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MONETARY AND CREDIT INFORMATION REVIEW

Banking Regulation

Scheme for Sustainable Structuring of Stressed Assets introduced

The Reserve Bank on June 13, 2016, issued guidelines on a 'Scheme for Sustainable Structuring of Stressed Assets' (S4A) in order to further strengthen the lenders' ability to deal with stressed assets and to put real assets back on track by providing an avenue for reworking the financial structure of entities facing genuine difficulties.

Resolution of large borrowal accounts which are facing severe financial difficulties may, inter-alia, require co-ordinated deep financial restructuring which often involves a substantial write-down of debt and/or making large provisions. Often such high write-downs act as a disincentive to lenders to effect a sustainable change in the liability structure of borrowers facing stress. Banks have also represented for a regulatory framework which would facilitate lenders taking up the exercise of reworking of the liability structure of companies to which they have significant exposures, in the context of asset quality stress currently faced by them.

Accordingly, the Reserve Bank, after due consultation with lenders, has formulated the 'Scheme for Sustainable Structuring of Stressed Assets' (S4A) as an optional framework for the resolution of large stressed accounts, which satisfy following conditions:-

- The project has commenced commercial operations;
- The aggregate exposure (including accrued interest) of all institutional lenders in the account is more than ₹ 500 crore (including Rupee loans, Foreign Currency loans/External Commercial Borrowings);
- The debt meets the test of sustainability.

The S4A envisages determination of the sustainable debt level for a stressed borrower, and bifurcation of the outstanding debt into sustainable debt and equity/quasi-equity instruments which are expected to provide upside to the lenders when the borrower turns around.

In order to make sure that the entire exercise is carried out in a transparent and prudent manner, S4A envisages that the resolution plan will be prepared by credible professional agencies, while an Overseeing Committee, set up by the Indian Banks Association, in consultation with the Reserve Bank, comprising of eminent experts will independently review the processes involved in preparation of the resolution plan, under the S4A, for reasonableness and adherence to the provisions of these guidelines, and opine on it. It is envisaged that the resolution plan should have the following features:

- There should be no fresh moratorium granted on interest or principal repayment for servicing.
- There should not be any extension of the repayment schedule or reduction in the interest rate for servicing, as compared to repayment schedule and interest rate prior to this resolution.
- Asset should be converted into equity/redeemable cumulative optionally convertible preference shares. However, in cases where the resolution plan does not involve change in promoter, banks may, at their discretion, also convert a portion of asset into optionally convertible debentures. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10446&Mode=0)

Implementation of Ind AS

The Reserve Bank on June 23, 2016 advised all scheduled commercial banks to submit Proforma Indian Accounting Standards (Ind AS) Financial Statements, for the half year ending September 30, 2016 latest by November 30, 2016 to the Principal Chief General Manager, Department of Banking Regulation, Central Office, Reserve Bank of India, Mumbai. The Proforma Ind AS Financial Statements shall include (a) Balance Sheet including Statement of Changes in Equity,(b) Profit and Loss Account and (c) Notes.

To begin with, banks which are not in a position to submit both standalone and consolidated proforma Ind AS financial statements for the half year ending September 30, 2016 are permitted to submit only standalone financial statements. However, banks shall submit both proforma Ind AS standalone and consolidated financial statements in the subsequent periods. The Reserve Bank also advised banks to disclose significant accounting policies including, (i) financial assets and financial liabilities, including use of fair value option in designating financial assets or financial liabilities at Fair Value Through Profit or Loss (FVTPL) upon initial recognition and (ii) impairment of financial assets as per the specified details.

The Reserve Bank advised banks to adopt sound expected credit loss methodologies commensurate with the size, complexity, and risk profile specific to individual banks. Banks were also advised that the Reserve Bank shall finalise the policy on expected credit loss provisioning, taking into account the impairment requirements under Ind AS 109, after due deliberations, and considering various factors as specified. Banks are therefore, advised to maintain flexibility while designing the systems and processes in this regard.

For the purpose of preparation of proforma Ind AS financial statements for the half year ending September 30, 2016, the notional date of transition to Ind AS shall be the beginning of business as on April 1, 2016 (or equivalently close of business as on March 31, 2016).

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Second Bi-monthly Monetary Policy Statement, 2016-17

On the basis of an assessment of the current and evolving macroeconomic situation, the Reserve Bank in its second Bi-monthly Monetary Policy Statement, 2016-17, announced on June 7, 2016 decided to:

· keep the policy repo rate under the liquidity adjustment facility (LAF) unchanged at 6.5 per cent;

· keep the cash reserve ratio (CRR) of scheduled banks unchanged at 4.0 per cent of net demand and time liabilities (NDTL); and

· continue to provide liquidity as required but progressively lower the average ex ante liquidity deficit in the system from one per cent of NDTL to a position closer to neutrality.

Consequently, the reverse repo rate under the LAF will remain unchanged at 6.0 per cent, and the marginal standing facility (MSF) rate and the Bank Rate at 7.0 per cent.

The third bi-monthly monetary policy statement for 2016-17 will be announced on August 9, 2016.

This however, does not change the date of transition for the purpose of preparation of Ind AS financial statements for the accounting periods beginning April 1, 2018, which shall be as per the provisions of Ind AS 101 First Time Adoption of Indian Accounting Standards.(https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10456&Mode=0)

Dispensation Date of amortising Shortfall on Sale of NPAs to SCs/RCs extended

The Reserve Bank on June 13, 2016 has extended the dispensation of amortising the shortfall on sale of non-performing assets (NPAs) to Securitisation Companies/Reconstruction Companies (SCs/RCs) up to March 31, 2017. However, for assets sold from April 1, 2016 to March 31, 2017, banks will be allowed to amortise the shortfall over a period of only four quarters from the quarter in which the sale took place.

Further, where a bank chooses to make the necessary provisions over more than one quarter and this results in the full provisioning remaining to be made as on the close of a financial year, the Reserve Bank has advised banks to debit 'other reserves' by the amount remaining un-provided at the end of the financial year, by credit to specific provisions. However, banks should proportionately reverse the debits to 'other reserves' and complete the provisioning by debiting profit and loss account, in the subsequent quarters of the next financial year.

The Reserve Bank has further advised banks to make suitable disclosures in Notes to Accounts with regard to the quantum of provisions made during the year to meet the shortfall in sale of NPAs to SCs/RCs and the quantum of unamortised provisions debited to 'other reserves' as at the end of the year.(https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10445&Mode=0)

Reporting under Basel III Capital Regulations

On a review of the extant instructions giving the details of the debt raised, the Reserve Bank on June 23, 2016 advised banks to discontinue submitting a copy of the offer document to the Reserve Bank. Banks shall however, report to the Principal Chief General Manager, Department of Banking Regulation, Reserve Bank of India, Mumbai, the details of the debt raised as per the format prescribed duly certified by the compliance officer of the bank. The compliance with the Basel III Capital regulations will continue to be examined by the Department of Banking Supervision, in course of the supervisory evaluation. Banks shall however, continue to obtain and keep on their records a certificate from statutory auditors and an external legal opinion. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10455&Mode=0)

Reporting of Investment in CPs and UFCE to CICs

On an in-depth examination by the Technical Group on Credit Information set up by the Reserve Bank and coordinated by Credit Information Bureau (India) Limited on the feasibility and operationalisation of the collection and dissemination of information relating to (i) investment of banks and All India Financial Institutions (AIFIs) in Commercial Papers (CPs) and (ii) Unhedged Foreign Currency Exposures (UFCE) of borrowers of banks and AIFIs, the Reserve Bank on June 23, 2016 has decided to capture the information on CPs and UFCE taking into account the inputs provided by the Technical Group.

The information on CPs issued by the companies shall be reported on a monthly basis to all the four Credit Information Companies (CICs) by the bank which has been designated as the Issuing and Payment Agent (IPA) for the particular CP issue. However, if there are multiple IPAs for a single CP issue, they shall report to the CICs the details pertaining to the portion of the issue which is with them. It is clarified that the investing credit institutions need not report the information on CPs to the CICs.

The information regarding UFCE of individual borrowers shall be reported on a quarterly basis to all the four CICs by the lending bank (in the case of solo lenders) /consortium leader (in the case of consortium arrangements)/largest lender (in the case of multiple lending arrangements). This information shall be reported in the Credit Facility (CR) Segment of Commercial Data submission format. This would be effective from July 1, 2016. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10459&Mode=0)

Master Direction on Financial Statements by AIFIs

The Reserve Bank on June 23, 2016, issued Master Directions concerning Financial Statements of All India Financial Institutions (AIFIs)-Presentation, Disclosures and Reporting. These master directions cover a wide range of issues like format of the balance sheet and profit and loss account and preparation of consolidated financial statements, disclosure in financial statements - notes to accounts, consolidated prudential reporting requirements, repeal and other provisions .

These Directions shall be applicable to the AIFIs regulated by the Reserve Bank of India, such as, EXIM Bank, NABARD, NHB and SIDBI with effect from the quarter ending December 2016.(https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10461&Mode=0)

Credit Information Reporting

The Reserve Bank on June 16, 2016 notified all banks, NBFCs and credit information companies to incorporate the SHG member level data into the existing microfinance data sharing file format issued. The modified view of Microfinance Data file format should be submitted to all the four Credit Information Companies (CICs) from July 1, 2016.(https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10449&Mode=0)

Debt Management

Tradability of Sovereign Gold Bonds, 2015

The Reserve Bank on June 8, 2016 has announced June 13, 2016 as the date from which the Sovereign Gold Bonds (issued on November 30, 2015) held in dematerialised form shall be eligible for trading on the stock exchanges recognised by the Government of India under the Securities Contracts (Regulation) Act, 1956. (https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=37174)

Financial Inclusion and Development

Guidelines on Relief Measures

The Reserve Bank on June 2, 2016 advised all the scheduled commercial banks (excluding regional rural banks) to ensure implementation of the guidelines on Relief Measures by banks in areas affected by natural calamities as per the decision made by the Supreme Court as these are ultimately intended for the benefit of the people of the country and not for the benefit of any stranger.(https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10433&Mode=0)

Banking Supervision

Cyber Security Framework in Banks

The Reserve Bank on June 2, 2016, advised all scheduled commercial banks (excluding RRBs) to immediately put in place a cyber-security policy elucidating the strategy containing an appropriate approach to combat cyber threats given the level of complexity of business and acceptable levels of risk, duly approved by their Board. A confirmation in this regard may be communicated to Cyber Security and Information Technology Examination (CSITE) Cell of Department of Banking Supervision, Reserve Bank of India, Central Office, World Trade Centre-I, 4th Floor, Cuffe Parade, Mumbai 400005 at the earliest, and in any case not later than September 30, 2016.

All commercial banks need to ensure that the strategy deals with the following broad aspects:

Cyber Security Policy to be distinct from the broader IT policy / IS Security Policy of a Bank

In order to address the need for the entire bank to contribute to a cyber-safe environment, the Cyber Security Policy should be distinct and separate from the broader IT policy / IS Security policy so that it can highlight the risks from cyber threats and the measures to address / mitigate these risks.

The size, systems, technological complexity, digital products, stakeholders and threat perception vary from bank to bank and hence it is important to identify the inherent risks and the controls in place to adopt appropriate cyber-security framework. Depending on the level of inherent risks, the banks are required to identify their riskiness as low, moderate, high and very high or adopt any other similar categorisation. Riskiness of the business component also may be factored into while assessing the inherent risks.

Arrangement for Continuous Surveillance

Testing for vulnerabilities at reasonable intervals of time is very important. Hence, it is mandated that an SOC (Security Operations Centre) be set up at the earliest, if not yet been done. It is also essential that this Centre ensures continuous surveillance and keeps itself regularly updated on the latest nature of emerging cyber threats.

IT Architecture should be conducive to Security

The IT architecture should be designed in such a manner that it takes care of facilitating the security measures to be in place at all times and needs to be reviewed by the IT Sub Committee of the Board and upgraded, if required, as per their risk assessment in a phased manner. The risk cost/potential cost trade off decisions which a bank may take, should be recorded in writing to enable an appropriate supervisory assessment subsequently.

Comprehensively address Network and Database Security

It is essential that unauthorised access to networks and databases is not allowed and wherever permitted, these are through well-defined processes which are invariably followed. Responsibility over such networks and databases should be clearly elucidated and should invariably rest with the officials of the bank.

Ensuring Protection of Customer Information

Banks, as owners of such data, should take appropriate steps in preserving the confidentiality, integrity and availability of the customer information, irrespective of whether the data is stored/in transit within themselves or with customers or with the third party vendors; the confidentiality of such custodial information should not be compromised at any situation and to this end, suitable systems and processes across the data/information lifecycle need to be put in place by banks.

Cyber Crisis Management Plan

A Cyber Crisis Management Plan (CCMP) should be immediately evolved and should be a part of the overall Board approved strategy. CCMP should address the following four aspects: (i) Detection (ii) Response (iii) Recovery and (iv) Containment. Banks need to take effective measures to prevent cyber-attacks and to promptly detect any cyber-intrusions so as to respond / recover / contain the fall out.

Apart from these aspects, the strategy should deal with aspects like cyber security preparedness indicators, sharing of information on cyber-security incidents with the Reserve Bank, supervisory reporting framework, an immediate assessment of gaps in preparedness to be reported to the Reserve Bank, organisational arrangements and cyber-security awareness among stakeholders / top management / Board.

Background

Keeping in mind the increased use of technology by banks and subsequent increase in the number, frequency and impact of cyber incidents / attacks manifold in the recent past, more so in the case of financial sector including banks, the Reserve Bank has decided to put in place a robust cyber security/resilience framework at banks and to ensure adequate cyber-security preparedness among banks on a continuous basis. In view of the low barriers to entry, evolving nature, growing scale/velocity, motivation and resourcefulness of cyber-threats to the banking system, it is essential to enhance the resilience of the banking system by improving the current defences in addressing cyber risks. These would include, but not limited to, putting in place an adaptive Incident Response, Management and Recovery framework to deal with adverse incidents/disruptions, if and when they occur. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10435&Mode=0)

Non-Banking Regulation

Refinancing of Project Loans

The Reserve Bank on June 2, 2016, advised all NBFCs that the instructions issued by erstwhile Department of Banking Operations and Development on refinancing of projects loans with reference to Framework for Revitalising Distressed Assets in the Economy - Refinancing of Project Loans, sale of non-performing assets and other regulatory measures, would be extended to all NBFCs.

Accordingly, NBFCs may refinance any existing infrastructure and other project loans by way of take-out financing, without a pre-determined agreement with other lenders, and fix a longer repayment period.

For existing project loans where the aggregate exposure of all institutional lenders is minimum ₹ 1,000 crore, NBFCs may refinance such loans by way of full or partial take-out financing, even without a pre-determined agreement with other lenders, and fix a longer repayment period.

A lender who has extended only working capital finance for a project may be treated as 'new lender' for taking over a part of the project term loan as required under the guidelines. This facility will be available only once during the life of the existing project loans.(https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10434&Mode=0)

Format of SAC to be submitted by NBFCs

The Reserve Bank on June 23, 2016 has introduced a uniform format of the Statutory Auditors Certificate (SAC), that all NBFCs are required to submit every year to the effect that they continue to engage in the business of NBFI requiring it to hold a certificate of registration (CoR). The NBFCs are required to fill in the information in SAC format, as applicable, in COSMOS, scan the filled in SAC and upload in COSMOS.(https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10460&Mode=0)

Process of Registration of New NBFCs simplified

In order to make the process of registration of new Non-Banking Finance Companies (NBFCs) smoother and hassle free, the application form for registration of new NBFCs and the checklist of documents to be submitted have been revised. The number of documents to be submitted by the NBFC applicants has been reduced from existing set of 45 documents to 7-8 in the revised process.

Secondly, from June 17, 2016 onwards, there would be two different types of applications for non-deposit taking NBFCs (NBFC-ND) based on sources of funds and customer interface as follows:

a. Type I - NBFC-ND not accepting public funds/ not intending to accept public funds in the future and not having customer interface/ not intending to have customer interface in the future.

b. Type II - NBFC-ND accepting public funds/ intending to accept public funds in the future and/or having customer interface/ intending to have customer interface in the future.

The processing of cases for Type I - NBFC-ND applicants would be on fast track mode. As these companies will not have access to public fund and will not have customer interface, they will be subjected to less intensive scrutiny / due diligence. However, CoR issued to Type I - NBFC-ND companies will be conditional. These companies will be prohibited from accessing public funds and having customer interface. In case these companies intend to avail public fund or intend to have customer interface in the future, they are required to take approval from Reserve Bank of India, Department of Non-Banking Regulation.

Application form, documents required for registration as Type I - NBFC-ND and documents required for registration as Type II - NBFC-ND (including new applications of NBFC-MFI, NBFC-factor, NBFC-IDF) have been revised and uploaded on the RBI website.

Application form has been changed in the online COSMOS Application of the Reserve Bank of India, except in the case of CIC-ND-SIs where a separate application form has been prescribed. The application form mentioned above shall be applicable to new applications of Type I - NBFC-ND and Type II - NBFC-ND (including NBFC-MFI, NBFC-Factor and NBFC-IDF).

Furthermore, with the aim to centralise the process, the application for new NBFCs may be submitted to Central Office, Department of Non-Banking Regulation directly at the address-Chief General Manager, Department of Non-Banking Regulation,Reserve Bank of India,Centre I, World Trade Centre,Mumbai-400 005.

The checklists mentioned are indicative and not exhaustive. The Reserve Bank, may, if necessary, call for any further documents to satisfy itself on the eligibility of the company seeking registration as NBFC. In the event of the Reserve Bank calling for further documents in addition to those mentioned in the checklist, the applicant company must respond within a stipulated time of one month.

Background

It may be recalled that in the First Bi-monthly Monetary Policy Statement - 2016-17, it was stated that in order to make the process of registration of new NBFCs smoother and hassle free, it has been decided to simplify and rationalise the process of registering new NBFCs. The new application forms will be simpler and the number of documents required to be submitted will be reduced to a minimum.(https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=37253)

Foreign Exchange Management

Foreign Currency Accounts by a Person Resident in India

In line with the Government of India's startup initiative, the Reserve Bank on June 23, 2016 has decided that an Indian startup, having an overseas subsidiary, may open a foreign currency account with a bank outside India for the purpose of crediting to the account the foreign exchange earnings out of exports/sales made by the said startup or its overseas subsidiary. The balances held in such accounts, to the extent they represent exports from India, shall be repatriated to India within the period prescribed for realisation of exports.

In addition, payments received in foreign exchange by an Indian startup arising out of sales/ export made by the startup or its overseas subsidiaries will be a permissible credit to the Exchange Earners Foreign Currency (EEFC) account maintained in India by the startup.

Further, the existing facility of opening foreign currency account outside India, available to the Life Insurance Corporation of India or the General Insurance Corporation of India and their subsidiaries for the purpose of meeting the expenditure incidental to the insurance business carried on by them has now been liberalised. Accordingly, any insurance/ reinsurance company registered with the Insurance Regulatory and Development Authority of India (IRDA) may open a foreign currency account with a bank outside India to carry out insurance/ reinsurance business. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10457&Mode=0)

Contracted Exposures by Indian Residents

In order to encourage participation in Over the Counter (OTC) currency options market and improve its liquidity, the Reserve Bank on June 23, 2016 has permitted resident exporters and importers of goods and services to write (sell) standalone plain vanilla European call and put option contracts against their contracted exposure, that is, covered call and covered put respectively, to any AD Cat-I bank in India subject to operational guidelines. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10458&Mode=0)

Payment and Settlement System

Payment and Settlement Systems in India: Vision-2018

The Reserve Bank on June 23, 2016 placed the "Payment and Settlement Systems in India: Vision-2018" on its website (www.rbi.org.in). The Vision-2018 aims at building best of class payment and settlement systems for a 'less-cash' India.

The broad contours of Vision-2018 revolve around 5 Cs – coverage, convenience, confidence, convergence and cost. To achieve these, Vision-2018 will focus on four strategic initiatives, such as, responsive regulation, robust infrastructure, effective supervision and customer centricity.

The regulatory framework, based on consultative approach, aims at achieving enhanced coverage of the payment systems coupled with convenience for end-users. A key objective would be ensuring a robust payments infrastructure in the country to increase accessibility, availability, interoperability and security. The oversight and supervisory framework would focus on strengthening the resilience of both large value and retail payment systems in the country. Customer centric initiatives envisaged include streamlining of customer grievance redressal mechanism and building customer awareness and education.

With increasing use of technology-based innovative payment products, the strategic initiatives under Vision-2018 are expected to reduce paper-based instruments significantly and lead to accelerated growth in mobile banking and other modes of electronic payments.(https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=37308)

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