

**LEX NEWSLETTER ZONE**

**Banking & Finance Bytes**

- ~ Supreme Court upholds the Constitutional validity of Section 21A of the Banking Regulation Act.
- ~ Non-Banking Financial Companies will now have to appoint Ombudsmen.
- ~ Priority Sector Credit Caps for lending to MSMEs removed.
- ~ Letters of Undertaking and Letters of Credit have been discontinued for Trade Credit, by the Reserve Bank of India.

**Supreme Court Judgments**

**Jayant Verma & Ors. Vs. Union of India & Ors.<sup>1</sup>**

-Shreya Dasgupta, Associate

The Apex court held: "Section 21A of the Banking Regulation Act to be valid as it is part of an enactment which, in pith and substance, is relatable to Entry 45, List I of the Seventh Schedule to the Constitution.

However, insofar as Section 21A incidentally encroaches up on the field of relief of agricultural indebtedness, set out in Entry 30, List II, it will not operate only in States where there is a State Debt Relief Act which deals with the subject matter of relief of agricultural indebtedness, where the State Debt Relief Act

which deals with the subject matter of relief of agricultural indebtedness, where the State Debt Relief Act covers debts due to "banks", as defined in those Acts.

In States where the State Debt Relief Act does not apply to banks at all, or applies only to certain 101 specified banks, Section 21A will, in the former situation, apply in such States, and, in the latter situation, apply only in respect of loans made to agriculturists where such loans are given by banks other than the banks specified or covered by the concerned State Debt Relief Act, as the case may be."

**Reserve Bank of India Circulars**

**Introduction of Banking Ombudsman Scheme for NBFCs.<sup>2</sup>**

-Shreya Dasgupta, Associate

The Non-Banking Financial Companies (NBFCs) that are covered under the Scheme (covered NBFCs) are advised to ensure that a suitable mechanism exists for receiving and addressing complaints from their customers with specific emphasis on resolving such complaints expeditiously and in a fair manner.

The NBFCs covered by the Scheme shall appoint Nodal Officers (NOs) at their

<sup>1</sup> (W.P(Civil) No. 134 of 2013, SC).

<sup>2</sup>[https://rbi.org.in/Scripts/BS\\_CircularIndexDisplay.aspx?Id=1122](https://rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?Id=1122).

Head/Registered/Regional/Zonal Offices and inform all the Offices of the Ombudsman about the same.

The NOs so appointed shall be responsible for representing the company and furnishing information to the Ombudsman in respect of complaints filed against the NBFC. Wherever more than one zone/region of a NBFC is falling within the jurisdiction of an Ombudsman, one of the NOs shall be designated as the 'Principal Nodal Officer' (PNO) for such zones or regions.

The PNO/NO shall be responsible, *inter alia*, for representing the covered NBFC before the Ombudsman and the Appellate Authority under the Scheme. The PNO/NO appointed at the Head Office of the NBFC shall be responsible for coordinating and liaising with the Customer Education and Protection Department (CEPD), RBI, Central Office.

The covered NBFCs shall prominently display the salient features of the Scheme (in English, Hindi and Vernacular language) at all their offices and branches in such a manner that a person visiting the office or branch has easy access to the information.

### ✚ Priority Sector Lending.<sup>3</sup>

-Shreya Dasgupta, Associate

It has been decided to remove the currently applicable loan limits of ₹ 5 crore and ₹ 10 crore per borrower to Micro/ Small and Medium Enterprises (Services) respectively, for classification under priority sector. Accordingly, all bank loans to MSMEs, engaged in providing or rendering of services as defined in terms of investment in equipment under MSMED Act, 2006, shall qualify under priority sector without any credit cap.

### ✚ Discontinuance of LOUs and LOCs.<sup>4</sup>

-Shruti Saraogi, Associate

The Reserve Bank of India has discontinued the practice of issuance of Letter of Undertakings for trade credits for import into India by banks with immediate effect. Letter of Credit and Bank Guarantees for Trade Credits for imports into India may continue to be subject to compliance with provisions contained in department of Banks.

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<sup>3</sup>[https://rbi.org.in/Scripts/BS\\_CircularIndexDisplay.aspx?id=11223](https://rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?id=11223).

<sup>4</sup> RBI/2017-18/139 A.P. (DIR Series) Circular No. 20 on March 13, 2018.