



Volume XII ♦ Issue 8 February 2016

MONETARY AND CREDIT INFORMATION REVIEW

Banking Regulation

Modified Guidelines on Revitalising Stressed Assets

On a review and based on feedback received from stakeholders, the Reserve Bank has partly modified and also clarified, some aspects of its Prudential Guidelines for Revitalising Stressed Assets in the Economy. The salient features of the Review are as follows:

a. SDR:

- Reduction in the minimum percentage of shareholding to be initially divested by the lenders;
- Lenders to build up adequate provisions for possible loss in value of the equity acquired in lieu of debt and residual loan exposures;

b. Framework to Revitalise the Distressed Assets in the Economy

- Reduction in the percentage of lenders, by number, required to approve the Corrective Action Plan;
- Revised composition of the Joint Lending Forum- Empowered Group (JLF-EG) for enhancing the quality of decision making;
- A scheme of incentives for adherence to timelines for decision-making by JLF members to facilitate timely implementation of the Corrective Action Plan;

c. Restructuring of Advances

- Permitting restructuring and benefits of asset classification in cases of borrower accounts, which were involved in fraud, where the promoters have been subsequently replaced by new promoters and the borrower is totally delinked from the erstwhile promoters;
- Clarifying that Flexible Structuring of Project Loans is also permitted for ECBs;

It may be recalled that the Reserve Bank had issued various guidelines aimed at revitalising the stressed assets in the economy. These include: Strategic Debt Restructuring (SDR) Mechanism, Framework to Revitalise the Distressed Assets in the Economy, Revisions to the Guidelines on Restructuring of Advances by Banks, Flexible structuring of Long Term Project Loans and amendments to guidelines on Sale of Financial Assets to Securitisation Companies (SC)/Reconstruction Companies (RC). (https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=36335)

Implementation of Indian Accounting Standards

The Reserve Bank on February 11, 2016 advised the scheduled commercial banks (excluding regional rural banks) to follow the Indian Accounting Standards (Ind AS) as notified under the Companies (Indian Accounting Standards) Rules, 2015, subject to any guideline or direction issued by the Reserve Bank in this regard, in the following manner:

- Banks shall comply with the Indian Accounting Standards (Ind AS) for financial statements for accounting periods beginning from April 1, 2018 onwards, with comparatives for the periods ending March 31, 2018 or thereafter. Ind AS shall be applicable to both standalone financial statements and consolidated financial statements.

- Banks shall apply Ind AS only as per the above timelines and shall not be permitted to adopt Ind AS earlier.

The Reserve Bank also advised that notwithstanding the roadmap for companies, the holding, subsidiary, joint venture or associate companies of banks shall be required to prepare Ind AS based financial statements for accounting periods beginning from April 1, 2018 onwards, with comparatives for the periods ending March 31, 2018 and thereafter.

Banks are further advised to set up a Steering Committee headed by an official of the rank of an Executive Director (or equivalent) comprising members from cross-functional areas of the bank to immediately initiate the implementation process. The Audit Committee of the Board shall oversee the progress of the Ind AS implementation process and report to the Board at quarterly intervals. Banks would start submission of proforma Ind AS financial statements to the Reserve Bank from the half-year ended September 30, 2016. To facilitate the implementation process, the Reserve Bank shall hold periodic meetings with banks in this regard from April 2016.

Banks shall disclose in the Annual Report, the strategy for Ind AS implementation, including the progress made in this regard. These disclosures shall be made from the financial year 2016-17 until implementation. (<https://rbi.org.in/Scripts/NotificationUser.aspx?id=10274&Mode=0>)

Basel III Framework on Liquidity Standards

The Reserve Bank on February 11, 2016 permitted banks to reckon government securities held by them up to another three per cent of

| CONTENTS | PAGE |
|------------------------------------------------------------|------|
| Banking Regulation | |
| • Modified Guidelines on Revitalising Stressed Assets | 1 |
| • Implementation of Indian Accounting Standards | 1 |
| • Basel III Framework on Liquidity Standards | 1 |
| • Legal Guardianship Certificates - Mental Health Act | 2 |
| Sixth Bi-monthly Monetary Policy Statement, 2015-16 | 2 |
| Foreign Exchange Management | |
| • RBI rationalises FEMA Regulations | 2 |
| • Relaxations for Start-ups | 3 |
| • Settlement of Export/ Import Transactions in Currencies | 3 |
| • Compilation of R>Returns: Reporting under FETERS | 4 |
| • Application for Regularisation of Assets held Abroad | 4 |
| Payment and Settlement Systems | |
| • RTGS Service Charges | 4 |
| Non-Banking Regulation | |
| • NBFC – Factors Directions | 4 |
| • Undertaking of PoP for NPS | 4 |
| • Monitoring of Frauds in NBFCs | 4 |
| Co-operative Banking | |
| • Interest Equalisation Scheme | 4 |

their Net Demand and Time Liabilities (NDTL) under Facility to Avail Liquidity for Liquidity Coverage Ratio (FALLCR) within the mandatory Statutory Liquidity Ratio (SLR) requirement as Level 1 High Quality Liquid Assets (HQLAs) for the purpose of computing their Liquidity Coverage Ratio (LCR). This is in addition to the assets allowed to banks as the Level 1 HQLAs for the purpose of computing the LCR of banks. Hence, the total carve-out from SLR available to banks would be 10 per cent of their NDTL. For this purpose, banks should continue to value such reckoned government securities within the mandatory SLR requirement at an amount not greater than their current market value (irrespective of the category of holding the security). (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?id=10279&Mode=0>)

Legal Guardianship Certificates - Mental Health Act

The Reserve Bank on February 11, 2016, clarified that banks need to necessarily seek appointment of a guardian only in such cases where they are convinced on their own or based on documentary evidence available, that the concerned person is mentally ill and is not able to enter into a valid and legally binding contract. Further, the Reserve Bank clarified that banks need not mandatorily insist on appointment of a guardian as a matter of routine from every person "who is in need of treatment by reason of any mental disorder". The clarifications were issued after receiving feedback that banks are insisting on guardianship certificate from all mentally ill persons. (<https://rbi.org.in/Scripts/NotificationUser.aspx?id=10280&Mode=0>)

Foreign Exchange Management

RBI rationalises FEMA Regulations

The Reserve Bank, in consultation with the Government of India, has revised nine regulations issued under the Foreign Exchange Management Act, 1999 (FEMA). Consequently, the respective original notifications and subsequent amendments stand repealed. For easy identification, revised regulations will carry the same numbers as in the old regulations with a suffix '(R)' along with the year in which they are published. The objective was to consolidate the regulations and rationalise them in the light of evolving business environment and changing practices in cross-border transactions relating to external trade and payments to promote ease of doing business. Some of the important AP (DIR Series) circulars issued on February 4, 2016 in respect of revised regulations include-

Possession and Retention of Foreign Currency

The Reserve Bank on February 4, 2016 advised AD Banks on the limits for possession or retention of foreign currency or foreign coins, as under :-

- Possession without limit of foreign currency and coins by an authorised person within the scope of his authority ;
- Possession without limit of foreign coins by any person;
- Retention by a person resident in India of foreign currency notes, bank notes and foreign currency travellers' cheques not exceeding US\$ 2000 or its equivalent in aggregate, provided that such foreign exchange was acquired by him -
 - a) While on a visit to any place outside India by way of payment for services not arising from any business in or anything done in India; or
 - b) From any person not resident in India and who is on a visit to India, as honorarium or gift or for services rendered or in settlement of any lawful obligation; or
 - c) By way of honorarium or gift while on a visit to any place outside India; or
 - d) Represents unspent amount of foreign exchange acquired by him from an authorised person for travel abroad.

The Reserve Bank also advised that a person resident in India but not permanently resident therein may possess without limit foreign currency in the form of currency notes, bank notes and travellers cheques, if such foreign currency was acquired, held or owned by him when he was resident outside India and, has been brought into India in accordance with the regulations made under the Act. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?id=10271&Mode=0>)

Sixth Bi-monthly Monetary Policy Statement, 2015-16

On the basis of an assessment of the current and evolving macroeconomic situation, the Reserve Bank in its sixth Bi-monthly Monetary Policy Statement, 2015-16, announced on February 2, 2016, decided to:

- keep the policy repo rate under the liquidity adjustment facility (LAF) unchanged at 6.75 per cent;
- keep the cash reserve ratio (CRR) of scheduled banks unchanged at 4.0 per cent of net demand and time liability (NDTL);
- continue to provide liquidity under overnight repos at 0.25 per cent of bank-wise NDTL at the LAF repo rate and liquidity under 14-day term repos as well as longer term repos of up to 0.75 per cent of NDTL of the banking system through auctions; and
- continue with daily variable rate repos and reverse repos to smooth liquidity.

Consequently, the reverse repo rate under the LAF will remain unchanged at 5.75 per cent, and the marginal standing facility (MSF) rate and the Bank Rate at 7.75 per cent.

The first bi-monthly monetary policy statement for 2016-17 will be announced on Tuesday, April 5, 2016.

Realisation, Repatriation and Surrender of Foreign Exchange

The Reserve Bank on February 4, 2016 advised AD Banks on regulations on Realisation, Repatriation and Surrender of Foreign Exchange, as under:

Duty of Persons to realise Foreign Exchange due:-

A person resident in India to whom any amount of foreign exchange is due or has accrued, shall take all reasonable steps to realise and repatriate to India such foreign exchange, and shall in no case do or refrain from doing anything, or take or refrain from taking any action, which has the effect of securing (a) that the receipt by him of the whole or part of that foreign exchange is delayed; or (b) that the foreign exchange ceases in whole or in part to be receivable by him.

Manner of Repatriation :-

1. On realisation of foreign exchange due, a person shall repatriate the same to India, namely bring into, or receive in, India.
2. A person shall be deemed to have repatriated the realised foreign exchange to India when he receives in India payment in rupees from the account of a bank or an exchange house situated in any country outside India, maintained with an authorised dealer.

Period for Surrender of Realised Foreign Exchange:-

A person not being an individual resident in India shall sell the realised foreign exchange to an authorised person, within the specified period.

Period for Surrender in Certain Cases:-

1. A person not being an individual resident in India who does not use the foreign exchange, acquired or purchased by him/her for the purpose, as declared to the authorised dealer, shall surrender such foreign exchange or the unused portion thereof to an authorised person within a period of 60 days from the date of its acquisition or purchase by him/her.
2. If the foreign exchange acquired or purchased by any person not being an individual resident in India from an authorised person is for the purpose of foreign travel, then, the unspent balance of such foreign exchange shall be surrendered to an authorised person within 90 days from the date of return of the traveller to India (for unspent foreign exchange in the form of currency notes and coins); and within 180 days from the date of return of the traveller to India (for unspent foreign exchange in the form of travellers cheques).

The Reserve Bank in the revised regulations, also specified the period for surrender of received/realised/unspent/unused foreign exchange by resident individuals and advised that these regulations shall not apply to foreign exchange in the form of currency of Nepal or Bhutan. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?id=10269&Mode=0>)

Export and Import of Currency

The Reserve Bank on February 4, 2016 advised AD Banks on Regulations on Export and Import of Currency, as under-

Export and Import of Indian Currency and Currency Notes

1. Any person resident in India, may take outside India (other than to Nepal and Bhutan) currency notes of Government of India and Reserve Bank of India notes up to an amount not exceeding ₹25,000 per person and commemorative coins not exceeding two coins each. Any person, who had gone out of India on a temporary visit, may bring into India at the time of his return from any place outside India (other than from Nepal and Bhutan), currency notes up to an amount not exceeding ₹25,000 per person.
2. Any person resident outside India, not being a citizen of Pakistan or Bangladesh, and visiting India, may take outside India currency notes up to an amount not exceeding ₹25,000 per person and bring into India currency notes up to an amount not exceeding ₹25,000 per person.

Import of Foreign Exchange into India

A person may send into India without limit foreign exchange in any form other than currency notes, bank notes and travellers cheques; and may bring into India from any place outside India without limit foreign exchange (other than unissued notes) subject to the condition that such person makes, on arrival in India, a declaration to the Customs authorities in Currency Declaration Form (CDF).

Export of Foreign Exchange and Currency Notes

- An authorised person may send out of India foreign currency acquired in normal course of business, held in the form of cheques drawn on foreign currency account; foreign exchange obtained by him by drawal from an authorised person; currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank.
- Any person may take out of India, foreign exchange possessed by him and also unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2000
- Any person resident outside India may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in Currency Declaration Form (CDF).

The Reserve Bank in its revised regulations also advised AD banks on export and import of currency to or from Nepal and Bhutan and prohibition on export of Indian Coins. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10268&Mode=0>)

Acquisition and Transfer of Immovable Property

The Reserve Bank on February 4, 2016, advised AD banks that acquisition or transfer of any immovable property outside India by a person resident in India would require prior approval of Reserve Bank except in the following cases:

1. Property held outside India by a foreign citizen resident in India;
2. Property acquired by a person on or before July 8, 1947 and held with the permission of Reserve Bank;
3. Property acquired by way of gift or inheritance from specified persons;
4. Property purchased out of funds held in Resident Foreign Currency (RFC) account held in accordance with the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015;
5. Property acquired jointly with a relative who is a person resident outside India provided there is no outflow of funds from India;
6. Property acquired by way of inheritance or gift from a person resident in India who acquired such property in accordance with the foreign exchange provisions in force at the time of such acquisition.

An Indian company having overseas offices may acquire immovable property outside India for its business and residential purposes provided total remittances do not exceed the following limits prescribed for initial and recurring expenses, respectively:

- 15 per cent of the average annual sales/ income or turnover of the Indian entity during the last two financial years or up to 25 per cent of the net worth, whichever is higher;
- 10 per cent of the average annual sales/ income or turnover during the last two financial years. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10264&Mode=0>)

Relaxations for Start-ups

Acceptance of Payments

To facilitate ease of doing business, the Reserve Bank on February 11, 2016, issued certain clarifications relating to acceptance of payments in case of start-ups, as under:

- A start-up in India with an overseas subsidiary is permitted to open foreign currency account abroad to pool the foreign exchange earnings out of the exports/sales made by the concerned start-up;
- The overseas subsidiary of the start-up is also permitted to pool its receivables arising from the transactions with the residents in India and non-residents abroad into the said foreign currency account opened abroad in the name of the start-up;
- The balances in the said foreign currency account as due to the Indian start-up should be repatriated to India within a period as applicable to realisation of export proceeds (currently nine months);
- A start-up is also permitted to avail of the facility for realising the receivables of its overseas subsidiary or making the above repatriation through Online Payment Gateway Service Providers (OPGSPs) for value not exceeding USD 10,000 or up to such limit as may be permitted by the Reserve Bank of India from time to time under this facility; and
- To facilitate the above arrangement, an appropriate contractual arrangement between the start-up, its overseas subsidiary and the customers concerned should be in place. (<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10277&Mode=0>)

Issue of Shares

The Reserve Bank on February 11, 2016, clarified that Indian companies are permitted to issue (i) shares without cash payment by the investor through sweat equity, subject to certain conditions; and (ii) equity shares against any other funds payable by the investee company (e.g. payments for use or acquisition of intellectual property rights, for import of goods, payment of dividends, interest payments, consultancy fees, etc.), remittance of which does not require prior permission. (<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10278&Mode=0>)

The clarifications were issued apropos the announcement in the Sixth Bi-Monthly Monetary Policy Statement for 2015-16, that in case of start-ups, to facilitate ease of doing business, certain permissible transactions under the existing regime shall be clarified.

Settlement of Export/ Import Transactions in Currencies

To further liberalise the procedure and facilitate settlement of export and import transactions where the invoicing is in a freely convertible currency and the settlement takes place in the currency of the beneficiary, which though convertible, does not have a direct exchange rate, the Reserve Bank on February 4, 2016 permitted authorised dealer category-I banks to settle such export and import transactions (excluding those put through the ACU mechanism), subject to certain conditions. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10263&Mode=0>)

Compilation of R>Returns: Reporting under FETERS

The Reserve Bank on February 11, 2016 modified the guidelines for compilation of R>Returns for reporting under the Foreign Exchange Transactions Electronic Reporting System (FETERS), with effect from the first fortnight of April 2016 (reporting of transactions which take place from April 1, 2016), as under:

- i. The present email-based submission will be replaced by web-portal based data submission.
- ii. Nodal offices of banks have to access the web-portal <https://bop.rbi.org.in> with the RBI-provided login-name and password, to submit data.
- iii. Banks may perform off-line check of their FETERS data-file for error, if any, before its submission on the portal, by downloading RBI-provided validator template from the portal.
- iv. On uploading validated files, banks will get acknowledgment. They can view the data-files with download facility and also revise the purpose codes for transaction submitted earlier.
- v. Banks may report (a) addition of AD code for their bank and (b) update AD category, which will be incorporated in the AD-master database by the Reserve Bank after due authentication.
- vi. The purpose codes P0105 [Export bills (in respect of goods) sent on collection – other than Nepal and Bhutan] and P0107 [Realisation of NPD export bills (full value of bill to be reported) – other than Nepal and Bhutan] have been discontinued.

The Reserve Bank also advised AD banks to report transactions relating to LRS under respective FETERS purpose codes (e.g. travel, medical treatment, purchase of immovable property, studies abroad, maintenance of close relatives; etc.) instead of reporting collectively under the purpose code S0023 and allow customers for online submission of Form A2 and also enable uploading/submission of documents, if and as may be necessary. (<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10276&Mode=0>)

Application for Regularisation of Assets held Abroad

The Reserve Bank on February 10, 2016 stated that applications seeking regularisation of assets held abroad by a person resident in India and declared under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015) (Black Money Act) under Foreign Exchange Management Act, 1999 (FEMA) will be considered at the Reserve Bank of India's Central Office, Mumbai. Applications in this regard may be addressed to Principal Chief General Manager, Foreign Exchange Department (Foreign Investment Division, (NRFAD)), Central Office, 11th floor, Central Office Building, Shahid Bhagat Singh Marg, Mumbai 400 001. (https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=36214)

Payment and Settlement Systems

RTGS Service Charges

To ensure that RTGS services are adequately priced, the Reserve Bank on February 4, 2016, has revised the fee structure for members and rationalised the charges levied on them. Inward transactions of the members will not attract any service charges and will continue to be free, as earlier. The membership fee has been marginally enhanced and it is now ₹5,000 for scheduled commercial banks and ₹ 2,500 for banks other than SCBs, primary dealers, clearing entities, other special entities, etc. Every outward transaction will attract flat processing charge at the earlier cap of ₹0.50 (exclusive of service tax) and a time varying charge as prescribed. The revised service charges for RTGS members will come into effect from April 1, 2016. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10260&Mode=0>)

Non-Banking Regulation

NBFC – Factors Directions

The Reserve Bank on February 18, 2016 reviewed the guidelines on provision of factoring services by banks and specified certain conditions under which banks can departmentally undertake factoring activities.

Prudential Norms – Identification as NPA

The Reserve Bank clarified that receivable acquired by a non-banking finance company (NBFC)- Factor which is not paid within such period of its due date, as applicable in terms of certain Acts/Directions, should be treated as Non-Performing Asset (NPA) irrespective of when the receivable was acquired by the NBFC - Factor or whether the factoring was carried out on "with recourse" basis or "non-recourse" basis.

Exposure Norms-Single and Group Borrower Limits

It is clarified that for the purpose of compliance with concentration of credit norms, exposure shall be reckoned as under:

- a) In case of factoring on "with-recourse" basis, the exposure would be reckoned on the assignor.
- b) In case of factoring on "without-recourse" basis, the exposure would be reckoned on the debtor, irrespective of credit risk cover/ protection provided, except in cases of international factoring where the entire credit risk has been assumed by the import factor.

Risk Management

Proper and adequate control and reporting mechanisms should be put in place before such business is undertaken.

Exchange of Information

For the purpose of exchange of information, the assignor will be deemed to be the borrower. Factors and banks should share information about common borrowers. Factors must ensure to intimate the limits sanctioned to the borrower to the concerned banks/ NBFCs and details of debts factored to avoid double financing. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10286&Mode=0>)

Undertaking of PoP for NPS

The Reserve Bank on February 18, 2016, has decided in public interest that non-banking finance companies shall not undertake Point of Presence (PoP) services for National Pension System. (<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10284&Mode=0>)

Monitoring of Frauds in NBFCs

The Reserve Bank on February 18, 2016 revised the threshold for reporting of frauds and submission of quarterly progress reports on frauds to Central Fraud Monitoring Cell, Reserve Bank of India, Department of Banking Supervision, from ₹ 25 lakh as on date to ₹one crore with immediate effect.

As regard reporting of frauds and submission of quarterly progress reports on frauds below the revised threshold, non-banking finance companies (NBFCs) will have to furnish the quarterly progress reports to the regional office of Reserve Bank of India, Department of Non-Banking Supervision under whose jurisdiction the registered office of the NBFC falls. (<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10287&Mode=0>)

Co-operative Banking

Interest Equalisation Scheme

The Reserve Bank on February 11, 2016, advised scheduled urban cooperative banks holding authorised dealer category I licences which are eligible under the Interest Equalisation Scheme on Pre and Post Shipment Rupee Export Credit to eligible exporters Scheme to adhere to prescribed operational procedure for claiming reimbursement, particularly the procedure for passing on the benefit of interest equalisation to exporters, and procedure for claiming reimbursement of interest equalisation benefit already passed on to eligible exporters. (<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10281&Mode=0>)