

## Summary of Contents

Particulars
<b>FEMA</b>
Rupee Drawing Arrangement (RDA) - Enabling Bharat Bill Payment System (BBPS) to process cross-border inbound Bill Payments
Rationalisation of reporting in Single Master Form (SMF) on FIRMS Portal
General – Calculation of Alternative Reference Rate
<b>RBI</b>
Review of Regulatory Framework for Asset Reconstruction Companies (ARCs)
Multiple NBFCs in a Group: Classification in Middle Layer
RBI (Financial Statements - Presentation and Disclosures) Directions, 2021 - Disclosure of Divergence in Asset Classification and Provisioning
RBI (Unhedged Foreign Currency Exposure) Directions, 2022
Basel III Framework on Liquidity Standards – Standing Deposit Facility
Liquidity Adjustment Facility- Change in rates
Change in Bank Rate
Standing Liquidity Facility for Primary Dealers
Review of Statutory Liquidity Ration holdings (SLR) in Held to Maturity (HTM) category
RBI (Financial Statements- Presentation and Disclosures) Directions, 2021- Disclosure of material items

## Foreign Exchange Management Act, 1999 (FEMA)

### Rupee Drawing Arrangement (RDA) - Enabling Bharat Bill Payment System (BBPS) to process cross-border inbound Bill Payments

[RBI/2022-2023/116 dated 15<sup>th</sup> September 2022](#)

Up until now, transfer of foreign inward remittances received under the RDA were allowed to KYC compliant beneficiary bank accounts through electronic mode such as NEFT, IMPS, etc. In this Circular, the RBI has allowed the transfer of foreign inward remittances received under the RDA, to the KYC-compliant bank account of the biller through BBPS.

BBPS which is driven by the National Payments Corporation of India, is an interoperable platform for various bill payments like water, DTH, electricity, gas, etc. which offers safety and reliability to its users. It also offers centralised customer grievance redress mechanism.

### Rationalisation of reporting in Single Master Form (SMF) on FIRMS Portal

[RBI/2022-23/160 dated 4<sup>th</sup> January 2023](#)

The RBI vide the above circular has implemented changes with respect to the reporting of foreign investment in SMF on FIRMS portal which will enable the stakeholders to file the form with either late submission fees up to 3 years or after compounding of contravention post 3 years wherein the forms submitted will be auto-acknowledged. For further information, kindly refer to the FIRMS manual available at <https://firms.rbi.org.in>

### General – Calculation of Alternative Reference Rate

Due to cessation of LIBOR as a benchmark rate, RBI has permitted authorized dealer (AD) banks to use alternative reference rate of 6-month tenor in case of foreign currency (FCY) External Commercial Borrowings (ECB)/Trade Credit (TC) wherein the ceiling for all in cost was increased

by 100 base points vide [notification dated 8<sup>th</sup> December 2021](#) which is given below:

- SOFR - Secured Overnight Financing Rate 4.31% [Read more](#)
- ESTER- Euro Short-Term Rate 2.805% [Read more](#)
- SARON - Swiss Average Rate Overnight 0.947037% [Read more](#)
- TONAR -Tokyo Overnight Average Rate 0.038% [Read more](#)

## Reserve Bank of India (RBI)

### Review of Regulatory Framework for Asset Reconstruction Companies (ARCs)

[RBI/2022-23/128 dated 11<sup>th</sup> October 2022](#)

The RBI has amended the extant regulatory framework for ARCs with a view to strengthen transparency in the ARC sector and to improve the corporate governance standards in ARCs. *Inter alia*, following measures have been introduced:

#### ▪ Chair and Meetings of the Board of Directors

The Chair of the Board should be an independent director (ID). In the absence of the Chair of the Board, meetings of the Board should be chaired by an ID. The quorum for the Board meetings should be 1/3<sup>rd</sup> of the total strength of the Board or 3 directors, whichever is higher. At least 1/2 of the directors attending the meetings of the Board should be IDs.

#### ▪ Tenure of Managing Director (MD)/ Chief Executive Officer (CEO) and Whole -time Directors (WTDs)

Tenure of MD/ CEO or WTD should not be for a period of more than 5 years at a time and the individual should be eligible for re-appointment.

#### ▪ Audit Committee (AC)

ARCs shall constitute an AC of the Board, which should comprise of non-executive directors only. The Chair of the Board should not be a member of the AC. The AC should meet at least once in a quarter with a quorum

of 3 members. The meetings of the AC should be chaired by an ID who should not chair any other committee of the Board. The AC should periodically review and assess the effectiveness of internal control systems, especially with respect to the asset acquisition procedures and asset reconstruction measures followed by the ARC and matters related thereto. The AC should also ensure that accounting of management fee/ incentives/ expenses is in compliance with the applicable regulations.

#### ▪ **Enhanced Disclosures**

The following additional disclosures should be made in the offer document:

- Summary of financial information of the ARC for last 5 years or since commencement of business of the ARC, whichever is shorter.
- Track record of returns generated for all Security Receipt (SR) investors on the schemes floated in the last 8 years.
- Track record of recovery rating migration and engagement with rating agency of schemes floated in the last 8 years.

#### ▪ **Allowing ARCs to act as Resolution Applicant under Insolvency and Bankruptcy Code, 2016 (IBC)**

ARCs are permitted to undertake those activities as a Resolution Applicant (RA) under IBC which are not specifically allowed under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI) subject to the prescribed conditions including:

- The ARC should make additional disclosures in the financial statements (FSs) with respect to assets acquired under IBC in addition to the existing disclosure requirements.
- The ARC should disclose the implementation status of the resolution plans approved by the Adjudicating Authority on a quarterly basis in their FSs.

These guidelines are effective immediately or as indicated otherwise in the Notification

## **Multiple NBFCs in a Group: Classification in Middle Layer**

[RBI/2022-23/129 dated 11<sup>th</sup> October 2022](#)

RBI had issued a [revised regulatory framework for NBFCs under Scale Based Regulation \(SBR\)](#) which bifurcated all the NBFCs into the following 4 layers based on their size, activity, and perceived riskiness-

- NBFC-Base Layer (NBFC-BL)
- NBFC - Middle Layer (NBFC-ML)
- NBFC - Upper Layer (NBFC-UL)
- NBFC - Top Layer (NBFC-TL)

As per para 16 of the [Master Direction – Non-Banking Financial Company-Systemically Important Non-Deposit taking Company and Deposit taking Company \(Reserve Bank\) Directions 2016](#), applicable NBFCs that are part of a common Group or are floated by a common set of promoters will not be viewed on a standalone basis. In line with the existing policy on consolidation of assets of the NBFCs in a Group, the total assets of **all the NBFCs in a Group** will be consolidated to determine the threshold for their classification in the Middle Layer.

If the consolidated asset size of the Group is Rs.1,000 crore and above, then each Investment and Credit Company (NBFC-ICC), Micro Finance Institution (NBFC-MFI), NBFC-Factor and Mortgage Guarantee Company (NBFC-MGC) lying in the Group should be classified as an NBFC in the Middle Layer and consequently, regulations as applicable to the Middle Layer will be applicable to them.

Statutory Auditors are required to certify the asset size (as on 31<sup>st</sup> March) of all the NBFCs in the Group every year.

These guidelines are effective from 1<sup>st</sup> October 2022. Provisions contained in this Circular will not be applicable for classifying an NBFC in the Upper Layer.

## RBI (FSs - Presentation and Disclosures) Directions, 2021 - Disclosure of Divergence in Asset Classification and Provisioning

[RBI/2022-23/130 dated 11<sup>th</sup> October 2022](#)

As per the [RBI \(FSs-Presentation and Disclosures\) Directions, 2021](#), commercial banks (excluding Regional Rural Banks (RRBs)) are required to disclose details of divergence in asset classification and provisioning where such divergence assessed by the RBI exceeds certain specified thresholds. In order to strengthen compliance with income recognition, asset classification and provisioning norms, the RBI has decided to introduce similar disclosure requirements for Primary (Urban) Co-operative Banks (UCBs) and revise the specified thresholds for commercial banks (CBs).

Accordingly, for the year ending 31<sup>st</sup> March 2023, banks should make suitable disclosures in the FSs in the manner specified in the afore-mentioned Directions, if either or both of the following conditions are satisfied:

- the additional provisioning for non-performing assets (NPAs) assessed by the RBI exceeds 10% of the reported profit before provisions and contingencies for the reference period (this will be revised to 5% incase of UCBs and CBs for the FSs for the year ending 31<sup>st</sup> March 2024); and
- the additional Gross NPAs identified by the RBI exceed 10% of the reported incremental Gross NPAs for the reference period (this will be revised to 5% for CBs and 15% for UCBs for FSs for the year ending 31<sup>st</sup> March 2024).

In the case of UCBs the threshold for reported incremental Gross NPAs should be 15%, which should be reduced progressively in a phased manner, after review.

These instructions are applicable to all commercial banks (excluding RRBs and all Primary (Urban) Co-operative Banks. These instructions will come into effect for disclosures in the notes to the annual FSs of the year ending 31<sup>st</sup> March 2023, and onwards.

## RBI (Unhedged Foreign Currency Exposure) Directions, 2022

[RBI/2022-23/131 dated 11<sup>th</sup> October 2022](#)

The provisions of this Directions will be applicable to all commercial banks excluding Payments Banks and Regional Rural Banks (collectively referred as "banks"). These Directions will be applicable to overseas branches / subsidiaries of banks incorporated in India and it will come into force from 1<sup>st</sup> January 2023. *Inter alia*, it states the following:

- Banks should ascertain the Foreign Currency Exposure (FCE) of all entities at least on an annual basis. Banks should compute the FCE following the relevant accounting standard applicable for the entity.
- Banks should assess the Unhedged Foreign Currency Exposure (UFCE) of entities with FCE by obtaining information on UFCE from the concerned entity. The information on UFCE should be obtained from entities on a quarterly basis based on statutory audit, internal audit or self-declaration by the concerned entity. UFCE information should be audited and certified by the statutory auditors of the entity, at least on an annual basis.
- Banks should determine the potential loss to an entity from UFCE using the largest annual volatility in the USD-INR exchange rates during the last 10 years.
- Banks should determine the susceptibility of the entity to adverse exchange rate movements by computing the ratio of the potential loss to entity from UFCE and the entity's earnings before interest and depreciation (EBID) over the last 4 quarters as per the latest quarterly results certified by the statutory auditors.
- Banks will have the option to exclude the following exposures from the calculation of UFCE:
  - Exposures to entities classified as sovereign, banks and individuals
  - Exposures classified as NPAs
  - Intra-group FCEs of Multinational Corporations incorporated outside India

- Exposures arising from derivative transactions and / or factoring transactions with entities, provided such entities have no other exposures to banks in India.

### Basel III Framework on Liquidity Standards – Standing Deposit Facility

[RBI/2022-23/141 dated 23<sup>rd</sup> November 2022](#)

With reference to [Circular dated 9<sup>th</sup> June 2014](#) on Basel III Framework on Liquidity Standards – Liquidity Coverage Ratio (LCR), Liquidity Risk Monitoring Tools and LCR Disclosure Standards and the [Press Release dated 8<sup>th</sup> April 2022](#) on operationalising of Standing Deposit Facility (SDF), the RBI has clarified that the overnight balances held by banks with RBI under SDF will be eligible as ‘Level 1 High Quality Liquid Assets (HQLA)’ for computation of LCR.

This Circular is applicable to all Commercial Banks (excluding Local Area Banks, Regional Rural Banks and Payments Banks) and will come into force with immediate effect.

### Liquidity Adjustment Facility- Change in rates

[RBI/2022-23/147 dated 7<sup>th</sup> December 2022](#)

As announced in the [Monetary Policy Statement dated 7<sup>th</sup> December 2022](#), it has been decided by the Monetary Policy Committee (MPC) to increase the policy repo rate under the Liquidity Adjustment Facility (LAF) by 35 basis points from 5.90% to 6.25% with immediate effect.

Consequently, the standing deposit facility (SDF) rate stands adjusted to 6% and marginal standing facility (MSF) rate stands adjusted to 6.50% with immediate effect.

### Change in Bank Rate

[RBI/2022-23/148 dated 7<sup>th</sup> December 2022](#)

As announced in the [Monetary Policy Statement 2022-23 dated 7<sup>th</sup> December 2022](#), the Bank Rate is revised upwards by 35 basis points from 6.15% to 6.50% with immediate effect.

All penal interest rates on shortfall in reserve requirements, which are specifically linked to the the Bank Rate, also stand revised as given below:

Item	Existing Rate	Revised Rate
Penal interest rates on shortfalls in reserve requirements (depending on duration of shortfalls)	Bank Rate plus 3% points (9.15%) or Bank Rate plus 5% points (11.15%)	Bank Rate plus 3% points (9.50%) or Bank Rate plus 5% points (11.50%)

### Standing Liquidity Facility for Primary Dealers

[RBI/2022-23/149 dated 7<sup>th</sup> December 2022](#)

As announced in the [Monetary Policy Statement 2022-23 dated 7<sup>th</sup> December 2022](#), it has been decided by the MPC to increase the policy repo rate under the LAF by 35 basis points from 5.90% to 6.25% with immediate effect.

Accordingly, the Standing Liquidity Facility provided to Primary Dealers (PDs) (collateralised liquidity support) from the RBI would be available at the revised repo rate of 6.25% with immediate effect.

### Review of SLR holdings in HTM category

[RBI/2022-23/150 dated 8<sup>th</sup> December 2022](#)

At present, banks have been granted a special dispensation of enhanced Held to Maturity (HTM) limit of 23% of Net Demand and Time Liabilities (NDTL), for Statutory Liquidity Ratio (SLR) eligible securities acquired between 1<sup>st</sup> September 2020 and 31<sup>st</sup> March 2023, until 31<sup>st</sup> March 2023.

The RBI has decided to further extend the dispensation of enhanced HTM limit of 23% of NDTL up to 31<sup>st</sup> March 2024 and allow banks to include securities acquired between 1<sup>st</sup> September 2020 and 31<sup>st</sup> March 2024 under the enhanced limit of 23%.

The enhanced HTM limit of 23% will be restored to 19.5% in a phased manner, beginning from the quarter ending 30<sup>th</sup> June 2024, i.e., the excess SLR securities acquired by banks during the period 1<sup>st</sup> September 2020 to 31<sup>st</sup> March 2024 will be progressively reduced such that the total SLR securities held in the HTM category as a



- |   |              |
|---|--------------|
| % of the NDTL do not exceed:                | and onwards. |
| ▪ 22% as on 30 <sup>th</sup> June 2024      | .            |
| ▪ 21% as on 30 <sup>th</sup> September 2024 |              |
| ▪ 20% as on 31 <sup>st</sup> December 2024  |              |
| ▪ 19.5% as on 31 <sup>st</sup> March 2025   |              |

This circular is applicable to all Commercial Banks with immediate effect.

## Reserve Bank of India (FSs - Presentation and Disclosures) Directions, 2021 - Disclosure of material items

[RBI/2022-23/155 dated 13<sup>th</sup> December 2022](#)

In terms of Part A of Annexure II to the [Reserve Bank of India \(Financial Statements-Presentation and Disclosures\) Directions, 2021](#), in case any item under the subhead 'Miscellaneous Income' under the head 'Schedule 14-Other Income' exceeds 1% of total income, particulars should be given in the Notes to Accounts. Similar instructions exist in case of subhead 'Other expenditure' under the head 'Schedule 16-Operating Expenses'.

In order to ensure greater transparency, the RBI has decided that banks should also disclose the particulars of all such items in the Notes to Accounts wherever any item under the Schedule 5(IV)-Other Liabilities and Provisions-'Others (including provisions)' or Schedule 11(VI)-Other Assets-'Others' exceeds 1% of the total assets.

Payments Banks should also disclose particulars of all such items in the Notes to Accounts, wherever any item under the Schedule 14(I)-Other Income-'Commission, Exchange and Brokerage' exceeds 1% of the total income.

With respect to Chapter IV of the Directions *ibid*, the banks must provide more comprehensive disclosures than the minimum required are encouraged, especially if such disclosures significantly aid in the understanding of the financial position and performance of banks

These instructions are applicable to all commercial banks. These instructions will come into effect for disclosures in the Notes to the Annual FSs for the year ending 31<sup>st</sup> March 2023



### Disclaimer and Statutory Notice

This e-publication is published by C N K & Associates, LLP Chartered Accountants, India, solely for the purposes of providing necessary information to employees, clients and other business associates. This publication summarizes the important statutory and regulatory developments. Whilst every care has been taken in the preparation of this publication, it may contain inadvertent errors for which we shall not be held responsible. The information given in this publication provides a bird's eye view on the recent important select developments and should not be relied solely for the purpose of economic or financial decision. Each such decision would call for specific reference of the relevant statutes and consultation of an expert. This document is a proprietary material created and compiled by C N K & Associates LLP. All rights reserved. This newsletter or any portion thereof may not be reproduced or sold in any manner whatsoever without the consent of the publisher.

This publication is not intended for advertisement and/or for solicitation of work.

[www.cnkindia.com](http://www.cnkindia.com)

**CNK**  
& ASSOCIATES LLP

### MUMBAI

3rd Floor, Mistry Bhavan, Dinshaw Vachha Road,  
Churchgate, Mumbai. 400 020, India.  
Tel: +91 22 6623 0600

501/502, Narain Chambers, M.G. Road,  
Vile Parle (East), Mumbai 400 057, India.  
Tel: +91 22 6250 7600

**Bengaluru:** +91 80 2535 1353

**Ahmedabad:** +91 79 2630 6530

**Pune:** +91 020 2998 0865

**Chennai:** +91 44 3500 3458

**GIFT City:** +91 79 2630 6530

**Dubai:** +971 4 3559533

**Vadodara:** +91 265 234 3483

**Delhi:** +91 11 2735 7350

**Abu Dhabi:** +971 4355 9544