Compliance Matters

India Regulatory Roundup

May 2021

'The Board and Senior Management of each financial institution play a pivotal role. They must put in place robust mechanism to detect suspicious activities and promote strong risk awareness among their staff and empower their compliance and risk management people. Most of all they must set the tone from the top that profits do not come before right conduct,'

-Ravi Menon, MD – Monetary Authority of Singapore

Government Agency Business Arrangement – Fresh Guidelines: Appointment of Private Sector Banks

The Reserve Bank of India issued fresh guidelines allowing private sector banks to undertake government businesses as agency banks. Scheduled private sector banks not having an agency banking arrangement but who intend to handle Govt business can serve as agents after executing an agreement with the central bank, provided that they are not under Prompt Corrective Action (PCA) framework or moratorium at the time of making the application to RBI signing the agreement. The choice of accrediting an agency bank (including scheduled private sector agency bank) for any particular government agency business rests solely with the concerned Central / State Government.

Consultation Paper – Review of Regulatory Framework of Promoters

Taking into account the maturity in Indian capital markets with a more robust disclosure framework, adoption of best international practices aimed at providing better information to investors for decision making, and at the same time balancing the ease of doing business for issuers, SEBI has in this discussion paper suggested reduction in lock in period for minimum promoter's contribution, and other shareholders for public issuance. Other changes proposed include changes in the definition of the promoter group, streamlining the disclosures of group companies and shifting the concept of promoter to the person in control. SEBI has invited comments on the proposed changes by June 10, 2021.

Customer Due Diligence for transactions in Virtual Currencies (VC)

Acting on media reports that certain banks/ regulated entities have cautioned their customers against dealing in virtual currencies by making a reference to the **RBI Circular dated April 06, 2018**, on the ban of crypto currencies, RBI has clarified that the circular is no longer valid as it was set aside by the Supreme Court on March 4, 2020. Banks were however advised to continue customer due diligence processes in line with regulations governing standards for KYC, AML, CFT and PMLA etc in addition to ensuring compliance with provisions under Foreign Exchange Management Act (FEMA) for overseas remittances.

Amendment to the Master Direction (MD) on KYC

The RBI amended the MD on KYC norms to leverage video-based customer identification process (V-CIP) as it extended due date for KYC updation till December 31, 2021. Regulated Entities can use the Video-KYC process for both new accounts and periodic updation of KYC while ensuring compliance with prescribed standards and procedures set by the central bank.

Resolution Framework 2.0 – MSMEs, Individuals and Small Businesses

RBI announced a string of resolutions for advances, working capital, disclosures and credit reporting to alleviate Covid-19 related stress. It also incentivised SCBs to provide credit to MSME entrepreneurs by allowing an exemption upto 25L of the credit disbursed.

Relaxations for compliance with various payment system requirements

Compliance on various payment system requirements i.e. requiring all existing non-bank PPI issuers (at the time of issuance of PPI-MD) to comply with the minimum positive net-worth requirement of Rs. 15 crore for the financial position as on March 31, 2020, harmonisation of TAT and customer compensation for failed transactions using authorised Payment Systems", authorised Payment System Operators (PSOs) requirement to furnish System Audit Report on an annual basis within two months of close of their respective financial year, and requirement that existing non-bank entities offering PA services should apply for authorisation on or before June 30, 2021 have been extended upto September 30, 2021

Consultation Paper – Segregation and Monitoring of Collateral at Client Level

Market regulator SEBI issued a fresh proposal for segregation and monitoring of collateral at client level and also building a mechanism for reporting, dissemination and use of information pertaining to collateral other than securities collateralized through pledging. SEBI highlighted that the objective of the framework is to ensure protection of client collateral and has sought public comments by 24 June 2021.

Utilisation of Floating Provisions / Counter Cyclical Provisioning Buffer

As a measure to enable capital conservation, The Reserve Bank allowed all Scheduled Commercial Banks (excluding Regional Rural and Payments Banks) to utilise 100 percent of provisions / countercyclical buffer held by them as on December 31, 2020 for making provisions for non-performing assets, as per their Board policies upto March 31, 2022.

Due date to complete KYC extended – Banks directed to not freeze accounts

Taking Covid-19 related restrictions into consideration, the Reserve Bank of India has advised banks to not place restrictions on accounts where periodic updation of KYC is due until December 31, 2021 while continuing to engage with the account holders to update their KYC during this period.

Penalty Corner

RBI:

RBI imposed a monetary penalty of Rs 3 Crore on **ICICI Bank** for non-compliance with RBI's master circular with respect to shifting certain investments from HTM category to AFS category in 2017.

HDFC Bank was levied a fine of Rs. 10 Crore by the RBI for irregularities in the bank's auto loan portfolio with regard to the marketing and sale of third party non-financial products to borrowers in violation of the Banking Regulation Act.

Tamilnad Mercantile Bank Ltd was fined Rs. 1 Crore by the regulator. The bank had reported a few cyber security incidents, examination of which by the RBI revealed the Bank to be in non-compliance with RBI's directions on "Cyber Security Framework in Banks."

City Union Bank Limited was penalised Rs. 1 Crore for non-compliance violations on lending to MSMEs, educational loans and contravention of credit flow to the agriculture sector including waiver of margin and security requirements.

NBFCs **Daimler Financial Services India, Jumbo Finvest India Ltd** and **Balaji Instalments Ltd** were each penalised Rs. 10 Lakh, Rs. 25.5 Lakh and Rs. 9.5 Lakh respectively for failing to comply with certain specific requirements of the NBFC regulations.

Group of Advisors to the Regulations Review Authority invites feedback

The Group of Advisors to the Regulations Review Authority (RRA 2.0) set-up by the RBI has commenced preparatory work and has invited feedback and suggestions from all regulated entities, industry bodies and other stakeholders. The RRA 2.0 focuses on streamlining regulatory instructions, reducing compliance burden of regulated entities and reducing reporting requirements wherever possible. Suggestions and feedback are to be shared through email latest by June 15, 2021 with the subject line 'Suggestions to the Advisory Group of RRA.'