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MONETARY AND CREDIT INFORMATION REVIEW

Banking Regulation

Action Plan to implement the Banking Regulation (Amendment) Ordinance, 2017

The Reserve Bank, in a release issued on May 22, 2017, outlined the steps taken and those on the anvil post the promulgation of the Banking Regulation (Amendment) Ordinance, 2017.

The amendments to the BR Act 1949, introduced through the Ordinance, and the notification issued thereafter by the Central Government, empower the Reserve Bank to issue directions to any banking company or banking companies to initiate insolvency resolution process in respect of a default, under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC). It also enables the Reserve Bank to issue directions with respect to stressed assets and specify one or more authorities or committees with such members as the Bank may appoint or approve for appointment to advise banking companies on resolution of stressed assets.

Immediately upon the promulgation of the Ordinance, the Reserve Bank issued a directive bringing the following changes to the existing regulations on dealing with stressed assets:

- It was clarified that a corrective action plan could include flexible restructuring, Strategic Debt Restructuring (SDR) and Scheme for Sustainable Structuring of Stressed Assets(S4A).
- With a view to facilitating decision making in the Joint Lenders' Forum (JLF), consent required for approval of a proposal was changed to 60 per cent by value instead of 75 per cent earlier, while keeping that by number at 50 per cent.
- Banks who were in the minority on the proposal approved by the JLF are required to either exit by complying with the substitution rules within the stipulated time or adhere to the decision of the JLF
- Participating banks have been mandated to implement the decision of JLF without any additional conditionality.
- The Boards of banks were advised to empower their executives to implement JLF decisions without further reference to them.

Banks were also advised that non-adherence would invite enforcement actions.

As part of the action plan, the Oversight Committee (OC), under the aegis of the Reserve Bank, would be reconstituted and enlarged to include more Members so that the OC can constitute requisite benches to deal with the volume of cases referred to it. Currently, the OC comprises of two members. While the current members will continue in the reconstituted OC, names of a few more will be announced soon. The Reserve Bank is planning to expand the scope of cases to be referred to the OC beyond those under S4A as required currently.

The Reserve Bank is working on a framework to facilitate an objective and consistent decision making process with regard to cases that may be determined for reference for resolution under the IBC. The Reserve Bank has already sought information on the current status of the large stressed assets from the banks. The Reserve Bank would also be constituting a Committee comprised majorly of its independent Board Members to advise it in this matter.

The current guidelines on restructuring are under examination for such modifications as may be necessary to resolve the large stressed assets in the banking system in a value optimising manner. The Reserve Bank envisages an important role for the credit rating agencies in the scheme of things and, with a view to preventing rating-shopping or any conflict of interest, is exploring the feasibility of rating assignments being determined by the Reserve Bank itself and paid for from a fund to be created out of contribution from the banks and the Reserve Bank.

The Reserve Bank notes that the proper exercise of the enhanced empowerment would require coordination with and cooperation from several stakeholders including banks, asset reconstruction companies (ARCs), rating agencies, Insolvency and Bankruptcy Board of India (IBBI) and private equity (PE) firms, for which the Reserve Bank would be holding meetings in the near future with these stakeholders. (https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=40518)

Timelines for Stressed Assets Resolution

To facilitate timely decision making with regard to finalising and implementing the Corrective Action Plan (CAP) under the Framework for Revitalising Distressed Assets in the Economy, the Reserve Bank on May 5, 2017, advised all scheduled commercial banks that henceforth, the decisions agreed upon by a minimum of 60 percent of creditors by value and 50 percent of creditors by number in the Joint Lenders' Forum (JLF) would be considered as the basis for deciding the CAP, and will be binding on all lenders, subject to the exit (by substitution) option available in the Framework. Lenders shall ensure that their representatives in the JLF are equipped with appropriate mandates, and that decisions taken at the JLF are implemented by the lenders within the timelines.

The Reserve Bank also emphasised that-

- the stand of the participating banks while voting on the final proposal before the JLF shall be unambiguous and unconditional;
- any bank which does not support the majority decision on the CAP may exit subject to substitution within the stipulated time line, failing which it shall abide the decision of the JLF;

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- the bank shall implement the JLF decision without any additional conditionality; and
- the Boards shall empower their executives to implement the JLF decision without requiring further approval from the Board.

Background

The Framework for Revitalising Distressed Assets in the Economy – Guidelines on Joint Lenders' Forum (JLF) and Corrective Action Plan (CAP)", aims at early identification of stressed assets and timely implementation of a CAP to preserve the economic value of stressed assets. In order to ensure that the CAP is finalised and formulated in an expeditious manner, the Framework specifies various timelines within which lenders have to decide and implement the CAP. The Framework also contains disincentives, in the form of asset classification and accelerated provisioning where lenders fail to adhere to the provisions of the Framework. Despite this, delays have been observed in finalising and implementation of the CAP, leading to delays in resolution of stressed assets in the banking system. In this context, it is reiterated that lenders must scrupulously adhere to the timelines prescribed in the Framework for finalising and implementing the CAP. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10957&Mode=0)

Guidelines on Banking Outlets

Taking into account the suggestions/feedback received from the Government of India and other stakeholders, the Reserve Bank on May 18, 2017 issued final guidelines on 'Banking Outlets' as detailed under, which shall be operational with immediate effect.

Banking Outlet/Part-time Banking Outlet

A **'**Banking Outlet' for a domestic scheduled commercial bank (DSCB), a small finance bank (SFB) and a payment bank (PB) is a fixed point service delivery unit, manned by either bank's staff or its Business Correspondent where services of acceptance of deposits, encashment of cheques/ cash withdrawal or lending of money are provided for a minimum of 4 hours per day for at least five days a week. It carries uniform signage with name of the bank and authorisation from it, contact details of the controlling authorities and complaint escalation mechanism. The bank should have a regular off-site and on-site monitoring of the 'Banking Outlet' to ensure proper supervision, 'uninterrupted service' except temporary interruptions due to telecom connectivity, etc. and timely addressing of customer grievances. The working hours/days need to be displayed prominently.

A banking outlet which does not provide delivery of service for a minimum of 4 hours per day and for at least 5 days a week will be considered a 'Part-time Banking Outlet'.

Unbanked Rural Centre

An 'Unbanked Rural Centre' (URC) is a rural (Tier 5 and 6) centre that does not have a CBS-enabled 'Banking Outlet' of a scheduled commercial bank, a small finance bank, a payment bank or a regional rural Bank nor a branch of local area bank or licensed co-operative bank for carrying out customer based banking transactions.

Opening of Banking Outlets – General Permission

Domestic scheduled commercial banks (other than regional rural banks) are permitted to open 'Banking Outlets' in Tier 1 to Tier 6 centres (unless otherwise specifically restricted), without having the need to take permission from the Reserve Bank in each case.

The opening of 'Banking Outlets' during a financial year will be subject to the following conditions:

- At least 25 per cent of the total number of 'Banking Outlets' opened during a financial year should be opened in unbanked rural centres;
- A 'Part-time Banking Outlet', opened in any Centre, will be counted and added to the denominator as well as numerator on pro rata basis for computing the requirement as well as the compliance with the norm of opening 25 per cent Banking Outlets in unbanked rural centres (URC). A 'Banking Outlet'/'Part-time Banking Outlet' opened in any Tier 3 to Tier 6 centre of North-Eastern States and Sikkim as well as in any Tier 3 to 6 centre of Left-wing Extremism (LWE) affected districts as notified by the Government of India from time to time, will be considered as equivalent to opening a 'Banking Outlet'/ 'Part-time Banking Outlet', as the case may be, in a URC. As the overall objective of these guidelines is enabling expansion of banking facilities in these under banked/underserved centres, each banking outlet opened, irrespective of the banked/unbanked status of the Centre, will be reckoned as having been opened in a URC.
- A full-fledged 'brick and mortar' branch opened in a rural (Tier 5 and 6) centre which is already being served by a fixed point BC outlet by any bank will also be eligible to be treated as equivalent to opening a 'Banking Outlet' in a URC. In other words, the first fixed point BC outlet of a bank as well as the first 'brick and mortar' branch of any bank opened in a URC will be reckoned for computing compliance with the 25 per cent norm.
- A 'banking outlet' opened in a rural (Tier 5 and 6) centre which is served by only a banking outlet of a Payment Bank will also be eligible to be treated as equivalent to opening a 'banking outlet' in a URC. In other words, the first 'banking outlet' by a Payment Bank as well as the first 'banking outlet' by any other bank opened in a URC will be reckoned for computing compliance with the 25 per cent norm.
- The time given to a bank for opening an outlet in a URC is one year. If a bank fails to adhere to the requirement of opening 25% banking outlets in a year, appropriate penal measures, including restrictions on opening of Tier 1 branches, may be imposed.
- To encourage the banks to open/frontload more number of banking outlets in unbanked rural centres, they will be allowed to carry forward the benefit of the 'Banking Outlets', if any, opened in excess of the requirement, for a period of next 2 years. No extension to avail the benefit will be allowed.
- To enable banks to have information for identifying a URC, State Level Banker Committees (SLBCs) shall play a constructive and proactive role. The SLBCs shall compile and have an updated list of all unbanked rural centres in the State which shall be displayed on their website. This list will facilitate banks to choose/indicate the place where they wish to open a 'banking outlet.' Banks shall inform and coordinate with the SLBC Convenor bank to earmark the centre identified by them. If a bank fails to open the banking outlet in the prescribed period of 1 year, the SLBC convenor bank may indicate the Centre as available for other banks to open a banking outlet. The non-member banks of the SLBC, may also refer to the website and keep the SLBC Convenor banks informed of the centres identified by them.
- If a bank proposes to undertake government business at any of the banking outlets/part-time banking outlets, it would require prior approval of the Government authority concerned as also of Department of Government and Bank Accounts, Reserve Bank of India, Central Office.

Merger/Closure/ Shifting/Conversion of 'Banking Outlets'

- Banks having general permission may shift, merge or close all 'Banking Outlets' (except rural outlets and sole semi-urban outlets) at their discretion.
- Merger, Closure and shifting of any rural 'Banking Outlet' as well as a sole semi urban 'Banking Outlet' would require approval of the District Consultative Committee/District Level Review Committee (DCC/DLRC). However, conversion of any rural or sole semi-urban banking outlet into a full-fledged brick and mortar branch and vice versa would not require such approval. While merging/closing/shifting/converting a rural or a sole semi urban 'Banking Outlet', banks and DCC/DLRC shall ensure that the banking needs of the centre continue to be met.
- Banks should also ensure that customers of the Banking Outlet, which is being merged/closed/shifted are informed well in time so as to avoid inconvenience to them. Further, banks should ensure that they continue to fulfil the role entrusted to these 'Banking Outlets' under the Government sponsored programmes and Direct Benefit Transfer Schemes.
- It may further be ensured that 'Banking Outlets' are shifted within the same or to a lesser population category, i.e., semi urban 'Banking Outlets' to semi urban or rural centres and rural 'Banking Outlets' to other rural centres.

Grandfathering of MFI Structure of the Small Finance Banks

- In order to provide an enabling environment to preserve the advantages of the Micro Finance Institution/Non-Banking Financial Company (MFI/NBFC) structure of Small Finance Banks (SFBs) and with a view to further financial inclusion, SFBs are being allowed a time of 3 years from the date of commencement of business, to align their banking network with the extant guidelines. Till such time, the existing structures may continue and would be treated as 'Banking Outlets' though not immediately reckoning for the 25 per cent norm.

- Nevertheless, during this period of three years, for all the banking outlets opened or converted from the existing MFI branches in a year, they will have to open 25% banking outlets in unbanked rural centres in the same year. For this purpose, Banking Outlets converted from existing MFI branches means, such existing NBFC/MFI branches where it intends to conduct banking business of accepting deposits, allowing encashment of cheques/withdrawals besides carrying out the current lending activities.
- At the end of three years from the date of their commencement of business, all SFBs should have opened in URCs, at least 25 per cent of their total Banking Outlets failing which penal measures including restrictions on further expansion by such banks will be considered and imposed, as deemed appropriate. With a view to bring all entities on a level playing field, this dispensation is applicable to all the existing banks that were NBFCs/MFI earlier as well as NBFC/MFI entities that may apply for bank licence in future.

Manning of ATMs/E-kiosks/CDMs/BNAMs

Banks are allowed to set up onsite/offsite Automated Teller Machines (ATMs/E-kiosks/CDMs/BNAMs) at centres/places identified by them, including Special Economic Zones (SEZs). Banks are permitted to post suitable staff member(s) to provide guidance to the customers using the services of these outlets. Such ATMs shall not be reckoned as 'banking outlets'.

Background

In this regard, it may be recalled that in terms of announcement made in the first Bi-monthly Monetary Policy Statement 2016-17 on April 5, 2016, it was, inter alia, proposed to redefine branches and permissible methods of outreach keeping in mind the various attributes of the banks and the types of services that are sought to be provided. An Internal Working group (IWG) was constituted for the purpose and its Report was placed on RBI web-site. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10972&Mode=0)

Partial Credit Enhancement to Corporate Bonds

On a review of the capital requirement for partial credit enhancement (PCE), the Reserve Bank on May 18, 2017 has decided that:

- To be eligible for PCE from banks, corporate bonds shall be rated by a minimum of two external credit rating agencies at all times;
- The rating reports, both initial and subsequent, shall disclose both standalone credit rating (i.e., rating without taking into account the effect of PCE) as well as the enhanced credit rating (taking into account the effect of PCE).
- For the purpose of capital computation in the books of PCE provider, lower of the two standalone credit ratings and the corresponding enhanced credit rating of the same rating agency shall be reckoned.
- Where the reassessed standalone credit rating at any time during the life of the bond shows improvement over the corresponding rating at the time of bond issuance, the capital requirement may be recalculated on the basis of the reassessed standalone credit rating and the reassessed enhanced credit rating, without reference to the constraints of capital floor and difference in notches.

Background

Taking into account the feedback received, and with a view to encourage corporates to avail of bond financing, the Reserve Bank allowed banks to provide PCE to bonds issued by corporates /special purpose vehicles (SPVs) for funding all types of projects.

While the draft guidelines included provisions for allowing PCE as a funded loan facility also, it was decided that, to begin with, banks will be allowed to offer PCE only in the form of a non-funded irrevocable contingent line of credit. A view on allowing the PCE as a funded loan facility will be taken in due course after reviewing the implementation and performance of the contingent PCE offered by banks. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10971&Mode=0)

Non - Banking Regulation

Requirement of NOF for ARCs

Keeping in view the greater role envisaged for Asset Reconstruction Companies (ARCs) in resolving stressed assets as also the recent regulatory changes governing sale of stressed assets by banks to ARCs, the Reserve Bank on April 28, 2017 decided to fix the minimum Net Owned Fund (NOF) requirement for ARCs at ₹ 100 crore on an ongoing basis. NOF shall be arrived at by reducing from Owned Fund (OF), the amounts representing

Investments of the ARC in shares of –

- its subsidiaries;
- companies in the same group;
- all other ARCs; and

The book value of debentures, bonds, outstanding loans and advances made to, and deposits with, -

- subsidiaries of the ARC; and
- companies in the same group,to the extent such amount exceeds 10 per cent of the OF.

All the ARCs which are already registered with the Reserve Bank as on April 28, 2017 and not having the revised minimum NOF as on date shall achieve a minimum NOF of ₹ 100 crore latest by March 31, 2019. ARCs shall submit a certificate from their Statutory Auditors periodically as evidence of compliance thereof. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10949&Mode=0)

Co-operative Bank Regulation

Issue of PPIs by Co-operative Banks

The Reserve Bank on May 25, 2017 permitted all licensed co-operative banks having their own ATM network to issue semi-closed PPIs, provided there are no restrictions on acceptance or repayment of deposits. This is subject to the compliance with eligibility criteria and other guidelines as prescribed by Department of Payment and Settlement Systems (DPSS), Reserve Bank of India (RBI) from time to time.

The Reserve Bank also permitted co-operative banks satisfying the above criteria to issue Open System PPIs. The banks should comply with the following additional regulatory requirements for this purpose:

a) The bank should be Core Banking Solution(CBS) compliant;

b) Capital to Risk (Weighted) Assets Ratio(CRAR) should not be less than 10% in the current and preceding financial year;

c) Gross NPAs should be less than 7% and net NPAs should not be more than 3% in the current and preceding financial year;

d) Assessed net-worth should be more than ₹.25 crore as per the last RBI inspection;

e) There should not be any default in the maintenance of CRR/SLR during the current and preceding financial year;

f) The bank should have made a net profit in the preceding financial year;

g) Presence of two professional directors on the Board of the bank and prevalence of systems and control as under:

(i) internal inspection/audit system for all the branches and the Head Office

(ii) concurrent audit system in all major branches

h) Satisfactory adherence to KYC/AML/Combating Financing of Terrorism guidelines issued by the Reserve Bank from time to time;

i) No monetary penalty should have been imposed on the bank in last two financial years and during the year of submitting the application;

j) The bank shall have satisfactorily implemented a comprehensive Board approved policy on Customer grievance redressal mechanism which includes escalation matrix for resolution of customer complaints.

The issuance and operation of prepaid instruments shall also be guided by the instructions issued in this regard by DPSS, RBI from time to time. Eligible co-operative banks, desirous to issue PPIs, are required to obtain a No Objection Certificate from the respective Regional Office of Department of Co-operative Bank Supervision concerned before applying to DPSS, Central Office, Mumbai for authorisation.

(https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10981&Mode=0)

Merchant Acquisition for Card Transactions

In order to encourage digital channels for financial transactions in co-operative banks, the Reserve Bank on April 28, 2017 has decided that all co-operative banks, not intending to act as Point of Sale (POS) acquiring bank are permitted to deploy third party POS terminals without prior approval of Reserve Bank subject to the bank fulfilling the following criteria:

- The co-operative bank should be licensed by the Reserve Bank and Core Banking Solutions (CBS) compliant;
- The bank's Capital to Risk (Weighted) Assets Ratio (CRAR) should not be less than 9 per cent in the preceding financial year;
- The bank should have made a net profit in the preceding financial year;
- The bank's board should consist of at least two professional directors;
- A customer grievance redressal mechanism duly approved by the bank's board should be in place;
- The bank should have a board approved policy on merchant acquisition for card transactions;
- There should not be any restrictions imposed on the bank for accepting deposits/withdrawals by Reserve Bank of India.
- The bank should obtain consent of their merchant customers before offering third party POS terminals and disclose the process of settlement.
- The bank should report to respective Regional Offices of the Reserve Bank within a month with necessary documents after the operationalization of third party POS terminals.

All co-operative banks intending to act as POS acquiring bank are permitted to deploy their own POS terminals with prior approval of the Reserve Bank subject to the bank fulfilling the following criteria:

- The co-operative bank should comply with criteria mentioned above. The bank's IT systems & CBS should have been subjected to an Information System (IS) Audit not earlier than six months from the date of application to confirm that the system is adequately secure.
- Assessed net-worth should be more than ₹25 crore as per the last Reserve Bank inspection;
- Gross NPAs should be less than 7 per cent and net NPAs should be less than 3% in the preceding financial year;
- No monetary penalty should have been imposed in last two financial years and during the year of submitting the application;
- There should not be any default in the maintenance of CRR/SLR during the preceding financial year;
- The bank should be a member of authorized card network, such as RuPay, Visa, MasterCard etc.

The banks shall comply with instructions and guidelines on Merchant Acquisition for card transactions and POS issued by Department of Payment and Settlement Systems, RBI from time to time.

The co-operative banks desirous to deploy their own POS terminals and act as POS acquiring bank may approach the respective Regional Offices of the Reserve Bank for necessary permission in this regard, with requisite information/documents.

Background

Co-operative banks have been permitted to install both onsite/offsite ATM networks and can issue debit cards on their own or through sponsor banks based on certain eligibility conditions. Also, all co-operative banks have been allowed to enter into credit card business on their own or co-branding arrangement with other banks, subject to fulfilment of the guidelines prescribed in this regard.

(https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10950&Mode=0)

Payment and Settlement System

NEFT to Settle at half-hourly intervals

The Reserve Bank on May 8, 2017, introduced additional settlements in the National Electronic Funds Transfer (NEFT) system at half-hour intervals to enhance the efficiency of the system and add to customer convenience. The half hourly settlements would speed up the funds transfer process and provide faster credit to the destination accounts. Accordingly, it has been decided to introduce 11 additional settlement batches during the day (at 8.30 am, 9.30 am, 10.30 am 5.30 pm and 6.30 pm), taking the total number of half hourly settlement batches during the day to 23.

The starting batch at 8.00 am and closing batch at 7.00 pm shall remain the same as hitherto. The return discipline shall also remain the same i.e., B+2 hours (Settlement batch time plus two hours) as per extant practice.

The participating banks are, therefore, advised to carry out the required changes in their Core Banking System (CBS) to initiate the NEFT transactions for half hourly settlement as above, and also to accept and credit the inward NEFT transactions on half hourly basis. Institute for Development & Research in Banking Technology/Indian Financial Technology and Allied Services (IDRBT/IFTAS) will communicate the technical changes required to be carried out by participating banks and provide required support in implementing the same.

The additional batches will be introduced from July 10, 2017 (Monday). Banks shall accordingly ensure their readiness in terms of technical and operational aspects.

For efficient customer service, the participant banks in NEFT system were advised to send a positive confirmation to the remittance originator (customer) confirming the successful credit of funds to the beneficiary's account. Accordingly, beneficiary / destination banks shall ensure strict adherence in sending the N10 messages to the originating banks, which in turn shall ensure sending the positive confirmation to the remitting customer advising status of credit to the beneficiary account.

Background

NEFT system presently settles the fund transfer requests of the participating banks on net basis at hourly intervals from 8:00 am to 7:00 pm on all working days. All participating banks have been advised to give the credit to the beneficiary customer only after the inter-bank settlement has been completed and the End-of-Batch (EOB) message is received by them. (https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10958&Mode=0)

Bharat Bill Payment System – Extension of Timeline

The Reserve Bank on May 9, 2017 extended the last date, from May 31, 2017 to December 31, 2017, for entities undertaking billing business under the current scope of Bharat Bill Payment System (BBPS), to either become an agent of an authorised Bharat Bill Payment Operating Units (BBPOUs) or exit the business of bill payments. This time-line is applicable to the entities,

- which did not apply for authorization as a BBPOU, or
- whose application for BBPOU has been returned by the Reserve Bank, or
- which were granted extension of time by the Reserve Bank but were not able to achieve and report the required networth by December 31, 2016.

This extension is in view of the difficulties expressed by various entities in meeting the deadline.

Depending on the developments, growth and expansion in the scope of BBPS, the Reserve Bank may consider re-opening the process of granting of approvals/ authorisation to operate as BBPOUs by inviting fresh applications at a future date.

Background

It may be recalled that as per the Guidelines for implementation of BBPS dated November 28, 2014, banks and non-bank entities presently engaged in the bill payment activities covered under the current scope of BBPS can participate in BBPS either as Bharat Bill Payment Operating Units (BBPOUs) or as an agent of an authorised BBPOU.(https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=40413)

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