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NEWSLETTER

on Developments in Banking and Insurance Law

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

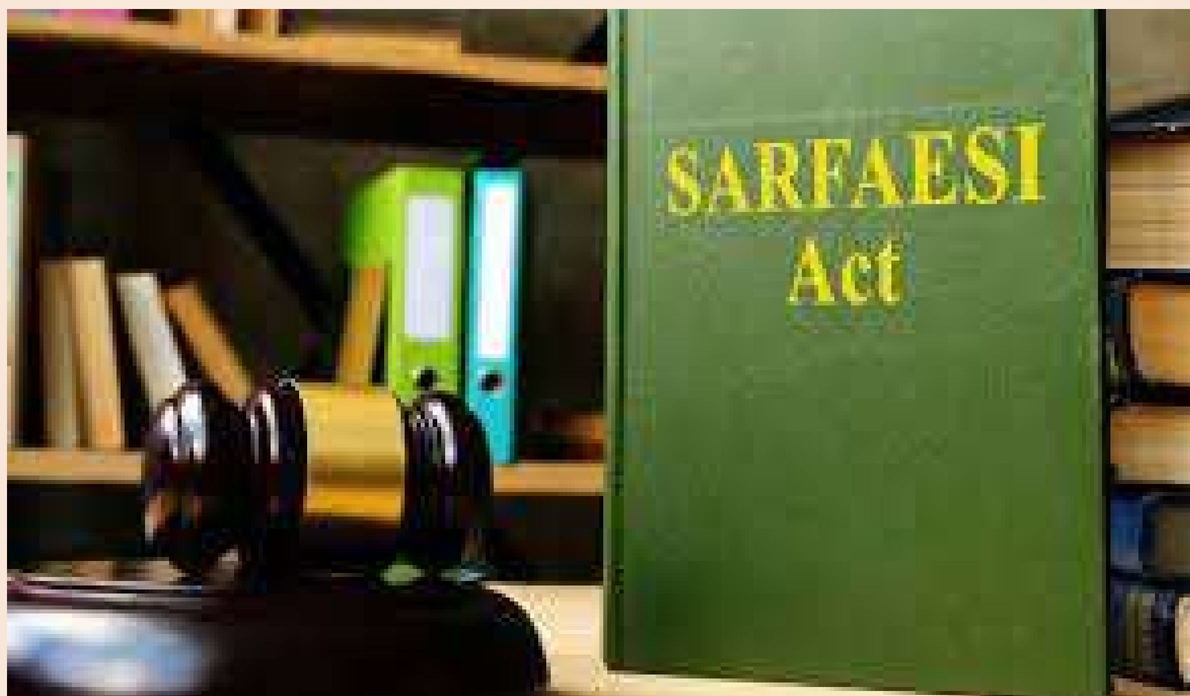
Tamanna Das Patnaik

The Supreme Court recently, 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 its Section 13(8). The Court evaluated the legal framework pre and post amendment, and came to the conclusion that a borrower who fails to settle his dues prior to the publication of the auction notice cannot claim subsequently for the redemption of his mortgage.

Factual Matrix

The present case involved the borrowers obtaining a credit facility from a bank for Lease Rental Discounting (LRD) credit worth Rs. 100 crores.

Out of this sanctioned amount, Rs. 65 crores was used to settle a previous LRD facility, while a security in the form of a simple mortgage was



created over the balance amount of Rs. 35 crores. However, the borrowers eventually defaulted on repayments, resulting in the loan being declared as a Non-Performing Asset ('NPA'). The bank acquired possession of the secured asset and made several unsuccessful attempts to auction it off, in order to recover its dues.

At the same time, the borrowers had initiated a Securitisation Application with the Debt Recovery Tribunal (DRT), contesting the demand and sale notices they had received. They expressed their willingness to sell the asset and offered approximately Rs. 91 crores to settle their account with the Bank.

Despite this offer, the bank remained unconvinced and proceeded to conduct another auction. The appellant emerged as the top bidder, offering 105.05 crores and fulfilling all necessary procedural requirements. The borrowers, taking note of this, submitted a proposal to pay Rs. 129 crores for the mortgage's redemption. Tempted by this offer, the bank also sided with the borrowers during the court proceedings. Ultimately, the High Court authorised the borrowers to redeem the mortgage by providing an immediate payment of Rs. 25 crore and settling the remaining balance by a stipulated date.

Position of law before the amendment

Sub-section (8) of Section 13 in the SARFAESI Act originally outlined that should a borrower tender the full amount owed, inclusive of charges, to the secured creditor before the scheduled sale or transfer date, the secured asset would remain exempt from sale or transfer to any third party. The judiciary consistently upheld the borrower's right to redemption until an actual transfer occurred through a registered instrument, a principle deeply entrenched before the 2016 amendment.

This legal standing was reaffirmed in the cases of Dwarika Prasad and Allokam Peddabbayya, underscoring that the mortgagor's right to redemption endured until an official transfer occurred through a registered instrument. Importantly, the mere inclusion of a power of sale in the mortgage deed did not nullify this right.

The 2016 Amendment and a divergence of opinions

With the coming into force of the 2016 amendment, significant changes were brought into Section 13(8). It stipulated that if the borrower tenders the entire amount owed to the creditor before the publication of notice for public

auction or inviting quotations, the assets cannot be transferred by way of lease, assignment or sale. Following this, divergent legal viewpoints emerged. On one hand, a significant shift from earlier interpretations occurred, exemplified by cases like Sai Annadhatha Polymers v. Canara Bank and K.V.V. Prasad Rao Gupta v. State Bank of India. These cases argued that the borrower's ability to redeem the secured asset terminated when the notice was published, and underscored the importance of strictly adhering to the timelines of the statutory notice period.

The amendment, having made SARFAESI a special law with overriding effect over other laws, rendered Section 60 of the Transfer of Property Act, 1882 ('TPA') inapplicable, for the purposes of redemption of mortgage.

On the other hand, legal interpretations represented by cases like Concern Readymix, Amme Srisailam and Pal Alloys took a different stance. They concluded that the amendment limited the rights of the creditors, but did not diminish the borrower's right of redemption which would last till the execution of conveyance. They highlighted the extension of the repayment period until the publication of the notice, asserting that the amendment did not render section 60 of the TPA irrelevant.

Analysis

While deliberating before it reached a decision, the Court extensively discussed the rationale behind the amendment, emphasizing the need to uphold the sanctity of the SARFAESI Act and prevent multiple redemption attempts that could undermine public trust and hinder the recovery mechanism. The SARFAESI Act's core objective of timely recovery, independent of judicial involvement, is compromised when borrowers attempt successive redemptions, disrupting the auction process. Therefore, to maintain the act's integrity, discourage judicial interference, and ensure effective debt recovery while sustaining public trust in auctions, mitigating multiple redemption attempts is imperative.

In the context of extraordinary jurisdiction exercised by High Courts under Article 226 of the Constitution, the Apex Court ruled against High Courts having the required jurisdiction and advised against them entertaining writ petitions when a suitable statutory remedy already exists. This principle will be particularly relevant during the recovery of public dues, taxes or debts owed to financial institutions.

In the present case, the High Court should have exercised its discretion more cautiously, by abstaining from interfering, given that comprehensive provisions already exist under the SARFAESI Act. This would have secured efficient debt recovery, affirming the financial stability of creditors and minimising unwarranted delays stemming from parallel litigations.

Conclusion

This case could have been averted, had it not been for the bank's prioritisation of financial considerations over unequivocal provisions of the law. Moreover, whether or not this judgement can be regarded as sound law is yet to be seen, given that it completely disregards the circumstances of the borrower. The judgement seems to presume malicious intent on the part of borrowers, assuming that redemption attempts are solely aimed at intentionally delaying the auction process. The imposition of a blanket ban on redemption fails to consider the diverse circumstances a borrower might encounter, potentially resulting in an unjust application of the law in genuinely justified situations also.

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Analyzing RBI's 2023 Investment Portfolio Reforms

Biraj Kuanar

The "RBI (Classification, Valuation, and Operation of Investment Portfolio of Commercial Banks) Directions, 2023" were recently published by the Reserve Bank of India (RBI) after the issuance of a Discussion Paper on January 14, 2022. The new standards have the objective of enhancing the "classification, valuation, and management of investment portfolios" within commercial banks. The proposed changes involve the integration of a classification system based on principles, the implementation of more stringent regulations regarding: "transfers to and from the Held to Maturity (HTM) category, the inclusion of non-SLR (Statutory Liquidity Ratio) assets in HTM subject to particular conditions, and the equitable recognition of both gains and losses."

The provided instructions encompass multiple objectives. The primary objective is to improve the standard of financial reporting in the banking sector, with a specific focus on enhancing disclosures related to the fair value of investments in the "Held-to-Maturity (HTM) category", the fair value hierarchy, sales made out of the HTM category, and other pertinent aspects. Furthermore, the goal of these guidelines is to enhance the corporate bond market, encourage the utilisation of derivatives for hedging, and fortify the overarching risk management framework implemented by financial institutions.

The aforementioned revisions serve to harmonise the accounting practises for bank investment portfolios with international financial reporting standards. However, it is important to note that essential prudential measures, such as the: "investment fluctuation reserve (IFR), due diligence, limitations on non-SLR investments, internal control systems, reviews, and reporting," have been preserved. Moreover, the issue of the dependability of valuation has been duly acknowledged. It is noteworthy that the amended instructions provided herein are relevant to all commercial banks, with the exception of Regional Rural Banks, commencing with the fiscal year commencing on April 1, 2024.

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One of the fundamental components of these instructions involves the classification of investments, wherein they are divided into three primary categories: The Held-to-Maturity (HTM) classification requires banks to retain securities in this category with the explicit intention of holding them until their maturity date. These financial instruments are expected to offer consistent payments of both principal and interest. Securities classified under the Available for Sale (AFS) category are bought with the primary intention of accumulating contractual cash flows, while simultaneously maintaining the flexibility to potentially sell them. The "Fair Value through Profit and Loss (FVTPL)" category encompasses securities that do not satisfy the criteria for "Held to Maturity (HTM) or Available for Sale (AFS)" classification. Securities falling within this particular category are assessed based on their fair market value, with any resulting gains or losses having a direct influence on the bank's profit and loss account. It is worth mentioning that the HTM category specifically excludes certain securities, including those that possess convertible or loss absorbency qualities, as well as preference shares and equity shares.

In line with the revised criteria set forth by the RBI, it is mandated that all investments are to be initially assessed and valued based on their fair value. It is generally assumed that the cost of purchase is equivalent to the fair value unless there are special conditions that indicate otherwise. For example, it may be necessary to conduct testing in cases where transactions include related parties, distress circumstances, or transactions that occur outside the major market for a specific class of assets. Government securities obtained through auctions conducted by the central bank, as well as through switch operations and open market operations, shall be acknowledged and recorded at the price that has been allocated to them. The subsequent measurement of securities is contingent upon their categorization.

According to the accounting policy of Historical Cost Accounting (HTM), securities falling under this category will be initially recognised at their original cost and will not be subject to subsequent fair value adjustments. The amortisation of discounts or premiums on these securities will occur over the "remaining lifespan of the instrument". "The fair valuation of AFS (Available-for-Sale) securities" will occur on a minimum quarterly basis. Any discounts or premiums

associated with debt securities will be gradually amortised over the remaining lifespan of the instrument. "Financial instruments classified as Fair Value Through Profit or Loss (FVTPL)" will undergo fair valuation, resulting in any gains or losses being immediately recognised in the profit and loss statement.

Moreover, the allocation of investments in subsidiaries, associates, and joint ventures would be maintained in distinct categories, apart from other classifications. The recognition of these investments will initially be based on their purchase cost, and subsequent adjustments will be made if the investee firm transitions to a subsidiary, associate, or joint venture status.

Finally, it is mandatory for banks to conduct periodic evaluations of the impairment of investments in subsidiaries, associates, and joint ventures. The necessity for impairment review is prompted by indicators such as instances of debt repayment failures, downgrades in credit ratings, and substantial decreases in fair value.

In instances of this nature, financial institutions are required to acquire an objective assessment of value from a third party and thereafter allocate reserves to account for potential losses.

In summary, the recent directives issued by the central bank have the objective of enhancing the transparency and governance of investment portfolios held by commercial banks. These directives seek to bring these portfolios in line with global norms, while also ensuring the maintenance of necessary prudential measures. The aforementioned modifications will be implemented commencing on the fiscal year commencing on April 1, 2024.

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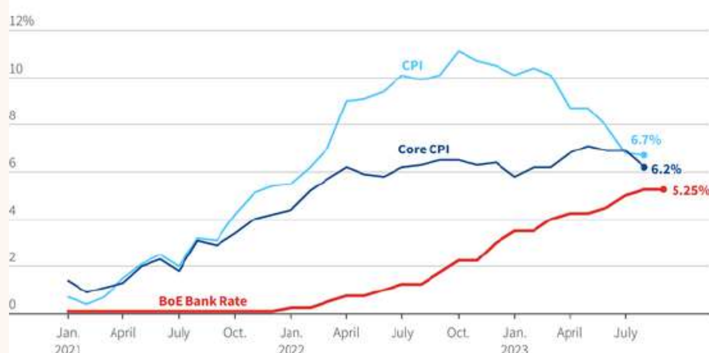
Bank of England Defers an Increase in Interest Rates

Akhil Raj

For more than a year and a half, the Bank of England has been raising interest rates to bring inflation under control. Primarily, controlling inflation caused by the Covid-19 pandemic and the Russia-Ukraine war was the main purpose behind the hikes. The interest rates touched a record high of 5.25%, more than what it has been in the past 15 years.

But recently, the Monetary Policy Committee, through a majority decision, decided to raise the interest rates once again, with an addition of 25 basis points, leading to the interest rates touching 5.5%. However, post the hike, they have decided to maintain this rate. Before this, the bank had raised the rates not less than fourteen times.



Concerning the current scenario, the bank was of the view that "There are increasing signs of some impact of tighter monetary policy on the labour market and momentum in the real economy more generally. The Monetary Policy Committee will continue to monitor closely indications of persistent inflationary pressures and resilience in the economy as a whole, including the tightness of labour market conditions and the behaviour of wage growth and services price inflation."

To understand the macroeconomic situation prevailing currently, as per the data released, the Consumer Prices Index for Britain decreased from 6.8% in July to 6.7 per cent last month. It surprised forecasts for a spike to 7.1 per cent due to rising energy prices because it was the lowest since February 2022.

The impact was seen on the currency as well. The value of the pound decreased against both the dollar and the euro, falling more than half a cent to its lowest level since late March, as investors reduced their expectations for future interest rate increases.

Analysis of Severe Liquidity Deficit in the Banking Sector

Subhashmin Moharana

India's banking system is facing a severe liquidity crisis, with the largest deficit over the last four years. On September 18, 2023, it recorded a staggering ₹1.47 trillion shortfall, the highest single-day deficit since April 2019. Banks have borrowed a record ₹1.97 trillion from the central bank's Marginal Standing Facility (MSF) window.

Multiple factors contribute to this crisis – such as simultaneous occurrence of advance tax payments and GST outflows worth ₹2.50 trillion, along with the immobilization of the incremental cash reserve ratio. Advance tax payments and Goods and Services Tax (GST) outflows, totalling an estimated ₹2.50 trillion, occurred simultaneously. Funds remain locked in the incremental cash reserve ratio (I-CRR), amplifying the issue.

Economist Gaura Sen Gupta from IDFC First Bank has Bank has also warned that if rupee continues to depreciate due to RBI's foreign exchange intervention, there may be further straining in its liquidity The RBI's gradual I-CRR reduction adds to the liquidity tightness.

While the RBI has already released 25% of I-CRR funds on September 23, government inflows are expected only in late September. The liquidity squeeze has pushed overnight rates up, with interbank call money and tri-party repo rates fluctuating between 6.75% and 6.90%.

Kotak Mahindra Bank's Chief Economist, Upasna Bhardwaj, expects tight liquidity to persist, given rupee depreciation and inflation risks. However, improvement is predicted in late September and early October, coinciding with government spending pickup and I-CRR completion.

However, liquidity challenges may still persist in H2 as loan growth and currency circulation rise. RBI data shows India's bank liquidity recently fell into deficit for the first time in over three years.

Analysts suggest growing liquidity gaps could increase short-term borrowing costs, prompting the RBI to reduce currency market operations and use repo auctions for cash injection.

Economist Vivek Kumar of QuantEco Research anticipates higher transactional cash demand during the festive season and improved economic growth. This may increase circulation by ₹2.2-2.4 trillion ($27.52-$30.02 billion) in H2.

Slow government spending and robust tax collections impact liquidity. As India began the fiscal year with ₹8 trillion surplus, the RBI had warned of a "multi-year" liquidity reduction process. The structural deficit reached ₹218 billion on Tuesday, exacerbated by tax outflows. A negative balance of payments further hampers liquidity.

In conclusion, India's banking system is grappling with a severe liquidity crisis. RBI's strategies, government spending, and external economic factors will shape the financial landscape in the coming months. Regulatory vigilance and prudent measures are crucial to ensure financial stability and sustained credit flow to businesses and individuals.

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Inclusion Of Indian Bonds In JP Morgan Index

Aashra Patel

JP Morgan Chase & Co. in a much-anticipated move, announced on Friday, the inclusion of Indian bonds in its "Government Bond Index-Emerging Markets (GBI-EM) Index," from June 2024. This will, in turn, result in a boost of confidence of the investors and attract immense foreign flows into the domestic debt market. Currently, 23 Indian bonds with a total value of $330 billion are expected to be index-eligible.

"India's weight is expected to reach the maximum weight threshold of 10 percent in the GBI-EM Global Diversified, and approximately 8.7 percent in the GBI-EM Global index," JP Morgan said. This weight of 10% will be staggered over 10 months, at 1 percent per month.

"India's inclusion in the global bond index is a pivotal step towards international recognition and access to vital capital for growth. This move promises increased demand for the Indian rupee, potentially buffering against depreciation," said Suresh Swamy, partner, Price Waterhouse & Co. Once the borrowing costs are low, they can fuel economic growth and infrastructural projects. And the heightened liquidity will lead to efficient trading conditions.

For India to enjoy the everlasting benefits of this inclusion, there must be access to easier operational mechanisms. This decision of the expansion of the investment choices, especially for the bond investors, has extremely favourable implications. India will notice a stronger rupee which will further help in financing the fiscal and current account deficits. This advantage is not only in terms of economic growth but also politically. The exclusion of India's major rivals, Russia and China, narrows the choices of the investors and shines the spotlight on India.

Irrespective of the positives, India will need to navigate itself through all the vulnerabilities with extreme caution. India will be affected by shifts in global economic conditions, which will further influence bond prices and yields.

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RBI's Proposal Seeks to Declare Wilful Defaulters

Mallika Jain

The Reserve Bank of India (RBI) has proposed that lenders must classify a borrower as a "wilful defaulter" within six months of their account being classified as a non-performing asset (NPA). This approach departs from past standards by setting a deadline for singling out such borrowers, and is a significant step towards increasing accountability and transparency in the banking sector.

RBI identifies wilful defaulters as those who have the ability to pay a bank's dues, but do not, or divert the bank's funds.

- A large defaulter means a defaulter with an outstanding amount of Rs 1 crore and above, and whose account has been classified as doubtful or loss.
- A wilful defaulter means a borrower or a guarantor who has committed wilful default and the outstanding amount is Rs 25 lakh and above.

"The lender has to examine the 'wilful default' aspect in all accounts with outstanding amount of Rs 25 lakh and above, or as may be notified by RBI from time to time, and complete the process of classification / declaration of the borrower as a wilful defaulter within six months of the account being classified as NPA," the RBI's draft norms proposed.

It stated the need for an Identification Committee to be established by lenders, that will review the evidence of willful default. If lenders decide to publish pictures of wilful defaulters, they must create a non-discriminatory board - approved policy, that outlines the standards by which the pictures of those who have been labelled as wilful defaulters will be published.

RBI further suggested that no additional credit facilities be provided by lenders to wilful defaulters or any entities they are connected to. The restriction on new credit facilities will take effect up to a year after the lender has removed the wilful defaulter's name from the List of Wilful Defaulters (LWD).

Regarding a guarantor's responsibility, the draft standards said that "When a default happens in making payment or repayment by the

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principal debtor, the lender will be able to proceed against the guarantor even without exhausting the remedies against the principal debtor."

The guarantor is immediately liable in situations where a lender has lodged a claim against them due to the principal debtor's default and shall also be considered for classification as a wilful defaulter," the RBI said.

Any account included in LWD where the lender and borrower have reached a compromise or settlement would only be removed from the list when the borrower has paid the full compromise amount, according to the draft regulations. It stated that before transferring the credit facility to additional lenders or asset reconstruction corporations (ARCs), the lender should conclude from its examination a wilful default standpoint in every case.

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Is the UBS-Credit Suisse Merger the Deal of the Century?

Ishita Ayala

On 12th June 2023, Union Bank of Switzerland (UBS) completed its merger with the beleaguered Credit Suisse (CS) to become a financial juggernaut. Investors believed that this was a potentially risky investment for UBS along with the concerns of concentration of economic power in Switzerland and the larger implications for the financial system.

CS faced numerous challenges over the 167 years of its existence- a spying scandal, the collapse of two hedge funds and a revolving cast of executives, however it was a competitor to UBS which purchased Credit Suisse for the modest sum of 3 billion francs, a number that can be described as grossly undervalued as CS had 45 billion franc in equity in the year 2022. Additionally, the auditors from Pricewaterhouse Cooper (PWC) had declared the bank's affairs to be in order.

CS could be described as a solvent bank - the regulatory authorities declared that CS could meet the requirements imposed on systemically important banks.

In August 2023, UBS made 29 billion dollars in profit for its second financial quarter, proving that CS's condition was not that precarious, but indicated a loss of trust in that financial institution which had laundered money for Bulgarian drug dealers, had been implicated in corruption scandals in Mozambique and leakage of confidential client data.

Swiss politicians have expressed their concern with the new financial structure: its size could make the economy additionally vulnerable in case of external shocks. UBS admitted that CS was a strong competitor, but argued that its fundamental weaknesses would not have helped them overcome the macroeconomic trends.

Carlo Lombardini, a professor of banking at Lausanne University was more forthright in his remarks- "UBS paid a nickel and dime" and "got rid of its main competitor".

The long term impact of this uneven merger is to be seen, but there is no doubt that UBS has the chance to build a new financial institution without the trappings of the past.

IRDAI to Implement Cashless Medical Insurance Settlement

Pratha Barla

At the global fintech festival which was held in September 2023, the Chairman of Insurance Regulatory and Development Authority of India (IRDAI) Shri Debasish Panda, emphasised IRDAI's idea and commitment to implement 100% cashless medical insurance settlement across the nation. Till date, cashless insurance settlement is available in 49% hospitals, which comes to around 25,000 in numbers.
Approximately 400 million individuals with medical insurance policies stand to gain, once the proposed plan takes effect. Following recent disputes between insurers and healthcare providers, IRDAI has been actively seeking solutions to mitigate such conflicts.
As per a directive from Inderjeet Singh, the secretary general of the General Insurance Council (GIC), dated August 1, the Committee is mandated to offer weekly progress reports. Shri Shekar Sampath Kumar, recognized for significant contribution in standardising medical procedure rates for Public Sector Unit (PSU) general insurers about ten years ago, has been appointed by IRDAI as the GIC's health insurance director for a tenure of three years. His main responsibility will be to incorporate all hospitals into the cashless system and establish uniform procedural rates across them.

The new cashless settlement system aims to streamline and simplify the insurance claims process. Policyholders will no longer need to make upfront payments for medical expenses at network hospitals and then seek reimbursement. Instead,, they can enjoy completely cashless transactions at these facilities, ensuring quicker access to healthcare services.

The move toward a 100% cashless insurance settlement system aligns with the broader digitalization efforts in India's insurance sector. It reflects the government's commitment to enhancing the overall insurance experience for policyholders and making healthcare services more accessible.

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In summary, the IRDAI's upcoming 100% cashless insurance settlement system is poised to revolutionise insurance procedures in India. It will simplify and expedite claims processing, eliminate the need for policyholders to pay upfront, and reduce paperwork. This initiative represents a significant step towards modernizing the Indian insurance sector, providing convenience for policyholders, and ensuring better access to healthcare services.

Stable Money Launches India's First Fixed Deposit Marketplace

Kamya Aggarwal

Stable Money, a digital fixed-return investment platform, has announced its launch and availability for downloads. This internet market specialises in giving private investors trustworthy fixed-income investment alternatives. Fixed deposits (FDs), debt mutual funds, bonds, and other safe asset classes are accessible through the fintech platform, managed by former Navi Mutual Fund CEO Saurabh Jain.

It allows consumers to manage and track their FDs using online tools while comparing FD interest rates from more than 200 institutions. It is an investment platform for fixed-income assets and offers a place to assess and categorise them too. It also offers investors an earnings-tracker and investment advice. Users get access to investing opportunities in debt mutual funds, sovereign gold bonds, and more. Additionally, it offers an expert bot, powered by ChatGPT.

The wealthtech platform secured $5 million in seed funding in August, with Matrix Partners India and Lightspeed serving as the round's lead investors.

To offer their fixed-income products, it has partnered with a number of banks and NBFCs, including Shriram Finance Limited, Shivalik Small Finance Bank, and Utkarsh Small Finance Bank. A number of new features have been added to Stable Money, such as "Break FD," which allows investors to withdraw money before maturity without losing out on rewards.

By taking into account both liquidity and returns, FD Laddering aids investors in maintaining a balanced portfolio. Last but not least, the Switch FD feature lets investors react quickly to market developments.

The founders of Stable Money, Saurabh Jain and Harish Reddy, expressed their joy and said that their goal is to democratise fixed-return investments and give millions of Indians access to a clear, user-friendly market. "Today marks the beginning, but our vision stretches far beyond. We're here to provide a financial safety net that assures stability and resilience, especially in these unpredictable times," they stated. The launch event witnessed

the presence of Stable Money's partner banks and influential angel investors also.

Since the platform's soft launch and subsequent beta testing, more than 50,000 people have registered on it. In the near future, Stable Money will set off on a 15-city tour of India with the goal of educating people about the advantages of fixed-income instruments through workshops and conferences.

China's Shadow Banking Threatens its Financial System

Sparsha. S.

The shadow banking system in China holds a huge market for informal banking operations among the investors. The recent property crisis experienced by China has had a spillover effect even in the financial markets through the shadow banks, which has created financial distress in the economy. One of China's biggest shadow banks, Zhongrong International Trust, delayed payments on more than 30 wealth management products, amid concerns that its major shareholder, the enormous financial giant Zhongzhi Enterprise Group, was having liquidity issues. Zhongrong managed assets worth 785.7 billion yuan ($107.69 billion) at the end of 2022, out of which 629.3 billion yuan were linked to trust products, according to its latest annual report. This has sparked fresh worries about China's shadow banks as these companies provided financing to real estate developers, contributing to the construction boom in the nation. However, since new home sales have stalled, many borrowers are now defaulting on their loans which is creating spiralling effects in the economy. The collapse of these trusts may potentially start a domino effect that would affect the entire global economy. This is due to the fact that shadow banks are a global issue.

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Shadow banking culture in China

The term "shadow banking" refers to a sector of the Chinese economy that funnels money into a wide range of investments, across multiple sectors of the economy, outside of the traditional pipeline of bank-based lending. In China, "trust funding" is an informal structure which promotes shadow banking culture. These trust companies sell investment or trust products to corporate and wealthy clients. The clients' funds are then pooled and invested in a wide range of products or used as loans to private companies — including real-estate developers. Trust financing is mainly intermediated through a trust company, which provides funding to a project company at market interest rate by issuing trust wealth management products to the

investors. There are various forms of detailed organisation of such trust financing and as returns, trust companies and banks share the commission fees. Trust companies grew significantly in the late 2010s as they provided Chinese investors with significantly higher returns on their savings than bank deposits, in a nation where the official interest rate on bank deposits is still less than 1.5%, in many cases offering the suggestion that investors would be protected from potential loss of capital. However, the issue arises since the majority of the wealth products that banks sell to real estate developers, other industries, and even some retail investors are channelled through trust businesses, which operate outside of many of the regulations governing commercial banks.

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Economic Consequences

The effects of a liquidity crisis in the trust sector could be felt throughout the whole economy. Retail investors with exposure to Zhongrong products could see a decline in wealth, listed companies could experience a reduction in capital for growth and investment, and local governments, who are already struggling with debt, might encounter additional challenges when implementing policies to support China's faltering economy.

RBI Expected to Maintain its Status Quo due to Persistent High Inflation Rates

Kushagra Keshav

For the fourth time in a row, the Reserve Bank of India (RBI) is anticipated to keep its existing policy rates unchanged at its forthcoming bi-monthly monetary policy review meeting, early next month. This anticipated action, according to experts, is the result of a number of factors, including the US Federal Reserve's determination to keep its hawkish stance for the foreseeable future and consistently rising retail inflation.

On February 8, 2023, RBI had previously increased the benchmark repo rate to 6.5 percent. Since then, it has avoided making any changes, citing worries about persistently high retail inflation and a number of international reasons, notably rising crude oil prices on the global market. The Monetary Policy Committee (MPC), which consists of six members and is chaired by the RBI Governor, will meet from October 4-6, 2023. To that effect, the previous meeting of the MPC, holds the highest authority in rate-setting which took place in August. RBI should keep things as they are, according to Bank of Baroda Chief Economist Madan Sabnavis, because of the continuously high inflation rates and the limited liquidity available. He pointed out that the third quarter's inflation is predicted by RBI to remain over 5 percent, guaranteeing the continuation of the existing monetary policy throughout the year and possibly into the fourth quarter. Sabnavis also drew attention to crop-related risks for the Kharif season, notably for pulses, which may result in higher prices. He did, however, add that there is less worry about the economy's growth, which is still on track.

Retail inflation measured by the Consumer Price Index (CPI) decreased slightly from 7.44 percent in July to 6.83 percent in August 2023, but it remained above the RBI's 6 percent comfort level. It is important o remember that the

government has instructed RBI to keep inflation at 4% with a 2% buffer on each side. Aditi Nayar, the chief economist at ICRA Limited, anticipates that reduced tomato prices and a favourable base effect will cause the headline CPI inflation to decline to 5.3-5.5 percent in September 2023. With probable concerns associated with food inflation owing to unpredictable monsoons and low reservoir levels influencing crop yields, she also expects CPI inflation to decline to 5.6 percent in Q3 FY2024 and subsequently to 5.1 percent in Q4 FY2024.

ICRA anticipates that the MPC will hold rates steady at its policy meeting in October 2023 while keeping a cautious approach because of the uncertainty surrounding food inflation and the high price of crude oil. For 2023-2024, the RBI expects CPI inflation to average 5.4 percent, with risks being fairly distributed.

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IRDAI Establishes Committee for Bima Sugam Project Oversight

Dewansh Raj

IRDAI has taken a significant step by forming 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.
Notably, the project has faced delays in its initial rollout, missing two previously established deadlines. However, IRDAI is committed to ensuring its successful launch, and as of the latest update, the platform is now scheduled to be unveiled in June 2024. This development signifies a crucial milestone in streamlining and modernizing the insurance sector in India, ultimately benefiting both insurers and policyholders.

IRDAI's Bima Sugam initiative is a game-changer in India's insurance market, aiming to be the world's largest online insurance marketplace, a pioneering concept. With India's vast population, it could serve as a model for other emerging economies. Bima Sugam unites all insurance stakeholders through a cutting-edge digital platform, streamlining processes for insurers, policyholders, intermediaries, and more.

The portal will allow the customers to establish an insurance account, where their policies will be securely stored, eliminating the necessity for physical documentation. This streamlined process will considerably reduce the paperwork required when purchasing a policy. Bima Sugam is also focused on significantly improving the efficiency of claim settlements.

Whether it's health coverage claims or death benefits, the platform streamlines the process with paperless claim submissions using policy numbers, ensuring a seamless experience for policyholders. Bima Sugam has the potential to revolutionize the Indian insurance landscape and is termed the UPI moment for the insurance sector.

Considering the project's scale, importance, and the anticipated delay, the total budget for its development and execution has been significantly raised to Rs 200 crore. This marks a significant boost from initial budget estimate of approximately Rs 85 crore. The increased financial commitment highlights the project's potential to bring about transformative changes in the insurance sector, underscoring its importance and ambition.

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Bima Sugam marks a noteworthy advancement within the Indian insurance industry, offering customers convenience, transparency, and cost-effectiveness, while transforming the conventional practices of insurance companies. It stands to significantly impact those who have thus far been without insurance coverage, extending vital financial protection to a broader segment of the population.

SBI's Novel Approach to Ensure Timely Repayments: Chocolates

Pooja Reddy T

The State Bank of India (SBI) has decided to adopt a unique strategy to ensure that borrowers, particularly retail, make timely repayments. The bank decided to welcome individuals who might be inclined to miss their monthly installments with the gift of chocolates. The bank observed that those intending to default tend to ignore reminder calls. Hence, the most effective approach is to make unannounced home visits.

This move is aimed at ensuring improved collections and has come when retail lending levels have risen, looking to be on an upward trend in the system, and increasing defaulter levels courtesy of mounting interest rates.

SBI's retail loan portfolio expanded impressively by 16.46%, reaching Rs 12,04,279 crore in the quarter ending June 2023, compared to Rs 10,34,111 crore during the same period last year. This substantial growth has positioned it as the largest asset category within the bank, which boasts a total portfolio of

Rs 33,03,731 crore, representing a year-on-year growth of 13.9%.

SBI's retail portfolio, totaling more than Rs 12 lakh crore, encompasses various loan categories, including home, auto, personal, and education loans. Notably, SBI holds the position of being the largest mortgage lender in the country, with a substantial home loan portfolio exceeding Rs 6.3 lakh crore as of June.

SBI has piloted a unique way of prompting retail borrowers to fulfil their repayment obligations with two fintechs that utilize artificial intelligence for their operations.

One fintech conciliates with the borrowers, while the other alerts SBI

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on the probability of a borrower defaulting. Representatives from the latter will visit those borrowers and gift them a pack of chocolates each, and remind them of the EMIs that are forthcoming.

Furthermore, they are currently engaged in discussions with several other fintech companies with the aim of enhancing their collection processes. They anticipate entering into formal partnerships with at least half of these fintech firms by the conclusion of the year.

SBI under this program, has received its first full loan recovery. A loan worth approximately Rs 2 crore has been paid back in full. The bank plans to continue the pilot program for a few more weeks and then ponder over making this an official recovery channel. If successful, they are planning to also officially broadcast it.

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G20 Group to Enhance Effectiveness of Multilateral Development Banks

Aditya Roy

Next month, the G20 Independent Expert Group, 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, which encompass entities like the World Bank and the Asian Development Bank (ADB).

MDBs play a crucial role in supporting economic development and reducing poverty in less affluent nations by providing them with financial resources and expertise to undertake various projects and initiatives. These institutions are typically governed by their member countries, and operate with a focus on long-term development goals.

Such MDBs include the World Bank Group, the European Investment Bank, the Asian Development Bank, and similar organisations. They play a vital role in addressing global development challenges and helping countries achieve their economic and social objectives. They also often work in collaboration with governments, private sector entities, and non-governmental organizations to implement projects that can have a lasting impact on the communities that they serve.

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The roadmap is to be made for an "updated MDB" system taking a 360-degree approach focusing on all aspects of the evolution of the MDB system. This includes reassessing the vision, incentive structure, financial capacity as well as operational approaches. The reassessment of MDBs has become crucial to make them better equipped to handle the modern problems of health, climate change and other problems aimed to be resolved under SDGs.

An in-depth assessment of numerous estimates pertaining to the magnitude of financial resources needed by these MDBs to tackle the heightened financing demands arising from SDGs and cross-border challenges faced by both the banks themselves and their member nations is to be undertaken.

Through the implementation of this strategy, the MDBs will undergo an extensive transformation, ensuring their enhanced flexibility, innovation, and better positioning in order to be able to provide financial support for a wide range of SDGs and trans-boundary concerns. This strategic evolution will allow these MDBs to have a greater impact in solving pressing global concerns like climate change and healthcare, thereby significantly contributing to a more sustainable and equitable 21st-century world.

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Supreme Court clarifies Mortgage Redemption Rights under the SARFAESI Act

Soumya Dubey

Supreme Court provided critical clarity on the borrower's right of redemption of a mortgage under the "Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act)" in the ruling pronounced by the bench comprising CJI DY Chandrachud and Justice JB Pardiwala.

The case included debtors who had obtained a credit line from a bank for Rs. 100 crores, which was backed by a straightforward mortgage over a plot of land for Rs. 35 crores. The borrowers' account was classified as a Non-Performing Asset (NPA) after they missed their loan payback deadline. Under Section 13(2) of the SARFAESI Act, the bank issued a demand notice requesting repayment of Rs. 123.83 crore, which included the principal sum, interest, costs, and charges. When the borrowers didn't comply, the bank started the secured asset auction. On the ninth try, it was eventually sold for Rs. 105 crores. The requisite deposit was paid by the highest bidder, who is referred to as the appellant.

The borrowers simultaneously requested permission from the High Court and the Debt Recovery Tribunal (DRT) to redeem the mortgage by making an offer of Rs. 129 crores, which the bank approved. The appellant challenged the Supreme Court's ruling after the High Court permitted the redemption.

According to Section 13(8) of the SARFAESI Act, the Supreme Court made it clear that the borrower's ability to redeem the mortgage is limited until the sale notice has been published. In contrast, Section 60 of the Transfer of Property Act of 1882 permits the continuation of this privilege until the conveyance of the mortgaged property is executed. Notably, the court determined that the special provisions of the SARFAESI Act would take precedence over the ordinary provisions of the Transfer of Property Act despite acknowledging a conflict

between these two parts.

The SARFAESI Act's integrity of the auction procedure was also highlighted in the verdict. The court voiced worries that any different interpretation may reduce public interest in auctions and defeat the act's main goal of aiding prompt bank recovery. The court further emphasised that banks have a duty to uphold the law's requirements and treat all parties fairly. It chastised the bank's actions in this situation for attempting to get around unambiguous legal requirements bringing clarity to mortgage redemption rights.

RBI Imposes Penalties on Four Biggest Co-operative Banks

Suhani Sharma

In light of the non-compliance activities in several aspects by the four most important co-operative banks of the country, the central bank i.e., the Reserve Bank of India (RBI) has imposed penalties on certain banks. These banks include HCBL Co-operative Bank Ltd, the Citizens' Co-operative Bank Ltd, the State Transport Co-operative Bank Ltd. and Shree Warana Sahakari Bank Ltd.

Firstly, RBI has levied a financial penalty of ₹11.00 lakh on HCBL Co-operative Bank Ltd., located in Lucknow, Uttar Pradesh. Basically the bank extended loans and advances to both - its Director and their relatives, which is clearly against RBI directives. Additionally, it sanctioned new loans and advances to individual borrowers that surpassed the allowable regulatory limits by more than 50%. Furthermore, the bank offered deposit interest rates that exceeded those provided by the State Bank of India (SBI), contravening explicit instructions given under the Supervisory Action Framework (SAF).

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RBI has further imposed a ₹6.00 lakh monetary penalty on The Citizens' Co-operative Bank Ltd. in Jammu. This penalty was levied due to the bank's failure to comply with specific directives issued by the RBI under the 'Supervisory Action Framework (SAF)' and guidelines related to 'Exposure norms and Statutory/ Other Restrictions - UCBs.' The bank had sanctioned new loans and advances and allowed overdrawing of cash credit facilities, which violated SAF directives. Furthermore, it exceeded prudential limits for inter-bank exposure and inter-bank counterparty limits.

A ₹2.00 lakh monetary fine for non-compliance was also levied on The State Transport Co-operative Bank Ltd. located in Mumbai, Maharashtra. This penalty was enforced due to the bank's failure to adhere to RBI directives concerning the 'Depositor Education and Awareness Fund Scheme, 2014.'
Specifically, the bank did not transfer eligible amounts to the Depositor Education and Awareness Fund, as required.

RBI has levied a penalty of ₹1.00 lakh on Shree Warana Sahakari Bank Ltd., situated in Kolhapur, Maharashtra which is imposed majorly because the bank did not adhere to RBI's directives concerning the 'Maintenance of Deposit Accounts - Primary (Urban) co-operative Banks.' Instead of imposing a penalty proportionate to the extent of the shortfall in maintaining the minimum balance in savings bank accounts, the bank was collecting a fixed penalty, which was in violation of the prescribed guidelines.

The Reserve Bank's actions were about addressing regulatory compliance issues, and did not aim to judge the legitimacy of any deals or agreements between the banks and their customers.

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