CENTRE FOR BANKING AND INSURANCE LAW

THE FINANCE WATCH

A Compendium of Banking and Insurance Law Updates

2022-2024

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QUARTERLY DIGESTS

ACKNOWLEDGEMENTS

The Centre for Banking and Insurance Laws at the National Law University Odisha thanks Dr. Dolly Jabbal, Dr. Rajat Solanki and Dr. Ankeeta Gupta for their unstinted guidance along every step of the way.

The Centre is grateful to the Vice Chancellor Dr. Ved Kumari and the Registrar Dr. Rangin Pallav Tripathy for enabling the numerous academic endeavours of the Centre. The Centre is grateful for the contribution of the students who formed an integral part of the Centre from 2023-2024 and continued to further the work of the centre- Ayush Shandilya, Janhavi Mahalik, Ishita Ayala, Ekta Gupta, Akhil Raj, Sparsha S., Aditya Roy, Subhashmin Moharana, Pratha Barla, Pooja Reddy, Suhani Sharma, Vvanshika Singhal, Dewansh Raj, Kushagra Keshav, Soumya Dubey, Aashra Patel and Mallika Jain.

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MESSAGE FROM THE DIRECTOR (DR. DOLLY JABBAL)

It is with immense pride and gratitude that I introduce this remarkable compendium, a testament to the unwavering dedication and scholarly excellence of the students and faculty associated with the Centre for Banking and Insurance Laws at National Law University Odisha. The realms of banking and insurance are intrinsically woven into the fabric of our modern economic landscape, serving as vital pillars that underpin financial stability, risk mitigation, and sustainable growth. Navigating the intricate legal and regulatory frameworks that govern these sectors demands a profound understanding, one that transcends mere knowledge and embraces critical analysis, innovative thinking, and a commitment to staying ahead of the curve.

This compendium represents the culmination of two years of tireless effort, intellectual discourse, and an unyielding pursuit of knowledge. Within its pages, you will find a rich tapestry of insights, analyses, and perspectives that shed light on the complexities and nuances of banking and insurance laws. From regulatory updates and case studies to emerging trends and best practices, this invaluable resource serves as a beacon, guiding practitioners, scholars, and stakeholders through the ever-evolving terrain of these dynamic fields.

I am deeply grateful to the dedicated students, faculty members, and administrative staff who have poured their hearts and minds into this endeavor. Their collective efforts have not only enriched this compendium but have also reinforced our Centre's unwavering commitment to fostering an environment that nurtures intellectual curiosity, encourages collaboration, and inspires excellence.

It is my fervent hope that this compendium will serve as a catalyst for further exploration, dialogue, and innovation within the banking and insurance sectors. May it empower readers to embrace the complexities of these fields with confidence, armed with the knowledge and insights necessary to navigate their intricacies and contribute to the shaping of a more transparent, accountable, and prosperous future.

MESSAGE FROM CO-DIRECTOR
(Dr. Rajat Solanki)

The Centre for Banking and Insurance Law (CBIL) at the National Law University Odisha is dedicated to facilitating higher learning, research, and allied activities in the twin areas of Banking and Insurance Laws. It strives to foster intelligent analysis; focusing on enabling a deep and pervasive understanding of policies and regulatory mechanisms at the state, national and international levels.

The compendium released by CBIL reflects the deep commitment to excellence demonstrated by the students of the Centre. It has consolidated updates over a period of two years and is an excellent resource which demystifies the complexities of banking and insurances laws without compromising on critical analysis. I sincerely hope that the compendium shall viewed as a valuable tool for students and practitioners alike.

MESSAGE FROM CO-DIRECTOR (DR. ANKEETA GUPTA)

The Centre for Banking and Insurance Law at NLUO is committed to furthering scholarly excellence and promoting advanced research in the fields of banking and insurance laws. We strive to cultivate an environment that encourages intellectual discourse, critical analysis, and innovative thinking on the intricate legal and regulatory frameworks governing these vital sectors.

This compendium, meticulously compiled by the dedicated students of CBIL, exemplifies their unwavering pursuit of knowledge and their ability to distil complex concepts into comprehensible narratives. It serves as a testament to the Centre's ongoing efforts to empower aspiring legal professionals with a profound understanding of the dynamic realms of banking and insurance.

I commend the tireless efforts of our students, faculty members, and the University administration in making this publication a reality. It is my fervent hope that this compendium will be an invaluable resource for students, practitioners, and researchers alike, fostering a deeper appreciation for the multifaceted aspects of banking and insurance laws.

MESSAGE FROM THE CONVENOR

It gives me immense pleasure to present to you our latest endeavour, the comprehensive compendium compiled by the Centre for Banking and Insurance Laws. This compendium encapsulates two years' worth of diligent work, dedication, and commitment to staying at the forefront of the ever-evolving landscape of banking and insurance laws.

In an era marked by rapid regulatory changes, technological advancements, and global economic shifts, the need for reliable and up-to-date resources in the realm of banking and insurance laws is paramount. Recognizing this imperative, our team embarked on a journey to distil the essence of our collective knowledge, expertise, and insights into a single, cohesive volume.

Within these pages, you will find a treasure trove of information, analysis, and commentary on a diverse array of topics, ranging from regulatory updates and case studies to emerging trends and best practices. Each newsletter included in this compendium represents a snapshot of our continuous efforts to explore, interpret, and disseminate vital information shaping the landscape of banking and insurance industries.

As convenor of this esteemed initiative, I am immensely proud of the collaborative spirit, intellectual rigor, and unwavering dedication exhibited by our team members throughout the compilation process. Their tireless efforts have culminated in a resource that I am confident will serve as an invaluable reference point for practitioners, scholars, policymakers, and stakeholders alike.

I extend my heartfelt gratitude to all those who have contributed to the creation of this compendium, whether through their scholarly contributions, editorial assistance, or unwavering support. Their collective efforts have not only enriched this publication but have also strengthened our commitment to advancing knowledge and fostering dialogue in the fields of banking and insurance laws.

As we embark on this journey together, I invite you to delve into the pages of this compendium with curiosity, enthusiasm, and a thirst for knowledge. May it serve as a beacon of insight, inspiration, and innovation in navigating the complex terrain of banking and insurance laws, guiding us toward a future characterized by transparency, accountability, and prosperity.

Thank you for joining us on this enriching voyage.

Warm regards,
Ayush Shandilya
Convenor, Centre for Banking and Insurance Laws.

MESSAGE FROM THE CO-CONVENOR

It is with great pleasure and anticipation that I join my esteemed colleague in introducing the comprehensive compendium crafted by the Centre for Banking and Insurance Laws. As co-convenor of this esteemed initiative, I am honoured to be a part of a project that embodies our collective commitment to advancing knowledge, promoting dialogue, and fostering innovation in the dynamic realms of banking and insurance laws.

Over the past two years, our dedicated team has diligently curated and distilled a wealth of information, insights, and analyses into this single, cohesive volume. From regulatory updates and landmark rulings to industry trends and best practices, this compendium serves as a testament to our unwavering dedication to staying at the forefront of developments shaping the banking and insurance sectors.

As co-convenor, I am humbled by the collaborative spirit, intellectual rigor, and shared vision demonstrated by our team members throughout the compilation process. Their tireless efforts have not only enriched the content of this compendium but have also underscored the importance of collective endeavour in driving meaningful change and progress.

I extend my sincere appreciation to all those who have contributed to this endeavour, whether through their scholarly insights, editorial support, or unwavering encouragement. Your collective contributions have been instrumental in shaping this compendium into a valuable resource that will undoubtedly inform, inspire, and empower practitioners, scholars, policymakers, and stakeholders alike.

As we embark on this journey together, I invite you to explore the pages of this compendium with curiosity, enthusiasm, and a commitment to excellence. May it serve as a guiding light in navigating the complexities of banking and insurance laws, fostering a deeper understanding and appreciation for the pivotal role these sectors play in driving economic growth and stability.

Thank you for your continued support and engagement as we strive to make meaningful contributions to the fields of banking and insurance laws.

Warm regards,
Janhavi Mahalik
Co-Convenor, Centre for Banking and Insurance Law

MESSAGE FROM THE EDITOR-IN-CHIEF

It is my great privilege to introduce this comprehensive compendium, a labor of love meticulously crafted by the dedicated members of the Centre for Banking and Insurance Laws. As the Editor-in-Chief, I have had the distinct honor of witnessing the unwavering commitment, intellectual rigor, and collaborative spirit that have brought this invaluable resource to fruition.

This compendium represents a culmination of two years' worth of diligent research, analysis, and synthesis of the ever-evolving landscape of banking and insurance laws. Within its pages, you will find a wealth of knowledge distilled from a myriad of sources, ranging from regulatory updates and landmark rulings to emerging trends and best practices.

What sets this compendium apart, however, is not merely the breadth and depth of its content but also the passion and dedication that have gone into its creation. Each article, each analysis, and each insight reflect the unwavering pursuit of excellence that defines the ethos of our Centre.

As Editor-in-Chief, I have been humbled by the tireless efforts of our team members, who have poured their hearts and minds into ensuring that this compendium serves as a beacon of knowledge, illuminating the complexities of banking and insurance laws with clarity and precision.

It is my sincere hope that this compendium will not only be a valuable resource for practitioners, scholars, and stakeholders but also a catalyst for further discourse, innovation, and collaboration within these critical domains.

On behalf of the entire editorial team, I extend my heartfelt gratitude to all those who have contributed to this endeavour, for their unwavering support, invaluable insights, and shared vision for excellence.

Warm regards,
Akhil Raj,
Editor-in-Chief, Centre for Banking and Insurance Laws.

CBIL

CENTRE FOR BANKING AND INSURANCE LAWS

NATIONAL LAW UNIVERSITY ODISHA

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Quarterly Digest

July 2022-
September 2022

CENTRE FOR BANKING AND INSURANCE LAWS

CRYPTO EXCHANGE COINSWITCH ACCUSED OF FOREIGN EXCHANGE LAW VIOLATIONS

The Enforcement Directorate conducted a raid on Coinswitch, a cryptocurrency exchange, amidst accusations of money laundering and breaches of Know-Your-Customer (KYC) regulations against multiple crypto exchanges. This action is perceived as part of the government's broader efforts to implement stricter regulations on cryptocurrencies.

IRDAI TO CAP COMMISSIONS IN THE INSURANCE SECTOR FOR OPERATIONAL FLEXIBILITY

The insurance regulator has released a draft suggesting a maximum cap of 20 percent on commissions paid by health and general insurers, based on the gross written premium (GWP). Additionally, life insurance companies propose to correlate commissions with management expenses (EoM). If the previous year's actual expenses were below 70 percent of the allowable limits, life insurers can adopt commission limits approved by their boards.

RBI MAY HIKE RATES BY 50 BPS AS INFLATION ACCELERATES - ANALYSTS

The Reserve Bank of India (RBI) may raise interest rates by another 50 basis points after data showed inflation rose further above the central bank's tolerance limit in August. India's retail inflation rate rose to 7.0% in August from 6.71% in the previous month. As a result, the preliminary estimate for September CPI inflation is tracking an "uncomfortable" 7.3%. The bank expects inflation to average 6.7% for this fiscal year.

IRDAI IS SET TO MEET INSURANCE CEOS ON THE DEMATERIALIZATION OF POLICIES

The insurance regulator is meeting the heads of all life and general insurance companies to discuss the dematerialization of insurance policies, a move aimed at increasing customer convenience. This initiative was started by the insurance regulator a few years back but did not take off as the operational challenges and associated costs for insurers outweighed the customer convenience it was supposed to provide.

RBI IN TALKS WITH 4 BANKS, FINTECH FOR DIGITAL CURRENCY LAUNCH THIS FINANCIAL YEAR

The RBI is holding consultations with a group of fintech companies and is said to have asked four public sector banks to run a pilot Central Bank Digital Currency (CBDC) project ahead of a possible rollout this financial year. The RBI has asked the State Bank of India, Punjab National Bank, Union Bank of India, and Bank of Baroda to run the pilot internally.

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October 2022-
December 2022

GOVT RAISES PUBLIC SECTOR BANKS CEO TERM TO 10 YEARS, WISHES FOR YOUNGER EXECS AT THE TOP

The Ministry of Finance has increased the tenure of full-time directors of public sector banks, including MDs & CEOs, from five to ten years to encourage the appointment of younger executives. The appointments will be decided by the Prime Minister's appointment committee; however, the applicants are chosen by the Financial Services Institutions Bureau, which supersedes the Banks Board Bureau.

RBI ARTICLE ESTIMATES THAT Q2 GDP GROWTH WOULD BE BETWEEN 6.1 AND 6.3%

According to an article in the Reserve Bank's bulletin for November 2022, India's economic growth is projected to be in the range of 6.1 to 6.3% in the second quarter (Q2) of the current fiscal year. The article titled 'State of the Economy' estimates that the GDP growth rate for the current fiscal year will be 7%, with supply responses in the economy gaining strength. In the global arena, the report suggests that the outlook seems marred with "downside risks."

STATE BANK OF INDIA IN TALKS WITH EUROPEAN INVESTMENT BANK FOR CLIMATE FINANCE

There are ongoing negotiations between the State Bank of India and the European Investment Bank for Euro 200 million to fund climate finance for investment in solar projects in the country. The country's largest lender also obtained Euro 150 million in green funding from the German government-owned KfW on soft terms and a long repayment period for solar projects.

INDUSIND BANK SECURES $150 MILLION LOAN FROM US-IDFC FOR BOOSTING MICROFINANCE IN RURAL AREAS

IndusInd Bank secured a loan of over Rs 1,243 crore from the United States International Development Finance Corporation (DFC). The loan, valued at USD 150 million, is aimed at expanding the bank's microfinance lending to women in select states. IndusInd Bank plans to utilize the proceeds to extend microfinance lending to women borrowers in rural areas of Jharkhand, Uttar Pradesh, and Bihar.

FINTECH PLATFORM OPEN GETS RBI'S APPROVAL.

The RBI has given Open, a fintech platform, in-principle approval for a license as a payment aggregator (PA), the business announced on November 14 through an open statement. This follows the central bank's introduction of the payment aggregator framework in March 2020, through which all payment gateways must obtain a license to recruit merchants and provide them with payment services.

NEW RULES BY IRDA TO PROMOTE SMALL INSURANCE COMPANIES

IRDA has approved several proposals related to private equity funding, solvency, ownership, and capital in insurance companies. These permissions shall increase investment in smaller insurance companies. Regarding investment, private equity firms were allowed to invest directly in insurance companies, enabling insurance companies to raise alternative capital such as preference shares and subordinated debt without the regulator's permission.

SC RULING ON EXCLUSION CLAUSES IN INSURANCE CONTRACTS PROVIDES FOR A DISTINCT INTERPRETATION

In the case of M/s Texco Marketing Pvt. Ltd. versus TATA AIG General Insurance Company Ltd. & Ors., the Supreme Court ruled that exclusion clauses in insurance contracts are subject to a different interpretation compared to ordinary contracts. This is because insurance contracts are based on the principle of “uberrimae fidei”, or utmost good faith. Both the insurer and insured must disclose all material facts due to the possibility of future events.

GOVT NOTIFIES SIX INSURANCE REGULATIONS OF IRDAI

On December 15, 2022, the government converted six decisions by the insurance regulator IRDAI’s board into guidelines for insurers. These changes include increasing tie-up opportunities for Insurance Marketing Firms (IMF) and Corporate Agents (CA), easing requirements for Appointed Actuaries, and allowing more experimentation under Regulatory Sandbox Regulations.

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January 2023 - March 2023

KYC IS MANDATORY FOR ALL INSURANCE BUYERS: IRDAI

The IRDAI, has mandated insured parties to provide their KYC information to their insurer regardless of the purchase of new insurance or the renewal of an existing insurance policy, according to new requirements for all types of insurance policies. Although the recommendations were originally published in August 2022, they became effective on January 1, 2023.

IRDAI ENCOURAGES MORE INVESTMENT IN SOVEREIGN GREEN BONDS

The IRDAI, in its circular dated January 13, 2023, encouraged investors to invest in sovereign green bonds, with the aim of de-concentrating and diversifying the infrastructure investment portfolio of insurance companies. This move aims to encourage insurance companies to participate in environmental, social, and governance (ESG) initiatives to promote sustainable development and prevent environmental degradation.

2016 DEMONETISATION LEGAL, SAYS THE SUPREME COURT

A Supreme Court constitution bench, in the case of Vivek Narayan Sharma vs Union of India, affirmed the Union government's 2016 demonetization program, which removed currency notes with denominations of 500 and 1,000 as legal tender, by a 4-1 vote. Justice Gavai, who delivered the majority judgment, stated that the 2016 demonetization decision was free from any legal or procedural errors and was not affected by the proportionality theory.

RBI PROPOSES "EXPECTED LOSS-BASED APPROACH" FOR BANKS, SHALL REPLACE "INCURRED LOSS" STRATEGY

The RBI aims to enhance the banking sector by replacing the "incurred loss" strategy with the "anticipated credit loss" approach for loan loss provisioning by banks. Under this proposed framework, banks must categorize financial assets into Stage 1, Stage 2, or Stage 3 based on assessed credit losses at initial recognition and subsequent reporting dates, making required provisions accordingly.

RBI MODIFIES NORMS RELATED TO SHARE ACQUISITION IN BANKS

The RBI changed share acquisition and holding rules to keep bank ownership and control properly diversified and significant shareholders “fit and proper.” The central bank published “*Master Direction - Reserve Bank of India (Acquisition and Holding of Shares or Voting Rights in Banking Companies) Directions, 2023.*” All Indian banks including LABs, SFBs, and PBs, must follow the guidelines.

RBI GIVES BHARATPE NOD TO OPERATE AS ONLINE PAYMENT AGGREGATOR

BharatPe has announced that the RBI has permitted them in principle to function as an online payment aggregator (PA). The company announced that Resilient Payments Private Ltd, a wholly-owned subsidiary of Resilient Innovations Private Ltd, had been granted an in-principle approval. The approval by the RBI coincides with a spate of high-profile exits from the Sequoia Capital and Tiger Global-backed company, which has been embroiled in controversy since last year.

PAYTM PAYMENTS BANK GET FINAL NOD FROM RBI

Paytm Payments Bank said it has received final approval from the RBI to operate as a Bharat Bill Payment Operating Unit (BBPOU). Under the Bharat Bill Payment System (BBPS), a BBPOU is allowed to facilitate bill payment services for electricity, phone, DTH, water, gas, insurance, loan repayments, FASTag recharge, education fees, credit card bills, and municipal taxes.

BORROWERS MUST BE ALLOWED HEARINGS BEFORE CLASSIFYING THEIR ACCOUNTS AS FRAUDULENT: SC

The Supreme Court in the case of SBI v. Rajesh Agarwal held that banks must provide a hearing to borrowers before classifying their accounts as fraudulent. The court observed that the right to be heard is a fundamental principle of natural justice and cannot be denied to borrowers. This ruling affirmed the Telangana High Court's ruling in the case of Rajesh Agarwal v. RBI.

IRDAI PROPOSES A NEW PLAN TO ENCOURAGE THE JOINT INVOLVEMENT OF STATES AND INSURERS

The Insurance Regulatory and Development Authority of India (IRDAI) is looking to shortly launch new insurance programmes for all States that will designate a lead insurer for each district. This joint involvement of insurers and State governments will be a significant push to increase penetration of insurance. The goal is to emulate initiatives for financial inclusion in the banking industry.

AXIS BANK INTRODUCES 'MICROPAY': A REVOLUTIONARY PIN ON MOBILE PAYMENT SOLUTION FOR SMALL BUSINESSES IN INDIA

Axis Bank has teamed up with Ezetap by Razorpay and MyPinpad to launch 'MicroPay,' a payment solution that transforms a merchant's smartphone into a POS terminal. This 'PIN on Mobile technology enables small businesses to accept card, UPI, and BQR code payments securely. A compact, affordable card reader connects to the merchant's smartphone via Bluetooth, allowing customers to enter their PIN directly on the device in compliance with PCI standards for Software-based PIN Entry on COTS phones.

YES BANK COLLABORATES WITH NESL TO ISSUE THE FIRST ELECTRONIC BANK GUARANTEE

YES Bank collaborates with National E-Governance Services Limited (NeSL) to issue its first electronic Bank Guarantee (e-BG), replacing the traditional paper-based process. The digital document execution (DDE) platform has been integrated to facilitate the digitization of the entire lifecycle of the bank guarantee, including issuance, amendment, invocation, and cancellation.

RBI APPROVES NATIONAL CURRENCY USE FOR INDIA- TANZANIA TRADE

The Reserve Bank of India (RBI) has approved the use of the Indian Rupee and the Tanzanian Shilling for bilateral trade settlements between India and Tanzania. The use of domestic currencies in cross-border transactions aligns with the RBI's objective of reducing reliance on foreign currencies, particularly the US dollar.

CANARA BANK SELLS STAKE IN RUSSIAN JOINT VENTURE TO SBI FOR RS 121 CRORE

Canara Bank, one of the Indian public sector banks, has sold its 40% stake in Commercial Indo Bank LLC (CIBL), a joint venture with State Bank of India (SBI), for approximately ₹121.29 crore. The joint venture, which operates in Russia, is now 100% owned by SBI. Canara Bank has confirmed the sale agreement and that it has received the full consideration amount for the sale of its stake in CIBL.

COLLAPSE OF SIGNATURE BANK

Signature Bank, a New York financial institution with a large real estate lending business that had recently made a play to win cryptocurrency deposits, closed its doors abruptly after regulators stated that keeping the bank open could threaten the stability of the entire financial system.

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April 2023 - June 2023

CENTRE FOR BANKING AND INSURANCE LAWS

JUDICIAL MAGISTRATE OR ADVOCATE CAN IMPLEMENT ORDER PASSED UNDER SECTION 14 OF SARFAESI ACT IN ABSENCE OF CONCERNED OFFICERS.

A division bench of the Bombay High Court ordered that, in the absence of the relevant officers, a judicial magistrate or advocate may carry out an order issued under section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

SARFAESI ACT: JURISDICTION EXERCISED BY DIVISION BENCH WAS ANALOGOUS TO ONE UNDER ORDER XLIII RULE 1 CPC: SC

The Supreme Court bench observed that the jurisdiction exercised by the Division Bench of the Calcutta High Court was analogous to the jurisdiction under Order XLIII Rule 1 of the Civil Procedure Code, which deals with the power of an appellate court to determine a case finally or remand it. Based on this analogy and finding no fraud or absurd claim by the secured creditor-appellant, the Supreme Court allowed the present appeal.

SBI INAUGURATES ITS FOURTH STARTUP-FOCUSED BRANCH IN MUMBAI

SBI launched its 4th startup-focused branch in Mumbai, aiming to boost entrepreneurship. The branch offers startups a broad spectrum of banking services, including loans, credit facilities, and digital banking solutions. Tailored to meet startup and small business needs, the branch features state-of-the-art facilities.

GOVERNMENT ANNOUNCES 20% TCS ON INTERNATIONAL CREDIT CARDS

The central government amended the rule concerning credit card usage outside India, implementing a 20% Tax Collection at Source (TCS). Under the new regulation, spending on credit cards in foreign currency will fall under the liberalised remittance scheme (LRS) and be subject to TCS. Additionally, starting from July 1, 2023 international credit card payments will be included in the LRS.

RBI ANNOUNCES WITHDRAWAL OF ₹2000 BANKNOTES FROM CIRCULATION

The Reserve Bank of India (RBI) declared the withdrawal of ₹2000 denomination banknotes from circulation, although they remain legal tender. This decision aligns with the RBI's "Clean Note Policy." Individuals have the option to exchange their ₹2000 banknotes, up to a limit of ₹20,000, until September 30, 2023, for other denominations or deposit them into their accounts.

GOOGLE PAY LAUNCHES RUPAY CREDIT CARD SUPPORT ON UPI IN INDIA

Google Pay introduced support for RuPay credit cards on UPI in India, in collaboration with the National Payments Corporation of India (NPCI). This new feature allows users to link their RuPay credit cards with the Google Pay app, facilitating secure payments for purchasing goods and services. RuPay credit cards, launched in June 2017, offer a reliable means of payment, and this integration expands the options available to Google Pay users for seamless transactions.

RBI MAINTAINS THE STATUS QUO, KEEPING THE REPO RATE UNCHANGED AT 6.5%

In its 2nd bi-monthly policy, the RBI opted to maintain key rates unchanged, as expected. The Monetary Policy Committee kept the policy repo rate steady at 6.5%, with the Standing Deposit Facility at 6.25% and the marginal standing facility and bank rates at 6.75%. This decision underscores the RBI's stance on monetary policy in light of prevailing economic conditions.

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July 2023 - September 2023

CENTRE FOR BANKING AND INSURANCE LAWS

CCI DECLINES TO INTERFERE IN IRDAI'S REGULATORY FUNCTIONS

In a significant ruling, the Competition Commission of India (CCI) has decided not to intervene in the regulatory functions of the Insurance Regulatory and Development Authority of India (IRDAI). The case arose from a piece of information filed by Shrikant Ishwar Mende, who alleged the existence of an anti-competitive arrangement between IRDAI and the Indian Institute of Insurance Surveyors and Loss Assessors (IIISLA).

IRDAI DESIGNATES LIBERTY GENERAL INSURANCE AS LEAD INSURER FOR DELHI: ENHANCING INSURANCE OPERATIONS IN THE CAPITAL

The Insurance Regulatory and Development Authority of India (IRDAI) has designated Liberty General Insurance as the primary insurer for the Delhi region. This decision comes as part of the regulatory body's efforts to streamline insurance operations and enhance efficiency in the insurance sector. The selection of Liberty General Insurance as the lead insurer signifies their competence and reliability in managing insurance policies in the capital city.

RBI UNVEILS UDGAM PORTAL FOR UNCLAIMED DEPOSITS

The Reserve Bank of India, in a bid to improve customer awareness, has unveiled a portal named Unclaimed Deposits- Gateway to Access Information (UDGAM). The unveiling of the UDGAM portal by the Reserve Bank of India (RBI) comes as a part of a broader, visionary endeavor to revolutionize the banking sector into a more accessible and customer-centric domain.

MASTER CIRCULAR IRDAI (REGISTRATION OF INDIAN INSURANCE COMPANIES) REGULATION ACT, 2022

The IRDAI issued a Master Circular in April 2023 to consolidate and clarify guidelines for insurance company registration and share transfers in India, supplementing 2022 regulations that aimed to simplify these processes. The Circular seeks to ease further regulatory compliance prerequisites for Indian insurance firms to secure registration and expedite share transfers.

ENHANCED TRANSACTION LIMITS FOR SMALL VALUE DIGITAL PAYMENTS IN OFFLINE MODE

The Reserve Bank of India (RBI) on the 24th of August released a circular titled "Enhancing transaction limits for Small Value Digital Payments in Offline Mode". As evident from the title, the upper limit on offline payment transactions has been increased from Rs 200 to Rs 500 including for the National Common Mobility Card (NCMC) and UPI-Lite.

RBI GOVERNOR STRESSES ENHANCED GOVERNANCE FOR NBFCS AND HFCS TO ENSURE FINANCIAL STABILITY

RBI Governor Shaktikanta Das emphasized the imperative need for bolstered governance within Non-Banking Financial Companies (NBFCs) and Housing Finance Companies (HFCs). He highlighted the critical role played by these entities in the Indian financial system, underlining the importance of ensuring their sound functioning.

RBI ISSUED NEW RULES FOR PENAL CHARGES ON LOANS

To improve transparency in the publication of punitive charges and interest rates in loan accounts, the Reserve Bank of India (RBI) has issued directions regarding penal charges in loan accounts. Beginning on January 1, 2024, the regulations regarding penal charges in loan accounts will be brought into force. The new regulations replaced "penal interest" with "penal charges" to describe the penalties for failure to comply with the loan terms by the borrower.

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October 2023-
December 2023

BORROWER'S RIGHT TO REDEMPTION POST-2016 AMENDMENT TO THE SARFAESI ACT

The Supreme Court, in the case of Celir LLP v. Bafna Motors Pvt. Ltd., examined the scope of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act') following the 2016 amendment of Section 13(8), and evaluated the legal framework pre and post amendment. They concluded that a borrower who fails to settle his dues before the publication of the auction notice cannot subsequently claim the redemption of his mortgage.

IRDAI ESTABLISHES COMMITTEE FOR BIMA SUGAM PROJECT OVERSIGHT

IRDAI formed a specialized committee to oversee the development and implementation of its ambitious Bima Sugam project. This project seeks to establish an all-encompassing digital marketplace, providing a unified platform for all insurance firms offering a range of life and non-life insurance products.

G20 GROUP TO ENHANCE EFFECTIVENESS OF MULTILATERAL DEVELOPMENT BANK

The G20 Independent Expert Group which focused on enhancing the effectiveness of Multilateral Development Banks (MDBs), will be unveiling an extensive roadmap and a comprehensive strategy aimed at instituting reforms within crucial institutions, and encompassing entities like the World Bank and the Asian Development Bank (ADB).

RBI TIGHTENS NORMS FOR CONSUMER LOANS AND RISES IN UNSECURED LENDING

The Reserve Bank of India (RBI) has expressed concerns regarding the elevated growth rate observed in certain components of personal loans, as pointed out by RBI governor Shaktikanta Das. Consequently, RBI released regulatory measures towards consumer credit.

SBI AUTHORIZED TO ISSUE AND ENCASH ELECTORAL BONDS THROUGH ITS 29 AUTHORIZED BRANCHES

The State Bank of India (SBI) has been officially authorized by the Indian government to issue and redeem election Bonds through its 29 authorized branches during a designated period. It has been explicitly stated that if an Election Bond is placed after its designated validity time has passed, no money will be paid to any payee Political Party

NAVIGATING THE FUTURE- RBI'S LATEST IT GOVERNANCE MASTER DIRECTIONS FOR FINANCIAL INSTITUTIONS

RBI unveiled a comprehensive set of guidelines, outlined in the latest master directions on IT governance. The RBI has been granted authority to create regulations dealing with banks, NBFCs, and Credit Information Companies (CIC) among other financial institutions.

RBI'S CAFRAL REPORT HIGHLIGHTS DIGITAL REVOLUTION AND DIGITAL LENDING IN INDIA

RBI released its first flagship publication of the Centre for Advanced Financial Research and Learning (CAFRAL) with the title "India Finance Report 2023". The report stated that digitalization is expected to grow with a three-fold increase to USD 10 trillion by 2026, with 2 out of 3 transactions predicted to be cashless.

FROM POLICIES TO PITFALLS: UNRAVELLING THE GAPS IN RBI'S DIRECTIVE ON INTERNAL OMBUDSMAN

The Reserve Bank of India (RBI) has introduced the Master Direction on Internal Ombudsman for Regulated Entities, 2023, aiming to bolster the grievance redressal system within regulated entities. This directive builds upon existing guidelines, including those for banks and non-banking financial companies, to institutionalize the internal ombudsman mechanism. This initiative seeks to improve the efficiency of grievance redressal across regulated entities.

COMMERCIAL PAPER / NON-CONVERTIBLE DEBENTURES DIRECTIONS: ASSESSING RBI'S APPROACH TO MARKET REGULATION

The Reserve Bank of India (RBI) has unveiled new Master Directions concerning Commercial Papers (CPs) and Non-Convertible Debentures (NCDs) with a maturity of up to one year, intending to oversee these money market instruments. It includes various guidelines on offer disclosure and ensuring transparency of defaults on the issuers of such commercial papers and non-convertible debentures.

RBI'S SRO FRAMEWORK: THE ROAD TO RESPONSIBLE SELF GOVERNANCE

The Reserve Bank of India (RBI) has published a draft framework for identifying Self-Regulatory Organizations (SROs) tailored for regulated entities under its oversight. This omnibus framework aims to promote better industry standards and aid RBI in policymaking.

NON-FUNCTIONING ACCOUNTS: WHAT ADVANTAGES WILL CUSTOMERS GAIN FROM THE UPDATED GUIDELINES BY THE RBI?

RBI has released comprehensive guidelines effective from April 1, 2024, for commercial and cooperative banks regarding inoperative accounts and unclaimed deposits. Customers can now reactivate accounts or claim deposits by submitting KYC documents at any branch. The guidelines stated that banks must annually review accounts, prevent fraud, and swiftly address complaints through internal and RBI ombudsman schemes, stressing identity verification and effective communication for quick resolution.

RBI IMPLEMENTS BAN ON INVESTMENTS IN ALTERNATIVE INVESTMENT FUNDS TO COMBAT LOAN EVERGREENING

The Reserve Bank of India (“RBI”) in the latest move to curb the evergreening of the stressed loan has instructed the Regulated entities (“REs”) which constitute commercial banks and other financial institutions, not to invest in any fund or scheme of Alternative Investment Funds which has a downstream investment in the debtor company. The RBI's move is aimed at stopping banks and NBFCs from using the AIF channel as a way to artificially sustain or extend the life of their loans.

INDUSIND BANK LAUNCHES 'E-SVARNA': INDIA'S FIRST CORPORATE CREDIT CARD ON THE RUPAY NETWORK.

IndusInd Bank has formally declared the introduction of 'IndusInd Bank eSvarna', representing India's inaugural Corporate Credit Card operating on the RuPay network. This strategic launch makes IndusInd Bank the first institution in the country to smoothly integrate UPI features into a Corporate Credit Card.

V MELEPPURAM V. D THOMAS & ANR. - HC'S STANCE ON PRESUMPTION UNDER BLANK CHEQUES

In a recent judgment by the Kerala High Court, it was laid that the leaf of a blank cheque would invoke a presumption under Section 139 of the Negotiable Instruments Act, 1881 (NI Act). This presumption arises from the premise that the cheque in question was signed voluntarily by the drawer unless certain compelling evidence indicates otherwise.

IRDAI ANNUAL REPORT 2022-23: KEY THINGS TO NOTE

At the end of 2023, the IRDAI (Insurance and Regulatory Development Authority of India) released its annual report for the financial year 2022-23 summarizing the quantitative data of the IRDAI and its various activities in the public domain. According to the report, India was placed as the 10th largest insurance market worldwide with a total premium of USD 131 million.

Quarterly Digest

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TREADING NEW GROUND: ASSESSING THE PROMISE AND PERILS OF INDIA'S PROPOSED FINTECH SRO MODEL

The Fintech Sector in India has grown to become the third largest globally, after the United Kingdom (UK) and the United States of America (USA). Projections indicate a staggering $400 billion valuation growth over the next five years, fueled by substantial investments, especially in payment-focused Fintech ventures. However, to regulate the fintech sector RBI has developed a draft regulation for self-regulatory bodies.

EMPOWERING POLICYHOLDERS: IRDAI'S DIRECTIVE ENHANCES TRANSPARENCY AND SIMPLIFIES HEALTH INSURANCE

The IRDAI issued a directive to the insurance companies to provide the customers with a simplified customer information sheet. Insurers, intermediaries, and agents must distribute revised sheets to all policyholders, confirming in physical or digital form. This follows an eight-member committee recommendation to simplify policy language, aligning with the broader goal of universal insurance coverage by 2047.

ENHANCING GRIEVANCE REDRESS MECHANISMS: THE IMPERATIVE OF INTERNAL OMBUDSMAN IN REGULATED ENTITIES

Deputy Governor Swaminathan J. of the Reserve Bank of India (RBI) recently underscored the importance of reorienting grievance redress frameworks within such entities to leverage the Internal Ombudsman (IO) mechanism. By prioritizing impartiality, transparency, and responsiveness, IOs can contribute to smoother functioning, improved outcomes, and greater stakeholder satisfaction.

BOMBAY HC UPHOLDS BANK'S AUTONOMY IN MSME NPA DECLARATIONS

The Bombay High Court, in the recent case of A Navinchandra Steels Pvt. Ltd. V. Union of India & Ors, held that it is the responsibility of the MSMEs to initiate the process by applying to the banks or NBFCs as per the notification, rather than the financial institutions taking the initiative themselves.

THE INSURANCE POLICY WILL BE DEEMED EFFECTIVE FROM THE DATE OF ISSUANCE OF POLICY: SUPREME COURT

The court finally held that the date of issuance of the policy will be deemed relevant or significant for all purposes not the date of proposal nor the date of issuance of receipt.

This ruling implies that the commencement and effectiveness of the insurance policy, as well as any associated rights and obligations, are to be determined based on the date of issuance of the policy.

DECODING RBI'S DRAFT HFC REGULATIONS AND THEIR IMPLICATIONS ON INDIA'S HOUSING LANDSCAPE

On January 15th, 2024, the Reserve Bank of India unveiled a draft proposal to tighten regulations for Housing Finance Companies (HFCs). The proposed framework for Housing Finance Companies (HFCs) aims to have a prolonged approach to strengthen financial resilience and consumer safeguards by doubling minimum capital requirements and tightening deposit limits. It also raises liquidity requirements and emphasizes robust risk management practices.

THE LIC'S PROPOSAL CLEARED BY RBI FOR 9.99% STAKE IN HDFC BANK

In compliance with regulation 30 of the SEBI regulations, it was recently notified that the Reserve Bank of India (RBI) has approved Life Insurance Corporation of India (LIC) for acquiring a cumulative stake of up to 9.99% in HDFC Bank Limited. It comes with conditions: securing the stake by January 24, 2025, and ensuring ownership remains below this threshold while adhering to legal provisions and market regulations.

MACROECONOMIC INDICATORS OF THE INTERIM BUDGET 2023-2024

Government targets reducing the fiscal deficit to under 4.5% by 2025-26, with a projected 5.1% deficit in 2024-25, driven by a 6.1% yearly expenditure growth and a moderate 12% revenue increase in the upcoming fiscal year. The interim budget allocates increased capital expenditure of 11.1% increase for sustained economic growth. The government anticipates lower market borrowings in 2024-25 compared to the previous year, aiming to reduce gross borrowings by 8%. India's FY 23-24 H1 current account deficit declines to 1.0% of GDP due to lower merchandise trade deficits.

MANDATORY REGISTRATION FOR INPUT SERVICE DISTRIBUTORS - UNDERSTANDING THE NEW RULES AND REQUIREMENTS

The budget proposes mandatory Input Service Distributor registration for Input Tax Credit ('ITC') claims to be availed by the company receiving invoices subject to taxation. Banks face increased compliance burdens as ISD registration becomes mandatory, preventing head offices from distributing ITC to branches without it. Additionally, banks must settle ITC between branches and head offices periodically, requiring heightened documentation and audit trails for monitoring ITC transfers.

DECODING THE FINE PRINT: THE INCREASED TCS ON FOREIGN REMITTANCES AND WHAT IT MEANS FOR BANKS

The FY24 interim budget proposes amending the Income Tax Act to include Tax Collected at Source (TCS) for foreign remittances, increasing the rate from 5% to 20% with retrospective effect from July 1, 2023. This amendment aims to align with the Liberalised Remittance Scheme (LRS) introduced by the Reserve Bank of India in 2016. The amendment seeks to bolster revenue collection by levying a higher TCS rate on foreign remittances under the LRS.

BUDGET 2024: MIXED RESULTS FOR BANKING SHARES AMIDST CAUTION

Banking sector performance on budget day was assessed via the 'Nifty Bank' index of 12 bank stocks on NSE which showed a positive trend over 4 years but a mixed result in 2024. The private sector banks overwhelmed the public sector banks. Public sector banks' share value surge is attributed to the budget's optimism on direct benefit transfers, capital expenditure, and loan disbursals.

DIRECT AND INDIRECT TAXES

Nirmala Sitharaman extends the start-up tax break until March 31, 2025, and grants IFSC units tax exemption until the same date, with certain services like banking eligible for a ten-year direct tax exemption. Monthly gross GDP collection doubled to 1.66 lac this year. The direct taxes will contribute 36 paise of every rupee in government revenue, while indirect taxes will account for 26 paise. The GST tax base has also doubled where state SGST revenue buoyancy increased to 1.22 in the post-GST period.

TAX GDP RATIO AND FISCAL DEFICIT

The 2024-25 interim budget projects a record-high personal income tax collection of Rs 7.49 lakh crore marking a 49% surge from the previous year. Tax-GDP ratio is set to hit 11.7% in FY24, the highest since 2008-09, with an anticipated increase to 12.1% in FY25. Market borrowings for FY24 are estimated at Rs 14.13 lakh crore gross and Rs 11.75 lakh crore net, lower than FY23 revised figures. The fiscal deficit for FY24 is anticipated at 5.1% of GDP, aiming for a 4.5% target by FY26.

STRATEGIC SAVINGS: LEVERAGING DIRECT BENEFIT TRANSFER FOR EFFICIENT SPENDING

Finance Minister Nirmala Sitharaman highlighted the effectiveness of the Direct Benefit Transfer (DBT) scheme, citing approximately 34 lakh crores spent through Jan Dhan accounts, resulting in 2.7 lakh crores in government savings due to reduced leakages. Additionally, she mentioned that the PM-SVANidhi initiative has provided credit support to 78 lakh street vendors, with 2.3 lakh vendors benefiting from credit assistance for the third time.

INTEREST-FREE LOANS: GOVERNMENT'S MANTRA FOR PRODUCTIVITY & INCLUSIVITY

Nirmala Sitharaman announced the creation of a one lakh crore corpus offering a fifty-year interest-free loan to empower the nation's youth with extended financing options. Additionally, states are urged to develop iconic tourist centers, with the government providing interest-free loans to facilitate this endeavor. To aid in these efforts towards Viksit Bharat, a provision of seventy-five thousand crore rupees is proposed this year.

ELECTORAL BONDS AND BANKING LAW: UNMASKING THE VEIL OF ANONYMITY

The Supreme Court of India recently declared the electoral bond scheme unconstitutional. This scheme allowed anonymous donations to political parties. The court emphasized transparency and voters' right to information. The State Bank of India (SBI) was authorized to issue these bonds. Despite technical challenges, the court's decision aims to strengthen democratic processes and accountability in political financing

NEW RULE TO ENSURE TIMELY MSME PAYMENTS IN INDIA

The Indian government has introduced a strict new rule requiring companies to pay micro, small and medium enterprises (MSMEs) within 45 days. Failure to comply will result in tax penalties on the overdue amount.

The rule, enacted through an amendment to the Income Tax Act in the Finance Act 2023, is aimed at improving cash flow and financial health for MSMEs. It comes into effect on April 1, 2024.

MASTER DIRECTION- RBI (BHARAT BILL PAYMENT SYSTEM) DIRECTIONS, 2024-

Reserve Bank of India (RBI) has issued revised guidelines for the Bharat Bill Payment System (BBPS) to improve efficiency and customer protection. The directions, applicable to NPCI Bharat Bill Pay Limited (NBBL), outline roles and responsibilities for BBPCU, BOUs, and COUs, encompassing rule-setting, biller onboarding, customer interfaces, compliance, settlement, and dispute resolution

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