



DISPUTE RESOLUTIONS

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Message to the Readers

Arbitrability of banking disputes: Need for legislative reform

Non-Performing Assets (“NPA(s)”) are a source of great concern to banks. They are also a matter of grave concern for the economy of the country. It is therefore evident that banks must have access to as many avenues as possible to recover dues to them. It is also natural that when banks encounter difficulties in realising amounts due to them through the conventional civil courts, parliament comes in and enacts provisions that make additional avenues of redress available to them by creating tribunals that specifically address this problem. However, what must always be borne in mind is that these are additional avenues of redress and their jurisdiction, unless explicitly stated, does not take away existing modes of redressal.

A sad fact is also that in course of time even the specially created tribunals become overcrowded and are unable to deliver quick justice to banks and therefore become of little help in resolving the problem of ballooning NPAs. It therefore crucial to appreciate that when tribunals are created to help banks, they must exist as an option and not as an avenue of compulsion.

The Supreme Court and various High Courts had till now recognised this aspect when it came to the issue of arbitrability of banking disputes and lent their weight to support such a position. However, this position has suffered a serious setback on account of the decision of the Supreme Court of India in *Vidya Drolia vs. Durga Trading Corporation Civil Appeal No. 2402 of 2019*. This article sets out why it would be advisable to amend the provisions of the Debt Recovery Act and the SARFAESI Act to undo the effects of the judgement of the Supreme Court in the *Vidya Drolia's* case.

Earlier, a bench of the Supreme Court comprising of Justice R.F. Nariman and Justice Sanjay Kishan Kaul in the case of *M.D. Frozen Foods Exports Pvt. Ltd. and Ors. vs. Hero Fincorp Ltd (2017) 16 SCC 741* dealt with the issue of whether a non-banking financial company (“NBFC”) is entitled to initiate proceedings under SARFAESI Act and arbitration proceedings, simultaneously, with respect to a loan account.

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The Supreme Court held that -

“30. It is trite to say that arbitration is an alternative to the civil proceedings. In fact, when a question was raised as to whether the matters which came within the scope and jurisdiction of the Debt Recovery Tribunal under the RDDB Act, could still be referred to arbitration when both parties have incorporated such a clause, the answer was given in the affirmative. That being the position, the appellants can hardly be permitted to contend that the initiation of arbitration proceedings would, in any manner, prejudice their rights to seek relief under the SARFAESI Act.”

Following the judgment in ***Indiabulls Housing Finance Limited vs. Deccan Chronicle Holdings Limited and Others (2018) 14 SCC 783*** it has been held that even prior arbitration proceedings are not a bar to proceedings under the NPA Act.

The recent decision of the Supreme Court in the ***Vidya Drolia case*** throws into disarray the above stated and accepted legal position and the dispute resolution options available to banks and NBFCs.

While dealing with the question whether disputes under the Debt Recovery laws are arbitrable, the Court held that disputes which are to be adjudicated by the tribunals created under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 are not arbitrable because the banks and financial institutions covered under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (“**DRT Act**”) have specific rights including the modes of recovery specified in the DRT Act.

The Supreme Court's finding on arbitrability of disputes under debt recovery laws is questionable and needs to be addressed immediately through a legislative amendment. The Supreme Court in its recent decision does not support its conclusions with appropriate reasoning as to why if, a bank or an NBFC chooses to elect for such a remedy, an arbitral tribunal cannot exercise jurisdiction.

Debts Recovery Tribunals (“**DRT(s)**”) which address claims both under the DRT Act and the SARFAESI Act are overcrowded with huge backlogs. In a Public Interest Litigation by Kotak Mahindra Bank before the Supreme Court in June 2020, the bank has pointed out that delays in disposal of cases before the DRTs increase non-performing assets on the books of banks, apart from lower recovery, as the value of the mortgaged assets declines. The adjudication conducted by the DRTs and Debt Recovery Appellate Tribunals is critical for the stability of banking and financial institutions and, by extension, the economic health of the country.

The Petition also pointed out that there is a need to urgently fill vacancies in DRTs as 18 out of the total 39 DRTs in India do not have permanent presiding officers. Today more than a lakh cases are pending before various DRTs. Past experience has shown that DRTs on an average dispose 10,000 cases a year collectively. Therefore, at that rate it will take another ten years for them to clear even the existing backlogs.

Soon the provisions of the Insolvency and Bankruptcy Code relating to personal insolvencies are to be notified and in respect of these cases jurisdiction is going to be vested with DRTs and not the NCLT. This is going to add to the burden of DRTs.

Given these realities, the Government should quickly move for an amendment to the appropriate legislations and permit banks to avail of the alternate dispute resolution facilities.

NPAC has submitted a note to the Reserve Bank of India to consider these aspects and to prevail on the Government to move appropriate amendments. We do hope our efforts in this direction will bear fruit.

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LEGAL UPDATES

❖ **Cairn Arbitration Dispute: Discussion between Cairn and Indian Government**

- Recently, an international tribunal passed an award in favour of UK's Cairn Energy plc ordering India to pay USD 1.2 billion, plus significant interest and costs, aggregating to USD 1.4 billion.
- During discussions post the award, a slew of options was proposed, including computation of capital gains and participation in the Vivad se Vishwas (VsV) dispute resolution scheme.
- Cairn stated *"We remain hopeful that an acceptable solution can be found, in order to avoid further prolonging and exacerbating this negative issue for all parties...However, we have also been clear that we must continue to take all necessary steps to protect the interests of our shareholders."*
- Cairn is filing for enforcement of the arbitration award; and the Indian government is likely to appeal against the arbitration award by a Permanent Court of Arbitration at The Hague before March 21 on two key grounds jurisdiction and international public policy. In the appeal, India is expected to take a stand that the government has the sovereign right of taxation and private individuals cannot decide on that.
https://www.business-standard.com/article/companies/1-2-bn-arbitration-award-cairn-govt-discuss-long-term-capital-gains-tax-121022200019_1.html
<https://economictimes.indiatimes.com/news/economy/policy/britains-cairn-hopeful-of-solution-in-1-2-billion-plus-indian-govt-tax-tussle/articleshow/81134832.cms>

❖ **Arbitration under Highways Act limited to independent determination of compensation: Allahabad High Court**

- In the case of *Bhartiya Rashtriya Rajmarg Pradhikaran vs. Rajesh Kaushik*, the Allahabad High Court held that an arbitrator cannot act outside the scope of his reference and stated that arbitration under section 3-G (5) of The National Highways Act, 1956 is limited to the determination of the fair amount of compensation, and is not a proceeding to judge the correctness of the compensation determined by the competent authority
<https://www.barandbench.com/news/litigation/arbitration-highways-act-limited-independent-determination-fair-compensation-allahabad-high-court>

❖ **Presence of Arbitration Clause in contract between state instrumentality & private party does not oust writ jurisdiction under Article 226: Supreme Court**

- In a case pertaining to a contractual dispute between Telangana State Industrial Infrastructure Corporation ("TSIIC") and Unitech, TSIIC approached the Supreme Court mainly contending that the Telangana High Court ought not to have entertained a writ petition under Article 226 of the Constitution *"in a pure contractual dispute"* which also contains an arbitration agreement.
- A Supreme Court bench comprising of Justices DYChandrachud and MR Shah held that *"the jurisdiction under Article 226 cannot be ousted only on the basis that the dispute pertains to the contractual arena. This is for the simple reason that the State and its instrumentalities are not exempt from the duty to act fairly merely because in their business dealings they have entered into the realm of contract. Similarly, the presence of an arbitration clause does oust the jurisdiction under Article 226 in all cases though, it still needs to be decided from case to case as to whether recourse to a public law remedy can justifiably be invoked."*
<https://www.livelaw.in/top-stories/arbitration-clause-contract-writ-jurisdiction-article-226-supreme-court-169996>

❖ Lok Sabha passes Arbitration & Conciliation (Amendment) Bill, 2021

- The Lok Sabha recently passed the Arbitration and Conciliation (Amendment) Bill, 2021 by voice vote.
- This Bill is already in force by way of an Ordinance promulgated on 4th November, 2020 and seeks to amend the Arbitration and Conciliation Act, 1996 to (i) enable automatic stay on awards in certain cases; and (ii) specify by regulations the qualifications, experience and norms for accreditation of arbitrators.

<https://www.livelaw.in/news-updates/lok-sabha-passes-arbitration-and-conciliation-amendment-bill-2021-169792>

❖ In case of doubt over existence of valid arbitration agreement, dispute must be sent to arbitration: Delhi High Court

- In the case of *Knowledge Podium Systems vs. SM Professional Services*, the Delhi High Court has stated that a prima facie case of non-existence of valid arbitration agreement has to be made out for not referring a dispute to arbitration.

<https://www.barandbench.com/news/litigation/doubt-existence-valid-arbitration-agreement-dispute-sent-arbitration-delhi-high-court>

❖ Refusal to condone delay for appeal under Section 34 of Arbitration Act appealable under Section 37: Supreme Court

- In the case of *Chintels India Ltd vs. Bhayana Builders Pvt Ltd*, a bench of the Supreme Court comprising Justices RFNariman, Navin Sinha and KM Joseph held that an order refusing to condone the delay in filing an appeal under Section 34 of the Arbitration and Conciliation Act 1996 is appealable under Section 37 of the Arbitration and Conciliation Act, 1996 (“**Appeal**”).
- This was an appeal arising out of a Delhi High Court judgment which held that such an Appeal was not maintainable. Considering the importance of the question of law, the High Court granted certificate for appeal to the Supreme Court under Articles 133 and 134A of the Indian Constitution.
- The Supreme Court observed that it is important to note that the expression “*setting aside or refusing to set aside an arbitral award*” does not stand by itself. The expression has to be read with the expression that follows- “*under section 34*”. Section 34 is not limited to grounds being made out under section 34(2).

<https://www.livelaw.in/top-stories/refusal-to-condone-delay-appeal-section-34-arbitration-act-appealable-under-section-37-supreme-court-169738>

ONLINE DISPUTE RESOLUTION

In conversation with Mr. Karthik Krishna, Founder & Director of JustAct

❖ Could you tell us a little about yourself?

After working for 15 years with Deutsche Bank as a Managing Director in Europe and US, I returned to India to take on entrepreneurial challenges in 2016. Currently, I run a telecom product company called Telekonnnectors and decided to start JustAct in 2019 as an independent unit. By education, I studied Computer Science & Information Systems at BITS Pilani and I hold an MBA from IIM Calcutta.

❖ Given your background, what urged you to found a legal-tech initiative?

I am a pacifist by nature and during my stint at Deutsche Bank, was bothered by the amount of time and effort people wasted on litigating disputes. Especially in India, the problem is an acute one and so I approached Mr.N.L. Rajah hoping to find a solution to this real problem.

❖ So, what is online dispute resolution (ODR) and how is ODR different from traditional alternative dispute Resolution (ADR)?

ODR is just a delivery mechanism for the conventional ADR methods of Mediation and Arbitration. In addition to the above two methods, JustAct is aiming to introduce a third method Negotiation for small business & personal claims.

❖ Can you tell us the kind of disputes that can and cannot be resolved through ODR?

We believe barring criminal cases, our platform should be capable of handling all other disputes. But to enumerate *inter alia* loan disputes, insurance disputes, motor accident disputes, employment & workplace disputes, general contractual disputes and matrimonial disputes.

❖ What according to you is the scope and prospect of ODR in the world and in India today?

The world has already adopted ADR and ODR as a first step before parties take the matter to court. In the UK for instance, one has to go through an early conciliation service before taking a matter to the Employment Tribunal. In Singapore and Hong Kong, one has to first file a dispute with a bank with an ODR provider, and only thereafter can they take the dispute to the regulator. In India, the scope is very large if the government does make it a policy for people to attempt a resolution through ODR before going to the courts. Infact, many companies would be well served to resolve disputes quickly through ODR.

❖ Why should stakeholders make the shift to ODR?

First and foremost, it would solve the supply side constraint to resolving disputes. By supply side constraint I mean limited number of court rooms and judges. The law today allows anyone with a sane mind and proper training to mediate a dispute, the outcome of which mediation has the status of a court order. If executed carefully, with the right guard rails, we may be able to reduce the time & cost of resolution and increase convenience of resolution.

❖ **What kind of opportunities do ODR offer for the legal fraternity including students?**

The legal fraternity needs to recognize ADR and ODR as another tool in their toolkit. It is a technique that students of law and other professionals should learn as it should be a way of life. Professionally, if lawyers and courts adopt ADR, it will go a long way to ensure access to and delivery of justice and will be rewarding from a career perspective.

❖ **JustAct is an Online Dispute Resolution product offered by Lex Carta Private Limited. Could you tell us a little more about it and how it adds value?**

JustAct aims to develop a simple ergonomic platform that offers negotiation, mediation and arbitration to customers. Negotiation is a particularly interesting method where we are looking to use artificial intelligence and machine learning to offer interesting negotiation positions to people to nudge them towards a resolution. Since it has very little human involvement, we are able to ensure it's a scalable and cost effective solution. In mediation and arbitration, we hope to provide our customers a wide variety of mediators/arbitrators to choose from as per their comfort level, from the convenience of their homes.

❖ **What are the facilities provided by JustAct for resolution of disputes online?**

We provide a simple web based platform and an app where one can register their dispute, choose their mode of dispute resolution, choose their neutral and go through their resolution process online through online audio-visual means. We also provide an organized document management system to ensure all submissions, evidences and case documents are available for the parties and neutrals to review, keeping all the tenets of confidentiality and reciprocity in place.

❖ **ODR is highly tech-dependent. What if all stakeholders are not tech savvy? How is that handled?**

We have focused on a simple user experience design to ensure people don't get overawed or scared by the technology platform. Moreover, we have an efficient team of case managers who help guide our customers through every step of the process and sometimes even take the process offline to ensure customers get what they want.

❖ **What is your vision for JustAct?**

I would like JustAct to be the platform that disrupts the way people think about disputes and go about resolving them. This can only be done if we can build a strong ecosystem of stakeholders to ensure there are no supply deficiencies in the access to and delivery of justice. Ultimately this needs to translate to reduced time & cost of resolution and increased convenience to our customer. Technology is only one of the tools to make that happen.

TOWARDS A STABLE FINANCIAL SYSTEM

Below is an abridged version of the Nani Palkhivala Memorial Lecture delivered by Mr. Shaktikanta Das, Governor, Reserve Bank of India on Saturday, January 16, 2021.

Please visit <https://www.youtube.com/watch?v=7R36syEnws0&t=4s> to access and view the complete lecture.

At the outset, let me pay my homage to Shri Nani A. Palkhivala and his grand legacy as a nation builder of modern India. I would also like to convey my sincere appreciation to the Palkhivala Foundation for continuing the tradition of organising Shri Palkhivala Memorial Lectures. I consider it as a great honour to be delivering the 39th Shri Palkhivala Memorial Lecture today, more so among others because he was very closely associated with the RBI during his tenure as a member of the Central Board from 1963 to 1970.

The topic of my lecture is “Towards a Stable Financial System”. The unprecedented health and economic catastrophe caused by the COVID-19 pandemic has exposed and widened economic and societal fault lines across countries. It is, therefore, essential to evolve a prudent and judicious approach towards managing the financial system not only during the pandemic but also in its aftermath.

I. Changing Contours of Financial Stability

Globally, preservation of financial stability has steadily evolved to become a major objective among central banks, implicitly or explicitly, alongside traditional and evolving goals of monetary policy. The global financial crisis (GFC) of 2008 made it abundantly clear that financial strength of individual institutions does not add up to systemic stability because before the crisis happened, almost every financial institution reported substantial capital adequacy.

In the Indian context, maintaining financial stability remains one of the uppermost objectives of the Reserve Bank, drawing from its wide mandate as the regulator of the banks, non-banking finance companies (“NBFC(s)”) and payment systems; regulator of the money, forex, government securities and credit markets; and also as the lender-of-the-last resort. This unique combination of responsibilities – monetary policy combined with macro-prudential regulation and micro-prudential supervision – has allowed the Reserve Bank to exploit the synergies across various dimensions.

Recent experience across countries during the pandemic suggests that even though banks, non-banks, financial markets and payment systems remain at the core of financial stability issues, there is still a need to look much closer at the system in its entirety. More precisely, given that the financial system works as a pivot between various sectors of the economy and given the strong linkages across sectors, financial stability must include not just the stability of the financial system and monetary stability (price stability), but also fiscal sustainability and external sector viability. All these operate in a feedback loop; and disturbances in any of the segments do get propagated to other segments with the potential of disrupting systemic stability.

II. Preserving Financial Stability during COVID-19

The idea of financial stability in this broader sense moulded the Reserve Bank's approach during the pandemic, which was a unique crisis, more challenging than the global financial crisis of 2008, impacting both the real and financial sector in great severity. With conventional, unconventional and new tools, the Reserve Bank responded through a series of measures to alleviate stress in various segments of the economy and the financial sector, including the stress encountered by market players and financial entities. Broadly speaking, our approach to the Covid situation included the following measures:

- (a) **Measures to mitigate the immediate impact of the pandemic:** loan moratoriums, asset classification standstill; working capital financing & deferment of interest; restructuring of MSME loans,

- (b) **Liquidity augmenting measures:** Long-Term Repo Operations (LTRO)/ Targeted Long-Term Repo Operations (TLTRO)/refinance schemes; reduction in Cash Reserve Ratio (CRR), and other measures totalling about ₹12.81 lakh crore (6.3 per cent of nominal GDP of 2019-20).
- (c) **Countercyclical regulatory measures to ease stress on borrowers and the banking system:** relaxation in regulatory compliance & group exposure norms; conservation of capital by banks; etc.
- (d) **Measures to ensure uninterrupted flow of credit:** significant interest rate cuts (115bps); assuring markets of easy financing conditions; exemption from CRR maintenance for incremental retail and MSME loans; extension of priority sector classification for bank loans to NBFCs for on-lending; rationalisation of risk weights for regulatory retail portfolio and individual housing loans, etc.
- (e) Framework for resolution of Covid-related stress for individuals and businesses.
- (f) Closer surveillance of supervised entities focusing on business process resilience and continuity, proactive management of risks, stress tests and proactive raising of capital, etc.

Our principal objective during this pandemic period was to support economic activity; and looking back, it is evident that our policies have helped in easing the severity of the economic impact of the pandemic. I would like to unambiguously reiterate that the Reserve Bank remains steadfast to take any further measures, as may be necessary, while at the same time remaining fully committed to maintaining financial stability.

III. Adaptations and Learnings: Way Forward

The recent period has given us an opportunity to learn and adapt and decide on the way forward. In today's lecture, I would like to focus on three key areas: (i) stability of the banking and non-banking financial sector; (ii) external sector stability; and (iii) fiscal stability. Let me first focus on the banking and non-banking financial sectors.

Governance Reforms

Integrity and quality of governance are key to good health and robustness of banks and NBFCs. Recent events in our rapidly evolving financial landscape have led to increasing scrutiny of the role of promoters, major shareholders and senior management vis-à-vis the role of the Board. The RBI is constantly focussed on strengthening the related regulations and deepening its supervision of financial entities. A good governance structure will have to be supported by effective risk management, compliance functions and assurance mechanisms. These constitute the first line of defence in matters relating to financial sector stability. Some of the integral elements of the risk management framework of banks would include effective early warning systems and a forward-looking stress testing framework. Banks and NBFCs need to identify risks early, monitor them closely and manage them effectively. The risk management function in banks and NBFCs should evolve with changing times as technology becomes all pervasive and should be in sync with international best practices. In this context, instilling an appropriate risk culture in the organisation is important. This needs to be driven by the Board and senior management with effective accountability at all levels.

In addition to a strong risk culture, banks and non-banks should also have appropriate compliance culture which should ensure adherence to not only laws, rules and regulations, but also integrity, ethics and codes of conduct.

A robust assurance mechanism by way of internal audit function is another important component of sound corporate governance and risk management. It provides independent evaluation and assurance to the Board that the operations of the entity are being performed in accordance with the set policies and procedures.

In all these areas, the RBI has already taken a number of measures and will continue to do so from time to time. Recent efforts in this direction were geared towards enhancing the role and stature of the compliance and internal audit functions in banks by clarifying supervisory expectations and aligning the guidelines with best practices. Some more measures on improving governance in banks and NBFCs are in the pipeline.

Supervisory Initiatives

In the last two years, the Reserve Bank has initiated a series of measures to strengthen its supervisory framework over scheduled commercial banks, urban co-operative banks as well as NBFCs. The supervisory functions pertaining to these sectors are now integrated, with the objective of harmonising the supervisory approach. We have been deploying advances in data analytics to offsite returns so as to provide sharper and more comprehensive inputs to the onsite supervisory teams. The thrust of the Reserve Bank's supervision is now more on root causes of vulnerabilities rather than dealing with symptoms. Bank-wise as well as system-wide supervisory stress testing adds a forward-looking dimension for identification of vulnerable areas. A risk-based supervision framework focussing on know your customer (KYC)/anti money laundering (AML) risk has been created in line with global practices. Fintech initiatives are being embraced in the form of innovative technologies for regulation (RegTech) and supervision (SupTech). As regards regulatory intervention in banks to protect the interest of depositors, our approach in recent times has been to first work closely with the management to find a workable solution. When this does not work, we have intervened and put in place a new arrangement within a quick time schedule. The RBI remains strongly committed to preserve the stability of the financial sector. We will do whatever is necessary on this front.

Recapitalisation of Banks

Going ahead, financial institutions in India have to walk a tightrope in nurturing the economic recovery within the overarching objective of preserving long-term stability of the financial system. The current COVID-19 pandemic related shock will place greater pressure on the balance sheets of banks in terms of non-performing assets, leading to erosion of capital. Building buffers and raising capital by banks both in the public and private sector will be crucial not only to ensure credit flow but also to build resilience in the financial system. We have advised all banks, large non-deposit taking NBFCs and all deposit-taking NBFCs to assess the impact of COVID-19 and work out possible mitigation measures including capital planning, capital raising, and contingency liquidity planning, among others. Preliminary estimates suggest that potential recapitalisation requirements for meeting regulatory norms as well as for supporting growth capital may be to the extent of 150 bps of Common Equity Tier-I capital ratio for the banking system¹. Prudently, a few large public sector banks (PSBs) and major private sector banks (PVBs) have already raised capital, and some have plans to raise further resources taking advantage of benign financial conditions. This process needs to be put on the fast track.

External Sector Stability

Given that the domestic financial sector closely interacts with external sector through various channels, it becomes a critical segment from a financial stability perspective. A weak external sector can pose a threat to domestic financial stability in the face of swift changes in the global economic environment as was the case during the GFC (2008) or the taper-tantrum period (2013). External sector conditions are generally captured through movements in current account balances, capital flows, exchange rates, foreign exchange reserves and external debt position.

Notwithstanding the worsening of both external and domestic demand conditions impinging on exports and imports since the onset of COVID-19, India's external sector has remained resilient. Lower trade deficit driven by steeper fall in imports coupled with resilient net exports of services translated into a large current account surplus to the tune of 3.1 per cent of GDP in H1:2020-21. With surplus in the current account, the scope of absorption of strong inflows of foreign direct investment and portfolio investments by the economy was limited which led to a large accretion in foreign exchange reserves.

Sustained accretion to foreign exchange reserves has improved reserve adequacy in terms of conventional metrics such as (i) cover for imports (18.4 months) and (ii) reserves to short-term debt in terms of residual maturity (236 per cent). Sound external sector indicators augur well for limiting the impact of spillovers of possible global shocks and financial stability concerns as investors and markets are credibly assured of the buffer against potential contagion.

¹ Report on Trends and Progress of Banking in India 2019-20, page 2

While abundant capital inflows have been largely driven by accommodative global liquidity conditions and India's optimistic medium-term growth outlook, domestic financial markets must remain prepared for sudden stops and reversals, should the global risk aversion factors take hold. Under uncertain global economic environment, EMEs typically remain at the receiving end. In order to mitigate global spillovers, they have no recourse but to build their own forex reserve buffers, even though at the cost of being included in currency manipulators list or monitoring list of the US Treasury. I feel that this aspect needs greater understanding on both sides so that EMEs can actively use policy tools to overcome the capital flow related challenges. At the Reserve Bank, we are closely monitoring both global headwinds and tailwinds while assessing domestic macroeconomic situation and its resilience.

Fiscal Stability

The COVID-19 pandemic has further brought to the fore the need for governments to spend on merit goods and public goods; in particular on improving human and social capital and on physical infrastructure (IMF, 2020). As per IMF's calculations, the total fiscal support in response to COVID-19 amounted to about 12 per cent of global GDP by mid-September 2020. Global public debt is said to reach 100 per cent of GDP in 2020. As a result, most economies are expected to emerge from the pandemic with higher deficits and debt vulnerabilities. Under these circumstances, and given the expenditure requirements to support the process of economic revival, fiscal stability becomes an even more important constituent of overall financial stability.

Although the scale of fiscal spending is expected to breach the quantitative targets of fiscal prudence across most economies in the short-run, it was crucial in the context of the pandemic from the perspective of welfare aspect of public expenditure. Expenditure on physical and social infrastructure including human capital, science and technology is not only welfare-enhancing, it also paves the way for higher growth through their higher multiplier effect and enhancement of both capital and labour productivity. Under these circumstances and going forward, it becomes imperative that fiscal roadmaps are defined not only in terms of quantitative parameters like fiscal balance to GDP ratio or debt to GDP ratio, but also in terms of measurable parameters relating to quality of expenditure, both for center and states. While the conventional parameters of fiscal discipline will ensure medium and long-term sustainability of public finances, measurable parameters of quality of expenditure would ensure that welfarism carries significant productive outcomes and multiplier effects. Maintaining and improving the quality of expenditure would help address the objectives of fiscal sustainability while supporting growth.

IV. Concluding Observations

Looking ahead, our financial system faces both challenging times and new opportunities as the Indian economy returns to full vitality. New vistas of financial intermediation leveraging on technology and new business models will emerge. With the exponential growth of digitisation and online commerce in India, the Reserve Bank has also directed its policy efforts to put in place a state of the art national payments infrastructure, while ensuring a safe, secure, efficient, cost-effective and robust payments ecosystem. The Reserve Bank is positioning itself to provide an enabling environment in which regulated entities are catalysed to exploit these new avenues, while maintaining and preserving financial stability. The regulated entities, on their part, need to strengthen their internal defences to identify emerging risks early and manage them effectively. Financial stability is a public good and its resilience and robustness needs to be preserved and nurtured by all stakeholders. We need to support economic revival and growth; we need to preserve financial stability.



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