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NEWSLETTER

on Developments in Banking and Insurance Law

This newsletter is an initiative by the Centre for Banking and Insurance Laws, National Law University, Odisha, in furtherance of its aim to advance education, research and analysis in Banking and Insurance Laws.

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CREDIT CARD BILL PAYMENTS IN FLUX: INDIA'S BBPS MANDATE AND ITS IMPACT ON BANKS AND CONSUMERS

Akhil Raj & Vvanshika Singhal

INTRODUCTION: THE NEW BBPS MANDATE FOR CREDIT CARD PAYMENTS

Starting from 1st July, credit card holders from well-known major banks like HDFC Bank and Axis Bank will no longer have the option of using third-party applications like Paytm, Amazon Pay, and PhonePe to pay their card bills. The Reserve Bank of India (RBI) mandated all credit card payments through third-party applications to be processed through the Bharat Bill Payment System (BBPS), managed by the National Payments Corporation of India (NPCI). Consequently, banking organizations that have not integrated into the BBPS system would face the consequences of the change.

UNDERSTANDING THE BBPS (BHARAT BILL PAYMENT SYSTEM)

An RBI-developed Bharat Bill Payment System (BBPS) serves as an integrated online platform designed to provide advanced technological solutions for an efficient payment collection process for both businesses and customers. Through BBPS, customers can make convenient payments at different physical outlets such as collection stores or bank branches and via digital platforms like third-party applications and websites. This ensures a prompt settlement system and accommodates convenient payment methods thereby enhancing flexibility to its users. BBPS operates in an organized tiered structure under a unified brand image offering its customers the convenience of making payments 'anytime anywhere'.

RBI aims to streamline the credit card payment process, thereby strengthening the regulatory oversight for the apex bank. This ensures the system remains transparent and secure for its users. Additionally, this directive by the RBI also seeks to monitor the peer-to-peer transaction system conducted via third-party applications, since payments made through such applications are settled with the bank via NEFT/IMPS or direct transfers through their applications unlike other payments made directly with the bank.

THE JULY 1 DEADLINE: WHAT CHANGES?

There exist 12 banks that are live on the BBPS system as of 1 st July 2024. For credit card holders of State Bank of

India (SBI), Bank of Baroda, Kotak Mahindra Bank and other major well-known banks, there is no need for concern. Such banks possess an existing seamless integration with the BBPS system, thus ensuring that its users can continue to conveniently make their credit card bill payments via third-party applications. Other major prominent banks like the Axis Bank, HDFC Bank, Indian Bank, and YES Bank are still working on their integration process to the BBPS system. The sooner these banks plan to integrate themselves into the system, the sooner their consumers can conveniently use third-party applications again for bill payments.

IMPACT ON CREDIT CARD HOLDERS

Certain consumers whose credit card issuer banks have not integrated the BBPS system may experience certain disruptions in paying their credit card bills using third-party applications like PhonePe, Paytm etc. These consumers would no longer have the convenience of using such applications for easy payment of their bills, necessitating them to employ alternative methods of payment such as payments made directly through the banks or any BBPS-compliant channels. On the other hand, consumers whose banks have completed their BBPS integration would benefit through a more standardized process for payment of their card bills. This ensures their payments are routed through a centralized system, ensuring the security and reliability of their transaction.

Credit card holders typically have three options for paying their monthly bills namely, auto-debit systems, net banking systems (including NEFT or IMPS) or any third-party application supporting the process. However, following the RBI directive, the use of such third-party applications for bill payment would be discontinued (if non-compliant with the BBPS) while the other two methods would be available and operational.

THIRD-PARTY PAYMENT APPS: THE OTHER SIDE OF THE COIN

Major fintech platforms like CRED, PhonePe, BillDesk etc are anticipated to be affected by the RBI directive impacting third-party applications for credit card bill payments of its users. Due to the non-compliance of several prominent banks with the BBPS, fintech third-party applications like PhonePe and Cred, who are already members of the BBPS, would not be eligible to process the credit card payments of their customers. These applications like CRED act as intermediaries facilitating the bill payments to banks through NEFT/IMPS. However, RBI's directive aims to streamline the process by mandating a centralized platform for all such transactions. For banks that already have an with active BBPS, the third-party applications can route payments seamlessly through this centralized billing system. However, for those banks that are still not compliant with the system, their users may face operational challenges in their credit card bill payment transactions.

THE BANKING SECTOR'S RESPONSE

As per Master Direction – Reserve Bank of India (Bharat Bill Payment System) Directions, 2024, outlines a revised regulatory framework for implementing BBPS. NPCI Bharat BillPay Limited (NBBL) is the authorized central unit (BBPCU) with Bharat Bill Payment Operating Units (BBPOUs) as system participants. Here, BBPOUs can be banks, non-bank payment aggregators, or other authorized entities. They may function as Biller Operating Units (BOUs), Customer Operating Units (COUs), or both.

Hence, it is of paramount importance that the banks adopt this system for it to grow. However, banks are quite slow in adopting this system as implementing BBPS requires investments in technology and processes to integrate with the central system. Furthermore, the general reluctance shown by the banks is also because that BBPS allows non-bank entities to participate as BBPOUs, potentially eroding bank's traditional dominance in bill payments and the standardized system and multiple payment modes might reduce banks' fee income from bill payment services.

The implementation of credit card payments through the BBPS has faced challenges, with many major banks yet to go live on the platform. Currently, only eight banks, including Bank of Baroda, SBI Card, and IndusInd Bank, are processing credit card payments via BBPS. The slow adoption appears to stem from two main factors: a) a relatively short compliance window, which may not have aligned with banks' annual technology planning cycles;, b) competing priorities in banks' technology departments, leading to delayed focus on BBPS integration.

In response to these challenges, the payment industry is considering requesting a 90-day extension beyond the June 30 deadline. This extension would allow banks more time to align their technology priorities with regulatory requirements. If the Reserve Bank of India does not grant an extension and banks fail to meet the deadline, it could potentially impact fintech that rely on credit card payments and reminders as a key part of their business models.

RBI'S PERSPECTIVE: CENTRALIZATION AND CONTROL

RBI has issued the comprehensive Master Direction, providing a clear regulatory framework for BBPS operations. This allows RBI to set the rules and standards for the entire system. RBI maintains control over who can participate in the system. Banks and non-bank payment aggregators don't need separate authorization, but they must inform RBI before commencing operations as BBPOUs.

NBBL is designated as the sole authorized BBPCU and this centralized structure allows RBI to exercise control through a single entity. The requirement for a BBPS reference number for all transactions enables better tracking and monitoring of payment flows. By clearly defining the roles and responsibilities of different participants (BBPCU, BOUs, COUs), RBI can ensure accountability and proper functioning of the system. RBI retains the authority to expand or modify the scope of BBPS, including adding new biller categories.

With regards to fraud prevention, it is stated that the BOUs are required to ensure compliance with due diligence requirements when onboarding merchants, as prescribed in the Guidelines on Regulation of Payment Aggregators and Payment Gateways. Non-bank BBPOUs are required to maintain separate escrow accounts for BBPS transactions which can help prevent misuse of funds. As well as, since only authorized entities can participate as BBPOUs, reducing the risk of fraudulent operators entering the system.

CONSUMER AWARENESS AND WAY FORWARD

Credit card users should be aware of RBI's new regulation requiring all banks to process bill payments through BBPS from July 1. While existing payment methods will continue, some banks are still integrating with BBPS, which may cause temporary disruptions. To ensure uninterrupted payments, users should stay informed about their bank's integration status, maintain multiple payment options, consider setting up auto-debit as a backup, and regularly check statements for discrepancies. It's also wise to be prepared for potential changes in user interfaces across various payment platforms. Although the backend processes are changing, the impact on consumers should be minimal.

LIC ISSUES A PRESS RELEASE ALERTING POLICY HOLDERS OF THEIR OFFERS TO CURRENT POLICIES

Pratha Barla

Life Insurance Company (LIC) which was formerly known as Hindustan Co-operative Insurance Company was established in 1907 and is the largest public sector company. For many years till now, it has maintained its position as the leading life insurance provider in India and has played a significant role over the course of years. Today it has over 250 million policyholders.

On 24th June 2024, LIC issued a press release related to ongoing concerns about its policies. The press release states that there are various independent entities who are offering to buy the policies that are being held by the policyholders by the method of sale/transfer instead of surrendering the said policies to the LIC.

LIC has further stated, they are not acquainted with such entities or individuals who are involved in such sale or transfer of the policies. Further, LIC has also stated that such sale or transfer of the policies can only be legally made only under section 38 of the Insurance Act, 1938.

It is stated under Section 38 of the Insurance Act that transfer of any policy of insurance cannot be made without an endorsement of the policy itself signed by the assignor or his agent or by the transferor where a minimum of one witness is to be attested. Additionally, the transfer of such policy should be supported with valid reasons to do so. Insurance Companies may accept such transfers or decline them given they have a reason to believe that the bona fide is neither in the interest of the policyholder nor in the public interest. Any reason for denial of transfer shall be given in writing by the Insurance company and the same is to be communicated to the said policyholder.

If the transfer of such policy is approved the transfer will be completed once the execution of the endorsement is done. Once the transferee receives the policy, they will be subjected to all the liabilities and equities under which the transferor was keeping in mind the terms and conditions of the transfer assignment.

Thus, LIC warned its policyholders to not engage or entertain such malicious offers that are circulated through newspaper advertisements, text messages or even calls. LIC has suggested to consult its officials in its branches before reacting to such offers. To ensure the financial security of their policyholders and the trust of people in the company stay intact such press release was a necessary step to alert its policyholders.

SEBI PROPOSES AMENDMENTS TO CSR RULES FOR SOCIAL STOCK EXCHANGES

Suhani Sharma

INTRODUCTION

In line with the CSR provisions in the Companies Act 2013("The Act") in India the Securities and Exchange Board of India SEBI") has proposed amendments on CSR rules. The CSR rules were introduced in 2021. These amendments provide the opportunity to manage CSR requirements through the donation via Social Stock Exchange ("SSE") for the concerned companies.

According to the Companies Act, firms are required to spend an amount equivalent to 2% of the firm's average net profit from the previous three financial years("FY") in the CSR activities as enumerated in the Act. Such causes are also carried out by Non-profits on the SSE. While companies can today directly donate to such organisations, they cannot do so via SSEs with an aim of discharging their CSR responsibilities. The following aspects would be catered to by SEBI's proposed changes of enabling companies to undertake CSR through SSE donations, with a minimum contribution of Rs 50 lakhs.

WHAT ARE SOCIAL STOCK EXCHANGES?

SSEs were proposed by the Indian Finance Minister Smt. Nirmala Sitharaman in the budget of FY20 to allow NGOs whose exclusive cause is social well-being to get listed on BSEs for fund raising. India has two primary Stock Exchanges, the Bombay Stock Exchange ("BSE") and the National Stock Exchange ("NSE"). However, SSE are subjected to minimum fundraising threshold of ₹50 Lakh, as stipulated by a SEBI notice.

SSE serves as a valid interface between the donors and the recipient non-profit organisations hence acting as a risk mitigator for donors. SSE listed organizations may access financial support from the donors in the form of Zero Coupon Zero Principal ("ZCZP") securities.

This is shown in the demat account of the donor and do not have any monetary return on investment, they are non-profit oriented investments. The stated purpose of SSEs is to present the legitimate institutions to the donor to enable him/her get maximum social value out of his/her charitable contributions without focusing on financial returns.

ADVANTAGES OF THE AMENDMENTS

While companies can donate directly to non-profits, they cannot use SSEs for this purpose. SEBI's proposal aims to address this limitation by allowing SSE donations to count towards CSR obligations.

This move is expected to positively influence private philanthropy and compensate for the lack of investment in the social sector in India. SSE are anticipated to enhance the credibility and popularity of social business outlets. Notably, donors can purchase ZZCP which exist in dematerialized form as bonds without expecting any monetary benefits but stressing on social benefits out of the investment.

In this regard, organizations with the stocks quoted on SSEs are expected to prepare and submit a Social Impact Report prepared and audited by chartered professional. The first such report is to be issued in December 2024.The information mentioned in the plan indicates that the focus is on environmental issues.

SEBI's special advisory committee on SSE, led by Chairperson R. Balasubramanium, has outlined specific requirements, noting a shift in donor preference towards SSE-registered non-profit organisations. Efforts are underway to standardize social impact auditing in collaboration with professional bodies that train and award licenses to such social impact auditors via National Institute of Securities Markets.

CHALLENGES AND CONSIDERATIONS

While SSEs offer numerous benefits, they also pose challenges such as high compliance costs and the need for capacity building within non-profits. Additionally, there is no standard metric for assessing social impact, which may be a concern for donors seeking clear information before investing.

LONG TERM BENEFITS OF SSE INTEGRATION WITH CSR- A GLANCE

1. Enhanced Visibility and Credibility:
SSE listing makes a social enterprise to be credible and easily recognizable thus incidences of lots of takers especially corporate organizations wishing to fulfil their CSR.

2. Promoting Transparency and Accountability:
SSEs are required to adhere to even stricter regulations of the funds to

ensure that the money as equally is well utilized in accordance to the enterprises' goals and objectives of having the impact on the society hence, enhancing the confidence of the donors.

3. Innovative CSR Contributions:
SSEs are utilised effectively to create the necessary opening for impact investments available in ZCZP securities where firms can make an offer to social causes without attempting to make monetary profits. This is a very simple and effective technique in supporting the status of social welfare.

4. Mutual Benefits:
The proposal allows it to review and or align with their social responsibilities it also allows it to bring a positive change to the social system. It also suggests that growth of social enterprises accentuates credibility and donor interest as well as can help input a potent social sector in India.

CONCLUSION

CSR provisions integrated into the SSE in India is a positive step towards social development through corporate funding. The proposed amendments by SEBI consider the various methods to enable companies to balance their CSR through donation through SSEs which will increase credibility and visibility of social enterprises. With help of SSEs the companies can guarantee that their money is spent wisely, thus making the donations more transparent and accountable.

With the possibility of investing in ZCZP securities, CSR practices are innovated by presenting the idea of investing in social causes by corporations without having to reap any profit from it. The key issues like compliance costs and the lack of standardized data on social impact remain crucial; however, the positive outcomes of SSE integration into a non-profit organization, the increase in donor confidence and the development of the social sector cannot be questioned. The potential of this initiative is to enhance the private philanthropy and to create sustainable social impact in Indian context.

ZURICH INSURANCE COMPLETES TAKEOVER OF KOTAK GENERAL INSURANCE MAJORITY SHARE

Dewansh Raj

On 5 June 2024 Zurich Insurance completed the takeover of the 70% stake of the Kotak General Insurance. The process of the acquisition was initiated in November 2023 and marks the first major investment after the FDI rules were eased for the insurance sector which now allows FDI in the Insurance sector up to 74 %. The 70 % stake involves a combination of the share purchase and introduction of new capital and amounted Rs. 5,560 crores.

ABOUT THE COMPANIES

Zurich Insurance Group Ltd, a Swiss insurance company headquartered in Zürich, is the world's 98th largest public company according to Forbes' Global 2000 list. The company operates through three major segments: General Insurance, Global Life, and Farmers.

Kotak General Insurance Company Ltd., headquartered in Mumbai, is a fast-growing player in India's non-life insurance sector. It offers various non-life insurance products such as motor, health, and home insurance. As a subsidiary of Kotak Mahindra Bank Ltd., Kotak General Insurance was established to cater to India's expanding non-life insurance market. The company received its license to conduct general insurance business from the Insurance Regulatory and Development Authority of India (IRDAI) in April 2015.

ABOUT THE DEAL

In November 2023, Zurich announced the acquisition of a 51% stake in Kotak Mahindra General Insurance Company Limited (Kotak General Insurance) for USD 487 million. This acquisition was later expanded to a 70% stake, increasing the total investment to approximately USD 670.7 million subject to regulatory approvals from the Reserve Bank of India, IRDAI, and the Competition Commission of India. Following this acquisition, Kotak General Insurance ceased to be a wholly-owned subsidiary of Kotak Mahindra Bank, which now holds 30% of the company's share capital.

Zurich has announced plans to launch a new brand representing the combined partnership with Kotak. The joint press release sates that the merged entity will bring in the values of trust, innovation, integrity and customer focus that both

Zurich and Kotak have to offer to the Indian market. In the long run, the business will use a new brand that will incorporate Zurich and Kotak as shareholders.

ANALYSIS

The purchase is viewed as a step, for Zurich giving it a foothold in the rapidly growing general insurance market in India. By combining forces Zurich's global expertise and Kotak's deep local expertise will be harnessed to introduce insurance solutions and improve customer service in India.

This collaboration aims to take advantage of the growth opportunities in India fuelled by the rising insurance participation, an expanding class and strong economic progress. Zurich's investment is expected to lead the expansion of Kotak General Insurance by integrating cutting edge solutions. The inclusion of global market data into the operations of the new entity will help in expanding the operations to cater to the diverse requirements of Indian consumers.

The acquisition will also bring new challenges for the Zurich as it is the first time the company will be entering the South-Asian market which consists of a diverse society. Zurich's dedication to broadening its footprint in high growth markets and underscores the significance of India in its endeavours.

For Kotak Mahindra Bank this partnership will help strengthen its capacity to provide a range of insurance products and services strengthening its position as a premier services provider in India. The new entity is expected to introduce a revamped brand identity that embodies the combined strengths and principles of Zurich and Kotak with a focus, on trust, innovation, integrity and exceptional customer service.

CONCLUSION

The acquisition is expected to bring in transformational changes to the Indian insurance landscape through global standard practices and local insights, suitable for delivering a superior and advanced insurance solutions that can help penetrate the Indian market. It also heralds a new beginning for the Indian insurance sector, with global players now showing interest in capitalizing on the growing Indian insurance sector. It will be very exciting to see what changes international players can bring to the table due to this acquisition. This entry of new entities into the Indian insurance market would go a long way toward achieving the goal that IRDAI has with regard to its vision of 'insurance for all by 2047.

SERVICE TAX ON FOREIGN COMMISSION AGENTS' PAYABLE UNDER REVERSE CHARGE ONLY FROM APRIL 18, 2006

Kushagra Keshav

THE HANUMAN WEAVING FACTORY CASE

The Customs, Excise & Service Tax Appellate Tribunal (CESTAT) in Bangalore has issued a key order clarifying the applicability of service tax on commissions paid to overseas agents. The case of Hanuman Weaving Factory vs. Commissioner of Service Tax sheds light on an important question: when did Indian enterprises become obligated to pay service tax under reverse charge for services supplied from abroad? Hanuman Weaving Factory, a manufacturer and exporter of silk and embroidery textiles, had appointed international agents to handle promotion, marketing, and export orders. The corporation pays commissions to these agents for services provided outside of India. The controversy arose when tax officials sought service tax on these commissions for the period between July 9, 2004, and December 27, 2008.

The case hinged on the question of when the need to pay service tax on such overseas services truly commenced. The tax agency claimed that the liability began on January 1, 2005, based on a notification introducing Rule 2(1)(d)(iv) of the Service Tax Rules, 1994. However, the appellant contended that the actual liability commenced on April 18, 2006, when Section 66A was introduced into the Finance Act of 1994.

CESTAT'S DECISION AND LEGAL PRECEDENTS

The CESTAT's decision was based on a comprehensive examination of the legislative changes. It was highlighted that, while Rule 2(1)(d)(iv) was introduced on January 1, 2005, the charge part for taxing services given from outside India was only added to the statute on April 18, 2006, with the introduction of part 66A in the Finance Act of 1994. The Tribunal relied extensively on precedents established by higher courts, particularly the Bombay High Court's ruling in Indian National Shipowners Association v. Union of India (2009), which was later upheld by the Supreme Court in Union of India Vs. Indian National Shipowners Association (2010). Such decisions sheds light on the fact that only after the implementation of Section 66A can the Indian residents be taxed using the reverse charge mechanism on taxable services received from overseas.

The CESTAT's ruling confirms with the concept that a tax can only be charged if the relevant Act has a clear charging provision. Factually mere inclusion of a regulation in the Act, without a corresponding substantive provision, is insufficient to establish tax liability. Further the Tribunal's assessed the sanctions imposed and ruled that the appellant willingly paid service tax with interest from April 18, 2006 to December 27, 2008, and informed the tax department of the payment. Due to this voluntary compliance and disclosure, the tribunal concluded that penalties under Sections 77 and 78 of the Finance Act could not be enforced against the appellant.

KEY TAKEAWAYS FOR INDIAN BUSINESSES

The Indian enterprises who hire foreign service providers might be affected the most by this
decision because:

1) Service tax duty under reverse charge for services supplied from abroad became effective post April 18, 2006.

2) Voluntary tax payment and notification to the concerned department can help to mitigate unwanted fines.

3) The significance of a clear charging section in tax legislation, underlining that rules alone cannot result in tax responsibility.

CONCLUSION

The ruling provides relief to enterprises that may have faced similar demands/liabilities prior to April 18, 2006. It also underscores the importance of explicit statutory provisions rather than interpretation expansions of laws. This case bring light to the necessity of remaining current on legislative changes and their effective dates. It also emphasizes the need of voluntary compliance and timely notification in avoiding potential penalties. In a rapidly evolving tax landscape, specifically with the implementation of GST, this decision remains crucial for understanding the fundamentals of tax legislation and interpretation. It puts forward the idea that taxation must be based on specific and precise rules, giving taxpayers a sense of predictability and justice.

RBI DIGITAL PAYMENTS INTELLIGENCE PLATFORM: ENHANCING SECURITY AND EMPOWERING USERS

Subhashmin Moharana

Mr Shaktikanta Das, Governor of Reserve Bank of India in a statement concluding the three-day monetary policy committee (MPC) meeting on July 7 proposed the establishment of a Digital Payment Intelligence platform. Previous annual records of RBI revealed the skyrocketing of digital payments frauds, reaching record high of ₹1,457 Crore in the fiscal year ending March 2024. Unsurprisingly, it also coincides with the explosive growth of 137% in UPI transactions over the past two years, reaching ₹200-lakh crore according to RBI data. With the rate of AI growth in India, payments fraud is only expected to increase as Mr. Shaktikanta has hinted about. Thus, addressing fraud risks remains a critical priority for regulators and financial institutions.

The RBI Digital Payments Intelligence Platform will aim to combat fraud, enhance consumer confidence, and support the continued growth of India's fintech sector. It will be a centralized hub for monitoring and analyzing digital payments. The RBI is also open to collaborations to integrate advanced technologies, which might include artificial intelligence to mitigate payments fraud risks, ensuring safer and more secure digital payments systems. It will have features like real time data sharing and analytics and network-level intelligence that will provide insights into transaction patterns, anomalies, and real-time data sharing across the digital payments ecosystem to potential risks across the digital payments ecosystem. The platform will also facilitate collaboration among banks, payment service providers, and regulatory authorities.

Undoubtedly, this system will significantly benefit the Indian digital economy. Prashanth Ramdas, Partner, Khaitan & Co said, while the RBI and NPCI have been implementing security measures, this move would leverage technology and real-time data sharing architecture to detect and mitigate frauds. The users can transact with greater confidence knowing that their digital payments are protected as well as monitored. It will benefit both individual users and businesses, fostering trust in digital payment channels. This platform will provide a safe environment for financial inclusion in rural areas so that they aren't victims of digital payments frauds. By identifying suspicious patterns promptly, the platform will help reduce instances of fraud. An increased adoption of digital payment systems will drive growth in the fintech sector, benefiting startups, innovators and the overall economy.

The Reserve Bank of India (RBI) has taken a prudent step by constituting a committee to discuss and opine on different aspects of the proposed Digital Payments Intelligence Platform. This committee is being led by A.P. Hota, former managing director and CEO of the National Payments Corporation of India (NPCI). As it would be a government sanctioned intelligence platform, utmost care is to be taken to avoid any sort of data leak that would harm the consumers, thus the primary focus of the committee will be the safety of the platform. They are required to report within the next two months, the security of the platform and any other recommendations with further steps to implement it.

Ankit Ratan, Co-founder & CEO, Signzy, said the platform will leverage advanced technologies such as AI and machine learning to identify and mitigate fraud risks, leading to a safer digital payments' environment. This platform is a strategic move to mitigate risks by enhancing data security, ensuring fairness and monitoring AI behavior. RBI has to be cautious about deploying AI, Because without proper safeguards it can jeopardize customer data integrity. There needs to be regular human involvement in regulating the intelligence platform. The platform might continuously monitor transactions for unauthorized access and anomalies, ensuring data remains confidential during transmission and storage through encryption, and be accessible to authorized persons only. Moreover, the platform should continuously adapt to evolving fraud patterns and user behavior through continuous learning and human oversight, with a feedback loop to incorporate user feedback for improved accuracy.

With the adoption of e-mandates for recurring payment, transactions have been increasing, and the RBI has proposed to include payments, such as replenishment of balances in Fastag, National Common Mobility Card (NCMC) which are recurring in nature but without any fixed periodicity, in the e-mandate framework.

"This will enable customers to automatically replenish the balances in Fastag, NCMC, etc. if the balance goes below the threshold limit set by them. This will enhance convenience in making travel/mobility related payments," Governor Shaktikanta Das said.

Amit Sachdev, COO, M1xchange, opined that the platform will give access to vital additional information about frauds and enhance the accuracy of Digital Credit Analytics enabled on TReDS.

Ankit Ratan, Co-founder & CEO, Signzy, said the platform will leverage advanced technologies such as AI and machine learning to identify and mitigate fraud risks, leading to a safer digital payments' environment.

The RBI's Digital Payments Intelligence Platform represents a proactive step towards securing India's digital economy. By integrating cutting-edge technologies, fostering collaboration, and prioritizing user safety, the platform aims to create a resilient and trustworthy digital payments landscape. This payment intelligencE platform has a transformative potential. It has the power to increase digital transactions manifold.

State Bank of India to raise Rs 200 billion via long-term bonds in FY25

Aashra Patel

At a Central Board Meeting on 19th June 2024, the State Bank of India ("SBI") announced plans to raise Rs 20,000 crore in the current fiscal year by issuing long-term bonds. Before diving deep into the analysis of this approach, let's talk about long-term bonds in simple terms. Bonds with maturities more significant than ten years are known as long-term bonds. Governments, businesses, and other organizations issue them to raise money for various uses. Investors receive regular interest payments from these bonds, which also return the principal amount when they mature.

Now, the primary aim behind increasing long-term bonds was the following:

- Capital Sufficient and Complying with Regulations Basel III Compliance: Banks must maintain a specific Capital Adequacy Ratio (CAR) to comply with regulations. Issuing long-term bonds contributes to SBI's compliance with Basel III standards by strengthening its Tier II capital. Strengthening capital reserves enables SBI to continue and expand its lending operations, providing a cushion for future growth.
- Stimulating the Economy and Fostering Growth Economic Recovery Post-COVID: Increasing lending and investment can boost economic activity while the Indian economy recovers from the COVID-19 pandemic's effects. The money that SBI has raised can be used to assist customers and companies.
- Strategic Government Initiatives: The money can be used to support programs and projects funded by the government that are meant to promote economic development, like the development of agriculture, affordable housing, and financing for MSME's.
- Market Conditions and Investor Confidence High Investor Demand: If long-term bonds are viewed as secure investments, there may be a significant hunger for them among investors. Institutional and retail investors may be drawn to SBI due to its reputation and creditworthiness. The market's perception of SBI's financial stability and strategic orientation may improve if bonds are raised to a sizeable amount.

- Asset-Liability Matching and Liquidity Management Stable Funding Source: Long-term bonds offer a steady and predictable funding source by lowering reliance on short-term borrowing and enhancing liquidity management.
- Maturity Matching: By matching long-term assets and obligations, SBI can manage its balance sheet more effectively and at lower liquidity risk.
- Interest Rates and the state of the economy Current Low-Interest Rates: SBI should utilize lower long-term lending rates if available. This may contribute to a decrease in the total cost of capital.
- Future Rate Expectations: Since interest rates will likely rise shortly, SBI may be trying to raise money now to save money on borrowing costs down the road.

For the SBI, issuing long-term bonds to raise Rs 200 billion in FY25 can have several advantages but also some possible risks and drawbacks. Here's a closer look at a few of these disadvantages:

- Interest Rate Risk Fixed Coupon Payments: The interest rates on long-term bonds are usually fixed. The cost of funds will increase for SBI if interest rates drop after they are issued since they would have to pay more interest than on newly issued bonds with lower interest rates.
- Market Value Fluctuations: As interest rates rise, the market value of current circulation bonds may decline. If SBI sells these notes before they mature, this could result in losses.
- Long-Term Commitments: Obtaining significant capital through long-term bonds ties up cash for a more extended period, which may make SBI less adaptable to shifts in the market or downturns in the economy.
- Market Liquidity: Depending on the state of the market, the bond market may need more liquidity, making it easier to sell these bonds without lowering their its price.
- Opportunity Cost Alternative Funding Sources: By choosing long-term bonds, SBI may benefit from lower-cost and more flexible funding alternatives like stock infusion, short-term borrowings, or other financial instruments.
- Capital Allocation: Instead of being used for bonds, the money collected may have been put into growth projects or other investments that might have produced more significant returns.

SBI has deliberately chosen to raise Rs 200 billion through long-term bonds in FY25 to guarantee capital sufficiency, foster growth, and improve financial stability. To get the most out of this fundraising campaign, the bank must closely control the expenses and risks involved. Realizing the strategic goals of this significant capital-raising exercise will depend on effective execution and careful financial management.

GST COUNCIL RECOMMENDATIONS ON INSURANCE SECTOR

Sparsha S Kumar

The 53rd Goods and Services Tax Council (hereinafter "GST Council") meeting chaired by the Union Minister for Finance and Corporate Affairs, Smt. Nirmala Sitharaman was held on 22nd June 2024. The Council met for the first time after the 2024 Lok Sabha elections, nearly eights months after the previous meet. The Council recommended various changes in GST rates, measures for facilitation of trade and streamlining GST compliances.

BRIEF ON GST COUNCIL

The GST Council, established under the 101st Amendment Act of 2016, is responsible for overseeing the implementation of GST across India. Before GST, India's tax system was intricate, with both the central and state governments imposing numerous taxes. It was formed to simplify this structure and ensure uniformity in indirect taxation nationwide. Chaired by the Union Finance Minister and comprising representatives from all states and union territories, the council's duties include recommending GST-related issues such as tax rates, exemptions, and amendments to GST laws. It deliberates on various rate slabs, adjusts them as necessary for different product categories, and considers provisions for special rates during natural disasters and for states requiring additional support. The GST Council's recommendations significantly influence tax policies affecting businesses and consumers across the country.

APPLICABLE TAX SLAB ON INSURANCE PRIOR TO THE RECOMMENDATIONS

The introduction of GST in 2017 impacted a hike on the applicable tax slabs for the insurance sector. The impact on insurance and banking increased the premiums especially for insurance in general, health, life and car services. The service tax applicable on these premiums prior to GST was 15%, which was later increased to 18% tax slab under GST. It also introduced varying slab rates for different insurances and provided for stronger compliances.

Insurers passed on these higher taxes to consumers, resulting in increased premiums. Moreover, insurers encountered elevated compliance and administrative costs attributable to the greater number of GST returns required. This also impacted the tax treatment of inter-branch services within the insurance sector.

GST RELIEFS FOR GENERAL INSURANCE SECTOR

The GST Council provided for key reliefs on the insurance sector based on the demands of various stakeholders from this sector. The 18% hike coupled with tax notices for non-payment of GST from large insurance companies increased the complexities in the Insurance sector. The GST Council seeded to ease the burdens on the insurance sector by introducing the following recommendations for the sector:

(a)GST on Co-Insurance Premium

Co-insurance premium refers to the insurance coverage provided by multiple insurers. In this arrangement, while the lead insurer discharged the GST on the premium, the followers were also required for GST payment which amounted to increased complexity in Income Tax Credit (ITC) and double taxation. The GST Council provided that GST would not be applicable on the transaction between the leader and co-insurer as it would not constitute as "no-supply" under Schedule III of the CGST Act, 2017.

(b)GST on Reinsurance Commission

Reinsurance commission refers to the percentage of premium paid to the reinsurance intermediary. This was held to be taxable under GST as it was considered as insurer's income. The GST Council recognized that the following would not constitute as "supply" and hence no GST would be applicable under Schedule III of the CGST Act, 2017.

(a)GST on Reinsurance Premium for Crop Insurance

Prior to the proposal by the GST Council, the exemptions were provided only for government schemes for farmers from 1st July 2017, however, the same was not exempted for reinsurance premiums until January 24, 2018. Due to the absence of a specific exemption, the Tax Department proposed GST demands for the period from July 1, 2017 to January 23, 2018. However, the following was clarified as an exemption by the GST Council.

(b)GST on Life Insurance and other insurances

The GST Council stated that it would release clarifications in the near future to reduce litigation on key issues. These include concerns such as the reversal of input tax credit for life insurance premiums not included in taxable value. Similarly, clarifications will be provided on the tax treatment of wreck and salvage values in motor insurance claims, along with input tax credit for repair expenses in motor vehicle insurance claims settled through reimbursement.

IMPACT OF THE RELIEF ON THE INSURANCE SECTOR

The key recommendations on the insurance sector by the GST Council provides for a positive step towards easing the stringent applications of taxes in the insurance sector. The introduction of GST uniformed the tax application in the sector but posed issues on strict compliances and tax demands from insurers resulting in huge demands of GST payment and penalty from key players. The 53rd GST Council provided relief for the insurance sector by dropping GST demands amounting to Rs. 18,000 crores. Additionally, the key recommendations on co-insurance and reinsurance eases the tax liability on insurers on inward transactions of insurance services. Therefore, the reliefs provided by the GST Council is a start towards enhancing the slowdown in the insurance sector.

ANALYSIS OF DRAFT GUIDELINES PERTAINING TO FINANCING OF PROJECTS

Ishita Ayala

INTRODUCTION AND APPLICABILITY

The Reserve Bank of India (hereinafter referred to as the "RBI") released the draft directions titled Prudential Framework for Income Recognition, Asset Classification and Provisioning pertaining to Advances - Projects Under Implementation, Directions, 2024 (hereinafter referred to as "Directions") pertaining to the financing of projects in infrastructure/ real estate (hereinafter referred to as "Project Finance") on May 3, 2024.

The Directions are applicable to Scheduled Banks, Non-Banking Financial Companies (hereinafter referred to as "NBFCs"), Primary (Urban) Cooperative Banks and All India Financial Institutions (hereinafter referred to as "AIFIs") who are collectively referred to as "Lenders."

ANALYSIS OF THE PRUDENTIAL CONDITIONS FOR PROJECT FINANCE

The Directions aimed to provide a unified regulatory approach and provide a risk structuring mechanism of project financing. The RBI's been on a roll building a system for spotting and fixing stressed assets early, like the Prudential Framework for Resolution of Stressed Assets (PFRSA) launched on June 7th, 2019, but that framework did not cover restructuring loans for projects that were still under construction and facing delays in their commercial launch date (hereinafter referred to as "DCCO"). After looking at the regulations and how banks typically handle project financing, the RBI issued new Directions to mitigate the issue.

These new Directions, informed by legislation like the Banking Regulation Act and the RBI Act, offer greater flexibility for Public-Private Partnership (hereinafter referred to as "PPP") projects in adjusting their DCCO. Previously, such changes weren't readily available. However, the guidelines also emphasize enhanced reporting to the Central Repository of Information on Large Credit (CRILC) and within lending groups. Additionally, they establish clear conditions for extending the DCCO while maintaining a "standard" loan classification, taking into account the project's risk profile and any evolving circumstances.

It is imperative that all the projects

by Lenders have achieved financial closure and the DCCO is sufficiently established prior to the disbursement of funds. For PPP, the funds shall be disbursed by the Lender only after the handing over of a contract letter to the developer. The Lender must employ an independent engineer or architect who would be responsible for certifying the project's progress.

In projects financed under consortium arrangements, where the aggregate exposure of the participant Lenders to the project is up to ₹1,500 crores, no individual Lender shall have an exposure which is more than 10% of the aggregate exposure. The Directions require the Lenders to maintain the various parameters of the companies in an electronic format. The parameters (which are non-exhaustive in nature) are mentioned in Annex 2 of the Directions. Additionally, lenders must make the appropriate disclosures in the format mentioned in Annex 3 of the Directions.

ANALYSIS AND CONCLUSION

The Directions have come under fire by various analysts who claim that the Directions are highly restrictive. A consortium representing the NBFCs called the Financial Industrial Development Council intends to write to the RBI before the deadline of June 15, 2024, as they do not agree with the provisioning guidelines. The Directions suggest that the Lenders set aside a provision of 5% of the loan amount for projects at the construction phase which could be reduced to 2.5% when the project becomes operational, and 1% when a certain level of cash flow is achieved. It has been argued that this may lead to an increased reluctance to lend to ongoing construction projects.

However, the author argues that prerequisites such as a positive net present (NPV) to receive funding from any Lender are crucial as the infrastructure sector is highly volatile, and people may be adversely impacted due to the precarious financial status of the company.

NPV refers to the situation when the estimated earnings of a project, considering the present value shall exceed the estimated costs of the project, implying its profitability. A negative NPV means that the project is likely to incur a cost.

An example of the outsized impact of the infrastructure/real estate industry is the collapse of the Evergrande property group based in China, which had a ripple effect on the economy. Additionally, the author supports the requirement that the Lenders prepare resolution plans in advance, considering the present inefficiencies of the Insolvency and Bankruptcy Code.

The author argues that the Directions are a step to reduce the financial issues that are often associated with Project Finance, however, the implementation of the Directions remains to be seen to adjudge the success of the same.

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