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CENTRE FOR BANKING AND INSURANCE LAW

Contributors

- Ashima Acharya
- Ayush Shandilya
- Biraj Kuanar
- Jahnavi Bhattathiripad

Designers

- Subhashmin Moharana
- Pratha Barla

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 wholetime directors of public sector banks, including MD & CEOs, from five to 10 years to encourage the appointment of younger executives. The Ministry announced in a Gazette on November 17 that a candidate's term might be extended by five years and this shall also apply to full-time executive directors. he 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.

No CEOs have been appointed since the Narendra Modi administration took office in 2014. Most appointments of the key managerial positions of government banks are for 3 years, and a few of them are extended.

In the previous 8 years, the tenure of the MD & CEO and executive directors was not extended even though many experts were qualified to be elected and public sector bank CEOs had to retire before 60. Since the Nationalized Bank Scheme 1970 was changed, the State Bank of India is exempt from the rule even as SBI is among 12 public sector banks of India.

"No CEOs have been appointed since the Narendra Modi administration took office in 2014."

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', it estimates that the GDP growth rate for the current fiscal year will be 7%, with supply responses in the economy gaining strength. While rural sector's demand was initially slow to build up steam, it is now progressing along with the urban sector's demand, which remains as strong as before.

For the domestic economy, the RBI is cautiously optimistic in its outlook. "With headline inflation beginning to show signs of easing," the report says, "the domestic macroeconomic outlook can best be characterized as resilient but sensitive to formidable global headwinds." Softening food inflation, increased GST collections (Centre plus states) in October 2022, and higher generalized demand for fuel have led the central bank to estimate a Q2 GDP growth rate of 6.1 to 6.3 percent.In the global arena, the report suggests that the outlook seems marred with "downside risks." It mentions geopolitical hostilities and aggressive anti-inflation measures worldwide as the reasons behind slow global growth.

RBI lifts ban on new branches of Tamilnad Mercantile Bank

The one hundred and one year old Tamilnad Mercantile Bank (TMB) head-quartered at Thoothukudi in Tamil Nadu, has been given the green flag by the Reserve bank of India to open new branches and expand its business. At the time of the ban, the bank had 509 branches across the country.

The RBI had placed wide-ranging restrictions on TMB in June 2019 after it had come to its attention that TMB's shareholders had raised the bank's authorized share capital to Rs 500 crore. TMB's failure to increase its subscribed capital to at least half of the permitted capital as needed, had drawn the ire of the RBI, which led to the ban.

In September 2022, the RBI advised the bank to list itself on the various stock exchanges of the country as a condition for the former to consider lifting the ban on the operations of the bank. After TMB had listed itself on stock exchanges, the ban was lifted on October 21 on the bank's operation. TMB plans to restore their reputation and break the status quo with expansion of the operations by opening new branches across the country.

"TMB's failure to increase its subscribed capital to at least half of the permitted capital as needed, had drawn the ire of the RBI, which led to the ban."

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 about 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 German government-owned KFW on soft terms and a long repayment period for solar projects on 16th November. Senior SBI executives quoted these loans as long-term lines with reasonable pricing and EIB is also keen to sign a credit line, which is in the process of legal due diligence. For KFW credit assistance in solar energy, the bank has tied up disbursals with entities engaged in solar energy production.

The proposed funding arrangement with KFW will be more generic and will include electric vehicles. The technologies and systems across renewable energy and climate themes are still evolving so the bank has to exercise caution in lending. India has set an ambitious goal of expanding solar energy eightfold in the coming years, according to estimations presented by the Ministry of New and Renewable energy. As the country begins to diversify the sources, about 20 percent of the Indian population is not connected to the electricity grid. The government is pushing ahead with electrification and is gearing up for increased usage in the connected households.

Utkarsh Small Finance Bank To Come Up With The IPO.

Market regulator SEBI has given approval to the initial public offering (IPO) of Utkarsh Small Finance Bank as the Varanasi-based SFB plans to raise about ₹500 crore from the public offer. The IPO shall comprise of fresh issue of equity shares of the face value of ₹ 10. The SFB slashed its IPO size by nearly 63% in consultation with its lead managers earlier this year. Companies which include ICICI Securities and Kotak Mahindra Capital Company are acting as the book-running lead managers for the IPO, while KF in Technologies Limited is the registrar of the offer.

The SFB is promoted by Utkarsh CoreInvest Limited, which commenced its operations as an NBFC in the fiscal year 2010, focuses on providing microfinance to the unserved and underserved segments, particularly in the states of Uttar Pradesh and Bihar, according to the CRISIL report stated in its DRHP. From FY2019 and FY22, Utkarsh recorded the second-fastest AUM growth. Of the total size, 75% of the IPO will be allocated to qualified institutional buyers, while 15% will be reserved for non-institutional investors and the remaining 10% of the size will be allocated to retail individual investors.

"OF THE TOTAL SIZE:
75%: Qualified Institutional Buyers
15%: Non-institutional buyers
10%: Retail Individual Investors"

IndusInd Bank Secures $150 Million Loan From US-IDFC For Boosting Microfinance In Rural Areas

IndusInd Bank announced on 18th November that the bank has secured a loan of over Rs 1,243 crore from the United States International Development Finance Corporation (DFC) for expanding the bank's microfinance lending to women in select states. IndusInd Bank has executed a commitment letter with the United States International Development Finance Corporation for the loan worth USD 150 million. The private sector lender plans to use the proceeds to expand its microfinance lending to women borrowers in rural communities of Jharkhand, Uttar Pradesh and Bihar.

The bank said it aims to boost access to finance for women borrowers under this programme and has also stated the programme will help in uplifting the livelihoods of these women and their families. This project advances DFC and the bank's commitment to economically empower women customers. Asserting its commitment towards financial inclusion and making credit available to large swathes of unbanked and underbanked in the country, Sumant Kathpalia, Managing Director and Chief Executive Officer of IndusInd Bank, said this programme aligns with the bank's philosophy.

"This also marks a significant milestone for the bank and shows the continued trust of the global investors in the bank's focus on sustainable growth," Kathpalia said. The lender acquired Bharat Financial Inclusion (BFIL) in 2019 for microfinance lending. to improve its performance in microfinance lending to women in the states of Jharkhand, Uttar Pradesh and Bihar.

RBI Shortlists 5 Banks For Retail Digital Currency Pilot Project

The Reserve Bank of India (RBI) has shortlisted five institutions to participate on the retail pilot project of the central bank's digital currency, which includes State Bank of India (SBI), ICICI Bank, IDFC First Bank, HDFC Bank, and Yes Bank (CBDC).

According to the report in November, which cited people familiar with the situation, the Reserve Bank of India may add more institutions to operate the pilot, which is set to debut soon.

"Five banks have been chosen to operate the pilot with the assistance of NPCI (National Payments Corporation of India) and the Reserve Bank of India." Some consumer and merchant accounts will be picked soon to launch the retail digital rupee pilot," The RBI is testing the central bank digital currency (CBDC) on two fronts: one for the wholesale sector, where a pilot project is currently underway, and the other for retail (CBDC-R). The central banker is also considering whether to create a new framework for its digital currency or to make retail CBDC compatible with the present digital payments system.

These CBDCs, which are based on the same blockchain systems, aim to reduce reliance on currency. CBDCs, both retail and wholesale, are designed to serve distinct functions. While retail CBDC is available to everyone, wholesale CBDC shall only be available to certain financial institutions.

Fintech Platform Open Gets RBI's Approval.

The Reserve Bank of India (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 in order to recruit merchants and provide merchants with payment services.

Due to the stringency of RBI's approval process, only a small number of companies submitting licensing applications were granted a license as a payment aggregator or payment gateway.

By receiving payment instruments from clients, a PA offers payment services to businesses and e- commerce websites. The money from the clients is combined as part of the procedure and transferred to merchants after a set amount of time.

Founded in 2017 by Anish Achutan, Ajeesh Achutan, Mabel Chacko, and Deena Jacob, Open specializes in serving startups, small and medium sized businesses, and freelancers by providing them with a business current account as well as services like bookkeeping and compliance. The platform processes more than $30 https in annualized transactions and has more than 2.3 million SMEs as customers as of May 2022. It asserts that it is adding more than 100,000 SMEs each month. Earlier this year, Open scripted history by becoming the 100th Indian unicorn, gaining $190 million through various investors.

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 investment companies. With regards to investment, private equity firms were allowed to invest directly in insurance companies, which shall enable insurance companies to raise alternative capital such as preference shares and subordinated debt without the regulator's permission.

IRDA has also allowed the investment route of Special Purpose Vehicle (SPV) which is a direct form of investment and investors can now take up 25 percent of the stake in insurance companies without the hassle of a designation of a promoter.

The stakes for an investor who shall be considered as a promoter was declared to be an investor who holds more than 50 percent of the stake and all investors who own less than 50 percent shall be considered as investors themselves. This is updated from the stakes of 10 per cent for individual investors and 25 per cent for all investors collectively.

The solvency ratios were also improved in regard with crop insurance where it has been reduced to 0.50 from 0.70 and for life insurance where the rates were decreased to 0.60 per cent from 0.80 per cent and for PMJJBY to 0.05 per cent from 0.10 per cent.

> "These permissions shall increase investment in smaller investment companies."

Supreme Court's decision on exclusion clauses in insurance contract provides for distinct interpretation

The Supreme Court has held in the decision of *M/s Texco Marketing Pvt. Ltd. versus TATA AIG General Insurance Company Ltd. & Ors.* that the exclusion clause present in an insurance contract shall be interpreted differently from ordinary contracts as the insurance contracts are based on the principle of *uberrimae fidei* or utmost good faith. The contract of insurance is based on the contingency of an event which might happen in the future, therefore both the insurer and insured have to disclose all the material facts. Due to this principle, the non-disclosure of the exclusion clause shall make the said clause redundant.

The case concerns a Standard Fire & Special Perils policy, which was supposed to cover the basement of the building of the appellant's shop, however the exclusion clause specified that basement shall not be covered in the policy. In spite of the clause, the policy was approved by the insurer after the inspection of the shop. The shop suffered from a fire incident and the insured raised a claim. The claim was repudiated on the basis of the exclusion clause though the clause was not disclosed to the insured.

The State Consumer Disputes Redressal Commission ("SCDRC") upheld the insured's claims but the National Consumer Disputes Redressal Commission reversed the SCDRC's decision that the

> "The shop suffered from a fire incident and the insured raised a claim."

insured had not complied with the mandate of the law and the claim was to be based on the inspections done both before and after the execution of the contract. The Supreme Court found inadequacies in the insurance company's claims for the non-compliance of the law by the insurer and the lack of disclosure of the exclusion clause shall amount to deficiency of service

The Supreme Court's decision also opined on the non-conformation to IRDA Regulation on unfair trade practice by the unilateral inclusion of the clause and the subsequent repudiation of the claim