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A Study on Extension of Loan Moratorium in Context of Covid-19 Pandemic

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Abstract – The novel virus commonly known as COVID-19epidemic, because of which millions of people infected. The COVID-19pandemic has affected more than 184nations creating a need for implementation of lockdown in towns and cities. This pandemic struck markets globally causing a global recession. On March 23, the Indian Government executed a nation-wide lockdown for battling against the pandemic and irradiate its effects. Because of this move, several businesses were directly hit and many unaccounted employment losses. Also, various transportation and travel industries were critically affected. In view of the situation and in response to the momentary economic adversity, RBI has taken proper steps to eradicate the situation mentioning all loaning societies such as banks and housing finance companies for giving three-month moratorium on term loans, EMI and credit card repayments to their borrowers.

Most of them chose adopting this moratorium scheme and implemented this in their loan policies. In this paper we shall know who all shall be benefited because of moratorium and how does it work.

Key Words: COVID-19, Reserve Bank of India (RBI), Moratorium Scheme.

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INTRODUCTION

A moratorium is a provisional postponement of action until forthcoming proceedings permit exciting of suspension or else correlated issues has been determined. This is the time period offered by the lending institutions for moratoriums, are frequently ratified in reply to short-term monetary adversities. The Reserve Bank of India on 27th March, 2020, decided to the moratorium, which was aimed at payment of all installments subsiding unpaid in the middle of1stMarch,2020 and 31stMay, 2020. As per the RBI guidelines, the delayed installments in the moratorium would comprise the following payments decreasing the number of due payments between the mentioned periods:

1. Principle and/or interest components;
2. Shot repayments;
3. Equated Monthly Installments (EMIs);
4. Dues if any of Credit card.

Usually this is a moratorium period allows a time for which the loan tenure falls, is the time extended of a loan term while the debtor is not essential for making every payment. This one is for the future period earlier which payment of EMIs continues. Usually, the payment initiates once the loan disbursement is done and the repayments must be done each month, on the other hand, owing to the moratorium period, the repayment are made afterwards.

The Reserve Bank of India (RBI) had taken due steps, due to novel corona-virus pandemic, as a release portion obtainable for a 6-month moratorium on every single term loan EMIs between 1stMarch, 2020, and 31stAugust, 2020. The RBI, in hike this year, provided an assistance to the mortgagors by the method of EMI moratorium on all term loans for 3 months till 31stMay, 2020which was extended further till 31stAugust, 2020.

Moratorium is processed for all eligible customers as per the regulatory conditions. If moratorium has not been processed, then your application did not meet the requirements for moratorium.

The RBI said it "has taken a balanced view, taking into account the interest of the depositors, borrowers, real sector entities and banks. Financial stability and economic growth of the country were also kept in mind while arriving at its policy decisions by the Reserve Bank".

The RBI did not agree with the contention that accounts which were standard but unsettled for more than 30 days as of 1March, 2020 should also be considered eligible for the Resolution as they too may have been impacted on account of Covid-19.

"This is a classic fallacy of composition which presumes that the accounts paying on time can be equated with accounts paying with a considerable delay. An account which was impacted by pandemic as well as had a pre-existing financial has a different risk profile as compared to an account without pre-existing stress and to treat both borrowers on equal footing would be gross suspension of economic sensibilities," it said.

Some petitioners had sought guidelines to RBI to reveal sector-specific assistances.

Responding to this, the RBI said "such prayers deliberately obfuscate the fact that Resolution Framework gives complete discretion to lending institutions and borrowers to arrive at resolution plans which are tailored to the specific requirements of the sector subject to the prudential boundaries specified therein".

It pointed out that the M V Kamath Committee recommended "sector specific thresholds to the mandatory financial parameters, which are more liberal than normal lending financial benchmarks that need to be considered in the financial projections while designing the resolution plans".

It said the circular of September 7, 2020 (notifying the recommendations) provides for "separate thresholds for 26 sectors including power, real estate and construction. Even under the power sector, separate thresholds have been prescribed for generation, transmission and distributions sectors. Similarly, separate thresholds have been prescribed for residential and commercial real estate sectors".

"Sectors such as power and real estate were already stressed even before the pandemic on account of various factors pertain to sector-specific problems," the central bank said, adding that "the travails of the real sector cannot be solved through banking regulations. The banking regulations of RBI cannot substitute the addressable of structural problems of the real sector".

"In any case, projects under implementation which are affected due to the fallout of Covid-19 can be restructured under an already existing framework. This extant framework allows for extension of timeline for completion of the projects by 2 years in case of non-infra projects, including real estate projects, and by 4 years for infrastructure projects without downgrading to NPA," it said.

"The recommendations were broadly accepted by the Reserve Bank and accordingly, the Reserve Bank issued the circular dated September 7, 2020 notifying the same," it stated.

LITERATURE REVIEW

COVID-19 AND MORATORIUM

Since the borrowers might face a lack of liquidity during the nationwide lockdown to suppress the spread of COVID-19, the RBI on March 27 allowed financial institutions and banks to offer a three-month (90 days) moratorium on term loans and credit card bills to ease the situation and avoid a financial crisis. However, this will have serious repercussions on the Indian Economy. The RBI has permitted banks and other categories of lenders to framework this deferment which includes all kinds of loans including personal loans and credit card dues. The Moratorium cannot be seen as a waiver and is only a reprieve, as it is payable at a later date. (1)RBI has announced that all term loans including Agricultural, retail, crop term loans and loans under pool purchases are entitled to avail the benefit of the moratorium package. It is available accounts which are standard assets as on 1st March 2020. (2)

THE VELANKINI INFORMATION CASE: CIRCULAR DISCRETIONARY, MANDATORY FOR BANK;

A writ petition came to be filed before the Karnataka High Court for grant of moratorium which was disposed of on July 8, 2020. This remains the sole significant judgment on circulars of moratorium issued by the Reserve Bank of India and its applicability.

The primary issues dealt with by the Karnataka High Court was firstly whether the circular issued by the Reserve Bank of India was mandatory or discretionary? Secondly, whether the grant of moratorium is at the discretion of the Bank or would it be a right exercised by the Borrower? Answering these two issues, the Karnataka High Court held that once banks have expressed their solidarity stating that all customers are eligible for a moratorium, it is not possible for banks to renege and not grant a moratorium.

The Court further held that "the Circular dated March 27, 2020 issued by the Reserve Bank of India though is discretionary, it is mandatory for the Bank to ensure the continuity of viable businesses, in that, the non-grant of a moratorium should not result in adversely affecting the survival and continuity of a viable business. All borrowers are eligible to seek for a moratorium, if a borrower were to seek for grant of a moratorium on the ground that continuity of its business would be affected and establish the same, the borrower would as a matter of right be entitled for the grant of moratorium so that such continuity is not adversely affected."

To summarise, the Court held that the Circular is discretionary but mandatory on Banks to provide the same in event the borrower is able to establish that the subsistence and continuation of the business would be affected.

THE ZEE LEARN LIMITED CASE: INAPPLICABILITY OF THE MORATORIUM

There existed a default on payment for debentures issued allegedly due to the COVID-19 pandemic and the Bombay High Court considered the issue as to "whether the moratorium would cover such default and apply to mutual funds or debentures".

The Bombay High Court categorically held that "it is clearly beyond reasonable doubt that those two circulars would not apply in case of mutual funds and debentures." Another interesting finding in the said judgment was that "the circulars clearly indicate that those circulars only permits those entities to provide moratorium of three months and does not record any directives to grant such moratorium".

In essence, this finding leads to an inference that the circulars issued is only permission given to the Commercial Banks, all Primary (Urban) Co-operative Banks, States Co-operative Banks, District Central Cooperative Banks, All India Financial Institutions, All Non-Banking Financial Companies to issue a moratorium but not a directive against these institutions.

The Gajendra Sharma Case: Constitutional Validity of the Circulars

Apart from these two judgments in the Velankini Information Case and the Zee Learn Limited Case, the constitutional validity of the circulars issued by the Reserve Bank of India has been challenged and pending before the Supreme Court of India. Another question as to whether the said moratorium will apply to Non-Banking Finance Companies has also been clubbed and is now heard commonly.

The arguments put forth before the Supreme Court during the hearing dated June 17, 2020, it was argued that firstly the moratorium substantially does not give relief to borrowers and secondly, that if moratorium is granted, the entire amount of principal and interest should not be charged. Thirdly, as an alternative, if not principal, at least the demand of interest should not be made.

The Government responded to these contentions stating that meetings are being held with the Finance Ministry and Reserve Bank of India on whether any reliefs can be given. The Indian Banking Association represented that different sector schemes can be considered for individual specific industries. The matter is now listed for further hearing during the first week of August.

ALTERNATIVE MEASURES UNDERTAKEN BY THE RESERVE BANK OF INDIA:

The Reserve Bank of Indian in order the improve the liquidity position of Non-Banking Finance Companies (“NBFC’s”) and Housing Finance Companies (“HFC’s) has introduced a special liquidity scheme by establishing a special purpose vehicle which would purchase commercial papers from eligible NBFC’s and HFC’S who would have to utilize such amounts to settle existing liabilities. The scheme would not be available post-September 30, 2020 and recovery would be by December 31, 2020, which may be modified. This measure would be a much need window of liquidity which would immensely benefit such sectors of banking.

OBJECTIVES

Following objectives could have been achieved:

1. The Bank would deliberate release in the procedure of moratorium / delay to borrowers, who request to benefit and give are quest in writing to the Bank.

2. Working capital facilities: Deferment of interest, Reduction of margin, Reassessment of working capital cycle / limits

3. Moratorium for Credit Cards (Personal Loans /Term Loans / Health Care / Business Loans / Loan Against Property) and Retail loans and other matters.

HYPOTHESIS

H0: RBI and Supreme Court has opted for moratorium during COVID19 is the strategic choice and going to be Win-Win situations.

H1: RBI and Supreme Court has opted for moratorium during COVID19 is the strategic choice and going to be bad decision.

RESULTS ANALYSIS AND DISCUSSION

Challenges Faced by Banks

Moratorium should not be opted by the customer if he has the capacity to pay. Repayment of amount of loan is recommended as accumulation of interest on the loan continues even through the period of moratorium and repayment benefits for the interest rate decrement.

The moratorium may be prolonged by any comprising regional, rural, small finance and commercial banks. This could be presented by NBFCs (Non-Banking Financial Companies)and cooperative banks. This moratorium facility is given by Indian financial institution.

RBI left the decision regarding the methods of offering moratorium on the banks themselves. Few banks ask customers to opt an application to ‘opt in’ for the purpose of moratorium, lacking which it is assumed that customer agrees for continuation with regular payment cycle and there are some other banks the defaulting choice for some loans is moratorium proposal, therefore it is needed to raise a demand to 'opt out' of the system.

RBI tells Supreme Court that continuance of credit moratorium period exceeding six months previously approved might disturb total credit discipline, and small debtors will finally face some difficulties.

The central bank has also urged the apex court to lift its interim order staying declaration of accounts as non-performing assets (NPAs), saying this will have "huge implications for the banking system, apart from undermining" its "regulatory mandate".

In a fresh affidavit filed in the Supreme Court, which is hearing a plea on the question of accusing interest on interest for loan payments between the moratorium time periods, the RBI said "a long moratorium exceeding six months can also impact credit behavior of borrowers and increase the risks of delinquencies post resumption of scheduled payments. It may result in vitiating the overall credit discipline which will have a debilitating impact on the process of credit creation in the economy. It will be the small borrowers which may end up bearing the brunt of the impact as their access to formal lending channels is critically dependent on the credit culture".

RBI has argued against extending the loan moratorium beyond six months, and has also asked the Supreme Court for removal of stay imposed upon announcing accounts as NPAs (Non-Productive Assets) beyond August 31. The RBI is of the view this will have huge implications for the banking system and also undermine its regulatory mandate.

A more "durable solution", the RBI said, is provided by the 'Resolution Framework for Covid-19' related Stress, announced by it on August 6, which "enables the lenders to implement a resolution plan in respect of personal loans as well as other exposures affected due to Covid-19, subject to the prescribed conditions, without asset classification downgrade. The framework, inter alia, permits extension of the moratorium by a maximum of two years".

Earlier, the Union Finance Ministry, in its affidavit, had addressed the court that government had decided waiving on interest in respect of MSMEs and other personal loans uptoRs.2 crores during the moratorium period of six months.

The RBI said "continuation of temporary moratorium" beyond the six month period already allowed "would not even be in the interest of borrowers. It may not be sufficient in addressing deeper cash flow problems of the borrowers and in fact exacerbate the repayment pressures for the borrowers".

It is with this thought in mind that the Reserve Bank has announced the 'Resolution Framework for Covid-19'connectedPressure ("Resolution Framework") on August 6, 2020," it said.

On September 3, the Supreme Court had directed that accounts which have not been declared as Non-Profit Assets as of August 31 cannot not be acknowledged so until more instructions.

The RBI urged the court to "immediately" lift this "across the board stay" because if this is not done "it shall have huge implications for the banking system, apart from undermining" its "regulatory mandate".

CHALLENGES FACED BY CITIZENS

Since moratorium remained obtainable on each type of loans including personal, home, education loans etc., as well as credit card dues. In period of moratorium, borrowers consent isn't necessary.

According to Aamar Deo Singh, head advisory, Angel Broking, mentioned that expectations of incentive package from Indian government are also helpful. Further, Singh added, "Markets have bounced back from important technical levels. 10,800 was an important technical support level and a lot of short covering has also happened."

Tushar Mehta,Solicitor General, performing for a Centre in court, succumbed that the government was at a right progressive phase in its administrative process on the moratorium period interest matter.

Rajiv Dutta, Senior advocate, representing the solicitors, opposed the suspension and suggested hearing and recording of the case at its initial stage. The court assumed it to have reflected and heard all of the proposals during the respective dates of hearing. The Solicitor General was also guided for assisting a copy of his statements on each and every parties involved in the matter. Further, the Supreme Court, headed by Justice Ashok Bhushan and comprising Justices R. Subhash Reddy and Mr. Shah, on September 3, 2020 approved a provisional course holding the accounts that aren't declared NPAs on August31, 2020 and shall not be declared NPAs until an interim order and supplementary orders had been extended on the previous trial date.

On September 10, 2020, the courts approved Centre, RBI and the banks for working together for two weeks and understood the consequences, filing solid response on their view on ignoring accused interest in the moratorium of loan and related matters. The court ordered a short-term extension for the moratorium of loan till September 28, guiding banks for not labelling any loans under non-functional assets until next instructions. It was also recorded by the court that an expert committee had been established for looking in all subjects and act would be implemented by the government.

Gajendra Sharma,Petitioner succumbed that, interest will last for accumulation in moratorium, which must be paid by the defaulter. The respective appellant opposed with the argument that no interest shall be applied in moratorium taking into account the 'extreme hardship' suffered by the people. Similarly, it has also been specified that repayment of added interest apart from regular EMIs will be hard. Centre newly stated court renunciation of interest on delayed EMIs in the period of moratorium will in-contradiction with "the basic canons of finance" as well as biased with individuals who cleared loans as planned.

CHALLENGES FACED BY GOVERNMENT (RBI)

Under RBI COVID-19 package, specific Bank has previously offered the esteemed clients the selection of moratorium for upto three months on the Loan EMIs and Credit Card due payments. As proclaimed in RBI Governor's statement of 22nd May, 2020, the strengthening of pandemic(COVID-19)disturbances have communicated precedence for comforting payment burdens as well as enlightening access towards work capital using the means of justifying the liability of debt retuning, avoid communication of financial pressure on the actual economy while safeguarding stability of feasible households and businesses, and therefore, banks are permitted the prolongation of additional release under:

1. RBI allowed banks to prolong the moratorium by additional 3 months i.e. from June 1, 2020 to August 31, 2020 upon the paying all the installments with respect to 'term loans' (containing retail and crop loans, agricultural term loans,). Likewise, the payment plan designed for this type of loans besides the enduring tenor would be moved through the panel. Interests will remain for accumulating over the unpaid percentage of term loans in period of moratorium.

2. According to working capital amenities approved in the procedure of Cash Credit/ Overdraft ("CC/OD"), RBI allowed banks for permitting a delay for more 3 months, from June 1, 2020 to August 31, 2020, over interest retrieval imposed on all such amenities.

3. RBI also allowed banks, for transforming accrued interest for extension period upto August 31, 2020, into FITL(Funded Interest Term Loan) that will be payable, before March 31, 2021at their preference.

4. RBI also permitted banks for re-calculating' drawing power' by reduction of the margins until August 31, 2020, which is considered as a single measure. While in all similar circumstances where such provisional improvement in power of withdrawal is measured, these margins shall be reestablished to new level by March31, 2021; and/or, assessing operational capital endorsed bounds up to 31stMarch, 2021, on the basis of reconsideration of work capital cycle. Above mentioned methods are intended to be provisional on the self-sustaining banks and the same is required on account from the economical result from the pandemic of COVID-19.

5. Since the moratorium of the 'drawing power' are being provided particularly for enabling the borrowers for tiding over economical consequence from COVID-19. The same won't be treated as change in terms and conditions of loan agreements or concession because of the financial challenges faced by the borrower.

6. This will also fail as an evasion in recording for Credit Information Companies and alongside under regulatory reporting.

7. It is also provides harmonized with the elucidation provided by the BCBS(Basel Committee on Banking Supervision)with respect to all accounts categorized as standard as of February 29, 2020, even if unsettled, the moratorium period wherever allowed shall be excepted by affording organizations from the days past due for resolution of asset cataloging under the IRAC standards.

8. Supreme Court, worried with the difficulties confronted by debtors under all the classes owed to the worst-ever financial disaster meanwhile the Great Depression of 1930 and the lockdown, is discovering a greater and practical view.

IMPLEMENTATION

Post Moratorium following activities may happen:

1. The regular debits of EMI will start from September 2020, as per the normal schedule applicable for your loan. So please maintain sufficient balance in your account.

2. As per the terms of moratorium, the unpaid EMIs cannot be paid in lump sum and have been converted into a loan and your loan tenor has been extended accordingly.

3. Can I fore close the loan now that the moratorium is lifted. Yes, you can foreclose the loan.

4. As per the terms of moratorium announced, the unpaid EMIs along with the accrued interest have been added to balance outstanding and the loan tenor has been

extended accordingly keeping your EMI as constant.

5. The unpaid EMIs along with the accrued interest have been added to balance outstanding. Hence the additional amount is the accrued interest on the unpaid EMI which you have to pay at the end of the loan tenor.

6. The revised repayment schedule will be mailed to your registered email id. You can also login to Net Banking and download the repayment scheduled.

7. Credit scores are given by Credit bureaus like CIBIL, Experian, etc basis their rules and logic and not by the Bank. We would request you to clear your EMI and dues on time to remain current. If you notice any change in score, please approach the credit bureau.

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9. Customers are expected to pay at least the Minimum Amount Due or the Total Amount Due on their Credit Card on the next due date immediately after 31st August 2020.

10. By availing the moratorium, applicable interest was levied on your outstanding dues which is payable towards the close of the moratorium period. This is the reason why the amount due may be more than your pre-moratorium payment.

RBI and the banks have been resisting before the Supreme Court the waiver of interest and interest on interest for the moratorium period.

CONCLUSION

During this extensive moratorium time, for facilitating assistance for debtors with the vision of end of COVID-19. The ones who benefitted the choice should currently must start the payment cycle. The RBI (Reserve Bank of India) permitted a single-time loan rearrangement system for both corporate borrowers and retail borrowers where pandemic-induced hassled credits shan't be categorized as 'non-functioning assets' and borrower would not get described as debtor.

As per RBI's Resolution Framework for COVID-19-relatedStress, who is paying loans frequently as on 1st March, 2020, the resolution of strained private loans shall be obtainable strictly to individual debtors. Similar measure will assist borrower, who are sincerely under financial strain and not capable to provide facility of their loans owing to monetary limitations.

Persons may contact their respective banks for works related to loan rearrangement, which when decided upon, shall permit debtors for paying loans with reviewed conditions and terms. The determination plan, still, might differ from person to person and from one bank to another. Also, banks can take decision for rejecting the rearrangement, provided the financials and payment presentation of the borrowers. “This is an option for borrowers but whether the bank will approve it or not depends on the bank. Customers can negotiate terms with bankers. This will also mean they can get loan periods extended while reducing EMI amount”. He said that the Banks usually understand customers' payment records. Clean record refers towards banks allowing restructuring. Other liabilities in finance are taken into consideration as well. Most significantly, rearranged loan would last towards being thought-out as normal unless and until the borrower follows the plan. Moneylenders are also not obligatory for making these loan facilities. Full extension beneath rearrangement is 2 years and debtors must contact banks till December 30, 2020.

REFERENCES

1. Bavadharini KS, (March 30, 2020), All you wanted to know about moratorium period, https://www.thehindubusinessline.com/opinion/columns/slate/all-you-wanted-to-know-about-moratorium-period/article31210477.ece#

2. Sunil Mehta, Chief Executive, India Bank's Association, (April 3, 2020) RBI loan's EMI Moratorium proposal for borrowers: Here's all you need to know, https://economictimes.indiatimes.com/wealth/borrow/rbis-loan-emi-moratorium-proposal-for-borrowers-heres-all-you-need-to-know/articleshow/74913557.cms

3. Navneet Dubey, (April 9, 2020), Which bank is giving automatic loan moratorium and which is not: Here's the list, https://economictimes.indiatimes.com/wealth/borrow/which-bank-is-giving-automatic-loan-moratorium-and-which-is-not-heres-the-list/articleshow/75022990.cms?from=mdr

4. https://www.axisbank.com/progress-with-us/money-matters/moratorium-what-it-means-and-its-impact

5. TineshBhasi, (April 13, 2020), Delinquencies likely to rise once the moratorium gets over: Nitin Chugh, https://www.livemint.com/companies/people/delinquencies-likely-to-rise-once-the-

moratorium-on-loans-gets-over-nitin-chugh-11586796061735.html

6. Sunil Mehta, Chief Executive, India Bank's Association, (April 3, 2020) RBI loan's EMI Moratorium proposal for borrowers: Here's all you need to know, https://economictimes.indiatimes.com/wealth/borrow/rbis-loan-emi-moratorium-proposal-for-borrowers-heres-all-you-need-to-know/articleshow/74913557.cms

7. Debayan Roy, (April 11, 2020), State cannot enrich itself during Health Emergency: Plea in Supreme Court to waive off Interest on 3 months Moratorium Loans by Banks, https://www.barandbench.com/news/state-cannot-enrich-itself-during-health-emergency-plea-in-supreme-court-to-waive-off-interest-on-3-months-moratorium-on-loans-by-banks.

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