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Capital buffers
The RBI’s draft norms for non-banking financial companies are timely

Non-banking financial companies, already reeling under a painful liquidity crisis, are up against a fresh challenge in the form of new regulatory norms set by the Reserve Bank of India. The central bank has released draft norms on liquidity risk management for deposit taking and non-deposit taking NBFCs. According to these proposed rules, NBFCs would have to comply with a higher liquidity coverage ratio (LCR), which is the proportion of assets that an NBFC needs to hold in the form of high-quality liquid assets that can be quickly and easily converted into cash. The new norms, which are expected to be implemented by the RBI over four years starting from April 2020, would likely put significant pressure on the margins of NBFCs. Under these norms, NBFCs would have to maintain their LCR at 60% of net cash outflows initially, and improve it to 100% by April 2024. If the norms are implemented, NBFCs may be forced to park a significant share of their money in low-risk liquid assets, such as government bonds, which yield much lower returns than high-risk illiquid assets. The strict norms have to be seen in the context of the present crisis where even prominent NBFCs are struggling to meet their obligations to various lenders.

While the profit outlook and other short-term financial metrics of NBFCs may be affected by the norms, there are good reasons to be optimistic about their long-term impact on the health of NBFCs and the wider financial sector. NBFCs, which are in the business of borrowing short term to lend long term, typically run the risk of being unable to pay back their borrowers on time due to a mismatch in the duration of their assets and liabilities. This is particularly so in instances where panic sets in among short-term lenders, as happened last year when lenders, worried about the safety of their capital, demanded to be paid back in full. In other words, NBFCs rely heavily on short-term lenders rolling over their loans without fail in order to avoid any kind of liquidity crisis. The new norms would discourage NBFCs from borrowing over short term to extend long-term loans without the necessary buffer capital in place. This could compel NBFCs to shrink the scope of their lending from what it is today, but it would save them from larger crises and significantly reduce the need for the government or the RBI to step in as the lender of last resort. Undeniably, NBFCs have done a tremendous job in recent years in widening and deepening access to credit by taking a share from the public sector banks, which have been severely affected by the bad loans crisis. However, the latest liquidity norms for NBFCs are still necessary to ward off systemic crises.
Changing the earth

The move to recognise the Anthropocene as an epoch is a caution to humanity

The pervasive and persistent signatures of modern human activity on the earth have been so striking that they are set to be officially recognised and named as a new geologic epoch. On May 21, the Anthropocene Working Group (AWG) overwhelmingly voted to recognise Anthropocene as an epoch. The vote gives form to the efforts of scientists, notably the Nobel Laureate Paul Crutzen and Eugene F. Stoermer, who coined the term in 2000 to highlight how human activity had changed many facets of the earth. So overwhelming is the concept of the Anthropocene that it got mainstreamed in scientific and general literature years ago. The AWG vote is a sobering reminder to humanity that failure to end destructive activities will irrevocably change the face of the earth and make it uninhabitable. Officially, humans will continue to live in the Holocene epoch for a couple of years more before the Anthropocene epoch is finally ratified by the International Union of Geological Sciences. The vote by the working group will contribute to the formalisation of the Anthropocene as a stratigraphic entity on a par with other geologic epochs. But unlike the others, it will be the first time that the beginning of an epoch would be based on human activity and not the consequences of changes brought about by nature. For instance, the start of the Holocene epoch 11,700 years ago marks the end of the transition from the last glacial phase to a period of warming and a rise in sea level. Human activity has been drastically changing the earth, with the greatest impacts coming from agriculture, large-scale deforestation, the industrial revolution and increase in atmospheric carbon dioxide, besides the creation of materials such as concrete and plastic. However, the working group voted to look for unique signatures around the 1950s to define the start of the Anthropocene.

A decrease in deuterium excess, a proxy for climate change, owing to the reorganisation of North Atlantic Ocean-atmosphere circulation was a definitive geologic marker, or golden spike, to signify the base of Holocene. Now, radionuclides from atomic bomb tests from the early 1950s are emerging as a favourite golden spike candidate to define the base of the Anthropocene. To be chosen as a geologic marker, the golden spike must be present globally across most environments and must be a part of deposits for a geologically significant length of time. Thus, plutonium isotope Pu-239 with a half-life of 24,110 years will remain detectable for more than 1,00,000 years and continue to exist as uranium 235 when Pu-239 decays. The next task is to find a single site from among the 10 sites chosen across the world for inclusion in the formal proposal. Here, coral reefs and Antarctic glacial ice located far from nuclear detonation test sites might be more suitable as they would not reflect any local spike but a global distribution pattern.
Bills of rights for the vulnerable

Why the second Modi government should send lapsed legislation back to the drafting stage

Towards the end of the previous government’s tenure, a number of controversial bills were introduced in Parliament. Political imperatives ensured that they were not, ultimately, enacted into law: some were stalled in the Rajya Sabha after being passed by the Lower House, while in other cases, the government itself decided not to proceed with them. With the dissolution of Parliament, these bills lapsed; however, with the 2019 general election yielding a decisive mandate in favour of the ruling Bharatiya Janata Party (BJP), the attention will undoubtedly turn to whether the new government will attempt to revive some aspects of its erstwhile legislative programme.

The problematic social bills

In the social sphere, the government introduced the Transgender Bill, the Surrogacy Bill, and the Trafficking Bill. In each of the cases, the draft legislation was — correctly — introduced with the aim of addressing an existing lacuna in the legal landscape. The recognition of transgender rights by enshrining them in law had long been a demand of the community; the legal regulation of surrogacy and the tackling of trafficking as well arose out of the articulated claims of grassroots social movements, debated and framed over many years of engagement and activism.

However, when it came to the content of these bills, consultation with impacted communities was effectively eschewed, and the result was a set of drafts that, far from protecting rights, actively harmed them. Unsurprisingly, therefore, the draft bills were met with a spate of objections and protests. For example, the Transgender Bill did away with the fundamental and non-negotiable principle — and one recognised by the Supreme Court in its NALSA judgment — of the right to self-determination of gender identity. Instead, it placed such decisions in the hands of government-appointed committees, extending state control over gender identities rather than liberating or emancipating them. It also contained deeply suspect provisions on gender reassignment surgery.

Similarly, the Surrogacy Bill excluded LGBT individuals from its ambit (despite their recognition as equal citizens under the Constitution by the Supreme Court), imposed discriminatory age restrictions upon men and women, and by entirely outlawing “commercial” surrogacy (instead of regulating it with appropriate safeguards) opened up space for underground and unreported exploitation of women, effectively creating a black market.

Lastly, the Trafficking Bill criminalised begging without providing any manner of effective alternatives and failed to distinguish between non-consensual trafficking and consensual sex work. It thus opened the door to criminalising livelihoods on the basis of what was effectively a set of narrow, moral objections.
Thus, what united these three problematic bills were the following aspects. First, each of them dealt with intimate subjects such as individuals’ decisions of what to do with their body, personal dignity and autonomy, and gender identity. Second, they concerned the rights of some of the most vulnerable and marginalised members of our society. Third, they were drafted without adequately consulting with, or listening to, the members of the communities who were impacted. Fourth, instead of guaranteeing and securing the rights of these communities to be free from state interference, they extended the state’s control and domination. And last, they were met by extensive and widespread protests from the communities themselves.

**The Citizenship Bill and NRC**

The government also attempted to enact the Citizenship (Amendment) Bill into law — an attempt it was forced to abandon when its own allies protested against it. Advertised as a measure for benefiting the vulnerable and the marginalised, the bill would have granted fast-track to citizenship to persecuted minorities from neighbouring countries, who were Hindus, Sikhs, Jains, Buddhists, Parsis, and Christians — but not Muslims. This was, at a very basic level, illogical and self-contradictory, apart from being clearly discriminatory on grounds of religion: the examples of the Ahmadiyyas and the Baloch in Pakistan make it clear that, just like any other identity, there are communities of Muslims in neighbouring countries who face persecution on the basis of their religious beliefs. Had the bill been enacted, therefore, it would undoubtedly have been challenged in the courts and tied up for a long while in litigation. However, strong movements in the northeastern States — concerned both about the demographic consequences and the anti-secular nature of the bill — ultimately forced the government to not go through with the legalisation.

At the same time, however, the Supreme Court-driven National Register of Citizens (NRC) process in Assam became a significant aspect of the ruling party’s election rhetoric during the recent campaign, with some senior party figures stating that they would replicate the NRC process for the whole of India. Apart from the principle of it — there is something particularly repugnant over placing the entire country under a presumption that they are interlopers, unless they prove otherwise — such a move would be a nightmare of administration and implementation, as the example from Assam has shown. There has been considerable — and continuing — confusion over the methods and form of identity that one can use to “prove” one’s citizenship (including “family trees”, which have been found to have a disproportionate impact upon vulnerable and minority claimants). The overlapping functions of the NRC process and the Foreigners Tribunals have added to the confusion, the “objections” process has been openly and publicly abused by individuals in order to harass NRC applicants (what they have called “collateral damage”), families have found themselves bizarrely separated from each other in the NRC, and there have been reports of suicides after each round of the draft.

When this is all happening in Assam, one can imagine the consequences of an attempt to scale it up to the national level. And as a backdrop to the debate, it is important to remember that there is no credible evidence to demonstrate that there actually is large-scale, illegal immigration taking place in India. Therefore, apart from being constitutionally
What lies ahead

It is trite to say that a general election confers a mandate upon the incoming government to legislate in the manner that it deems best and in the public interest. While the government is, of course, entitled to frame its own policies, and draft and implement legislation to enact those policies, there are certain constraints upon how it should go about that task. At the minimum, the voices of those who will be directly impacted by the policy should be listened to and engaged with in good faith, and basic constitutional principles and values ought to be respected.

The last phase of the previous government’s tenure presented a number of examples where these constraints were insufficiently complied with, and the resulting bills would therefore have ended up harming those whose rights they were meant to protect, apart from falling foul of crucial constitutional rights. It is to be hoped that these lacunae and shortcomings are remedied by the continuing government in power. Apart from the courts, however, this would need a sustained public movement around these issues, which can make its voice heard in the halls of power.

Season of populist discontent

Elections worldwide show that liberal democracy cannot be taken for granted

Over the past few months it has been a season of elections. The word populism has been much used, though never clearly defined, and it becomes necessary to fall back on the dictionary meaning — ‘various, often anti-establishment or anti-intellectual political movements that offer unorthodox political policies and appeal to the common person’. The election result in India has been greeted with predictable hostility in the British and U.S. media, with commentators, often of Indian origin, scorning the electorate’s decision and accusing Prime Minister Narendra Modi of populism, majoritarianism and failure to deliver on promises. These analysts clearly want India transformed into a mirror image of the subsiding Western liberal democratic model.

The European transformation

It is in Europe that the populist nationalist trend is most pronounced. In Ukraine, Volodymyr Zelensky, whose political experience is confined to portraying a president on TV, beat the incumbent by winning over 70% of the vote to become the head of state. His new political party, Servant of the People, will now contest elections to Parliament. President Emmanuel Macron of France brought a new party called Republic on the March
into office with him. Nigel Farage, an ardent champion for Britain leaving the European Union, launched a new party called Brexit Party to contest European Parliament elections, and in France Marine le Pen rebranded her party ‘National Rally’. The changes of name are to distance the new entities from the well-established parties of the centre-right and centre-left.

In Spain this April, despite bitter memories of dictator Francisco Franco, the far-right Vox party won nearly 10% of the vote. In the Philippines, President Rodrigo Duterte, condemned in the West for authoritarianism and abuse of human rights in dealing with drug users and traffickers, has swept the mid-term polls, enabling him to restore the death penalty. Newly-elected Brazilian President Jair Bolsonaro has made common cause with U.S. President Donald Trump against immigration, climate change, abortion and gun control. Prime Minister Viktor Orban of Hungary, presenting himself as the defender of Hungarian and European values, secured a third term last year for his party Fidesz.

The Italian Five Star Movement, founded by comedian Beppe Grillo, is in a government coalition with the far-right Lega Nord, and Deputy Prime Minister Matteo Salvini has emerged as a powerful personality in trying to unify right-wing parties across Europe, including Austria, Denmark, Germany, Sweden, Estonia and Finland, with some success. The Dutch provincial elections saw the newcomer Forum for Democracy win most seats.

Mr. Salvini has pledged to change the European Union (EU) by making the populist alliance one of the largest groupings in the European Parliament. This group, seeing the chaotic process of Britain leaving the EU, prefers instead to stall any reforms proposed by France and Germany, and to change the EU from within. Its stated aim is to regain sovereignty for their countries, take back the power to make their own rules and control their borders. With typical bravura, Mr. Salvini described the European Parliament elections as a “referendum between life and death”.

**Enthusiating voters**

These populist parties have internal differences on free trade, fiscal responsibility and dealings with Russia and China. It is of little consequence that they hold different positions; this is about political marketing, presenting an alternative to current Europe, and obtaining power in the European institutions. The populist surge has squeezed the traditional political parties; only the populists seem to be able to light the fire of enthusiasm among voters. The elections for the European Parliament for the first time became national rather than purely European; all the top leaders were involved, including the British political bosses, ironically when the country is on the cusp of leaving the EU. The overall EU voting turnout of 51% was the highest for two decades. The results announced on May 26 showed the traditional centrist parties losing ground, nationalist-populist parties gaining, and the Greens and Liberals also doing well across Europe. No group appears to be able to dominate the agenda. It will be harder for the European leaders to manage the Parliament or the European Commission, and reformers like Mr. Macron will have to lower their ambitions.
The EU is a hybrid confederacy where political fragmentation and polarisation have reached serious proportions. The public are abandoning mainstream political parties because they feel that existing political and economic systems have failed. After the global financial crisis of 2008, for which bankers were responsible but none were punished, the implicit Western social contract that promised equal opportunity and rising incomes for both elites and masses is discredited. While financial corporates benefitted hugely from globalisation, the working class lost jobs in global competition. In the U.S., the average income of the bottom half declined, while the average income of the top 1% was 138 times higher than the bottom 50%.

Basket of anxieties

The democratic insurrection seen in recent elections is a sign of acute concerns about globalisation, corruption, immigration, alienation, dilution of national identity, social injustice and economic inequality. The conclusion is that liberalism and liberal democracy cannot be taken for granted; Western democracy, the flagship model which prolonged its career through widening the franchise and the empowerment of women, is now heading for a long decline. Economic redistribution of wealth is the answer to the dilemma confronting liberal and inclusive societies. Economists from Adam Smith to Thomas Piketty have stressed that an economically equal society is a contented society. Prime Minister Narendra Modi and his Ministers must now take heed and bend themselves urgently to this task.

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