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Banking & Finance Bytes

- ~ Partial Credit Enhancement to Bonds Issued by Non-Banking Financial Companies and Housing Finance Companies
- ~ Review of External Commercial Borrowings (ECB) Policy
- ~ Implementation of Positive Confirmation in Real Time Gross Settlement (RTGS) System
- ~ Amendment to guidelines on Value Free Transfer (VFT) of Government Securities.
- ~ Effect of revised KYC norms on Foreign Portfolio Investors
- ~ Maharashtra Real Estate Regulatory Authority Requires Engineers to provide Quarterly Report.

Case Analysis

- ~ Applicability of the Karnataka Town and Country Planning (KTCP) Act for areas under the Karnataka Industrial Areas Development (KIAD) Act

Partial Credit Enhancement to Bonds Issued by Non-Banking Financial Companies and Housing Finance Companies[1]

-Shreya Dasgupta, Associate.

Under notification dated November 2, 2018 bearing RBI/2018-19/70 and DBR.BP.BC.No.7/21.04.142/2018-19, all Scheduled Commercial Banks excluding regional rural banks are allowed to provide partial credit enhancement (PCE) to bonds issued by the systemically important non-deposit taking non-banking financial companies (NBFC-ND-SIs) registered with the Reserve Bank of India and Housing Finance Companies (HFCs) registered with National Housing Bank, subject to following conditions mentioned in the notification:

(i) The tenor of bonds issued for which PCE are provided shall not be less than 3 years;

(ii) The proceeds from the bonds backed by PCE from banks shall only be utilized for refinancing the existing debt of the NBFC-ND-SIs/HFCs. Banks shall introduce appropriate mechanisms to monitor and ensure that the end-use condition is met;

(iii) The exposure of a bank by way of PCEs to bonds issued by each such NBFC-ND-SI/HFC shall be restricted to one percent of capital funds of the bank within the extant single/group borrower exposure limits; and

(iv) The exposure of banks to NBFC-ND-SIs/HFCs by way of PCEs shall be within the aggregate PCE exposure limit of 20 percent as provided in paragraph 24(b) of the circular

Review of External Commercial Borrowings (ECB) Policy[2]

- Shreya Dasgupta, Associate.

1 https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11407&Mode=0

2 https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11408&Mode=0

As per notification dated November 6, 2018 bearing no. RBI/2018-19/71 and A.P. (DIR Series) Circular No.11, the minimum average maturity in the infrastructure space raised by eligible borrowers of an External Commercial Borrowings ("**ECB**") has been reduced from 5 years, as stipulated under paragraph 2.4.1(iv) of the Master Direction dated January 1, 2016, to 3 years; and with respect to the Hedging requirements there is a reduction in average maturity requirement from extant 10 years to 5 years for exemption from mandatory hedging provision applicable to ECBs raised by above referred eligible borrowers. The ECBs with minimum average maturity period of 3 to 5 years in the infrastructure space will have to meet 100% mandatory hedging requirement. Further, it is also clarified that ECBs falling under the aforesaid revised provision but raised prior to the date of this circular will not be required to mandatorily roll-over their existing hedges.

Implementation of Positive Confirmation in Real Time Gross Settlement (RTGS) System[3]

-Shreya Dasgupta, Associate.

The Reserve Bank of India by virtue of its notification dated November 15, 2018 bearing no. RBI/2018-19/76 and DPSS (CO) RTGS No.1049/04.04.016/2018-19 has now decided that Real Time Gross Settlement (RTGS) System like National Electronic Funds Transfer (NEFT) system, has mandated the banks to provide a positive confirmation to the remitter of the funds regarding completion of the funds transfer, thus giving an assurance to the remitter that the funds have been successfully credited to the beneficiary account will provide to the remitter of funds under the RTGS system as well. In this connection, a new message format (camt.059) is being introduced to communicate an acknowledgement to the remitting bank containing the date and time of credit to beneficiary account. This message would flow from the beneficiary bank to the remitter bank through the Service Management Facility. After receiving the positive confirmation from the beneficiary bank, the remitter bank shall initiate an SMS and / or generate an e-mail to the remitter. The detailed process flow for the positive confirmation process is appended.

Amendment to guidelines on Value Free Transfer (VFT) of Government Securities.

-Dhivya U.T., Associate.

Value free transfer ("**VFT**") of the government securities is the transfer of securities from one Subsidiary General Ledger ("**SGL**") / Constituent Subsidiary General Ledger ("**CSGL**") to another SGL/CSGL account without consideration. These guidelines issued mentioned certain Permitted Transactions eligible for VFT of government securities which included transfers on account of gifts and inheritance, Inter-depository transfers, transfer of securities on account of mergers and amalgamations among others. These guidelines are issued by the Bank in exercise of the powers conferred under the Notifications dated October 29, 2018 on Subsidiary General Ledger Account: Eligibility Criteria and Operational Guidelines and Constituents' Subsidiary General Ledger Account: Eligibility Criteria and Operational Guidelines. The eligible entities will be allowed to initiate VFT through RBI's Core Banking System viz., e-Kuber for the transactions mentioned at i. to viii. above. The details of the VFT effected as above may be reported by entities effecting the VFT on a weekly basis to the RBI.

Effect of revised KYC norms on Foreign Portfolio Investors [4]

3 https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11414&Mode=0

4 https://www.livemint.com/Money/nVdfy87BqGnOh04GpPe0qM/Impact-of-revised-kyc-norms-on-NRIS.html

-Bhargavi, Intern

The Securities Exchange Board of India ("**SEBI**") introduced a new Know-Your-Customer (KYC) rules for Foreign Portfolio Investors ("**FPI**"). The revised eligibility norms for FPIs require the FPIs to provide a list of their beneficial owners in the prescribed format and the information is to be submitted within six months from the date of issue of the recent KYC circular which is by 20 March 2019. The KYC circular requires that disclosures shall be reviewed in case of any change in material information/disclosure. The KYC circular states the KYC registration agencies (KRAs) shall lock the personal information provided in relation to the beneficial owner, including the senior managing official, of the FPI. With the aim of improving the Data Privacy such information would be furnished to intermediaries only on a 'need to know basis', using an authentication method and after the KRA gets a confirmation from the FPI or its global custodian.

Maharashtra Real Estate Regulatory Authority Requires Engineers To Provide Quarterly Report.[5]

-Vaidya, Associate

As per the circular dated November 26, 2018 the Maharashtra Real Estate Regulatory Authority (MAHARERA) has made it compulsory for engineers who are supervised by the promoters registered under RERA to submit Form-2A. The circular states that Section 14(3) of (RERA) Real Estate (Regulation and Development) Act, 2016 requires quality materials to be used in the construction of buildings and the same circular states that the same is given effect by way of section 37 of RERA Act to come into effect as on December 1, 2018. The said Form-2A pertains to quality of the materials used in the construction of the project by the engineer and the submission of the same with RERA. The engineer's certificate for quality assurance with respect to use of the materials by the workmen includes number of buildings, plot/ survey numbers, phase of the project and the MAHARERA registration number of the said project. The said materials as per the circular such as cement, brick/blocks, concrete, steel and other materials as per IS/BS/NBC code or as per the standards laid down by the Industry for a particular material. The certificate also includes with respect to the electrical installations in the respective site and the records pertaining to it. Lastly it includes the name of the engineer to be incorporated, license number and ascertains if whether the said materials are in line with safety and stability and the work is completed is as per IS 10262:2009 or other relevant standards. It is also pertinent to mention that the circular mentions the exact materials to be used and the coarse aggregate and ready to mix concrete to be followed by the engineer while submitting Form-2A on a quarterly basis.

Applicability of the Karnataka Town and Country Planning (KTCP) Act for areas under the Karnataka Industrial Areas Development (KIAD) Act[6]

-Vaidya, Associate

The Supreme Court by its order dated November 27, 2018 in the case of Bangalore International Airport Area Planning Authority vs. Birla Super Bulk Terminal and Ors. (27.11.2018 – SC) has held that the provisions of the Karnataka Town and Country Planning (KTCP) Act has to be followed for payment of development charges to the appropriate authority

[5] https://maharera.mahaonline.gov.in/Upload/PDF/Quality%20Assurance%20Certificate%20-%20Form%202A.pdf

[6] MANU/SC/1337/2018

concerned. The Supreme Court bench while setting aside the impugned order passed by Karnataka High Court bench had observed that the provisions of the KTCP Act are not applicable for areas covered under section 3 of the Karnataka Industrial Areas Development (KIAD) Act and that payment of development charges under the said act is not required. The High court had earlier held that the KTCP Act would be applicable since the Outline Development Plan of the said act falls within the industrial area of the KTCP authority. However, the bench of the Supreme Court disagreed with the above arguments and stated that object of KTCP is that of promoting planned growth and development and that of Karnataka Industrial Areas Development Board is to secure establishment in industrial areas and to promote establishment. Therefore, the Supreme Court bench held that the Respondents had made payment to Appellants Bangalore Airport Authority at Rs. 75/- per sq. mtrs. as per KIAD Act which was not necessary as the said development was instituted in the Bangalore Rural (North) District and that the same was not situated in the Urban district to claiming higher fee. The Supreme Court bench further held that the previous judgement passed by the high court bench of Karnataka had erred in stating that the role of KTCP is to only scrutiny of the said applications and therefore it did not lack the jurisdiction to levy any fee. It was further held that as per section 14 and 15 of the KTCP Act KTCP was the appropriate authority to issue sanction plan and that the M/s Birla, the first respondent cannot deny the payment of development charges to the Appellant Bangalore Airport Authority in such cases. Finally, the Supreme Court bench ordered that the impugned order be set aside and the respondent be ordered to pay a sum of Rs. 1,48,29,173 with interest of 6% to the appellant authority.