be allowed as deduction on payment basis. However, it can be allowed on an accrual basis if the payment is made on or before the due date of furnishing the return of income of the relevant fiscal year.

- Similar classification has been referred under section 43D of the IT Act. However, the aforesaid classification of NBFCs is no longer followed by the RBI for the purposes of asset classification.
- To align with the policy of the RBI, it is proposed to amend section 43B and section 43D of the IT Act, to substitute the words, "a deposit taking nonbanking financial company or systemically important non-deposit taking nonbanking financial company", for the words "such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf.
- This amendment shall be made effective from fiscal year 2023-24. [India Union Budget 2023- A BDO India Publication, February, 2023]

Comment: This is simply a technical change and will not have any impact on ground. Now with the new Scale Based Regulations kicking in, the classification of Deposit Taking or NDSI has been dropped and will be replaced by Base layer and middle layer etc.

Raman Aggarwal, Director, FIDC

We want to push India's $1 trillion digital economy dream: Satya Nadella

As India embarks on its digital journey with full steam, Microsoft wishes to move in and provide every part of its tech stack to the country and its innovators, to help it become the $1 trillion digital economy as the country spends more on its tech sector, the company's Chairman and CEO Satya Nadella said here on Thursday.

Nadella told IANS that India's tax spend as a percentage of its GDP is becoming normalised when compared to the developed world, and is now among the top 10 countries. "I ask, what happens if India spends more on its tech sector? What is the productivity gain that the world can benefit from? And here, we want to move in with our world-class offerings," Nadella said during a closed-door session.

"We want to be the infrastructure provider. We want to be the developer amplifier. We want to provide every part of our tech stack to basically help the country gain that leverage towards becoming a $1 trillion digital economy soon," he emphasised. The Microsoft CEO said that they are investing capital in India, like in building new data centres. "We now have three data centres and the fourth one is coming soon," he informed.

At the opening ceremony of the BRICS Business Forum in virtual mode last year, Prime Minister Narendra Modi said India's digital sector valuations will cross $1 trillion soon.

Minister of State for Electronics and Information Technology Rajeev Chandrasekhar said in November that over the next 5-7 years, "we will surely see our trillion-dollar digital economy goal become reality."

The IT and BPM sector has become one of the most significant growth catalysts for the Indian economy, contributing significantly to the country's GDP and public welfare.

According to India Brand Equity Foundation, the IT industry accounted for 7.4 per cent of India's GDP in FY22 and is expected to contribute 10 per cent to India's GDP by 2025. [Business Standard, Jan. 5]

Compliance reduction & decriminalization of legal provisions will foster ease of doing business

With compliances and penalties being eased, it will not only further enhance India's rank but will get India a tag of being a preferred destination for foreign capital. In addition, this will reduce the burden on the already burdened judicial system to hear and award criminal punishments.

India's improved rank in the ease of doing business report of The World Bank is a testimony that India is reducing its compliance burden on companies and individuals, thus making business and commercial life easy here. India ranked 142 nd (out of 190 countries) in 2014 and is now well placed at 63 rd in 2022. The aim is to go below 50. This will be a remarkable achievement. This will make India a preferred destination for foreign investment and ensure investors' and other stakeholders' confidence. One factor that has significantly contributed to the improved rank is easing of compliance requirements under several legislations. From making it easy to set up a new company, to get licenses/business permits, getting a property registered, paying, or making tax filings and compliances, resolving insolvency, facilitating cross border trade, there has been a sum of many efforts that have added to the rank.

The Government of India surely deserves an applause for its continuous and committed efforts in this direction. The government is serious on two accounts – one, to ease compliance burden; and second, to relax punishments for such non-compliances. To achieve this, the penalties for non-compliances have been shifted from criminal charges (i.e., imprisonment) to monetary fines. It was never right in the first place to have criminal liability to address minor and trivial offences. It instilled fear on companies and its officer of getting imprisoned for such minor offences. This added to India Inc's difficulties of doing business.

With compliances and penalties being eased, it will not only further enhance India's rank but will get India a tag of being a preferred destination for foreign capital. In addition, this will reduce the burden on the already burdened judicial system to hear and award criminal punishments.

In continuation in this direction, the Union Budget 23-24 has announced further steps. It has proposed to reduce more than 39,000 compliances under several legislations and to de-criminalise more than 3400 legal provisions. This, according to the Budget, will ensure trust-based governance and unleash the potential of our economy – one of the seven priorities laid out in the Budget.

To achieve this, the Jan Viswas (Amendment of Provisions) Bill, 2022 has already been introduced in Lok Sabha on December 22, 2022 and was referred to the Joint Parliamentary Committee on the same date. It proposes to amend 42 Acts to reduce the compliance burden on individuals and businesses and ensure ease of doing business.

These legislations cover aspects relating to environment protection, agriculture, forest, air pollution, drugs and pharmacy, IPR laws (such as copyright, patents, trademarks and geographical indications of goods), banking companies, motor vehicles, railways and metro rails, cable TV network, Information Technology, prevention of money laundering and so on. Unlike earlier efforts to de-criminalise certain specific and limited Acts such as the Companies Act 2013, this Bill goes very far and wide to move from a criminal punishment

regime to a more acceptable monetary fines approach.

Implementation of laws is the bedrock of legal framework. Therefore, there must be fear of non- compliance in the minds of violators. Equally important is punishment must commensurate to the nature of an offence. This will build a conducive and balanced environment of compliances. Imposing too big a penalty for a small offence is not correct, neither is too little for a serious offence. The right balance must be struck. De-criminalisation of trivial offences is a step in the right direction. This will surely ease of doing business in India. [ETCFO, Feb. 10; Lalit Kumar, Partner, J Sagar Associates]

Govt launches Grievance Appellate Committee as part of IT Rules

The government, on Tuesday, launched the Grievance Appellate Committee (GAC), a faceless dispute resolution mechanism that makes digital platforms, big and small, accountable to Digital Nagriks. The GAC was one of the provisions in the recently amended Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Three such bodies have been constituted comprising of professionals from various fields.

"The GACs will work in the most transparent manner, and their decisions will be uploaded on website and accessible to the public," said Rajeev Chandrasekhar, Minister of State for Electronics & Information Technology and Skill Development & Entrepreneurship.

On January 28, three GACs were constituted with three members each. Each of the three GACs have a chairperson, two whole-time members from different government entities, and retired senior executives from the industry, for a term of three years from the date of assumption of office.

Terming the GAC as an institution that will be a beacon for the Indian Internet, the Minister said the mechanism is an important part of the overall framework of making the internet open, safe, trusted and the digital platforms accountable. This, in turn, will create a culture of disclosure and public scrutiny.

"It is an extension of our government's views, policies and vision about creating easier ways of resolving disputes – whether it's about taxation or the grievance redressal of DigitalNagriks," he added.

The Minister reasserted that the vision behind the GAC is to ensure that the grievance redressal mechanism of the intermediaries work effectively. [Business Line, Feb. 28]

More non-banks, MSMEs likely to tap TReDS platform

Trade Receivables and Discounting System (TReDS) is an electronic bill discounting platform regulated by RBI and endorsed by the central government to provide MSME 'suppliers' of corporate 'buyers' instant payments for future receivables to prevent delay in payouts for cash-strapped small businesses.

The central bank's move to allow insurance companies to participate in the Rs. 60,000 crore TReDS platform is likely to increase the participation of non-banks and mid-sized corporates. Secondary market deals will also free up additional liquidity for existing participants. Currently, there are nearly 45,000 medium and small enterprises that are registered sellers on the platform.

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TReDS volumes have doubled in the last two years and an increase in liquidity on the platforms is critical for scale-up.

"With insurance companies being allowed to participate as the 'fourth participant' on TReDS, we expect appetite for a large segment of moderately rated corporates to increase," said Prakash Sankaran, MD, Invoicemart. "The secondary market for financiers to sell their TReDS portfolio will free up capital to finance fresh transactions on the platform. With more entities now being allowed to undertake factoring business, we expect an increase in NBFC registrations on TReDS platforms resulting in access to funds to a more broad-based range of MSMEs."

On Thursday the RBI said it will allow entities eligible to undertake factoring business to participate as financiers on TReDS and allow secondary market operations on the platform.

"Financiers will be able to sell their portfolio of invoices discounted on TReDS to other financiers thereby freeing up the liquidity for supporting the MSMEs further," Said Sundeep Mohindru, director at M1xchange, a TReDS platform.

Banks and NBFCs finance invoices at competitively priced interests on a bidding basis on the platform which then gets structured as short-term loans to the corporates with a maximum maturity period of 180 days.

"Wider participation by more entities can keep the receivable discounting pricing under check as the volume on these platforms increases," said Anil Gupta, senior vice president at ICRA. "Flexibility to allow re-discounting by existing holders of discounted receivables will aid liquidity of participants. Insurance coverage for the discounted receivables can also enhance the volumes and further reduce the pricing of such insured receivables." [ET Bureau, Feb.10;Saloni Shukla]

Vehicle scrappage policy: 11 states/UTs join National Single Window System

The Ministry of Road Transport and Highways (MoRTH) on Wednesday said 11 states/UTs have been onboarded onto the National Single Window System (NSWS) for Voluntary Vehicle-Fleet Modernization Program (V-VMP) to attract private investment in the vehicle scrapping ecosystem.

The ministry, in a statement, further said as on November 14, 2022, applications of 117 investors who have shown interest for Registered Vehicle Scrapping Facilities (RVSF) are under process, out of which 36 applications have been approved by the respective state governments. Gujarat, Uttar Pradesh, Karnataka, Andhra Pradesh, Odisha, Madhya Pradesh, Rajasthan, Assam, Goa, Uttarakhand, and Chandigarh have been onboarded to NSWS for V-VMP, the statement added.

The vehicle scrappage policy (V-VMP) has come into effect from April 1, 2022. Announced in the Union Budget 2021-22, the policy provides for fitness tests after 20 years for personal vehicles, while commercial vehicles will require it after the completion of 15 years

According to the statement, expeditious onboarding of all other states/UTs on the NSWS has also been initiated. In addition, 84 automated testing stations (ATSs) across 11 states are proposed under the state/UT government control through Request for Proposal (RFP) by doing the necessary tendering.

Investor summits have been conducted across 16 states to promote salient features of the V-VMP policy, attracting private investments.

"As per projections based on vehicle registrations data on Vahan, 40-45 RVSFs are required to be set up in the next 2 years and 60-70 RVSFs in coming 5 years across India. "Similarly, there is a requirement of 130-150 ATS in the next 2 years, and 450-500 ATS in coming 5 years across India," it said.

Under the new policy, the Centre had said the states and Union Territories (UTs) will provide up to 25 per cent tax rebate on road tax for vehicles that are purchased after scrapping old vehicles. [Business Standard, Jan. 4]

Government sets up centralised facility for voluntary closure of companies

The corporate affairs ministry has set up a facility to enable quick and faceless decision-making on requests from companies for winding up operations and exit.

The move is part of efforts to improve the overall regulatory framework and to ensure predictability of regulatory decisions. The ministry said in a notification that a Centre for Processing Accelerated Corporate Exit (C-PACE) has been set up at the Indian Institute of Corporate Affairs (IICA) in Haryana.

The new body set up under section 396 of the Companies Act comes into force from 1 April, the ministry said. The new centralised facility will make decisions on corporate requests for winding up and companies will no longer have to go to the Registrar of Companies (RoCs) in the state where they are registered.

Businesses closing down for various reasons only need to file online requests at this new facility. The government believes that ease of exit for businesses that have either failed to take off or want to close operations for various economic reasons will be a key consideration that investors take into account while making investment decisions.

The government is also keen to reduce the time taken for voluntary closure of companies from about one to two years to less than six months. The faceless approach to decision-making in this regard is expected to reduce human discretion and any subjectivity in the process. [Mint, 18 March] ■

705-day delay costs APSFC Rs. 46 crore

The Supreme Court threw out the window a special leave petition of Andhra Pradesh State Finance Corporation with the terse observation that "there is an inordinate delay of 705 days in filing the petition, which has not been explained satisfactorily".

The issue related to Kalpataru Steel Rolling Mills, which owed the SFC Rs. 46 crore. Andhra Bank (since merged with Union Bank of India) had also lent Rs. 90 crore. The company defaulted on both dues.

The SFC took possession of the hypothecated land, plant and machinery, but was unable to sell them. In the meantime, Andhra Bank moved the National Company Law Tribunal (NCLT) against Kalpataru under Section 7 of the Insolvency and Bankruptcy Code (IBC), which was admitted on August 14, 2018.

It was not until 2020 that the APSFC filed the special leave petition before the Supreme Court, which dismissed it both on grounds of delay as well as merit.

The SFC then approached the National Company Law Appellate Tribunal (NCLAT), this time objecting that Andhra Bank's Section 7 application was time-barred. The appellate tribunal, too, dismissed it. It noted that APSFC's previous objection was only over the apportionment of the amount. "At no point of time any issue regarding limitation of Section 7 application has been raised," NCLAT said.

The APSFC had also challenged the resolution plan on the grounds that Kalpataru Steel was not a going concern and, hence, there was no question of approving the resolution plan. NCLAT again disagreed, noting that the NCLT had, in its order, "mentioned that the resolution plan contains the provision for takeover of the corporate debtor as going concern and amalgamation of the corporate debtor with the resolution applicant."

The resolution plan also contains provision for the implementation of the plan through a monitoring committee, it noted. [Business Line, Dec.18]

Axis Bank fails to enforce guarantee from Bank of Baroda

The Bombay High Court has ruled that Axis Bank cannot force Bank of Baroda to pay the Rs. 8.56 crore guarantee that the latter had offered for a loan provided by Axis Bank to Nakshatra Brand Ltd.

In November 2016, Axis Bank had sanctioned a 'gold metal loan' worth Rs. 100 crore to Nakshatra — the bank would provide the metal and the borrower would repay in cash. Vijaya Bank (since merged with Bank of Baroda) stood guarantee for the loan. Axis Bank supplied 30 kg of gold in three tranches. Nakshatra defaulted on repayment. Axis Bank asked Bank of Baroda to pay the guarantee, which worked out to Rs. 8.56 crore plus 17.4 per cent interest. Bank of Baroda refused and, instead, called for "additional information and documents" from Axis Bank. This, according to Axis Bank, was wrong and unjustified because, under the terms of the bank guarantee, Bank of Baroda (Vijaya Bank) had to pay "without contest, demur or protest".

Bank of Baroda argued that it was "entitled to an unconditional leave to defend the suit as substantial and triable issues arise in the context of an egregious fraud which vitiated the entire transaction". Nakshatra and its promoters/directors are being investigated by law enforcement agencies for alleged systematic fraud. [Business Line, Feb. 25]

SC brooks no delay

If you are a public servant and the Supreme Court orders you to do something, you better not wait for permission from your superiors. This was made loud and clear by Supreme Court Judges Justice BR Gavai and Justice Vikram Nath in the Junagadh Municipal Corporation vs Adarsh Housing Cooperative Society case.

Expressing their displeasure over the conduct of Rachit Raj, Collector of Junagadh district, who (apparently) waited for the permission of his superiors to implement an order of the Supreme Court, the judges said, "When an order has been passed by the highest court of the country, there is no occasion for the collector to seek permission for implementation of the orders passed by this court." [Business Line, Feb. 25]

CJI announces launch of e-SCR to provide verdicts in scheduled languages

Chief Justice of India (CJI) DY Chandrachud Wednesday said the electronic Supreme Court Reports (e-SCR) project will now start providing apex court judgements in various Indian scheduled languages from Republic Day.

As soon as the bench assembled for the day, the CJI told the lawyers the apex court will operationalise the part of the E-SCR project on Thursday for providing verdicts in some local scheduled languages free of cost.

"Apart from the e-SCR, we also have now 1091 Supreme Court judgements in local languages which will be available on the Republic Day," he said. There are of 22 languages in the Eighth Schedule of the Constitution.

The apex court verdicts, as part the e-SCR project, will be available on the apex court website, its mobile app and on the judgment portal of the National Judicial Data Grid (NJDG). [Business Standard, Jan. 25]

ED's power confined to probe money laundering offence, can't assume predicate offence committed: Delhi HC

The Delhi High Court has held that the Enforcement Directorate (ED) has the power to investigate and inquire into an offence of money laundering under the Prevention of Money Laundering Act (PMLA) only and it cannot assume that a predicate offence has been committed.

The high court said the predicate offence has to be necessarily investigated and tried by the authorities empowered by law in that regard and the ED cannot possibly arrogate unto itself the power to investigate into the alleged commission of those offences.

"What needs to be emphasised is that the PMLA empowers the ED to investigate Section 3 offences only. Its power to investigate and enquire stands confined to the offence of money laundering as defined in that section. However, the same cannot be read as enabling it to assume from the material, that it may gather in the course of that investigation, that a predicate offence stands committed.

"The predicate offence has to be necessarily investigated and tried by the authorities empowered by law in that regard," Justice Yashwant Varma said in a 111-page judgement passed on January 24.

The high court said, "The primary function to investigate and try such offences remains and vests in authorities constituted under those independent statutes…In any case, it (ED) cannot and on its own motion proceed on the surmise that a particular set of facts evidence the commission of a scheduled offence and based on that opinion initiate action under the PMLA." It said if in the course of its enquiry and investigation, ED was to come to the conclusion that the material in its possession evidences the commission of an offence created under any other enactment, it would be obliged to furnish requisite information in respect thereof to the agency concerned for necessary action.

The high court's verdict came while allowing two separate petitions filed by Prakash Industries Limited and Prakash Thermal Power Limited challenging the Provisional Attachment Orders (PAO) issued by the ED on November 29, 2018.

The proceedings drawn by the ED emanate from an allocation of the Fatehpur Coal Block in Chhattisgarh.

It was alleged that the two companies misrepresented their net worth to procure coal block. An FIR was lodged by the CBI under the provisions of the Indian Penal Code and Prevention of Corruption Act. Based on the FIR, the ED registered an Enforcement Case Information Report on the allegations relating to share price manipulation and generation of proceeds of crime from such activities.

Later, the allocation of coal block was cancelled following the Supreme Court's judgement in 2014.

The high court quashed the November 29, 2018 PAO as well as the original complaint. It also dealt with the objection raised by ED counsel that in view of the directions of the Supreme Court, the high

court would not be permissible to either entertain these petitions or take cognisance of the challenged raised.

The ED counsel referred to the July 25, 2014 order passed by the apex court in the coal block allocation matter in which was held that any prayer for stay or any order impeding the progress of investigation relating to coal block allocations would be liable to be placed before the special court only and that no other court could entertain the same.

The high court, however, said it was unable to accede to the preliminary objection raised by ED and said the special court which came to be constituted was so identified solely to deal with and exclusively try offences emanating from coal block allocations and for the trial of offences that may have been alleged to have been committed either under the IPC, PC Act and PMLA.

"The direction for transfer of pending cases also clearly appears to be confined to criminal matters arising out of coal block allocations," it said, adding that those directions cannot possibly be construed or interpreted as extending to PAOs that may be made under PMLA.

Justice Varma said the special judge constituted to try criminal cases and offences would clearly lack the authority to either deal with or rule upon the validity of PAOs that may be made.

"If the submission addressed by and on behalf of the ED in this regard were be accepted, it would also amount to short circuiting the adjudicatory mechanism with respect to attachment orders as structured and placed in terms of the provision of the Act," the high court said.

It said the apex court's directions cannot be construed as denuding the high court of the jurisdiction to entertain a challenge relating to a PAO and the exercise of power by the ED under Section 5 of the PMLA.

If the submissions of ED are accepted, it would essentially amount to recognising a power inhering in the special judge to not only don the robes of the adjudicating authority but to also deprive the appellate forums of the jurisdiction to decide appeals against the orders that may ultimately come to be passed under section 8 of the PMLA. [Financial Express/PTI, Jan. 26]

Filing deadline: Delhi HC leaves it to NCLAT

Power Infrastructure Ltd moved the High Court of Delhi in a matter relating to the law of limitations under the Insolvency and Bankruptcy Code. The maximum limitation period of 45 days for an appeal expired on November 12, but Power Infrastructure e-filed on November 11, a Friday, and the physical filing was on November 14. The question is whether the physical filing delay can be condoned because e-filing was on time.

The High Court of Delhi left it to the National Company Law Appellate Tribunal (NCLAT): "Since the matter is pending adjudication before the NCLAT, this court does not wish to give any opinion on the factual issue — that is, whether the appeal was within the limitation period or not. Suffice it to observe that the prevalent position with regards to e-filing of documents across courts and tribunals in the country, encouraging e-filing, which may become the norm in the future, would duly be taken into consideration by the tribunal." [Business Line, Dec. 18]

GST: Karnataka High Court Rules on Taxability of Vouchers

The high court ruling is likely to provide guidance on one of the much-debated issue of classification and taxability of vouchers.

EY Update: This alert summarises a recent ruling of the Karnataka High Court on taxability of vouchers under Goods and Services Tax.

Assessee is engaged in the transactions of procuring pre-paid payment instruments (PPIs) of gift vouchers, cash back vouchers and e-vouchers from the issuers and supplying them to its clients for specified face value. Such PPIs are recognized by the Reserve Bank of India for purchase of goods and services. Assessee applied for advance ruling to determine taxability on supply of such instruments.

The Karnataka Authority for Advance Ruling and Appellate Authority for Advance Ruling ruled that the supply of vouchers is taxable as goods and the time of supply would be governed by Section 12(5) of the Central Goods and Services Tax Act, 2017. Aggrieved by the same, assessee filed a writ petition before the HC.

Assessee argued that 'vouchers' as defined under the CGST Act makes it clear that the same are mere instruments accepted as consideration for supply and would fall under the definition of 'money'. The high court observed that in substance, the transaction between the assessee and its clients is procurement of printed forms and their delivery. The printed forms are like currency. The value printed on the form can be transacted only at the time of redemption of the voucher and not at the time of delivery.

Therefore, issuance of vouchers is similar to pre-deposit and not supply of goods or services. Hence, vouchers are neither goods, nor services and accordingly, cannot be taxed. Basis above, HC quashed the orders passed by AAR and AAAR.

Comments

HC ruling is likely to provide guidance on one of the much-debated issue of classification and taxability of vouchers.

In the present case, the PPIs issued by the taxpayer were recognized by RBI as mode of payment and hence, HC considered the same as money. Implication of this ruling on other kinds of vouchers needs to be determined basis facts of each case.

Businesses may also have to analyse whether consideration received for supply of vouchers, wherein such vouchers can only be redeemed against specific goods or services, should be considered as advance payment for the underlying supply and taxed accordingly. [BQ Prime, 17 Feb.]

Gujarat HC allows Welspun to take over ABG Shipyard's assets

Enforcement Directorate uses money laundering law to challenge Welspun's takeover of ABG Shipyard assets

The Welspun group's successful Rs. 790-crore bid to take over auctioned assets of ABG Shipyard was challenged by the Enforcement Directorate under the Prevention of Money Laundering Act (PMLA).

There has always been a tussle for supremacy between the PMLA and the Insolvency and Bankruptcy Code. In this case, it was well after Welspun paid the consideration that the ED acted, based on a complaint by State Bank of India. Welspun had bought the assets by means of a Rs. 400-crore loan from IndusInd Bank, with the assets as security.

The ED attached those very assets.

It is an established position that to attach assets under PMLA, the ED must have 'reason to believe' that the assets involved 'proceeds of crime'. The 'reason to believe' is a necessary condition but cannot be based on gossip or rumour.

Hearing a petition from Welspun Steel Resources Pvt Ltd, Justice Biren Vaishnav of the High Court of Gujarat, Ahmedabad, observed: "Sine qua non to arrive at a determination that the assets are proceeds of crime, the foremost requirement is that the author has to have 'reason to believe' on the basis of material in his possession. 'Reason to believe' cannot arise from mere suspicion, gossip or rumour.

"Merely because the impugned order records alleged fraudulent transactions and diversion of funds, it cannot automatically lead to a conclusion that the properties acquired by the petitioners are proceeds of crime. In order to arrive at a conclusion that 'reason to believe' exists, there must be some material to suggest such formation of opinion."

In this case, the judge was satisfied that there was no strong 'reason to believe' that the assets were acquired by ABG Shipyard using 'proceeds of crime'. [Business Line, Feb. 25]

HC restricts scope of writ jurisdiction against order passed by AAAR

Executive summary: EY Tax Alert

This Tax Alert summarizes a recent ruling1 of the Bombay High Court (HC) on the admissibility of writ petition against the order of the Appellate Authority for Advance Ruling (AAAR).

The key observations of the HC are:

- The legislative scheme indicates that the provisions relating to advance ruling are distinct from the appeal and revision. The order of the AAAR is binding on the applicant and the concerned jurisdictional officer. No further appeal is provided.

This legislative scheme has to be kept in mind when the applicant challenges the order passed by the AAAR invoking writ jurisdiction.

- In the present case, the AAAR followed the entire procedure, and full opportunity was given to the assessee. There is no ground raised of breach of principles of natural justice on account of not giving an opportunity of being heard.
- The view taken by AAAR is based on the material placed before it. The assessee's intention to convert this limited enquiry into an appellate enquiry is not permissible to be undertaken in the writ jurisdiction.
- The Authorities have dealt with the issue in extenso, having considered the submissions and the law cited. The view taken in the matter cannot be considered as suffering from fundamental error or absurd or perverse.

Accordingly, HC dismissed the writ petition filed by the assessee, challenging the order passed by the AAAR.
[BQ Prime, Jan. 3, 2023; 1 TS-672-HC(BOM)-202]

NCLAT dismisses appeal for insolvency by Wave Group

The Wave Group's Wave Mega City Centre Private Limited had filed for voluntary bankruptcy proceedings on March 26, 2021, leaving homebuyers in the lurch.

The National Company Law Appellate Tribunal (NCLAT) on January 5 dismissed the appeal for insolvency by the Wave Group.

"We do not find any merit in the appeal. The appeal is dismissed. No costs," the order by Justice Ashok Bhushan, chairperson and Barun Mitra, member, technical said.

"This is a victory for us. The land bank is already with us. The order sends out a message to real estate developers to pay their dues and abide by the norms," Ritu Maheshwari, CEO, Noida Authority told Moneycontrol.

When contacted, Wave Mega City Centre spokesperson refused to comment.

"The NCLAT order upholding the decision of NCLT and dismissing the petition of Wave Megacity is a welcome decision as it protects the rights of homebuyers and doesn't let the builder escape the clutches of law. Most importantly, if the petition of Wave would have been admitted then the homebuyers would have been left high and dry because of moratorium under IBC and their decrees before RERA and consumer courts couldn't have been executed," said Piyush Singh, Founding Partner of PSP Legal.

Wave Megacity Centre had in March 2021 approached NCLT under Section 10 of the Insolvency and Bankruptcy Code (IBC). Section 10 of IBC allows a debtor to initiate insolvency resolution process against itself if it has committed any default. The realty firm, in its petition filed in 2021, had claimed that it had to pay an amount of Rs 1,222.64 crore to Noida Authority and it was unable to clear the dues.

In June last year, NCLT had dismissed Wave Megacity Centre's plea to initiate insolvency proceedings against itself and directed that an inquiry be conducted by a central government agency into the allegations of fund diversion by the real estate firm.

"We have concluded that the application filed under section 10 of Indian Bankruptcy Code 2016 was an attempt on the part of the corporate debtor (Wave Group) to play fraud on thousands of homebuyers, the Noida Authority, and the government authorities. Further great prejudice must have caused if the CIRP was triggered. Therefore we are imposing Rs 1 crore penalty on corporate debtor which shall be deposited in the Prime Minister's relief fund in the next 15 days," the NCLT order had said in June 2022.

It had observed "serious allegations against the corporate debtor with regard to siphoning off the money collected from homebuyers. Further, there is evidence produced by homebuyers that the corporate debtor was taking huge amount of cash from them. It is surprising to note that despite receiving the entire amount from homebuyers, the corporate debtor failed to give possession or refund money... In light of the above circumstances, we direct the central government to make necessary investigation into the affairs of corporate debtor." [Moneycontrol.com]

SC okays handing over Chennai hospital building to promoter

The Supreme Court has asked the official liquidator of Chennai-based Santosh Hospitals Pvt Ltd to hand over the building to former promoter-director Dr P Mahalingam, who promised to pay Rs. 10 crore to Muthoot Fincorp Ltd. This is an interim relief and will not interfere with the ongoing dispute under the Insolvency and Bankruptcy Code.

Justices Dinesh Maheshwari and Hrishikesh Roy made it clear they were dealing with the appellant Dr Mahalingam's prayer for interim relief, and "would not make any comments on the merits of the respective contentions, which shall be examined at the final hearing". The judges only wanted "an opportunity (to) be extended to the appellant to use the building for the purpose it is meant" — a hospital.

The respondents, Muthoot Fincorp and DCB Bank, see the offer of Rs. 10 crore as a delaying tactic, given Dr Mahalingam's track record of not paying.

The Chennai bench of the National Company Law Tribunal had, on December 4, 2019, noted that the "suspended directors and their counsel have kept on saying that money would come from various sources so as to avoid sending this company to liquidation, we have also believed... waited again and again, hoping that this money, which the suspended directors promised to bring in, would come".

Dr Mahalingam had promised to pay Rs. 57.55 crore to Muthoot Fincorp, but didn't. (The amount owed to Muthoot Fincorp is nearly Rs. 100 crore.) The tribunal then ordered the liquidation of the company, which Dr Mahalingam unsuccessfully challenged before the National Company Law Appellate Tribunal.

Dr Mahalingam then appealed to the Supreme Court under Sec 62 of the IBC, which is invoked when there is a question of law involved. The appellants argued that the building, which was taken over by the official liquidator under the SARFAESI Act, did not belong to the corporate debtor, Santosh Hospitals (it was only offered as security), and hence was outside resolution/liquidation proceedings. [Business Line, Jan. 29]

SC: Charge Sheets not a Public Document

Holding that a charge sheet is "not a public document", the Supreme Court on Friday rejected a plea seeking publication of charge sheets led by investigative agencies including the Central Bureau of Investigation and the Enforcement Directorate on government websites.

A division bench comprising Justices MR Shah and CT Ravi Kumar ruled that putting out charge sheets on websites would run contrary to the scheme envisaged by the Code of Criminal Procedure.

The bench observed that putting out charge sheets on websites could also compromise the rights of the accused as well as the victim of the crime and also the investigating agency.

The judgement came on a plea filed by journalist Saurav Das. The petitioner argued that citizens have a legal and constitutional right to proactive disclosure of charge sheets because the right to know is a fundamental right emanating from the Right to Freedom of Speech and Expression.

He further contended that it is incumbent on the investigating agencies to make available charge sheets on their websites and enable public access to those documents so that the citizenry can stay informed and the press can faithfully and accurately report on criminal trials. He raised the issue of "fake news" that can emanate from selective or inaccurate leaks of charge sheets, resulting in media trials. [ET Bureau, Jan 21]

States can Impose Special Road Tax: SC

The Supreme Court(SC) on Friday held that a state government can impose lumpsum road tax on all public transport vehicles to augment infrastructure facilities and such levy is regulatory and compensatory in nature and, therefore, within the competence of a state legislature. It ruled that state legislatures not only have the power to

make laws on the taxation to be imposed on motor vehicles, but also have the power to lay down principles on which such taxes are to be levied.

A bench comprising justices Sanjay K Kaul, Abhay S Oka and Vikram Nath, while ruling in favour of the state of Himachal Pradesh, set aside the state high court's judgment that gave a contrary view. The high court had quashed the state government's notifications

issued in 2000 for levy of lumpsum taxes, holding that it could not be levied on general assessment but as per actual default.
The HC had also ruled that the imposition of additional special road tax on transport vehicle used without a valid permit is not a tax but a penalty and is ultra vires the legislative powers of the state legislature under Entries 56 and 57 of List II (the State List) of the Seventh Schedule to the Constitution.
“This is a landmark judgment that recognises the power of the state to impose taxes for its development. This judgment will help the state to impose taxes for developing road and transport infrastructure. Now the state will be able to recover crores of outstanding dues,” Himachal Pradesh Additional Advocate Abhinav Mukerji told ET. [ET Bureau, Jan 15]

Taxman can’t keep GST paid by mistake: HC

The taxpayer supplied the cable laying services at Kandlakoya in Telangana but erroneously issued two tax invoices for this to Vodafone Mobile Services Limited, Mumbai.
In a move that will help assesses, the Andhra Pradesh High Court has said the Goods and Services Tax (GST) department cannot keep the taxes paid by them due to inadvertent error on their part while filing the GST forms. In a recent ruling on a writ petition, a division bench of Justices C Praveen Kumar and AV Ravindra Babu held that amounts that were paid by the taxpayer furnishing incorrect details cannot be taken as tax dues to the department. The department cannot claim that the taxpayer is barred by limitation.
“Viewing from any angle, the respondents cannot retain the disputed amount, that are paid to them, due to inadvertent error,” the Court held, adding that the petitioner is entitled to relief. The Court also directed the taxpayer to apply for a refund of the tax amount he is entitled to in manual form and also directed the GST department to pass an order on the refund within four weeks. [Financial Express, Jan. 7]

Judge rues overuse of Sec 34 in arbitration proceedings

Delhi High Court Judge Justice Chandra Dhari Singh has spoken out against the overuse of Section 34 as this is “defeating the ends for which the (Arbitration) Act has been legislated”.
In his verdict in the Hindustan Construction Ltd Vs National Hydroelectric Power Corporation (NHPC) case, at the heart of which was the invocation of a Rs.26-crore bank guarantee by NHPC, Justice Singh said: “The legislative intent behind enacting the Arbitration Act is to make justice delivery simple, inexpensive, party-led and time-bound as well as to take the burden of a big chunk of commercial off the conventional courts. This being the motivation and expectation, the finality of the arbitral award gains enormous importance. However, appealing the award granted by the arbitrator/tribunal has become a routine practice for the aggrieved party whose claims are not allowed; and the challenge petition becomes pending, further adding to the burden of the courts as well as posing a looming threat to the finality of the award, thus defeating the ends for which the Act had been legislated.”
The plaintiff, Hindustan Construction, had prayed for restraining NHPC from encashing the bank guarantee, especially in view of the cases filed under Section 34 of the Arbitration Act against arbitral awards related to some disputes.
The case arises out of a 2006 contract between Hindustan Construction and NHPC, under which the former would build the 160MW Teesta Low Dam in West Bengal for NHPC. The dispute is over NHPC’s claim of insurance premiums and liquidated damages amounting to Rs. 145 crore from Hindustan Construction.
Justice Singh, who said he would deal only with this case and not the broader issue of return of bank guarantees, observed: “The settled position in law that emerges from the precedents is that the bank guarantee is an independent contract between bank and the beneficiary, and the bank is always obliged to honour its guarantee as long as it is an unconditional and irrevocable one. There are, however, exceptions to this rule when there is a clear case of fraud, irretrievable injustice or special equities.”
Citing several reasons why he believed such ‘special equities’ exist in the present case in favour of Hindustan Construction, the judge restrained NHPC from invoking the bank guarantee.
The arbitral award had gone in favour of Hindustan Construction and NHPC went to court under Section 34 of the Arbitration Act. Justice Singh noted that even if the NHPC succeeded in getting the arbitral award set aside, it did not follow that the original dispute between the parties would be settled in NHPC’s favour, because of the likelihood of further appeals. Therefore, it could not invoke the bank guarantee. [Business Line, Feb. 25]

Speeding up judicial processes: How AI is reshaping Indian legal system

The Indian legal system moves at a snail’s pace. A staggering 47 million cases were pending in Indian courts as of last year, of which 182,000 were pending for the past 30 years.
This dismal situation could change, thanks to the use of artificial intelligence (AI) in India’s judicial proceedings. Last month, the Supreme Court adopted an AI-based software to start live-transcription of hearings. This solution, developed by Bengaluru-based Technology Enabled Resolution (TERES), helped the court put out the text of the hearing on the Maharashtra political controversy by the evening of the same day.
While Union Law Minister Kiren Rijiju has urged the judiciary to embrace emerging technologies, the use of AI to speed up legal proceedings has already begun. Under Phase III of the eCourt project under the National eGovernance Plan, the SC constituted the Artificial Intelligence Committee last April to help identify areas where AI can be deployed in judicial matters.
The transcription project is only the latest in AI-aided initiatives after the Supreme Court Portal for Assistance in Courts Efficiency (Supace), which was launched in 2021, and the Supreme Court Vidhik Anuvaad Software (Suvas), became operational in 2019. Supace is an AI-powered tool that compiles facts and laws relevant to a particular case and makes them readily available for judges. It is aimed at making legal research more efficient and less time-consuming. Suvas, on the other hand, is designed to translate judgments and orders into nine vernacular languages.
What are the major areas of legal and judicial work that AI can facilitate? Decreasing the massive backlog of cases will be top priority, experts believe.
“India has a huge number of pending cases. To reduce this, it is important to understand how similar matters could be potentially clubbed and decided together. Using AI algorithms will prove quite helpful in this,” says Pavan Duggal, Supreme Court advocate and chairman of the International Commission on Cyber Security Law.
Duggal points to the experience of Estonia, where an AI algorithm is used to judge smaller legal claims. “In Indian courts, challan matters, including traffic challans, take a lot of time and resources. These cases can be potentially handled by AI algorithms,” he adds.
Prashanth Kaddi, consulting partner at Deloitte India, believes that AI can also automate repetitive tasks to increase efficiency. “AI and analytics can not only help in collecting and analysing large chunks of data to find patterns and precedents in related judgments, but also help improve the overall experience by providing clients with instant access to information.”
Others believe that AI services should be designed to benefit people who cannot afford high legal fees.
A few high courts have already begun deploying AI solutions in new and innovative ways. In 2019, the Bombay High Court introduced an AI system for case prediction. This system uses machine learning algorithms to predict the outcome of cases based on past judgments and data analysis. The Jharkhand and Patna High Courts have implemented optical character recognition, a tool which converts scanned documents to computer-readable texts, allowing text extraction from legal documents.
“Tools like ‘Jupitice’, which is an online private digital court powered by AI and blockchain, aims to solve commercial and civil cases through various alternative dispute resolution mechanisms,” points out Nandini Gore, senior partner at Karanjawala & Co Advocates.
Besides these, AI assistance for scrutiny of filings, data handling and management, legal research, predictive analytics, document analysis for patterns in crime, virtual hearings, and even analysing social media and news articles for public sentiment around issues such as marital rape and uniform civil code are some of the other judicial and legal uses of AI that are at various stages of

implementation across local, state and national courts.

AI algorithms can also develop and perpetuate biases if not monitored responsibly. Salman Waris of TechLegis Advocates & Solicitors points out that sensitive personal information of victims or commercially confidential information not available in the public domain, including in-camera proceedings, will have to be excluded from AI bots to protect confidentiality. “Further, a lack of cybersecurity safeguards could expose the Indian judiciary to possible cyberattacks by state and non-state actors,” says Duggal. [Business Standard, Mar. 5]

Information on wilful defaulters to be published, RBI informs SC

The Reserve Bank of India (RBI) has told the Supreme Court that it has accepted the recommendations of a high-level committee that banks must publish the list of defaulters on their websites where either the defaulter’s name is already in the public domain or the secured assets is possessed under the SARFAESI Act.

“Necessary instructions are being issued mandating banks to examine and take a formal view on classifying an account as a case of wilful default, within 60 days of the account becoming an non-performing asset or NPA (applicable for exposures greater than Rs. 50 crore), it said.

In a written response, RBI said, to prevent the diversion of funds by unscrupulous borrowers, which was also the rationale behind the Committee’s recommendation of mandating TRA accounts, the measures essentially aimed at addressing the growing menace of NPAs in the banking system were taken and these need to be seen in the context of several significant policy developments with regard to resolution of stressed assets.

Maintaining that the RBI’s resolute efforts have resulted in material decline in the NPAs, the affidavit said that steps towards resolution of stressed assets with punitive measures against wilful and fraudulent defaulters, which are within the regulator’s jurisdiction, have been taken while formulating/revising its policies from time to time.

On Wednesday, a bench presided over by Justice Sanjay Kishan Kaul gave a four-weeks time to RBI to inform on the steps it can take as the regulator qua the committee’s recommendations to tackle bad loans.

Hearing the case related to writing off thousands of crores of loans by lenders, the top court had in December, 2022 asked the government and RBI to submit an affidavit explaining why the lenders should not file criminal cases against loan defaulters and why the recommendations of an expert panel on banking reforms have yet to be implemented. [Deccan Herald, Jan. 25]

Adani-Hindenburg case: Supreme Court sets up expert committee for probe

The Supreme Court (SC) on Thursday ordered the setting up of a committee to investigate Adani Group and suggest measures to strengthen the framework to protect Indian investors. Former SC judge AM Sapre will head the committee.

“This court noted that there was a need for the committee for regulatory mechanisms to ensure the safety of investors,” Chief Justice of India (CJI) DY Chandrachud said while delivering the order.

“In order to protect Indian investors, we are of the view that there shall be a committee. The committee consists of Mr OP Bhat, Justice JP Devdatt, Mr Nandan Nilakeni, KV Kamath, and Somasekharan Sundaresan as the members,” he said, as reported by LiveLaw.

The committee’s primary purpose will be to suggest measures to strengthen frameworks, investigate Adani, and suggest measures to strengthen the statutory framework. The chairperson of SEBI will provide the required information to the committee.

The committee has been asked to submit its report in a sealed cover before the apex court within two months.

In addition, SEBI has also asked to conduct an investigation.

“SEBI shall also investigate whether there has been a violation of S19 of SEBI rules, whether there was any manipulation of stock prices,” Chandrachud said. The status report will be filed within two months.

A bench comprising Chief Justice DY Chandrachud, Justice PS Narasimha and Justice JB Pardiwala was to pass the order on constituting an expert committee to analyse if the regulatory mechanism needs to be strengthened to protect Indian investors. This came after a report by US-based short-seller Hindenburg Research released a report on Adani Group, leading to a major sell-off. Over $100 billion have been wiped off from the Group’s valuation since the report’s release just over a month ago. [Business Standard, March 2]

Invoices, cheque payment not sufficient to claim ITC under VAT: SC

The Supreme Court (SC) has set aside a Karnataka High Court order that allowed dealers to claim input tax credit (ITC) under the VAT regime by producing invoices and cheque payments.

The SC allowed tax authorities’ appeal against the High Court judgment. It said a dealer claiming ITC has to prove beyond doubt the occurrence of the actual transaction” and the “actual physical movement of the goods”.

It pronounced the order HC as “erroneous” and said that, “for claiming ITC, genuineness of the transaction and actual physical movement of the goods are the sine qua non and the aforesaid can be proved only by furnishing the name and address of the selling dealer, details of the vehicle which has delivered the goods, payment of freight charges, acknowledgement of taking delivery of goods, tax invoices and payment particulars etc.”

However, the SC added that while the tax invoice and cheque can be said to be proving one of the documents, it is not sufficient to prove the genuineness of the transaction.

It should be noted that e-way bills and e-invoicing under the GST regime can come handy to claim ITC in this regard.

“Though the ruling is under VAT, GST authorities may now ask for additional documents to substantiate input tax claims by placing reliance on the principles laid down in the ruling. However, apart from invoice and proof of payment, documents such as E-waybill and E-Invoice, could help in substantiating the genuineness of the transaction under the GST regime,” said Harpreet Singh, partner at KPMG India. [Business Standard, March 14]

Silicon Valley Bank collapse: RBI weighs up impact on banks, NBFCs

Days after the collapse of Silicon Valley Bank (SVB), the Reserve Bank of India (RBI) has swung into action to take stock of its impact on Indian companies and banks. The regulator has started collecting information on banks and non-banks exposure to the failed Santa Clara-headquartered lender.

According to sources, the banking regulator has asked banks to furnish details of their equity exposure and deposits in SVB. In addition, the regulator is also gathering data on similar exposure of Indian non-bank entities.

“The regulator is taking stock of the impact on the country’s financial system due to the bank’s failure in the US. Both banks and non-banking companies may have exposure in terms of equity investments or deposits in the failed lender,” informed a source.

There are a few Indian banks with operations in the US, like State Bank of India (SBI), ICICI Bank, Bank of Baroda, and Bank of India.

California-based SVB, the 16th largest bank in the US, was closed on Friday by the California Department of Financial Protection and Innovation, which later appointed the Federal Deposit Insurance Corporation as its receiver.

However, some Indian technology and start-up companies are likely to be impacted by the SVB failure. Nazara Technologies (Nazara), a mobile gaming company, said two of its subsidiaries had together more than $7.75 million in balances at the failed bank. Nazara said its step-down subsidiaries — Kiddopia Inc. and Mediawrkz Inc. — hold cash balances worth $7.75 million (about Rs 64 crore) in SVB. [Business Standard, March 13] ■

Market regulator SEBI proposes to introduce 5 new categories in ESG funds

Capital markets regulator SEBI has proposed allowing mutual funds to introduce five new categories under ESG (environmental, social and governance) scheme.

The five new categories should be exclusions, integration, best-in-class and positive screening, impact investing and sustainable objectives. Presently, mutual funds can launch only one ESG scheme under the thematic category of equity schemes.

Considering that AMCs may want to launch multiple diversified ESG schemes under the ESG category, SEBI has proposed that each asset management company should be permitted to launch one ESG scheme each under the five subcategories.

ESG schemes under the proposed new category should be permitted with a minimum 80 per cent investment of total assets in equity or debt stocks of a particular theme as per the sub-categories. However, the residual portion of the investment should not be starkly in contrast to the philosophy of the scheme.

"AMCs should endeavour to have a higher proportion of the assets under the ESG theme and make suitable disclosures," the Securities and Exchange Board of India (SEBI) said in its consultation paper issued on Monday.

For the ESG exclusions scheme — the regulator has suggested that mutual funds should exclude securities based on certain ESG-related activities, business practices, or business segments and the ESG integration scheme should explicitly consider ESG-related factors that are material to the risk and return of the investment, along with traditional financial factors.

ESG best-in-class and positive screening scheme should invest in companies that perform better than peers in ESG parameters.

ESG impact investing scheme should seek a non-financial (real world) impact and evaluate if that impact is being measured and monitored; and ESG sustainable objectives scheme should aim to invest in sectors, industries, or companies that are expected to benefit from a long-term macro or structural ESG related trends.

To boost transparency, the regulator has proposed to mandate the AMCs to include the name of the particular ESG strategy in the name of the concerned fund or scheme.

In addition, the regulator has recommended mandating ESG schemes to disclose the name of the ESG rating provider alongside the score disclosures in the monthly portfolio disclosures.

The requirement should be made mandatory from April 1, 2023, SEBI suggested and sought comments from the public till March 6 on the proposals. [PTI, Feb. 22]

Only 34% firms meet SEBI's requirement to raise 25% fund via debt: Analysis

Only 34 per cent of the 320 AAA- and AA-rated companies have met their 25 per cent incremental fund raising through debt instruments as of FY22, nearly three years after market regulator SEBI's mandate for such firms, an analysis showed.

These companies have an outstanding debt of Rs 34 lakh crore as March 2022, according to an analysis by India Ratings, which says that these companies will have to borrow an additional Rs 6,890 crore by FY24 to meet the SEBI regulation.

In FY19, SEBI passed a guideline wherein the listed large corporates with borrowings of Rs 100 crore or more and with credit ratings of AA and above would have to borrow 25 per cent or more of the incremental borrowings through bonds.

The regulator allowed them to meet the norm in a contiguous block of two years. And the companies were to meet the criteria beginning FY20.

The regulation also sets a penalty of 0.2 per cent of the balance debt amount in case a company fails to raise the required percentage of funds through debt instruments like bonds, commercial papers or certificate of deposits.

Such incremental borrowings shall be any borrowings done during a particular financial year bearing maturity of one-year or more and can be raised either for refinancing/repayment purposes, excluding external commercial borrowings and inter-corporate borrowings.

Companies must comply with the requirement by the last day of the given fiscal year and shall provide an explanation to the stock exchanges in case of any shortfall within 45 days of the end of fiscal, SEBI had said.

According to India Ratings analysis of the debt capital structure of the top 1,700 non-financial debt-heavy corporates and their borrowings from the bond market, over the past one decade, their market borrowings increased to 34 per cent in FY22 from 16 per cent of their total borrowings in FY12.

The agency said among these corporates only, 22 of AAA rated companies and 69 of the AA-rated ones have met the borrowing requirements as of FY22.

This means that 82 AAA-rated and 147 AA-category fell short. To comply with the regulation, they will have to raise Rs 6,890 crore by FY24. Most of these companies which fell short are from crude oil, power, iron and steel and textiles sectors.

On the other hand, incremental bond borrowings will be miniscule in FY24 as 229 companies of the 320 eligible entities which have raised less than 25 per cent of the additional borrowings through bonds, will need to additionally borrow only Rs 6,890 crore by FY24 to comply with the guidelines and majority of borrowings will be by AAA-rated entities.

Also, compared to the total debt of Rs 43 lakh crore as of FY22, the incremental borrowings will be just about 7 per cent, the report said.

Most of incremental borrowings by AAA-rated entities are in sectors such as crude oil, automobiles and infrastructure, while for the AA-rated entities, majority are the power, construction, textiles and automobile sectors. [PTI, Feb. 23]

Markets regulator SEBI launches information database on municipal bonds

Markets regulator SEBI has launched an information database on municipal bonds

As part of efforts to develop the bond markets, an outreach programme on municipal bonds and municipal finance was organised by SEBI in the national capital on January 20 and 21, according to a release on Sunday.

Representatives from various stakeholders, including the Ministry of Housing and Urban Affairs, municipal corporations, stock exchanges, credit rating agencies, merchant bankers and debenture trustees, participated in the programme.

At the event, SEBI Chairperson Madhabi Puri Buch emphasised the potential of municipal bonds in infrastructure development and nation building.

The information database was launched at the event. "The information database contains a wide range of information in the form of statistics and regulations, circulars, guidance note and Frequently Asked Questions issued by SEBI in respect of municipal debt securities," it said.

According to the release, the repository contains various checklists for pre-listing requirements and sample letters and certificates from various intermediaries to be obtained by an issuer who plans to tap the municipal bond market. [PTI, Jan. 22]

NSE Indices launches country's first ever Nifty India Municipal Bond Index

NSE Indices Ltd, an NSE arm, on Friday said it has launched the country's first ever municipal bond index. The new Nifty India Municipal Bond Index will track the performance of municipal bonds issued by Indian municipal corporations across maturities and having investment grade credit rating, NSE Indices said in a statement.

The index was launched at a Securities and Exchange Board of India (SEBI) workshop on Municipal Debt Securities in Bengaluru.

Presently, the index has 28 municipal bonds issued by 10 issuers all having credit rating in the AA category. The index constituents are assigned weights based on their outstanding amount.

The Indian municipal bond market has seen a resurgence of issuances after SEBI's Issue and Listing of Municipal Debt Securities Regulations, 2015 came into effect and a renewed emphasis on municipal finance by policymakers.

Raising money from capital markets incentivises municipal corporations to fund new projects and improve civic infrastructure while encouraging them to become financially disciplined and

governance oriented.
"The municipal bond market has a potential to play a pivotal role in financing the borrowing requirements of different municipal corporations in India. The proceeds from bonds issued by municipal corporations can be utilised to finance the expansion of essential municipal services through growth-driven infrastructure projects and can contribute to bridging India's urban infrastructure financing gap," Mukesh Agarwal, CEO, NSE Indices, said.
The index is computed using the total return methodology including price return and coupon return. The index has a base date of January 1, 2021, and a base value of 1,000. The index will be reviewed quarterly. [PTI, Feb. 24]

SEBI allows futures contract on corporate bond index

The Securities and Exchange Board of India has allowed exchanges to introduce future contracts on Corporate Bond Indices.
SEBI had constituted a working group of representatives of NSE, BSE and MSEI to enhance liquidity in the bond market and also to provide opportunity to the investors to hedge their positions.
"Based on the submissions made by the working group and recommendations of Secondary Market Advisory Committee of SEBI, it has been decided to permit stock exchanges to introduce derivative contracts on indices of corporate debt securities rated AA+ and above," SEBI said in late night circular on Tuesday.
The stock exchanges desirous of introducing such contracts should submit a detailed proposal for SEBI's approval, providing details relating to underlying corporate bond index, the index methodology, contract specifications, applicable trading, clearing & settlement mechanism, risk management framework, the safeguards to ensure market integrity, investor protection, surveillance systems, etc, the circular added.
According to SEBI, the criteria included: Underlying the derivative contract should be composed of corporate debt securities; constituents should have adequate liquidity and diversification at issuer level, as decided by the stock exchanges; should be periodically reviewed (at least on half-yearly basis); single issuer should not have more than 15 per cent weight in the index and there should be at least 8 issuers in the index.
Besides, the index should not have more than 25 per cent weight in a particular group of issuers (excluding securities issued by PSUs, Public Financial Institutions (PFIs) and Public Sector Banks (PSBs). [Business Line, Jan. 17]

SEBI allows two more avenues to hike public float at listed companies

The Securities and Exchange Board of India (SEBI) on Friday introduced two additional methods and streamlined existing ones to help listed companies achieve the 25 per cent minimum public shareholding (MPS) requirement.
The new methods introduced include transfer of shares held by promoters to an exchange traded fund (ETF) operated by a SEBI-registered mutual fund. However, maximum 5 per cent stake in the listed entity will be allowed to transfer under this route subject to certain disclosure requirements.
Another method introduced by SEBI to allow increase in public holding by exercising options and allotment of shares under an employee stock option (ESOP) programme. Under this, maximum dilution allowed will be 2 per cent. This method can benefit new-age companies.
Some of the existing avenues allowed are share sale through the offer for sale (OFS) route, follow-on public offering (FPO), qualified institutions placement (QIPs), rights issue and bonus issue. Under the last two methods, promoters have to forgo their entitlement.
SEBI also allows sale of shares held by promoters in the open market.
Under this, promoters can sell up to 2 per cent stake subject to it being less than five times the average monthly trading volume. Further, they can sell only up to 5 per cent during a financial year in one or more tranches.
All listed companies have to maintain a 25 per cent public float. The rule is aimed at having a diversified shareholding to facilitate fair price discovery. As a result, the promoter holding has to be pared in a way that will onboard public shareholders. Large newly-listed companies get up to five years to meet the MPS norms. [Business Standard, Feb.3]

NSE gets SEBI approval to launch Social Stock Exchange as separate segment

The National Stock Exchange (NSE) has received final approval from the Securities and Exchange Board of India (SEBI) on February 22, 2023, to set up a Social Stock Exchange (SSE) as a separate segment of the NSE, according to a press release from the exchange.
The SSE aims to provide a new avenue for social enterprises to finance social initiatives, give them visibility, and increase transparency in fund mobilisation and utilisation by social enterprises. Any social enterprise, Non-Profit Organisation (NOPs) or For-Profit Social Enterprises (FPEs), that establishes its primacy of social intent can get registered or listed on the Social Stock Exchange segment, the release said.
Eligible NPOs can begin by registering on the SSE segment. After onboarding, NPOs can initiate the fund mobilisation process by issuing instruments such as Zero Coupon Zero Principal (ZCZP) via a public issue or private placement. Currently, the regulations have prescribed a minimum issue size of Rs 1 crore and a minimum application size for subscription of Rs 2 lakhs for ZCZP issuance.
For FPEs, the process of issue and listing of securities shall be the same as applicable for issue and listing of securities under the existing processes of the Exchange (based on eligibility criteria for the Main Board, the SME Platform, or the Innovators Growth Platform, as applicable, in addition to the criteria provided to be eligible as Social Enterprises), according to the details available in the press release. [Business Standard, Feb. 23]

SEBI asks issuers for additional disclosure in guidelines on green bonds

Capital market regulator SEBI on Monday came out with operational guidelines on green bonds asking issuers to make additional disclosure, pertaining to environmental sustainability objectives of such debt securities in the offer document.
In addition, issuers of green bonds will have to disclose brief details of decision-making process followed for determining the eligibility of projects, for which the proceeds are being raised through issuance of green debt securities, SEBI said in a circular.
Apart from disclosure in the offer document, the Securities and Exchange Board of India (SEBI) has asked the issuer, who has listed green debt securities, to provide certain additional disclosures along with its annual report and financial results.
Also, the issuer will have to appoint a third party reviewer for a green debt security for the post-issue management of the use of proceeds from the green debt security, and verification of the internal tracking and impact reporting.
Listing out responsibilities of the issuer, SEBI said that an issuer of green debt securities will have to maintain a decision-making process which it uses to determine the continuing eligibility of the project.
This includes, without limitation statement on the environmental objectives of the green debt securities and a process to determine whether the project meets the eligibility requirements.
The guidelines, to be effective from April 1, 2023, have come against the backdrop of increasing interest in sustainable finance in India as well as around the globe, and with a view to aligning the framework for green debt securities with the updated Green Bond Principles (GBP) recognised by IOSCO.
The regulatory framework defines Green Debt Securities as debt securities issued for raising funds that are to be utilised for projects or assets falling under certain categories.
With regard to disclosure in the offer document, SEBI said that issuers will be required to apprised about details of the procedures to be employed for tracking the deployment of the proceeds of the issue as well as details related to the perceived social and environmental risks and proposed mitigation plan associated with the project proposed to be financed through the proceeds among others.
In respect of continuous disclosure requirements, the regulator said they need to inform about the utilisation of the proceeds of the issue,

as per the tracking done by the issuer using the internal process as disclosed in the offer document. Such utilisation of the proceeds will be verified by the report of an external auditor, to verify the internal tracking method and the allocation of funds towards the project from the proceeds of green debt securities.

Also, the issuers will have to make a disclosure about details of unutilized proceeds including the temporary placement of unallocated and unutilized proceeds from each ISIN of green debt security issued.

With regard to disclosure in the annual report, SEBI said that issuer will have to apprise about methods and the key underlying assumptions used in preparation of the performance indicators and metrics and details of the deployment of the mitigation plan for the perceived social and environmental risks

Also, they need to inform on a project-by-project basis, pertaining to reporting the environmental impact of the projects financed by the green debt securities. Further, reporting standards followed by the issuer with regard to reporting environmental impact, if any, would also be disclosed.

The issuer will have to appoint a third-party reviewer for green debt security for the post-issue management of the use of proceeds from the green debt security, and verification of the internal tracking and impact reporting. [PTI, Feb. 6]

SEBI beefs up cybersecurity measures for regulated intermediaries

The Securities and Exchange Board of India (SEBI) has issued additional safeguards for regulated intermediaries such as stock exchanges, depositories, and mutual funds to enhance its cybersecurity policy.

In an advisory issued on Wednesday, the regulator has advised the regulated entities to define roles and responsibilities of chief information security officer (CISO) along with specified security policy.

These entities have been asked to prepare a detailed incident response plan, enforce data protection and recovery processes. Furthermore, they have been asked to take steps to prevent any data leak from cloud services, do security audit and vulnerability testing, and devise awareness programs against phishing or malicious emails.

SEBI has also advised the entities to encrypt sensitive and personally identifiable information (PII) data, specifically in transit, to protect its access from any attacker.

The market watchdog has also recommended independent audit of systems, risk from third parties, and multi-factor authentication among a dozen other measures.

"Given the sophistication and persistence of the threat with a high level of coordination among threat actors, it is important to recognise that many traditional approaches to risk management and governance that worked in the past may not be comprehensive or agile enough," said SEBI.

These measures had been submitted as a report by Financial Computer Security Incident Response Team (CSIRT-Fin) to SEBI. Regulated entities will have to provide details on the compliance of this advisory along with their cyersecurity audit report. [Business Standard, Feb. 22]

SEBI brings OFS framework 2.0, allows exit to non-promoters

The Securities and Exchange Board of India (SEBI) on Tuesday introduced the revised framework for share sales through offer for sale (OFS), paving the way for non-promoters to use this route.

In a circular issued on Tuesday, the capital market regulator said the OFS mechanism would also be available to companies with a market capitalisation of Rs 1,000 crore or more. A separate window would be created for sale of shares through OFS and, under the new mechanism, aligned to the secondary market timings.

The minimum size for an OFS has been kept at Rs 25 crore. But in case an OFS is being launched to comply with the regulator's minimum public shareholding norm, the offer size can be less than Rs 25 crore. SEBI mandates a minimum of 25 per cent public shareholding in listed companies.

Industry experts are of the opinion that these relaxations can make OFS the relatively preferred route over bulk deals by offering more pricing flexibility and transparency.

The seller would have to disclose the floor price by 5 pm on the day before the OFS opens.

Furthermore, it would be able to offer a discount to retail investors, details of which would have to be disclosed upfront to exchanges.

Only non-retail investors would be permitted to place bids on the first day of OFS (T day), while retail investors could bid the following day.

The cut-off price shall be determined based on the bids received on T day, based on the extant guidelines.

"Exchanges will decide on the quantity of shares eligible to be considered as retail bids, based on the floor price declared by the seller," said SEBI. If the seller fails to get sufficient demand from the non-retail segment at the floor price, it may choose to cancel the offer.

A minimum of 25 per cent of the shares offered would be reserved for mutual funds and insurance companies, while 10 per cent would be reserved for retail investors.

The regulator has also reduced the cooling-off period between two OFSes to two weeks. In case an OFS is withdrawn, there will be a gap of 10 trading days before another offer is made.

The new framework would be effective in the next 30 days. [Business Standard, Jan. 10]

SEBI extends relaxation on dispatching hard copies of financial statements

The Securities and Exchange Board of India (SEBI) on Thursday extended the relaxation to listed companies from dispatching of physical copies of financial statements till September 30, 2023.

"SEBI has been receiving representations from listed entities seeking extension of the relaxations provided," said the capital markets regulator in a circular.

The earlier extension was till December 31, 2022.SEBI's extension comes after the Ministry of Corporate Affairs has also provided similar relaxations to companies dispatching physical copies of financial statements, including board's report, auditor's report or other documents to shareholders through a circular on December 28, 2022. However, firms will be required to send hard copy of annual reports to those shareholders who request for the same.

SEBI also requires companies to disclose the web-link to the annual report so as to enable shareholders to have access to the full annual report. [Business Standard, Jan. 5]

SEBI introduces issue summary document for filing IPO papers in XBRL format

SEBI on Wednesday introduced the issue summary document for filing papers pertaining to IPO and for further issue of securities in XBRL format, a move that will help provide data to stakeholders in a structured manner.

This is part of the capital markets regulator's effort to make available relevant information at the stock exchanges and depositories in a structured manner.

XBRL (Extensible Business Reporting Language) is a language for the electronic communication of business and financial data used for business reporting around the world. It provides major benefits in the preparation, analysis and communication of business information.

The rollout of the Issue Summary Document (ISD) will be done in a phased manner starting March 1, the Securities and Exchange Board of India (SEBI) said in a circular.

The regulator has decided to introduce the ISD in XBRL format for Initial Public Offer (IPO), Further Public Offer, further issues — preferential issue, qualified Institutions Placement (QIP), rights issue, issue of American Depository Receipts (ADRs), Global Depository Receipts (GDRs) and Foreign Currency Convertible Bonds (FCCBs), among others.

As per the circular, the ISD should be filed in two stages. In the first stage, the ISD will be filed with pre-issue fields and in the second stage, the ISD will be filed with post-issue fields after allotment is completed.

SEBI has issued prescribed formats and provided a timeline for submission of the details and also casts responsibility on the entity responsible for the submission.

Stock exchanges have been directed to develop a utility in order to facilitate the filing of the ISD by submitting entities

In the first phase, the ISD will be rolled out for public issues of specified securities, for offer documents filed on or after March 1. In the second phase, the ISD for further issues will be implemented from April 3 and in the third phase, ISD for open offer, buy-back and voluntary delisting will be implemented from May 2.

Besides, lead managers are required to disseminate all advertisements in connection with a public issue in PDF format on the website of the stock exchange from March 1. [PTI, Feb. 15]

SEBI issues consultation paper on disclosure requirements for listed firms

Capital markets regulator SEB Ion Monday came out with a consultation paper on streamlining disclosure requirements by listed entities.

In its consultation paper, SEBI is looking to address the challenges faced with regard to submission of the financial result for the first time by newly listed firms and related to timeline to fill up vacancy of directors, Compliance Officer, Chief Executive Officer (CEO) and Chief Financial Officer (CFO) in listed entities.

Also, it is looking to address the issue of freezing of demat accounts of the Managing Director, Whole-time director and CEO of a listed entity for continuing non-compliance with the LODR Regulations or non-payment of fines by a listed entity.

In order to provide adequate time to newly-listed entities to disclose their first financial results post-listing, SEBI has proposed that at least 15 days from the date of listing may be provided for such disclosures to newly-listed entities.

"Listed entity, post listing, shall submit its first financial results, quarterly or annually as the case may be, immediately succeeding to the periods for which financial statements were disclosed in its offer document for the initial public offer, as per the timeline indicated... as applicable, or within 15 days from the date of listing, whichever is later," SEBI said.

This comes after SEBI received representations regarding challenges faced by the newly-listed entities immediately after their listing and about the gap in the current regulatory provisions for ensuring timely disclosure of the first financial results of such newly-listed entities.

The regulator has sought comments from public till March 6 on the proposals. [PTI, Feb. 20]

SEBI passes interim orders against entities for stock manipulation via YT

India's market regulator on Thursday passed two interim orders against entities that used YouTube channels to manipulate stocks, barring them from the capital markets. The Securities and Exchange Board of India (SEBI), in preliminary investigations, identified 46 entities that used the video streaming platform to pump and dump stocks.

These entities - a mix of traders and market analysts - used four YouTube channels to market stocks, according to the regulator.

SEBI's interim orders came on the back of a year-long investigation following investor complaints that alleged YouTube channels were being used to influence them to buy particular stocks.

SEBI said these entities used misleading YouTube videos to create "false content" on select scrips, generating artificial interest. This was followed up with paid marketing campaigns for additional reach. The increased interest in these scrips drove up the share price and made it possible for the entities to offload their entire holdings at inflated prices, SEBI said in its orders.

In one stock, the number of small shareholders increased from 2,167 to 55,343 in a short span of one quarter. In a second stock, the number of small shareholders increased from 517 to 20,009, SEBI found in its investigation. [Business Standard/Reuters, March 2]

SEBI pitches change in rules for REITs, InvITs; sponsors to own some units

Coming out with a consultation paper on the subject, the markets regulator said the changes are being proposed keeping in mind the interest of unit holders and the structural vulnerabilities associated with absence of a sponsor for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs).

The watchdog has suggested that the sponsors of REITs/InvITs should hold 15 per cent of the capital for a period of three years from the date of listing as there is no mandatory unit holding requirement after three years.

It has also been proposed to mandate sponsors to hold 5 per cent of the unit capital after 3-5 years, 3 per cent from 5-10 years, 2 per cent from 10-20 years and 1 per cent after 20 years.

"... it is felt that there is a need to have at least one sponsor throughout the life of the REIT/ InvIT and the sponsor needs to hold certain percentage of units on a perpetual basis in order to ensure that there is some alignment of interest with the unitholder," SEBI said in the consultation paper dated February 23.

As the REIT/InvIT industry is in a nascent stage and continuously evolving, there is a need to have at least one sponsor throughout the life of the investment managers, it added.

SEBI noted that most of the sponsors have significant shareholding in managers of REITs/InvITs which gives them the right to appoint directors and also has a say in the financing related decisions of the investment managers especially in debt financing.

According to the regulator, a sponsor of a REIT/InvIT whose units have been listed on the stock exchanges for a period of three years can be permitted to declassify as the sponsor subject to certain conditions, including that there has to be a new inducted sponsor in place of existing sponsor getting declassified.

At present, there are 5 REITs and 19 InvITs registered with SEBI Out of them, 3 REITs and 15 InvITs have raised funds through initial offer and/or further offer.

Stakeholders can submit their comments on the consultation paper till March 8. [Business Standard/PTI, Feb. 24]

SEBI plans to make registration mandatory for ESG rating providers

The Securities and Exchange Board of India (SEBI) is planning to make the registration for environmental, social, and governance (ESG) rating providers, or ERPs, mandatory under a new regulatory framework that will also look to address norms related to disclosures, methodology for ESG scoring, and developing a parallel approach for ESG rating suitable to emerging markets.

In a fresh consultation paper, the capital markets regulator has proposed a framework for ESG scoring parameters and rating providers.

Presently, ERPs are not subject to any regulatory oversight but continue to provide services for the securities market — a risk SEBI has identified towards investor protection, capital allocation, greenwashing, and risk pricing.

Under the proposed norms, ERPs will have to take certification under the SEBI (Credit Rating Agencies) Regulations.

SEBI has said rating providers may provide core ESG ratings which will have to be based on assured or verified data.

Since there is divergence in ESG ratings and the rationale, SEBI has further prescribed certain minimum disclosures in ESG reporting, including key drivers from each pillar, respective weighting, methodology, qualitative and quantitative factors considered, and industry comparison, among others.

The report will also have to disclose details like the current score, change from the previous evaluation, and last review date.

SEBI has done intensive market consultations on ESG-related parameters for over a year now. This is the second consultation paper on ESG issued by the regulator this week.

Earlier, SEBI had proposed the introduction of a Business Responsibility and Sustainability Reporting Core, a comprehensive set of parameters, and a focus on the domestic narrative in the ESG space.

Notably, the regulator has also proposed developing a separate or parallel approach suitable for Indian companies in the domestic context, like employment generation.

"Evaluating Indian corporates on an absolute yardstick without recognising the efforts they make, and the results they achieve, in transition may not lead to the appropriate incentives for transition finance," noted SEBI.

For this, an ESG transition, or Parivartan score, has been suggested

to reflect the incremental changes and investments a company has made in its conversion to net-zero goals or improving ESG risk management.
It would also bear in mind the change in revenue from environmental or social services and products.
A combined ESG score will be reached, based on the ESG and Parivartan scores.
SEBI has also proposed that ERPs will be able to follow only one business model — a subscriber pays or issuer pays — to mitigate potential conflict of interest.
The regulator has invited public comments by March 8. [Business Standard, Feb. 23]

SEBI proposes bondholders' nod for related party transactions for companies

India's market regulator on Wednesday proposed that bondholders should have the right to object to related party transactions proposed by companies, which have listed high value debt securities.
The regulator has asked for comments till Feb. 22.
The Securities and Exchange Board of India (SEBI) said the proposal will be applicable in cases where more than 90% of the company's shareholding is with entities defined as related parties. If more than 75% of bondholders object to a transaction, then the board will have to withdraw it.
The norms will be applicable to only listed non-convertible debt securities, according to SEBI.
At present, SEBI applies governance norms if the outstanding debt through bonds is more than 5 billion rupees, and the regulator is proposing a tweak that the governance norms will be applicable for three consecutive fiscal years even after the debt goes down below that limit.
SEBI's proposals come after instances where companies circumvented related party transaction rules by getting approvals for lending to group companies. [Reuters, Feb. 9]

SEBI proposes change in governance norms to give more power to shareholders

India's market regulator has proposed changes to governance norms for listed entities that give more rights to shareholders, while increasing corporate disclosures on agreements binding them, a consultation paper showed on Tuesday.
Any agreements that impact the management or control of a listed entity or create a liability for it must be disclosed, the Securities and Exchange Board of India (SEBI) proposed in the consultation paper.
The regulator said it has come across instances where founders have entered into shareholder agreements with listed entities that in turn impose restrictions on companies.
Such rights are against the fundamental principles of corporate governance and shareholder democracy, according to the regulator.
The SEBI also suggested that shareholder approval be sought for any special rights granted to certain shareholders, including promoters, particularly where such rights may have been granted before listing.
In the so-called 'new-age tech companies', the regulator has observed that institutional investors are increasingly voicing their concerns against special rights given to founders and other entities connected to a company.
And even if the shareholding gets diluted over the years, these rights are available to founders/entities in perpetuity.
Any such special right shall be subject to shareholder approval once every five years, the regulator proposed while seeking views from stakeholders.
Amit Tandonappy, chief executive of proxy advisory firm Institutional Investor Advisory Services, says that in all its recent voting recommendations it has highlighted that shareholder rights cannot be available in perpetuity.
"The shareholders start with may not be shareholders in the future. The new incoming shareholders should have right to look at the special rights granted to anyone. Ideally, all the special rights need to drop-off at the time of the company going public," said Tandon.
Starting April 1, 2024, the SEBI proposes that shareholder approval be made mandatory for any director serving on a listed company's board once in five years.
The suggestion comes in the context of board directors whose appointment or reappointment has not been subject to shareholder approval in the last five years. The regulator also wants to do away with anomaly where directors have been accorded protection via articles of association (AoA)- a company's internal document specifying its governance and operations - as not liable to 'retirement by rotation' and without any defined tenure.
The regulator's relook comes following a tussle between Yes Bank and Dish TV Ltd in July 2022. Despite the shareholders, including Yes Bank, voting against reappointment of founding director Jawahar Goel as the chairman, he continued to remain as director since the AoA passed three months before Dish TV's market debut prevented him from retiring due to rotation.
The regulator has sought comments from stakeholders by March 7. [Reuters, Feb. 22]

SEBI proposes changes in norms pertaining to non-convertible securities

Markets regulator SEBI plans to introduce the concept of general information and key information documents as well as other reforms in regulations pertaining to issuance and listing of non-convertible securities. SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 (NCS Regulations) were notified in August 2021.
The watchdog has issued a consultation paper on proposal for introduction of the concept of General Information Document (GID) and Key Information Document (KID), mandatory listing of debt securities of listed issuers and other reforms under the NCS Regulations.
"... certain provisions of the NCS Regulations are being reviewed and additional provisions are proposed to be introduced, in order to provide ease of doing business to the issuers, safeguard the interests of the investors and at the same time increase transparency in the market by encouraging issuances of debt securities in the listed space," it said.
Comments have been sought on the consultation paper till February 24.
SEBI is looking to ensure parity between initial disclosures required to be made in a prospectus for public issuance of debt securities/ non-convertible redeemable preference shares (NCRPS) and a placement memorandum for private placement of non-convertible securities proposed to be listed.
Besides, the idea is to introduce the concepts of GID and KID for private placement of non-convertible securities and commercial papers that are proposed to be listed.
Among others, SEBI has proposed that the GID will be valid for a period of one year. The period will commence from the date of opening of the first offer of non-convertible securities under that GID. [PTI, Feb. 10]

SEBI proposes to tighten regulations on issuance of bonus shares

The capital market regulator plans to tighten regulations on the issuance of bonus shares, making only the dematerlialised ones eligible. Further, it has also proposed to streamline rules for under-writing of initial public offerings (IPO) and follow-on public offers (FPO).
The Securities and Exchange Board of India, on Wednesday, floated a consultation paper seeking comments on changes in Issue of Capital and Disclosure Requirements Regulations (ICDR).
"A listed issuer shall be eligible to announce its bonus issue only if it has received in-principal approval from the stock exchanges for listing of all the pre-bonus securities issued by the listed entity excluding Employee Stock Options (ESOPs) and convertibles shares/ warrants," said SEBI.
The market watchdog noted that the proposed change will help mitigate the mismatch between the listed capital and issued capital of the issuer. For instance, for the total 122 bonus issuances in 2022, 1.28 per cent allotments were done in physical mode.
SEBI noted that as long as there is a mismatch, a company may not be considered eligible to announce bonus issue as it is a price sensitive information.
SEBI has further proposed to allow Pension Funds of entities which

are associate of the Lead Managers, to participate as an Anchor Investor in a public issue. At present, only those pension funds which were not an associate of the lead manager were allowed in the book-building process.

Furthermore, SEBI has recommended that the companies will have to enter into underwriting agreement for under-subscription prior to the filing of the red herring prospectus. The agreement will have to indicate the maximum number of securities which they will subscribe to, at the predetermined price which will be not less than the issue price. [Business Standard, Feb. 22; Khushboo Tiwari]

SEBI shows new-age teeth in bursting Axis MF front running scandal

From a reading of mobile tower signals and dissecting dubious whistle-blower complaints to piecing together Bloomberg chat extracts, capital markets regulator Securities and Exchange Board of India (SEBI) has gone the extra mile in blowing the lid off a front-running scandal at Axis Mutual Fund (MF), which has resulted in ill-gotten gains of over Rs 30 crore.

Legal experts say establishing front-running violations isn't easy, but SEBI has built a strong case in affirming violations by Viresh Joshi, former chief dealer at Axis MF, and 20 others who had allegedly built a cleverly crafted nexus to pocket these gains. This was made possible by the use of sophisticated analytical tools by the securities watchdog.

"The case involved a complex network of individuals and entities allegedly involved in insider trading and other fraudulent activities. SEBI's investigation in this case involved extensive use of data analytics and forensic audits to uncover wrongdoing, indicating a shift towards more sophisticated investigative techniques," said Sumit Agrawal, founder, Regstreet Law Advisors, and former SEBI official.

SEBI, in a 96-page ex-parte interim order issued on Tuesday, barred the 21 entities from the securities market and directed them to disgorge the unlawful gain of nearly Rs 30.6 crore.

A reading of the 96-page order shows innovative use of new-age analytical tools to comb through WhatsApp chats, emails, and call data records and establish mobile phone locations through the use of tower IDs.

A whistle-blower complaint from January 2022 and items seized in searches helped SEBI tear through the delicately crafted fraudulent scheme, allegedly devised by Joshi.

SEBI has alleged that Joshi passed on sensitive non-public information about impending large orders of Axis MF to his associates who took positions and benefited due to the impact triggered by large orders of Axis MF.

A skimming of chats between these entities helped unravel the modus operandi — the itinerary of Joshi's father and brother to Dubai for establishing a company for routing their orders, evidence of trading accounts being shared, usage of 'on rent' or 'family' mule accounts, sharing of non-public information, and regular conversations.

SEBI found that Joshi used two different mobile numbers to evade scrutiny by the fund house. Since both these numbers were registered in another name, the regulator analysed the tower ID of the location of both mobile numbers. These two mobile numbers were simultaneously located and were functional to the location of the Axis MF office on several dates relevant to the case.

Further, the regulator was successful in putting faces to coded names like 'Jadugar' and 'Asdfg', used by connected entities for referring to communication from Joshi.

Each message was carefully read, analysed, and used to piece the whole puzzle, said legal experts. For instance, one message in a sea of communication between connected entities stating "today, Jadugar birthday" played a key role in affirming Joshi's identity as the one doing all the scheming.

An analysis of internet protocol addresses and Mac IDs of terminals in Dubai helped in establishing the connection between the accused parties.

It was found that there was no physical supervision on Joshi, at both the dealing rooms in the office and house during work from home, due to ever-evolving pandemic protocols.

Industry experts said that the Axis MF matter has been a lesson learnt for the industry to identify lapses gnawing at the system. Recently, SEBI floated an advertisement inviting auditors to conduct a forensic audit of the Rs 40-trillion MF industry.

The misconduct at Axis MF has led to a series of new regulatory tightening for the industry by SEBI. Last year, it brought trading in MF units under stricter SEBI (Prohibition of Insider Trading) Regulations, and is now considering prescribing norms for the role of trustees, chief executive officers, fund managers, and dealers.

This, combined with the use of technology, will help SEBI stay ahead of the curve, added legal experts. [Business Standard, March 1]

SEBI to control unsolicited fin market advise from social media influencers

Markets watchdog SEBI will come out with a discussion paper to frame guidelines to control unsolicited financial and stock market advise from social media influencers as also from unregulated investment advisors.

Addressing a meeting of the Association of Registered Investment Advisers here on Friday, SEBI Whole Time Member Ananth Narayan Gopalkrishnan said some unscrupulous people are misusing their SEBI registration to further their businesses and as the regulator "we don't want (that) to happen".

"We'll come out with a discussion paper seeking inputs for making effective measures to control unsolicited financial and market advises from social media influencers and also from unregulated investment advisors.

"After inputs from market participants, and other stakeholders, we'll issue guidelines to rein them in," Gopalkrishnan said.

There is also the issue of unregistered investment advisors, who pose greater risks to gullible investors. More important, "we see examples of misuse of their SEBI registrations by even some registered advisors," he said.

"We want self-regulatory bodies to evolve so that some bodies beyond SEBI can do the policing. We're concerned about unregistered investment advisors and the social media is enhancing that," he noted.

SEBI's proposal comes against the backdrop of many social media influencers providing advice about stock investments without a licence.

Earlier, SEBI clamped down on some WhatsApp groups and Telegram channels, which were used to leak key market moving data. [Business Standard/PTI, Feb. 24]

SEBI tweaks framework on credit rating agencies, asks for detailed policy

SEBI on Friday tweaked its operational circular on credit rating agencies (CRAs), asking them to have a detailed policy by March-end in respect of non-submission of crucial information, including quarterly financial numbers, by the issuers.

Also, the detailed policy should contain methodology in respect of assessing the risk of non-availability of information from the issuers, including non-cooperative issuers and the steps to be taken under various scenarios in order to ascertain the status of non-cooperation by the issuer company.

Further, CRAs will have to follow a uniform practice of three consecutive months of non-submission of no-default statement (NDS) as a ground for considering migrating the ratings to INC (issuers not cooperating) and need to tag such ratings within 7 days of three consecutive months of non-submission of NDS.

The CRA in its judgement may migrate a rating to the INC category before the expiry of three consecutive months of non-receipt of NDS.

In its fresh circular for CRAs, the regulator said that these requirements would be applicable by March 31, 2023.

Prior to that, the Securities and Exchange Board of India (SEBI) came out with an operational circular on CRAs in January, which was to come into effect from February 1.

In its fresh circular, SEBI said that the MD or CEO of a CRA and any person within CRA who has business responsibility would not be a member of rating committees of the agency.

At the time of withdrawal of any credit rating of securities that are listed on a stock exchange, the CRA would have to assign a rating to

such security and issue a press release in a prescribed format, except in cases where there are no outstanding obligations under the security rated by the CRA or the company whose security is rated is wound up or merged or amalgamated with another firm.
Further, the press release should also mention the reason for withdrawal.
With regard to guidelines on the listed securities or instruments falling under the purview of other financial sector regulators, SEBI said that issuers of such instruments and any person connected therewith would abide by the rules as prescribed by such financial sector regulator.
Further, if such instruments are listed on a stock exchange, the rules specified by SEBI from time to time would continue to be applicable. [Business Standard, Feb.3]

SEBI's Revised Disclosure Norms

SEBI's proposals on listing norms would aid transparency

The Securities and Exchange Board of India (SEBI) has released a consultation paper that proposes to tweak disclosure norms to improve transparency and streamline processes. The changes — Amendments to Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements, or ICDR) Regulations 2018 — pertain to underwriting public issues, the preconditions for announcing a bonus, the eligibility of pension funds to participate as anchor investors, and providing material documents and contracts for inspection in the case of a public issue. The proposed changes should give investors easier access to pertinent information.

Underwriting public issues: In terms of underwriting, the current ICDR allows appointing underwriters without specifically mentioning if such an exercise is "soft" or "hard" — that is, if the underwriter is covering only technical rejections (soft) or is committed to picking up a stake in the company (hard) in the case of under-subscription. A hard commitment indicates the underwriter has "skin in the game" and believes the share price valuations are fair. The paper proposes to change the relevant clauses in the ICDR to ensure that any agreement with the underwriters to cover under-subscription should be mentioned in the red herring prospectus (RHP) along with the maximum commitment (in number of shares) at a minimum consideration of the specified issue price. This would also cover situations where the underwriter doesn't pick up the shortfall itself but arranges to find other subscribers. The paper asks if there is also a need to specify a minimum commitment (in the number of shares) for a hard underwriting agreement. Adding these details to the RHP would give investors a sense of the underwriters' commitment and fair valuation.

Preconditions for announcing a bonus issue: The regulator states all bonus issues henceforth must be in demat form only, doing away with the current practice where a shareholder may ask for physical bonus shares. If there are shareholders without demat accounts, bonus shares will be held in escrow in a separate demat account operated by the company until such time as shareholders have opened them.
Bonus issues involve capitalisation of reserves but the regulator says there have sometimes been instances of mismatch in prior issues, or some regulatory reason why a bonus should not be issued. For example, the company may have outstanding employee stock options or convertible debentures, and the equity and reserves situation in the balance sheet therefore needs to be clarified. This can result in confusion and obstacles to the listing of bonus shares. Hence, the paper proposes a company will be eligible to issue a bonus only if it has received in-principle approval for all prior issues, including employee stock options and convertible debentures/warrants.

Eligibility of pension funds to participate as anchor investors: Under the current ICDR, pension funds that are associates of the lead manager (LM) or sponsored by an associate of the LM may not participate as anchor investors. The paper proposes to allow their participation as anchor investors if they hold a minimum corpus of Rs 25 crore.

Providing material documents and contracts for inspection in the case of a public issue: Currently, material documents and industry reports are made available for physical inspection only at the issuer's registered office. The paper proposes such documents should also be made available for online inspection on the issuer's website. Moreover, it also proposes that complete industry reports and the draft offer document (rather than extracts, as is the current practice) should be placed online.
These are unexceptionable suggestions that would improve access to information for potential investors. Issuing bonuses in demat form only after receiving the green signal would also smooth the process of listing and selling such shares. [Business Standard, Feb. 23]

With IPOs losing steam, SEBI steps in with hard underwriting move

The Securities and Exchange Board of India's (SEBI's) proposal to re-introduce "hard underwriting" is seen as step to boost India's moribund initial public offering (IPO) markets. The regulator has proposed that in case an IPO fails to garner full subscription, the investment banker or a third-party can buy the unsubscribed shares.
This practice was common during fixed-price issues prior to 1999. However, under the new book building regime, underwriting is allowed only to the extent of shortfall due to technical rejection of bids — this is referred to as "soft underwriting" and is rarely invoked.
Based on market feedback, SEBI has plans to amend the Issue of Capital and Disclosure Requirements (ICDR) Regulations — the rule book for raising public funds — to clear the air between soft and hard-writing. Industry players believe that with the sentiment towards primary share sales taking a hit, a guarantee that an IPO is being underwritten will boost confidence.
After being among the top-five markets for equity fund raise globally in 2022, the Indian markets have not yet seen a single IPO so far this year.
"Hard underwriting will help the issuers as it will be akin to insurance for the subscription of the issue. Till now, in book building issues, it was soft underwriting, but now, hard underwriting (if opted for) will ensure that merchant bankers will put their money where their mouth is.
This means that IPO pricing could become more rationalised as the bankers have more skin in the game and it will benefit investors," said Rajendra Naik, managing director, investment banking, Centrum Capital.
At present, an IPO is required to garner a minimum of 90 per cent subscription to sail through. In case of a shortfall, the issuer has the option to reduce the offer price and extend the issue by three days.
Even after that the issue fails to reach the adequate subscription mark, the IPO is deemed to have failed and the issuer has to refund the application money.
Since 2003, about 29 companies that were targeting to raise a cumulative of Rs 11,000 crore have had to refund money to investors after failing to garner adequate subscription, as per Prime Database.
Globally, IPO underwriting is fairly common. In India, underwriting is common for debt issuances with primary dealers picking up the devolved portion of a bond sale.
"A lot of developed countries have hard underwriting and it demonstrates the confidence of the merchant banker in the company and the IPO price. It also makes them more accountable, which is assuring to the investors.
It is good from an investor's perspective but it may make the IPO process difficult for the issuer company if fewer entities are willing to underwrite," said Geeta Dhania, partner, Luthra and Luthra Law Offices India.
However, hard underwriting can lead to an increase in cost of issuance as it favours investment banks with large balance sheets.
To cover the high risks, underwriting fees are typically higher than the fees charged to manage an IPO.
"It is pertinent to note that hard underwriting involves determining the risk and price of the proposed security. It also gives insurance to the issuer company and the prospective investors also feel confident that the underwriters had evaluated the issue and are backing the issue with financial commitment," SEBI said in a consultation paper, proposing to make hard underwriting optional. [Business Standard, Feb. 23] ■

Digital economy can contribute 25% GDP, reach $7 trn by FY29: K V Kamath

The government and planners see the economy becoming the third largest in the world by FY29, overtaking Japan, with a GDP of $7 trillion from the present $3.3 trillion

K V Kamath
NaBFID chairman

Noted banker KV Kamath, who now chairs the National Bank for Financing Infrastructure and Development (NaBFID), expects the digital sector to contribute a quarter of the incremental GDP by the time the economy becomes a USD 7 trillion giant by FY29.

Currently, the contribution of the digital economy is a low 4 per cent, whereas it is as much as 40 per cent in China.

The government and planners see the economy becoming the third largest in the world by FY29, overtaking Japan, with a GDP of USD 7 trillion from the present USD 3.3 trillion.

The digital economy — the digital infrastructure, e-commerce and other digital payments and services segments—can be the country's biggest growth-driver and can contribute as much as 25 per cent of the incremental GDP by the time India becomes a USD 7-trillion economy by FY29. Currently, the share is a low 4 per cent, Kamath told PTI in an interaction over the weekend.

"As much as 40 per cent of the Chinese economy come from the digital sector today, and I don't see any reason why we can't achieve this," the former ICICI Bank chairman quipped.

The chairman of NaBFID, the newest development finance institution funded by the government, does not see any reason to stop pushing infrastructure investments as the economy has lot more appetite for more expressways, highways, airports, seaports, and high-speed railheads, discounting a question whether he sees any room for an encore of the banking crisis that befell on lenders after the government push on infrastructure during FY06-08.

"The economy has more appetite for infrastructure and we still have a lot to do on the key infrastructure sectors of transport such as expressways, highways, airports, seaports, and high-speed railway networks. I would say on roads, we've to have more and more expressways going forward, large airports and dedicated high-speed railheads for both goods as well as passengers," Kamath said.

"More important, we can have more urban rejuvenation projects. Why to limit this to the top cities alone? Let's build more world class cities and also upgrade the existing ones," he said.

The economy will need more expressways, more airports and seaports to handle the demand of an economy that will be doubling from the present size to be the third largest with a USD7 trillion GDP over the next five years, he explained.

He also does not see the asset quality of banks imploding again as happened in the last leg of the past decade as most of the infra companies went bust due to their excessive debt-driven expansion.

When pointed out that the highly talked about NPA resolution — from over 12 per cent to under-5 per cent now—come with a heavy cost on banks, having written off close to Rs 13 lakh crore since the IBC came into force as the recovery has been less than 30 per cent so far, Kamath said whatever progress has been made so far is the topping and as "we move forward and as the IBC system improves, there will be more incremental gains."

On the funding part, he said, though banks will continue to remain an integral part of infra funding, there is a need to look at more sources that offer longer term funds.

The NHAI has made a very good beginning with asset monetization through InVits. The whole infra segment, including the railways, should move into the monetization model and this is the most secure way of fundraising, he said.

On the digital front, Kamath said, the NaBFID is actively looking to fund key areas in this space such as data centres, smart cities etc.

The NaBFID was set up in 2021 with an Act of Parliament with Rs 20,000 crore capital and it made the first lending with a Rs 520 crore loan to the Banihal Qazigund Road Tunnel project in J&K in December. The company expects to do around Rs 15,000 crore of funding by the end of this fiscal. [Business Standard, Feb. 26]

Capacity Utilisation improves, Inflation Expectations ease & Consumer Confidence continues to Rise: RBI survey

Capacity utilisation improves

Capacity utilisation in manufacturing sector rose in the second quarter of the fiscal, even as inflation expectations for the current period eased and consumer confidence improved, according to surveys conducted by the Reserve Bank of India.

Aggregate level capacity utilisation for the manufacturing sector improved to 74% in the second quarter of FY23 from 72.4% in the previous quarter, the survey findings, released on Wednesday, highlighted.

The seasonally adjusted capacity utilisation for Q2 also increased by 20 basis points to 74.5% from its level in the previous quarter.

Inflation expectations ease

Households' inflation perception for the current period moderated by 20 basis points to 9.6% in January 2023.

Inflation expectation of households rose by 10 basis points for three months ahead period, whereas their one-year ahead expectations remained unchanged from the November 2022 round of the survey.

Among consumption categories, the proportion of respondents perceiving price rise was highest for food group over both the horizons, as also witnessed in the previous two survey rounds.

Respondents expect higher price pressure for household durables and cost of housing over the next three months, as compared to the previous survey round.

Consumer confidence continues to rise

Consumer confidence improved further, both for the current period as well as for the year ahead.

The current situation index continued on its recovery path for the ninth survey round, since the historic low recorded in mid-2021 and increased by 1.3 points to 116.2 in January 2023, on the back of improved sentiment on general economic situation and household income.

The one-year ahead outlook, as reflected by the future expectations index, also rose by 1.3 points to a two-year high, on the back of improved optimism on general economic situation, employment and income over the next one year. [BQ Prime, Feb.9]

Periscope

ECLGS borrowers had lower NPA rates: Economic Survey 2023

ECLGS was launched with a corpus of Rs 4.5 lakh crore that was subsequently enhanced to Rs 5 lakh crore, with a special focus on enterprises in hospitality and related sectors.

The Economic Survey unveiled on January 31 showed that the mostly micro, small, and medium enterprises that availed of an emergency credit scheme repaid a large part of what they owed. The government announced the Emergency Credit Line Guarantee Scheme (ECLGS) in FY21, which according to the survey succeeded in shielding MSMEs from financial distress.

A report from credit information company CIBIL showed that the scheme supported MSMEs facing the COVID shock, with 83 percent of borrowers being micro-enterprises. Among the micro units, half had an overall exposure of less than Rs10 lakh.

CIBIL data also showed that ECLGS borrowers had lower non-performing asset (NPA) rates than enterprises that were eligible for ECLGS but did not avail of it.

Moreover, the goods and services tax paid by MSMEs, after declining in FY21, showed an uptick, reflecting the financial resilience of small businesses.

ECLGS was launched with a corpus of Rs 4.5 lakh crore that was subsequently enhanced to Rs 5 lakh crore, with a special focus on enterprises in hospitality and related sectors. [Moneycontrol.com Jan. 31]

How youngsters are driving loan growth in India

About 43 per cent of loan inquiries in the September quarter were from youngsters. An increased access to credit opportunities are helping young people in improving their quality of life and financial stature, according to TransUnion CIBIL.

Youngsters are driving the credit demand in India and the largest proportion of inquiries is from the 18-30-year-old age group, which accounted for 43 per cent of inquiries in the September quarter of

2023. The rapid growth in consumption-led credit products such as credit cards, consumer durable loans, and personal loans is driving this trend, according to a report by TransUnion CIBIL.
''This trend is underlined by rapid growth in consumption-led credit products like credit cards, consumer durable loans and personal loans,'' the credit information company said.
The report also highlights that the 90-day overdue rate in credit cards was 2.23 per cent, consumer durable loans at 1.91 per cent, and personal loans at 1.02 per cent.
''Increased access to credit opportunities for younger borrowers has direct correlation to improvement in the quality of life and financial empowerment of India's youth, who are the drivers of the country's economic engine," it said.
The loan matrix: The report shows a 67 per cent increase in outstanding balances for consumer durable loans, 28 per cent for credit cards, and 32 per cent for personal loans. The Credit Market Indicator (CMI) reached a level of 100 in September 2022, indicating an improvement in retail lending health across all major states.
The auto loan segment had the least stress at 0.95 per cent while loans against property had the highest overdue rate at 2.78 per cent. [ETBFSI, Feb. 6]

Former SEBI-chief Damodaran launches midcap corporate governance index ATOM

Airawat Indices Pvt Ltd, a joint venture firm founded by former SEBI Chairman M Damodaran and Decimal Point Analytics, has launched a new index ATOM, comprising 30 midcap companies listed on stock exchanges.
ATOM (Airawat Touchstone MidCap Index) is a thematic index designed to serve investors seeking to invest in "well-governed mid-cap companies", the company said in a release.
The methodology to select the 30 companies in ATOM captures the financial quality and corporate governance standards of the AMFI midcap universe, it said, adding the index is reconstituted every six months based on revisions AMFI makes to its list of 150 midcap companies.
Speaking at the launch of ATOM, Damodaran said: "The midcap space is conventionally thought to be risky and full of dodgy companies. However, we decided to explode this myth and found a way to systematically identify well-governed companies to create ATOM".
He further said with the rapid growth of asset management services in India, having a handful of index providers may prove to be insufficient.
"Airawat, as a new entrant, is committed to finding new and innovative segments in the markets and creating indices around which investors can build unique portfolios," he said.
Ashutosh Bishnoi, Advisor to Airawat and a former Board member of the Association of Mutual Funds of India, said ATOM represents the best quality of midcap companies in India.
"On a CAGR basis, it outperformed the 150 midcap stocks over the last five years by over 500 bps and yet significantly underperformed over the last one year," he said.
Decimal Point Analytics serves capital market institutions in Europe and the US from its offices in London, New York, Gift City, Nashik and Mumbai. Decimal Point already handles the management of over 400 indices for global index companies, the release said. [Business Standard, Jan. 24]

In 2047, India's GDP will be approaching close to $20 trn: Bibek Debroy

India, in 2047, will have a per capita income of $10,000, in the value of today's dollars, the average size of the GDP will be approaching close to $20 trillion and hence, will be a "transformed society", Dr Bibek Debroy, Chairman, Economic Advisory Council to the Prime Minister, said on Wednesday.
Virtually addressing the inaugural session at the 57th Annual Conference of the Indian Econometric Society (TIES) held at the University of Hyderabad, he said that basic necessities have been provided to the people and more so in the rural areas by the government.
"Economic indicators after Covid-19 have improved in India. Everyone is now looking to see the rate of growth in 2023-24 and the growth of the economy by 2047. The pandemic may have passed but still there is a lot of uncertainty around the world.
"There is uncertainty around what is happening in China, about the Russia-Ukraine conflict, growth prospects in Europe and the US. Since India is not insulated, we will also face the volatility... forex markets and capital markets and exchange rates will face volatility. Inflation rates will also be impacted by some uncertainty," he added.
Noting that there are four sources of growth - consumption, private investment, government expenditure and net exports, Debroy said: "The global market is not going to be rosy. We tend to forget that when India did 9 per cent growth, our exports had performed quite well. The net GDP ratio is also very high."
Referring to the Goldman Sachs report which had contemplated the rate of growth for India only at 5.5 per cent, he said: "Today when India does 5.5 per cent, there is despair all around. Just to illustrate how aspirations have changed. However, with 5.5 per cent growth, there has been an exponential rise in the per capita income. "The question which remains for all of us as researchers is 'What does India need to do to raise the growth rate from 7 per cent to 8 per cent?' Lot more research needs to be done at the level of the states. Different states are at different levels of development and hence the sources of growth will also be different. But the fact of the matter is that to raise the growth trajectory, we need to make land markets more efficient. Agriculture will also vastly improve when we make land markets more efficient. Similarly, we need to make the labour markets and capital markets also more efficient," he added.
In conclusion, Debroy said: "We need a simplified GST and a simplified system of direct tax. These are the areas on which all of us should think and the research that we collectively produce will educate all of us and help in making policy decisions much informed." [Business Standard, Jan. 4]

Lenders turn cautious on new borrowers

Loan approval rates for new-to-credit customers fell to 26% as on September 30 from 33% as on September 30, 2020, the report showed. (IE)
Lenders have become cautious while providing loans to new-to-credit customers at a time when interest rates are on the rise. Loan origination volumes in the new-to credit segment fell to 15% as on September 30, from 21% as on September 30, 2020. in the year-ago period, a recent report from TransUnion CIBIL showed.
"With rising interest rate, lenders tend to be conservative and even more cautious when it comes to lending to new-to-credit customers," said Kotak Mahindra Bank group president and consumer banking head Virat Diwanji.
According to him, post COVID, there was a pent-up demand across segments and this saw greater need for credit across customer segments, across products. With availability of alternate data to make some informed decision on lending, banks, NBFC and fintechs were earlier keen to garner market share in this customer segment.
At the same time, origination volume to the prime customer segment rose to 38% as on September 30, from 33% as on September 30, 2020. Loan approval rates for new-to-credit customers fell to 26% as on September 30 from 33% as on September 30, 2020, the report showed.
Typically, new-to-credit consumers are those with no prior credit history on their credit bureau file. These have likely opened their first-ever, traditional credit product such as a consumer durable loan, personal loan, agricultural loan, two-wheeler, gold loan, home loan, or other credit product.
With the onset of COVID-19, lenders have been utilising alternate data sources and customer's digital footprints to make lending choices, and have in the process, become more picky in terms of whom they lend to, say experts.
In addition to this, the Reserve Bank of India has tightened norms for digital lenders in recent months, following which, many of these entities have pulled back on lending to new customers.
"I have to believe credit standards are being raised as liquidity tightens and a flight to quality begins. Also, the RBI has tightened norms on digital lenders, when many of them had ramped up their personal loan disbursals," says Sundaram Finance managing

director Rajiv Lochan.
In addition to personal loans, lenders have also turned cautious on providing unsecured credit to small enterprises.
"Change in new-to-credit mix is a reflection of severe impact on specific sectors such as hospitality and education as well as general caution in lending to small MSMEs whose repayment ability has been impacted due to pandemic," Anuj Pandey, chief risk officer, U GRO Capital, said.
"Having said that, loans to the new-to-credit segment have started showing growth on a quarter-on-quarter basis, and if market conditions remain favourable, one remains optimistic about returning to pre-Covid levels in the future," he added. [Financial Express, Feb. 25]

59-minute loan scheme: Loans disbursed grew 2.59% YoY as of Dec 1, shows government data

Credit and finance for MSMEs: The government and SIDBI's 59-minute loan approval scheme for MSMEs — PSB Loans in 59 Minutes disbursed 2,25,700 loans involving Rs 67,246 crore as of December 1, 2022, out of 2,43,630 loans involving Rs 83,168 crore sanctioned, according to the latest data by the MSME ministry on its dashboard. The disbursed loan volume grew only by 2.59 per cent year-on-year (YoY) from 2.20 lakh loans disbursed during the year-ago period while sanctioned loans increased by 3.2 per cent YoY as of December 1, 2022, from the corresponding period in the preceding year.
Month-on-month, sanction loans as of December 1, 2022, were up by 0.20 per cent from 2,43,140 loans sanctioned as of November 1, 2022, while disbursement volume also grew by 0.20 per cent from 2,25,236 loans disbursed.
The scheme was launched in November 2018 to provide in-principle bank approval for collateral-free term loans or working capital loans to MSMEs from Rs 1 lakh to Rs 5 crore in 59 minutes. Borrowers are required to pay Rs 1,000 to receive approval from the bank if the loan application matches the products of lenders, according to the scheme's FAQs. The time taken for disbursement of the loan depends on the information and documentation provided by the borrower.
Launched originally to offer credit up to Rs 1 crore, the credit limit under the scheme was increased to Rs 5 crore in July 2019 while the interest rate levied ranges from 8 to 18 per cent. The scheme enables term loans and working capital loans, and Mudra loans for MSMEs to purchase plant and machinery, technology upgrade, product expansion, purchase of raw materials, infrastructure development, etc.
Meanwhile, the MSME sector had secured Rs 18.26 lakh crore loans in priority sector lending in November 2022 as per the RBI data — 14.1 per cent of Rs 129.47 lakh crore overall gross bank credit deployed across sectors including food and non-food credit deployed during the month. In comparison, Rs 15.24 lakh crore credit was deployed in November 2021 – 13.6 per cent of Rs 111.62 lakh crore overall bank credit deployed then by banks. [Business Standard, Jan. 5]

Richest 1% of Indians now own 13 times more wealth than bottom half: Oxfam

Raghav Aggarwal

The share of the top 10 per cent in India's total wealth has risen from 45 per cent to 63 per cent between 1981 and 2012.

The richest one per cent of Indians own over 13 times more wealth than the bottom 50 per cent, according to a report by Oxfam India. The top five per cent own 61.7 per cent of the total wealth, nearly 20 times more than the 3 per cent owned by the bottom half.
According to the "Survival of the Richest: The India Supplement", released by the non-government organisation (NGO), wealth inequality gets denser on the top. More than half of the wealth of the top 10 per cent of richest Indians is owned by the top 1 per cent.
The share of the top 10 per cent in India's total wealth has risen from 45 per cent to 63 per cent between 1981 and 2012. On the other hand, the wealth of the bottom half halved during the same period.
As per the report, the burden of the tax falls invariably high on the poor. The bottom 50 per cent income group spends a higher percentage of their income on indirect taxes than the middle 40 per cent and the top 10 per cent combined.
The top 10 per cent spend the least percentage of their income on taxes among the three groups.
Sixty-four per cent of all Goods and Services Tax (GST) collections come from the bottom 50 per cent and 4 per cent from the top 10 per cent. The report also said that the bottom 50 per cent of the population pays six times more on indirect taxation than the top 10 per cent.
"Estimates suggest that the bottom 50 per cent spends 6.7 per cent of their income on taxes for select food and non-food items. Middle 40 per cent spends half of that at 3.3 per cent of their income on food and non-food items.
However, the top 10 per cent wealth group spends a mere 0.4 per cent of their income on these items," the report said.
Moreover, inequality has become worse since the onset of the Covid-19 pandemic.
"The top 5 per cent have continued to see their prosperity rise to owning around three-fifth of the total wealth in India (nearly 62 per cent), which is higher than the pre-pandemic years," it said.
"While the country suffers from multiple crises like hunger, unemployment, inflation and health calamities, India's billionaires are doing extremely well for themselves. The poor meanwhile in India are unable to afford even basic necessities to survive. The number of hungry Indians increased to 350 million in 2022 from 190 million in 2018," said Amitabh Behar, chief executive officer (CEO) of Oxfam India.
Inequality also changes with location, gender and caste. The bottom 50 per cent of those living in rural India pay 3 per cent more tax than the bottom half of the urban population.
Between 2018 and 2019, female workers earned 63 paise for every 1 rupee a male worker earned.
For Scheduled Castes and rural workers, the situation is worse. During the same period, SCs earned 55 per cent and rural workers 50 per cent of what the advantaged social groups and urban workers earned, respectively.

Way forward

"Taxing the super-rich is the strategic precondition to reducing inequality and resuscitating democracy," said Gabriela Bucher, executive director of Oxfam International.
The organisation suggested a reduction in the GST slabs on essential commodities. The rates can be hiked for luxury goods. It also suggested raising taxes on capital gains, which are subject to lower tax rates than other forms of income.
Additionally, the wealth of the top 1 per cent should be taxed on a "permanent basis" with higher rates for millionaires, multi-millionaires and billionaires.
It added that the Centre should ensure workers in the formal and informal sectors are paid basic minimum wages.
"The minimum wages should be at par with living wages which is essential to live a life with dignity," the report said.

State of inequality:

- A 2 per cent tax on billionaires can support nutrition for the malnourished for 3 years.
- A 3 per cent tax on billionaires can fund the National Health Mission for 5 years.
- A one-time 5 per cent tax on the top 10 Indian billionaires can fund the health and AYUSH ministries combined for 1.5 years.
- Will also be enough to send all children to school. [Business Standard, Jan. 16]

'7 Nations to Sign up for India's Digi Platforms'

As many as seven countries will sign up with India to use India Stack's digital public goods: Minister of state for electronics and information technology Rajeev Chandrasekhar

These agreements will be signed at the World Government Summit to be held from February 13-15 in Dubai. More than 140 countries are expected to participate in the summit. Sources said countries are mostly interested in DigiLocker, a secure cloud-based platform for storage, sharing and verification of documents and certificates. So far, 144 million citizens have used the platform in India.
Other platforms on offer are foundational identity programmes such as the Modular Open Source Identity Platform (MOSIP), instant real-

time payments system Unified Payments Interface (UPI), Covid vaccination platform CoWIN and Health Stack. Some countries have also expressed interest in the Digital Infrastructure for Knowledge Sharing(DIKSHA) and National Digital Education Architecture (NDEAR) on the education front.

Separately, Chandrasekhar told a press conference in New Delhi on Tuesday, "India will be hosting a developers' conference on Wednesday which will be attended by officials from foreign embassies, start-ups, state and central government and app developers and system integrators."

"This is to help those countries who intend to use India's digital public goods but do not have the digital infrastructure or know-how to implement these technologies," the minister said.

"Singapore, France and Dubai have already announced their plans of using UPI while other countries are in discussions. We have offered UPI to all central banks around the world," a source told ET.

Soon, non-resident Indians will also be able to use UPI in Singapore, Australia, Canada, Hong Kong, Oman, Qatar, US, Saudi Arabia, UAE and UK. If a local entrepreneurial ecosystem exists, like in Africa, local app-developing companies will also be interested, he said. [ET Bureau, Jan 25; By Suraksha.P.]

Digital lenders gave 2.74 crore loans worth Rs. 28,247 crore in H1 of FY23: Equifax-FACE report

Digital lenders disbursed 2.74 crore loans worth Rs. 28,247 crore in H1FY23 of which 96 per cent were personal loans, according to a report by Equifax Credit Information Services and Fintech Association for Consumer Empowerment (FACE).

Personal loans comprised 66 per cent of the loan value disbursed, with a majority of the loans given being under Rs. 5,000. The average ticket size for the segment was Rs. 7,094, whereas for consumer loans was Rs. 57,528 and for business loans was Rs. 4.8 lakh.

Digital loan disbursements for the six-month period ended September 2022 were 153 per cent higher year-on-year in terms of the volumes of loans and 62 per cent higher in terms of the value of loans. The average ticket size of the loans was Rs. 10,313, lower than Rs. 16,087 in the year ago period and Rs 16,250 in the year prior to that.

Consumer durables loans between Rs. 5,000 and Rs. 10,000 had witnessed nearly five-fold growth between April 2021 and April 2022, the report said.

The report covers a cohort of 95 Fintech-NBFCs that largely operate in the digital lending space.

Maharashtra, Karnataka, Telangana, Tamil Nadu and Andhra Pradesh were the top five States in terms of digital lending, accounting for 54 per cent of the total disbursement value. Andhra Pradesh saw the highest growth in digital borrowing at 87 per cent, followed by Telangana at 67 per cent.

A robust regulatory framework for digital lending safeguarding customer interests and concerted actions to address illegal digital lending applications has created a much favorable ecosystem for digital lending, FACE said. [Business Line, March 2]

Retail CBDC worth Rs 4.1 crore under circulation as part of RBI's E-Rupee Pilot

Reserve Bank of India has also issued wholesale CBDC worth Rs 126 crore.

In the three months since the pilot for India's retail central bank digital currency began, digital rupee worth Rs 4.14 crore have come into circulation, Finance Minister Nirmala Sitharaman said in written responses to parliamentary questions on Monday. The Reserve Bank of India has also issued wholesale digital rupee— for the CBDC's wholesale pilot— worth Rs 126.27 crore since November 2022, Sitharaman said in the responses.

A total of nine banks are currently participating in the pilot for the wholesale CBDC. While a wide variety of merchants have been onboarded onto the digital rupee ecosystem for the retail pilot, a few online merchants have also been included in the digital rupee's pilot, the Finance Minister said. "Various use cases, technological architecture and design features are being tested during the pilot, the Finance Minister said. "Various use cases, technological architecture and design features are being tested during the pilot ... Further steps, including expansion of use case, have to be through a phased implementation strategy on the basis of feedback received during the pilots," Sitharaman said in her reply. [B Q Prime, March14]

PSOs, Fin Tech Cos Reluctant to Comply with RBI Regulations: Guv

Payment system operators (PSOs) and new-age fintech firms coming under the Reserve Bank of India's regulatory domain for the first time have been hesitant to comply with regulations, but adhering to norms will help them improve efficiency, RBI governor Shaktikanta Das has said.

Payment system operators (PSOs) and new-age fintech firms coming under the Reserve Bank of India's regulatory domain for the first time have been hesitant to comply with regulations, but adhering to norms will help them improve efficiency, RBI governor Shaktikanta Das has said.

"At times, some PSOs display unwillingness to comply with regulatory instructions, citing various reasons like cost of carrying out system-level changes," Das said at a payment system operators conference in Kochi on Saturday.

In this digital age, when payment system operations are heavily dependent on technology and many new-age tech firms are entering the payments ecosystem, it is necessary to constantly upgrade the systems to remain relevant and increase efficiency, he said.

Increase in digital payments has also brought to the fore potential risks pertaining to cyber security, data privacy and operational resilience, the RBI governor said. "PSOs must always be cognisant of the emerging threats and put in place suitable risk mitigation measures," he said.

Outsourcing arrangements of payment operators with their vendors need special attention and these agreements should meet minimum standards prescribed by the Reserve Bank, he said.

Payment system operators should work on formation of self-regulatory organisations (SROs) for greater good of all stakeholders.

The RBI governor also stressed that the payments landscape in India has evolved into a state-of-the-art system that is affordable, accessible, convenient, fast, safe, and secure.

About 10.50 billion retail digital payment transactions worth ¹ 51 lakh crore were processed in January 2023, and that stands as a testimony to the size and efficiency of India's digital payments, he said. Launched in 2016, the country's flagship payments platform — Unified Payments Interface (UPI) — has revolutionised the payments ecosystem with about 8.03 billion transactions worth ¹ 13 lakh crore processed in January 2023 alone.

This has helped Digital Payments Index (DPI) — developed by the central bank to gauge the adoption of digital payments in the country — go up from 100 as the base in March 2018 to 377.46 as of September 2022, in a testimony to the long way the country has travelled, Das said.

He also said payment companies should make available an expeditious grievance redress mechanism to ensure public trust in digital payments. "More the struggle undertaken by people in resolving their grievances, more unlikely it becomes that they would attempt digital payments in future," Das said. [ET Bureau, Mar 19]

Treat customer as God: MoS Finance calls for boost in banking services

Calling for further improvement in banking services, Minister of State for Finance Bhagwat K Karad urged banks to treat their customers as God.

Banks should focus on improving their customer service and work towards reducing pain points, Karad said while addressing a Customer Meet programme organised by Bank of Maharashtra (BoM) earlier this week.

At the same time, he asked customers to be responsive and prompt in repayment of loans so that banks are financially healthy.

With regard to Kisan Credit Card (KCC), he urged banks, including BoM for expanding the reach of KCC scheme to more farmers and ensure time-bound saturation.

The banking industry needs to serve small and marginal farmers, youth and women agripreneurs and act as catalyst for growth, he said. [Business Standard, March 18] ■

Tax proposal on market-linked debts in FY23 Budget will impact 2 lakh investors: NBFC body

The Budget classified the nature of returns on MLDs as short-term capital gains resulting in higher taxation on such investments

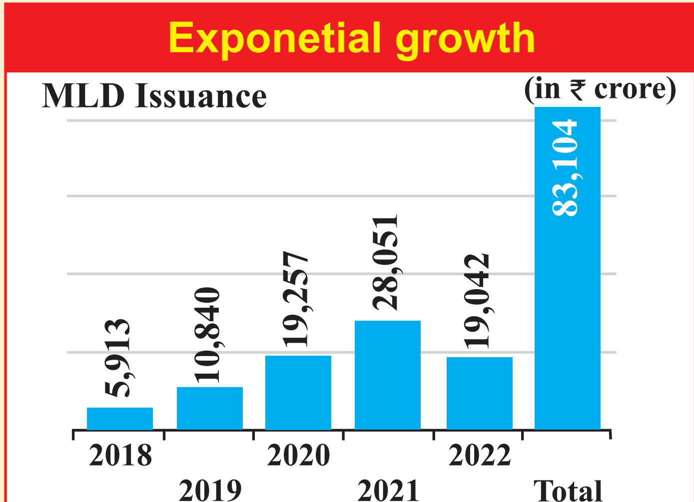
Finance Industry Development Council (FIDC), a representative body of NBFCs, has sought tax parity for returns on market-linked debentures, following the Budget announcement taxing such returns as short-term capital gains tax.

"Rs. 73,000 crore of issuance are impacted by the recent Budget. Assuming an average ticket size of Rs. 30 lakh, this move may adversely impact around 2 lakh retail investors," FIDC said, adding that as the announcement will be effective FY25, investors who factored in the current tax rate will have to pay higher tax.

STCG tax: The Budget classified the nature of returns on MLDs as short-term capital gains resulting in higher taxation on such investments. The short-term capital gains tax is applicable regardless of the holding period (even if it is more than three years, unlike debt mutual funds) and the listing status of these instruments.

"Increasing the tax burden would have negative effect on investors, and completely stifle the participation of such investors in the MLD market. Looking at the investor sentiments, the impact gets further accentuated since this amendment seeks to introduce retrospective amendment," FIDC said in a letter to FM Nirmala Sitharaman.

Market Linked Debentures (MLDs) are structured fixed–income instruments that are usually linked to benchmarks such as the Nifty Index, government securities, prices of commodities or even a basket of stocks.



The industry body has sought tax parity for all debt products, including MLDs and debt MFs, with equities and equity MFs, translating to long-term capital gains tax if the holding period is over one year for listed instruments.

Withholding tax: FIDC has also submitted that the government may confirm that withholding tax will be implemented, and that the new taxation, if implemented, be done prospectively on new investments instead of retrospectively.

MLDs worth Rs. 3,800 crore are set to mature by March 31, of which Rs. 2,400 crore are listed and the holding period is over 12 months. Around 150 issuers have cumulatively raised Rs. 83,000 crore through MLDs in the past 5 years, with issuance volumes increasing every year. Outstanding MLDs are estimated to be Rs. 75,000 crore, of which 45 per cent are listed as of January 31.

Currently, long-term capital gains tax is applicable on listed MLDs held for over 12 months and unlisted securities held for over 36 months.

Retail participation: FIDC also said that wider participation from retail and HNIs would help deepen the bond market by reducing issuers' dependence on banks and institutional investors. This is reflective in the rising share of 'A' and higher rated issuances. Of the total issuances of around Rs. 83,000 crores in the last 5 years, over 50 per cent were rated. Issurances rated 'AAA' and 'AA' constituted over 75 per cent of the rated MLDs.

Further, the share of MLDs rated 'A' and below has increased from 7 per cent in 2019 to above 25 per cent by 2022, which indicates that participation by retail and HNI category has had a positive impact on deepening the market for lower rated issuers, the letter said. [Business Line, Feb. 15]

FIDC in its representation made to union Finance Minister said: "We believe that increasing the tax burden would have the negative effect on investors, and completely stifle the participation of such investors in the MLD market. Looking at the investor sentiments, the impact gets further accentuated since this amendment seeks to introduce retrospective amendment." FIDC requested "to align the taxation framework for all debt products (including MLDs and debt mutual funds) and bring them in line with equity/equity mutual funds (i.e., provide LTCG benefit if the holding period is more than 1 year for listed instruments). Nonetheless, if the same is not feasible and the parity of tax between equity instruments and MLDs is removed, our humble submission is to apply the provisions prospectively on new investments. Also, as the returns booked on MLDs is now in the nature of STCG (and not interest income) even if the instrument is held till maturity (on redemption), it can be clarified that no withholding tax is applicable on redemption of MLDs - for both listed and unlisted instruments. Withholding tax should ideally be applicable only for distribution of interest income - as is the case with regular bonds - to avoid any ambiguity."

FIDC In Action

NBFCs data reporting and publishing from RBI

FIDC, with view to fulfil a much desired need in respect of making available, "appropriate data for assessing and publishing authentic data on the growth in the business of NBFC sector on a consolidated and aggregated basis as is being done by RBI in respect of the banks in its monthly bulletin," requested the Reserve Banks of India.

FIDC said that the Reserve Bank has revised the data format of collection and operational efficiency from November 2022 onwards (due date of submission is within 5 days from the end of the month) and all the medium and large NBFCs are mandatorily required to furnish their data on the RBI XBRL platform on an on-going basis. RBI may like to further expand the format of XBRL Returns by incorporating sectoral dimensions so that RBI would have appropriate data for assessing and publishing authentic data on the growth in the business of NBFC sector on a consolidated and aggregated basis as is being done by RBI in respect of the banks in its monthly bulletin.

FIDC said that the availability of RBI data will play a significant and appreciable role for the RBI as well as various other stakeholders.

Concessional stamp duty be also allowed in case of credit provided by NBFCs to MSMEs in Rajasthan

FIDC on February 23requested the Secretary (Revenue) of Finance Department, Government of Rajasthan to allow concessional stamp duty "in case of credit provided by NBFCs to MSMEs or for transfer of credit facilities from a bank to an NBFC or from one NBFC to another," as is provided vide an Order (No. F.2(97)FD/Tax/2010-11 dated April 25, 2011) under Section 9(1) of the Rajasthan Stamp Duty Act significantly reducing stamp duty on instruments executed for taking loans for setting up of MSMEs or for enhancement of credit facilities or for transfer of credit facilities from one bank to another. This has provided a major relief to MSME entrepreneurs and has been welcomed widely.

FIDC, drawing attention about the significant and growing contribution of NBFC sector for development of MSMEs noted that "Over the past few years, RBI registered NBFCs have assumed an increasingly important role in ensuring credit flow to the MSMEs. NBFCs are committed to furthering this role and be a prime mover in the growth and development of MSMEs. The flow of credit from NBFCs to MSMEs has now increased to almost 20% of new credit provided to the sector."

Allowing such benefit in case of credit provided by NBFCs to MSMEs or for transfer of credit facilities from a bank to an NBFC or from one NBFC to another would provide a significant relief to MSMEs in accessing credit from NBFCs as well and thus allow

larger corpus of funds flowing to the MSME sector, pleaded Mahesh Thakkar, Director General, Finance Industry Development Council, a representative body of NBFCs registered with RBI and operating across the country.

SUCCESSFUL CONCLUSION OF 14TH NBFC & FINTECH CONCLAVE & AWARDS 2023 WHERE CHIEF GUEST RAMESH IYER DELIVERED INAUGURAL ADDRESS

B2B Infomedia's 14th NBFC & Fintech Conclave & Awards 2023 organized in association with FIDC and Sa-dhan on 3rd March at New Delhi provided an opportunity to all stakeholders to ponder over the burgeoning issues and discuss on how technology is changing the dynamics of NBFCs as a whole. How Fintechs are giving wings to the world of lending as well as other cutting edge solutions badly needed by NBFCs. The nuances of partnering with Fintechs and many such qualms were deliberated by the experts from the domain. Having the theme "Thrusting Trust through Technology" this conclave has seen many stalwarts from NBFCs and MFIs. The tone of the conclave was well set by Mr. Jiji Mammen, Executive Director, Sa-Dhan followed by non-other than the Chief Guest Mr. Ramesh Iyer, Vice Chairman & MD, Mahindra & Mahindra Financial Services who shared his valuable inputs on why trust is critical for the growth of this sector and how technology is the need of the hour for sustained growth. Mr. Mahesh Thakkar, DG, FIDC has shared various initiatives been taken by FIDC on behalf of its member NBFCs in the last few months.

Heads of various NBFCs has shared their minds through various panel discussions having topics like Delivering Innovative New Age

Mr Ramesh Iyer, Chairman, FIDC, Vice - Chairman & MD, Mahindra & Mahindra Financial Services sharing his views during the panel discussion on "Technology to drive NBFCs transformation with agile business models " at NBFC & FinTech conclave and awards 2023.

Special address by Mr. Mahesh Thakkar, Director General - FIDC during NBFC & FinTech conclave & awards 2023.

Financial Products Using Technology, Technology to drive NBFCs transformation with agile business models, Embracing Advanced Digital Payments Technologies and Solutions for Seamless Services and Unravelling the New Sustainable Competitive advantage of Customer Experience through Technology. Beside other industry partners, senior representatives from companies like Genesys, Lentra & Dvara shared their opinions on how and what are new offerings they have for NBFCs. This conclave has attracted more than 150 delegates from the ecosystem.

At the end of conclave, B2B Infomedia awards was conferred to 25 individuals/NBFCs/ Fintech/MFIs and Fintech companies in various categories selected from more than 80 nominations received. The award was handed over by the Guest of Honour Mr. R V Ramakrishna, General Manager/OIC, NABARD who also has shared his perspective on NBFCs from NABARD point of views. [Team B2B Infomedia, Prashant Dwivedi, March 10]

What NBFCs expect from RBI & Government

Vasumathi Koganti
MD, IKF Finance Limited

Over a period of time, RBI has tightened the NBFC regulatory framework and brought them more in line with bank regulations. For e.g. IRAC norms and 90 Dpd NPA classification are one of such acts. However, the cost of funds and the tax laws have not been at par with banks. Banks have strong liability franchises with a huge CASA base which brings down their cost of funds, whereas the challenge for NBFCs is raising the cheaper cost of funds, in adherence to compliance obligations on higher taxes compared to banks in several areas which invariably increase the overall cost of operations. We require a more obliging compliance framework to provide credit to unbanked and underbanked SRTO's and small business owners and bring them into the formalizing lending system.

Furthermore, the NBFC industry is hoping that the government will standardize taxation and recovery policies. It anticipates tax relief by exempting NBFCs from paying tax on source-deducted income. A more flexible and cost-effective financing source for NBFCs is also urgently required". [Banking & Finance, Jan. 14]

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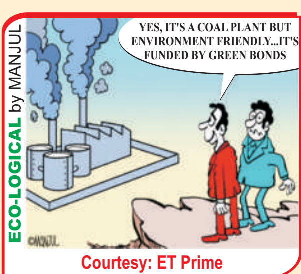

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