January 23, 2023

Update on Yes Bank Ltd.

Background

Ministry of Finance, through a Gazette notification, notified an Order of Moratorium on Yes Bank from March 5, 2020 till April 3, 2020, restricting the withdrawal of deposits to Rs 50,000 per depositor.

In an additional press release on March 5, 2020, RBI, in consultation with Central Government, superseded the Board of Directors of Yes Bank Ltd. for a period of 30 days owing to serious deterioration in the financial position of the Bank. Shri Prashant Kumar, ex-DMD and CFO of State Bank of India was appointed as the Administrator of the bank.

On March 6, 2020 the Reserve Bank of India had placed in public domain a draft scheme of reconstruction of the Yes Bank Ltd. They invited suggestions and comments from members of public. Under clause 6 of the draft scheme mentioned the following: '*The instruments qualifying as Additional Tier 1 (AT1) capital, issued by the Yes Bank Ltd. under Basel III framework, shall stand written down permanently, in full, with effect from the Appointed date. This is in conformity with the extant regulations issued by Reserve Bank of India based on the Basel framework.*' RBI had invited suggestions and comments from stakeholders on the Draft Scheme of Reconstruction. As a part of suggestions and comments, AT1 bond holders, including UTI MF, opposed the write-down of AT-1 bonds in the Draft Scheme of Reconstruction.

On March 9, 2020 a Writ Petition was lodged in Bombay High Court by Axis Trustee on behalf of AT1 holders.

Yes Bank Limited Reconstruction Scheme 2020' ("Scheme") was approved by the Central Government and the Scheme was notified in the Official Gazette on March 13, 2020, which came into force with immediate effect. The write-down of AT1 bonds was not mentioned in the Gazette.

As per the BSE/NSE notification by the Administrator of Yes Bank dated March 14, 2020 vide notification number YBL/ CS/ 2019-20 / 186(2), "*the Perpetual Subordinated Basel III Compliant Additional Tier I Bonds issued by the Bank for an amount of Rs. 3,000 crores on December 23, 2016 and the Perpetual Subordinated Basel III Compliant Additional Tier I Bonds issued by the Bank for an amount of Rs. 5,415 crores on October 18, 2017 have been fully written down and stand extinguished with immediate effect.*"

Axis Trustee, on March 16, 2020, along with other AT1 bond holders, filed a case against the Union of India, RBI, Yes Bank's Administrator Mr. Prashant Kumar, Yes Bank and NSDL.

Update on the Legal Case

Multiple writ petition(s) were filed before the Hon'ble Bombay High Court challenging the write down of AT-1 Bonds and the Stock Exchange Intimation. The final order issued by the government on the reconstruction of Yes Bank on March 13, 2020, did not include the clause on write-off of tier-1 bonds worth Rs 8,415 crore. Thus, on March 13, 2020, when the bank was reconstructed, these bonds were effectively part of the books of the reconstituted bank. The Administrator, on March 14, 2020, announced that these tier-1 bonds were being fully written off. The legality of the write-off decision, announced by the Administrator, was not within his power and this was the basis of the judgment by the court. The Hon'ble Court also mentioned that the Writ Petition is tenable since the Information Memorandum published by Yes Bank is based on the Master Circular of RBI.
The Hon'ble Bombay High Court vide judgment dated January 20, 2023 has set aside the Stock Exchange Intimation and decision of the Bank to write down AT-1 Bonds.

At the request of the Bank, the Hon'ble Bombay High Court has stayed the order for a period of 6 (six) weeks. Yes Bank is in the process of preferring an appeal before the Hon'ble Supreme Court of India.

Source: RBI Press Releases and Bombay High Court Judgements and Gazette of India

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