**Banking & Finance Industry Alerts**

**What’s the Buzz?**

2021 has been a very eventful year in the Banking industry. The pandemic has been pivotal in determining various compliances the different banks are mandated to follow in order to create ease and safety in banking. Here are the some of the important developments captured below:

* **RBI Annual Report 2021.**
* The report describes that balance sheet of RBI has increased by 6.99% / Rs 3,72,876.43 crore i.e. from Rs 53,34,792.70 crore on 30th June 2020 to Rs 57,07,669.13 crore on 31st March 2021.
* The gain of RBI from foreign exchange transactions has raised by 69%.
* The bank frauds, in terms of value reduced by 25% to Rs 1.38 trillion and frauds in terms of numbers reduced by 15%.
* The gain of RBI from foreign exchange transactions has raised by 69%
* The banknotes in circulation witnessed a higher than the average increase during 2020-21, on account of precautionary holding of cash by people due to the COVID-19 pandemic, and its prolonged continuance. The value of banknotes increased by 16.8% and volume of banknotes increased by 7.2% in 2020-21.
* **NBFC’s can start recovery of Rs 20 lakh loan default under SARFAESI.**

The Union Budget of 2021 proposed to lower the threshold for the NBFC’s to avail faster recovery under the SARFAESI Act. Due to covid-19 pandemic, loan defaults have been rising. NBFCs wanted the limits to be lowered so that they can take quick action against defaulters. According to reports, in a pre-Budget meeting with the finance minister, the Finance Industry Development Council, a representative body for NBFCs, had suggested lowering the limit, to bring some level of parity between recovery procedures available to banks and NBFCs, as the former can initiate recovery under Sarfaesi Act for loans above ₹1 lakh.

* **Loans Sourced by Banks and NBFCs over Digital Lending Platforms: Adherence to Fair Practices Code and Outsourcing Guidelines**

The RBI through its Notification on NBFC’s noted that: It has been observed that many digital platforms have emerged in the financial sector claiming to offer hassle free loans to retail individuals, small traders, and other borrowers. Banks and NBFCs are also seen to be engaging digital platforms to provide loans to their customers. In addition, some NBFCs have been registered with Reserve Bank as ‘digital-only’ lending entities while some NBFCs are registered to work both on digital and brick-mortar channels of credit delivery. Thus, banks and NBFCs are observed to lend either directly through their own digital platforms or through a digital lending platform under an outsourcing arrangement.

 It has further been observed that the lending platforms tend to portray themselves as lenders without disclosing the name of the bank/ NBFC at the backend, as a consequence of which, customers are not able to access grievance redressal avenues available under the regulatory framework. Of late, there are several complaints against the lending platforms which primarily relate to exorbitant interest rates, non-transparent methods to calculate interest, harsh recovery measures, unauthorised use of personal data and bad behavior.

Thus, the RBI has instructed:

Wherever banks and NBFCs engage digital lending platforms as their agents to source borrowers and/ or to recover dues, they must follow the following instructions:

a) Names of digital lending platforms engaged as agents shall be disclosed on the website of banks/ NBFCs.

b) Digital lending platforms engaged as agents shall be directed to disclose upfront to the customer, the name of the bank/ NBFC on whose behalf they are interacting with him.

c) Immediately after sanction but before execution of the loan agreement, the sanction letter shall be issued to the borrower on the letter head of the bank/ NBFC concerned.

d) A copy of the loan agreement along with a copy each of all enclosures quoted in the loan agreement shall be furnished to all borrowers at the time of sanction/ disbursement of loans.

e) Effective oversight and monitoring shall be ensured over the digital lending platforms engaged by the banks/ NBFCs.

f) Adequate efforts shall be made towards creation of awareness about the grievance redressal mechanism.

Any violation to be above shall be viewed seriously.

* **RBI has increased collateral free loans to the SHGs under the DAY-NRLM**.

The limit of collateral-free loans is increased under the DAY-NRLM (Deendayal Antyodaya Yojana – National Rural Livelihoods Mission). The RBI has raised the limit from Rs 10 lakhs to Rs 20 lakhs for the same. For the loan amount above Rs 10 lakhs and up to Rs 20 lakh, no collateral will be charged and no lien will be marked against the savings bank account of SHGs. The DAY-NRLM is an initiative of GOI to reduce poverty in India by adopting a demand-driven approach which will allow states to frame their poverty reduction action plans.

* **The Year of Penalties.**

2021 saw a year full of penalties imposed by the RBI on the commercial banks for wilful non compliances. Below is a list of important compliances which were not followed by some known banks and their repercussions:

* Most of the violations occurred in not observing the provisions under the Banking Regulation Act 1949 (Provides specific legislation containing comprehensive provisions, particularly to the business of banking in India. Prevents such bank failures by prescribing minimum capital requirements. Ensures the balanced development of banking companies.) especially under section 47(A)- Power of the RBI to impose penalty.
* Most of these banks were found in violation of: non-compliant in opening five savings deposit accounts for a cooperative bank and composition of the board of directors, found non-compliance with the rules mentioned in ‘RBI in terms of Frauds classification and reporting by commercial banks and select FIs directions 2016’, failed to report a cyber security incident within the prescribed time period to the central bank, and has failed to credit the amount involved in unauthorized electronic transactions, the information under the issue of the final Certificate of Authorisation (CoA) did not reflect the factual position.
* **HARBINGER 2021- Innovation for Transformation.**

The Reserve Bank of India launched ‘HARBINGER 2021 – Innovation for Transformation’ which is the first global hackathon. The theme of the hackathon**:**‘Smarter Digital Payments’.

Under the hackathon, the participants are invited to identify and develop solutions to enhance access to digital payments to the under-served communities. It aims to enhance ease of payments and user experience in digital payment methodology.

It will also strengthen the security of digital payments and promote customer protection.

* **RBI allows Lenders to sell Fraud Loans to ARCs**

The Reserve Bank of India (RBI) has allowed the transfer of loans which are classified as fraud by lenders to asset reconstruction companies (ARCs). This will give the way for the resolution of such accounts.Post the transfer, the legal responsibilities like reporting, monitoring, filing of complaints with law enforcement agencies etc will move to the ARCs. The decision by RBI will grant the way for focussed recovery efforts on loans that are trillions of rupees worth. However, transfer of these exposures to ARC does not absolve the lender from fixing staff accountability which is required under the extant instructions on frauds.

* **New Rules for Securitisation of Standard Assets.**

The RBI has come up with improvised Rules for Securitisation of Standard Assets.

* The new set of rules will be applicable to all scheduled commercial banks, excluding RRBs, all-India term financial institutions, SFBs, and NBFCs.
* The RBI has specified Minimum Retention Requirement (MRR) for different asset classes under Master Direction RBI (Securitisation of Standard Assets) Directions, 2021.
* For underlying loans with an original maturity of 24 months or less, the MRR will be 5% of the book value of the loans being securitised.
* For underlying loans with an original maturity of more than 24 months as well as loans with bullet repayments, the MRR shall be 10% of the book value of the loans being securitised.