

# Monthly Policy Review

May 2014

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## Highlights of this Issue

### [New union government formed after elections to the 16<sup>th</sup> Lok Sabha \(p. 2\)](#)

A total of 543 Members of Parliament were elected to the Lok Sabha. The National Democratic Alliance, comprising the BJP and its allies, won a total of 336 seats and has formed the union government.

### [GDP grew at 4.7% in 2013-14, mining and manufacturing declined \(p. 3\)](#)

New estimates of national GDP show GDP growth at 4.7% for 2013-14. Mining and manufacturing output declined by 1.4% and 0.7% respectively, while agricultural output grew at 4.7%.

### [Ordinance related to Andhra Pradesh Reorganisation Act, 2014 promulgated \(p. 3\)](#)

The Ordinance transfers certain areas in Khammam district in Telangana to the successor state of Andhra Pradesh.

### [Supreme Court holds Section 6A of the Delhi Special Police Act unconstitutional \(p. 4\)](#)

Section 6A provides for prior sanction for inquiry against a public servant of the rank of Joint Secretary and above. The Court held that this violated the right to equality under Article 14, for differentiating between ranks of officers.

### [Whistleblowers Protection Bill receives Presidential assent \(p. 4\)](#)

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### [Constitution of SIT for money stashed abroad \(p. 6\)](#)

The Special Investigation Team will investigate, initiate proceedings, and prosecute in cases related to Hasan Ali, and other matters involving unaccounted money.

### [Supreme Court upholds constitutionality of RTE related Articles \(p. 4\)](#)

The Court also exempted minority educational institutions from reserving 25% seats for students from socio-economically weak sections of society under the RTE Act, 2009.

### [Supreme Court rules on medium of instruction in primary schools \(p. 5\)](#)

The Court ruled that parents can choose the medium of instruction for their child. Additionally, the State cannot compel linguistic minorities to choose only their mother tongue as a medium of instruction in primary schools.

### [CCI holds Coal India guilty of anti-competitive behaviour \(p. 6\)](#)

CCI held Coal India guilty of imposing certain unfair and discriminatory conditions in its Fuel Service Agreements.

### [RBI releases Nayak Committee report on governance of banks' boards \(p. 7\)](#)

The Reserve Bank of India has released the report of the Nayak Committee on working of banks' boards, bank ownership and board representation, and conflicts of interest in board representation.

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June 2, 2014

## New union government formed after general elections to Lok Sabha

The elections to the 16<sup>th</sup> Lok Sabha concluded in May 2014 and the new union government was formed. A total of 543 Members of Parliament were elected to the Lok Sabha.<sup>1</sup> The parties with the highest number of seats in the Lok Sabha after the 16<sup>th</sup> general elections are listed below.

**Table 1: Party position after 16<sup>th</sup> general elections**

Party	Number of seats
Bharatiya Janata Party	282
Indian National Congress	44
All India Anna Dravida Munnetra Kazhagam	37
All India Trinamool Congress	34
Biju Janata Dal	20
Shiv Sena	18
Telegu Desam Party	16
Telangana Rashtra Samithi	11
Others	81
Total	543

Sources: Press Information Bureau; PRS.

The National Democratic Alliance, comprising the BJP and its allies, won a total of 336 seats.<sup>1</sup> It has formed the government, with Mr. Narendra Modi as Prime Minister.

The new Cabinet was sworn in on May 26, 2014. A list of Cabinet Ministers and Ministers of State and their portfolios is shown below.<sup>2</sup>

**Table 2: Cabinet Ministers**

Name	Portfolio
Mr. Narendra Modi	Prime Minister Ministry of Personnel, Public Grievances and Pensions Department of Atomic Energy Department of Space All important policy issues Portfolios not allocated to any Minister
Mr. Raj Nath Singh	Home Affairs
Ms. Sushma Swaraj	External Affairs Overseas Indian Affairs
Mr. Arun Jaitley	Finance Corporate Affairs Defence
Mr. M. Venkaiah Naidu	Urban Development Housing and Urban Poverty Alleviation Parliamentary Affairs
Mr. Nitin Jairam Gadkari	Road Transport and Highways Shipping
Mr. D.V. Sadananda Gowda	Railways
Ms. Uma Bharati	Water Resources, River Development and Ganga Rejuvenation
Dr. Najma A. Heptulla	Minority Affairs

Mr. Gopinathrao Munde	Rural Development Panchayati Raj Drinking Water and Sanitation
Mr. Ramvilas Paswan	Consumer Affairs, Food and Public Distribution
Mr. Kalraj Mishra	Micro, Small and Medium Enterprises
Ms. Maneka Sanjay Gandhi	Women and Child Development
Mr. Ananthkumar	Chemicals and Fertilizers
Mr. Ravi Shankar Prasad	Communications and Information Technology; Law and Justice
Mr. Ashok Gajapathi Raju Puspapati	Civil Aviation
Mr. Anant Geete	Heavy Industries and Public Enterprises
Ms. Harsimrat Kaur Badal	Food Processing Industries
Mr. Narendra Singh Tomar	Mines Steel Labour and Employment
Mr. Jual Oram	Tribal Affairs
Mr. Radha Mohan Singh	Agriculture
Mr. Thaawar Chand Gehlot	Social Justice and Empowerment
Ms. Smriti Zubin Irani	Human Resource Development
Dr. Harsh Vardhan	Health and Family Welfare

Sources: Press Information Bureau; PRS.

**Table 3: Ministers of State**

Name	Portfolio
General V.K. Singh	Development of North Eastern Region(IC) External Affairs Overseas Indian Affairs
Mr. Inderjit Singh Rao	Planning (IC) Statistics and Programme Implementation (IC) Defence
Mr. Santosh Kumar Gangwar	Textiles (IC) Parliamentary Affairs Water Resources, River Development and Ganga Rejuvenation
Mr. Shripad Yesso Naik	Culture (IC) Tourism (IC)
Mr. Dharmendra Pradhan	Petroleum and Natural Gas (IC)
Mr. Sarbananda Sonowal	Skill Development, Entrepreneurship, Youth Affairs and Sports (IC)
Mr. Prakash Javadekar	Information and Broadcasting (IC) Environment, Forest and Climate Change (IC) Parliamentary Affairs
Mr. Piyush Goyal	Power (IC) Coal (IC) New and Renewable Energy (IC)

Mr. Jitendra Singh	Science and Technology (IC) Earth Sciences (IC) Prime Minister Office Personnel, Public Grievances and Pensions Department of Atomic Energy Department of Space
Ms. Nirmala Sitharaman	Commerce and Industry (IC) Finance Corporate Affairs
Mr. G.M. Siddeshwara	Civil Aviation
Mr. Manoj Sinha	Railways
Mr. Nihalchand	Chemicals and Fertilizers
Mr. Upendra Kushwaha	Rural Development Panchayati Raj Drinking Water and Sanitation
Mr. Radhakrishnan P.	Heavy Industries and Public Enterprises
Mr. Kiren Rijju	Home Affairs
Mr. Krishan Pal	Road Transport and Highways Shipping
Dr. Sanjeev Kumar Balyan	Agriculture Food Processing Industries
Mr. Mansukhbhai Dhanjibhai Vasava	Tribal Affairs
Mr. Raosaheb Dadarao Danve	Consumer Affairs, Food and Public Distribution
Mr. Vishnu Deo Sai	Mines Steel Labour and Employment
Mr. Sudarshan Bhagat	Social Justice and Empowerment

Sources: Press Information Bureau; PRS.  
Note: IC - Independent Charge

## Macroeconomic Developments

Saumya Vaishnava ([saumya@prsindia.org](mailto:saumya@prsindia.org))

### Gross Domestic Product grows by 4.7%

India's real Gross Domestic Product (GDP) at factor cost grew at 4.7% in 2013-14 (from 4.5% in 2012-13).<sup>3</sup> As can be seen from Table 1, growth in the last quarter (January to March) was 4.6%. In 2013-14, agriculture grew at 4.7% for the entire year due to good monsoon conditions, while mining and manufacturing *declined* by 1.4% and 0.7% respectively. Since 1951, manufacturing output growth has been negative only in two years, in 1979-80 and in 1991-92. Services grew at 6.8% in 2013-14.

**Table 4: GDP growth during 2013-14**

Item	2013-14	2013-14			
		Q1	Q2	Q3	Q4
Agriculture	4.7%	4.0%	5.0%	3.7%	6.3%
Mining	-1.4%	-3.9%	0.0%	-1.2%	-0.4%
Manufacturing	-0.7%	-1.2%	1.3%	-1.5%	-1.4%
Electricity	5.9%	3.8%	7.8%	5.0%	7.2%
Construction	1.6%	1.1%	4.4%	0.6%	0.7%
Services	6.8%	7.2%	6.3%	7.2%	6.4%
<b>GDP</b>	<b>4.7%</b>	<b>4.7%</b>	<b>5.2%</b>	<b>4.6%</b>	<b>4.6%</b>

Sources: MOSPI; PRS.

In terms of spending, private consumption expenditure and government spending accounted for 57.1% and 11.8% of GDP respectively in 2013-14, the same as for 2012-13. However, investment, as proxied by gross fixed capital formation, accounted for 28.3% of GDP (from 30.4% in 2012-13).

Nominal GDP is estimated at Rs 104.7 lakh crore for 2013-14, with per capita income at Rs 74,380 at current prices.

### Wholesale price inflation eases; retail price inflation increases

The wholesale price inflation declined to 5.2% in April 2014 from 5.7% in March 2014.<sup>4</sup> This was primarily driven by an easing of inflation in all commodities. On the other hand, retail inflation (based on the Consumer Price Index) increased to 8.6% in April from 8.3% in March, on account of increase in retail food prices.<sup>5</sup>

## Home Affairs

Prianka Rao ([prianka@prsindia.org](mailto:prianka@prsindia.org))

### Ordinance related to Andhra Pradesh Reorganisation Act, 2014 promulgated

The Andhra Pradesh Reorganisation (Amendment) Ordinance, 2014, was promulgated by the President on May 29, 2014.<sup>6</sup> The Ordinance amends Section 3 of the Andhra Pradesh Reorganisation Act, 2014. This will result in the transfer of 136 villages, 211 hamlets and seven mandals of Khammam district in Telangana to the successor state of Andhra Pradesh.

According to news reports, the villages in Khammam district in Telangana have been merged with the East Godavari district of Andhra Pradesh for the construction of the Polavaram irrigation project.<sup>7</sup>

The project involves the linking of the Krishna and Godavari rivers. The dam to be built in the district of West Godavari would enable the storing of 832 thousand million cubic feet of water. This is expected to result in irrigating an additional 232,000 acre in Andhra Pradesh. The Andhra Pradesh Reorganisation Act, 2014 had declared this project as a 'national project', and that the central government would be responsible for its execution.

## Law and Justice

*Prianka Rao (prianka@prsindia.org)*

### Supreme Court holds Section 6A of the Delhi Special Police Establishment Act unconstitutional

On May 6, 2014, the Supreme Court held that Section 6A of the Delhi Special Police Establishment Act, 1946 (DPSE Act) was unconstitutional.<sup>8</sup> The Act established the Central Bureau of Investigation (CBI).

Section 6A of the Act stated that a CBI officer would require prior approval from the appropriate government before conducting an investigation against a public servant, of the rank of Joint Secretary and above, for any offence under the Prevention of Corruption Act, 1988.

However, prior approval would not be necessary for cases involving arrest of a person on the spot for accepting a bribe.

The question before the Court was whether a classification could be made on the basis of the status or position of the public servant for the purpose of inquiry into allegations of corruption.

The Court held that the classification made in Section 6A of the DPSE Act on the basis of status in government service was not permissible under Article 14 of the Constitution. Such a classification defeated the purpose of looking into allegations of corruption of all public servants under the Prevention of Corruption Act, 1988. Therefore, CBI would not have to take prior approval before conducting an inquiry or investigation against any public servant.

### Whistleblowers Protection Bill receives Presidential assent

The Whistleblowers Bill, 2011 received Presidential assent on May 13, 2014.<sup>9</sup> It was passed by the Rajya Sabha on February 21, 2014, and by the Lok Sabha on December 27, 2011. The Standing Committee on Law and Justice submitted its report on the Bill on June 9, 2011.

The Bill seeks to establish a mechanism to register complaints on any allegations of corruption or wilful misuse of power against a public servant. The Bill also provides safeguards against victimisation of the person who makes the complaint.

For more information on the Bill, see [here](#).

## Education

*Apoorva Shankar (apoorva@prsindia.org)*

### Supreme Court upholds constitutionality of Articles related to RTE; exempts minorities from 25% reservation

The Supreme Court on May 6, 2014 ruled that there was no violation of the basic structure of the Constitution by the insertion of Articles related to the Right of Children to Free and Compulsory Education (RTE) Act, 2009. It also ruled that minority institutions do not need to reserve at least 25% of seats for children from weaker sections of society. Minority institutions refer to religious and linguistic minorities.<sup>10</sup>

The questions put to the five-judge bench of the Supreme Court related to whether the insertion of Article 15(5) and Article 21(A) has altered the basic structure of the Constitution.

Article 15(5) outlines the right of the state to make special provisions for the advancement of any socially and educationally backward classes, and their admission into educational institutes. Article 21(A) refers to the state's obligation to provide free and compulsory education to all children between the ages of six and 14 years. The Court held that both Articles do not violate the basic structure of the Constitution.

The RTE Act, 2009 provides for at least 25% of the strength of a class to be reserved for children belonging to weaker sections or disadvantaged groups. This applies to all schools of a specified category (such as Kendriya Vidyalaya, etc.) or unaided schools.<sup>11</sup> The Court upheld the 25%

seat reservation for private unaided institutions and noted that there was no violation of their right to trade/business.

The other query pertained to whether the RTE Act, 2009 alters the minority character of aided or unaided institutions covered under Article 30(1) (stating that all minorities have the right to establish and administer educational institutes of their choice) and the Court held that it did.

### **Supreme Court rules on medium of instruction in primary schools**

A five-judge bench of the Supreme Court delivered a judgment on May 6, 2014 on the rights of a child belonging to a linguistic minority and his/her medium of instruction. The Court upheld a Karnataka High Court order, which had disallowed the state from imposing Kannada at the primary level, in all schools.

The Court addressed the following issues:

- The Court ruled that the “mother tongue” of a child is not merely the language the child is comfortable with. It is the language of a group which is a linguistic minority in a state and that decided by the parent or guardian of the child.
- The Court held that children, or parents on their behalf, have the right to choose the medium of instruction at the primary school level.
- The Court also ruled that minority institutions would have a right to choose their own medium of instruction.
- Another question referred to whether government-recognised schools are inclusive of both government-aided and private unaided schools. The bench held that unaided schools that have been granted recognition can also be termed as government-recognised.
- Finally, the Court ruled that the state has no power to compel linguistic minorities to choose their mother tongue only as a medium of instruction in primary schools.

## **Telecom**

*Alok Rawat (alok@prsindia.org)*

### **Government promulgates TRAI (Amendment) Ordinance, 2014**

The government promulgated the Telecom Regulatory Authority of India (Amendment) Ordinance, 2014 on May 28, 2014.<sup>12</sup> The Ordinance amends the Telecom Regulatory Authority of India Act, 1997.

The Act prohibited a former Chairperson or whole-time members of the Telecom Regulatory Authority of India (TRAI) to be employed with central or state governments. The Ordinance allows them to accept such an employment: (i) after two years from the date they cease to hold office, or (ii) before two years with the approval of the central government.

The Act also prohibited former TRAI Chairpersons or whole-time members from accepting any employment with a commercial organisation for one year after they cease to hold the office. The definition of commercial employment included working as an employee, director, partner, independent practitioner, advisor or consultant.

The Ordinance removes all restrictions on undertaking commercial employment except as an employee of a telecom company.

### **TRAI recommendations on definition of ISP's AGR for calculation of license fees**

The Telecom Regulatory authority of India (TRAI) has released its recommendations on the definition of Adjusted Gross Revenue (AGR) for the licenses granted to Internet Service Providers (ISPs).<sup>13</sup> It also provided recommendations regarding applicability of minimum presumptive AGR for ISP licensees holding Broadband Wireless Access (BWA) spectrum.

ISP licenses were granted in three rounds beginning 1998, 2002 and 2007. Currently there are different methods for the calculation of license fee for all three categories.

Usually the license fee is linked to a licensee's revenues. Therefore, delays in commencement of services by a licensee results in loss of license fee to the government. In such cases, a presumptive AGR can be used to calculate the license fee and deter hoarding of spectrum.

Key recommendations are:

- **License fee:** A uniform license fee of 8% of AGR should be applicable to all ISPs.
- **AGR:** AGR should include all types of revenue from internet services, deductions should be limited to taxes/levies and charges paid to other telecom service providers.
- **Minimum AGR:** Minimum presumptive AGR should apply to ISPs who received BWA spectrum in the 2010 auction. It will be equal to 5% of total bid amount for each telecom circle.

## Coal

*Alok Rawat (alok@prsindia.org)*

### CCI holds Coal India guilty of anti-competitive behaviour

The Competition Commission of India (CCI) has held Coal India Ltd (CIL) guilty of misusing its dominant position.<sup>14</sup> In 2013, Sponge Iron Manufacturers Association and state utilities from Madhya Pradesh and West Bengal filed separate cases against Coal India and its subsidiaries, alleging imposition of unfair and discriminatory conditions in Fuel Supply Agreements (FSAs).

In December 2013, CCI had found CIL guilty of similar anti-competitive behaviour in cases filed by Maharashtra and Gujarat state utilities and imposed a fine of Rs 1,773 crore.<sup>15</sup> It had then held that certain provisions of FSAs were in contravention of the Competition Act, 2002.

In its April 2014 order, CCI additionally found the following provisions of FSAs in violation of the Competition Act, 2002: (i) grading of coal for non-power sector buyers, (ii) sampling and testing procedure for non-power sector buyers, (iii) compensation for supply of oversized coal/stones, and (iv) imposition of a Memorandum of Understanding in addition to FSAs. CCI asked CIL and its subsidiaries to cease and desist from such conduct and modify the FSAs accordingly. It did not impose any new penalty on CIL.

Some news reports have suggested that CIL has changed some of the FSA provisions regarding supply of oversized coal/stones and change in contract quantity.<sup>16</sup>

## Finance

### Constitution of SIT for money stashed abroad

*Saumya Vaishnava (saumya@prsindia.org)*

The Cabinet decided to constitute a Special Investigation Team (SIT) under the chairmanship of former Supreme Court judge, Justice M. B. Shah, for investigating large amounts of unaccounted money stashed abroad. This is in keeping with the decision of the Supreme Court.<sup>17</sup>

The SIT will investigate, initiate proceeding and prosecute in cases related to Hasan Ali (an Indian businessman in jail on suspicion of money laundering) and other matters involving unaccounted money. In addition to the Chairman and Vice-chairman, there are 11 members in the SIT representing the Reserve Bank of India, Ministry of Finance, Financial Intelligence Unit, Intelligence Bureau, etc.

### Government accepts recommendations of the Sahoo Committee report

*Saumya Vaishnava (saumya@prsindia.org)*

The Ministry of Finance had constituted the Committee to Review the FCCBs and Ordinary Shares (Through Depository Receipts Mechanism) Scheme under the chairmanship Mr. M. Sahoo in September 2013.<sup>18</sup>

The Committee sought to review the current scheme governing issuance of Depository Receipts (DRs). DRs are securities used by firms to access international capital markets.

The Committee submitted its report in November 2013, along with a draft for a new scheme for governing DRs. The government has accepted the report.<sup>19</sup> The new scheme will be notified at a later date.

Some of the Committee's recommendations are:

- (i) allowing issuance of DRs against any underlying securities (equity or debt) and by any issuer (listed or unlisted),
- (ii) DRs can be issued to raise fresh capital or against existing shares,
- (iii) no restriction on end-use of funds raised through DRs,
- (iv) DRs should count as public shareholding if they have attached voting rights for holders.

Currently, the issuance of DRs are governed by a 1993 scheme, which states that DRs can be issued only with equity as the underlying security and not for raising fresh capital. The Committee proposes to relax certain norms regarding DRs. The new draft scheme covers only DRs and not Foreign Currency Convertible Bonds (FCCBs). FCCBs will continue to be governed under the existing scheme.

### RBI releases Nayak Committee report on governance of bank's boards

*Alok Rawat (alok@prsindia.org)*

The Reserve Bank of India (RBI) has released the report of the Committee for Review of Governance of Boards of Banks in India (Chairperson: Mr. P. J. Nayak).<sup>20</sup> The Committee was constituted to examine the working of banks' boards, review RBI guidelines on bank ownership and representation in the board, and investigate possible conflicts of interest in board representation.

Key recommendations of the Committee are:

- **Ownership of Public Sector Banks (PSBs):** All PSBs should be incorporated under the Companies Act, 2013. The government should transfer its holdings in PSBs to a Bank Investment Company (BIC). Some of the constraints faced by PSBs could be removed if the government reduces its holding below 50%.
- **Board appointments in PSBs:** The process of board appointments in PSBs needs to be professionalised in a three-phase process. In the first phase, a Bank Boards Bureau comprising former senior bankers should advise on all board appointments. In the second phase BIC should take over the process. In the third phase, BIC should delegate these powers to PSBs' boards.
- **Private sector banks:** Diversified investment funds should be allowed to hold 15-20% stake in a private sector bank without regulatory approval (currently, 5%). Other investors can hold up to 10% stake. The promoters should be permitted to hold up to 25% stake in a private sector bank (currently, 15%).

RBI has asked for comments from concerned stakeholders by June 12, 2014.

### SEBI releases draft Listing Obligations and Disclosure Regulations

*Alok Rawat (alok@prsindia.org)*

The Securities and Exchange Board of India (SEBI) released draft SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2014 on May 5, 2014.<sup>21</sup> Currently, there are separate norms for listing different categories of securities on financial exchanges. The draft regulations provide listing conditions and disclosure requirements for multiple categories of securities.

Key features of the draft regulations are:

- **Definitions:** Definitions of some of the terms like financial year, holding (parent) company, subsidiary, Chief Executive Officer and global depository receipts have been aligned with those provided in the Companies Act 2013.
- **International norms:** The draft regulations introduce overarching principles for disclosures, obligations and corporate governance. These principles are in consonance with the international norms.
- **Common obligations:** Obligations of a listed entity regarding filing of information, responsibilities of compliance officer, fees etc., will be applicable to all types of listed securities. Prior disclosure of fund raising events has been made mandatory.
- **Uniformity:** Provisions of listing agreement will also apply to Small and Medium Enterprises, debt securities and redeemable preference shares.

SEBI had asked concerned stakeholders to submit their comments by May 30, 2014.

### SEBI releases discussion paper on review of delisting regulations

*Alok Rawat (alok@prsindia.org)*

The Securities and Exchange Board of India (SEBI) released a discussion paper on the review of regulations governing delisting of equity shares from a stock exchange on May 9, 2014.<sup>22</sup> For delisting the shares of a company, promoters invite bids from other shareholders at a price above or equal to a pre-set floor price. This process is called Reverse Book Building (RBB). Some of the market participants have highlighted the need for a review of RBB.

Key issues discussed in the paper include:

- **Price discovery:** The paper suggests four options regarding price discovery mechanism: (i) continuing with RBB, (ii) modifying the RBB process, (iii) mandating a fixed price for delisting offers, and (iv) allowing promoters to offer shares for sale if the price discovered by RBB is significantly higher than the floor price.
- **Participation:** The paper makes four suggestions to increase shareholders' participation in RBB: (i) restriction on trading of shares during delisting offer, (ii) allowing Depository Receipt holders to participate in delisting (Depository Receipts represent shares of an Indian company and are traded on foreign exchanges), (iii) mandating tender of shares through exchange to reduce tax liability, and (iv) allowing retail shareholders to bid at a cut-off price (determined by a suitable formula).
- **Time:** The time involved in the delisting process can be reduced by: (i) removing the requirement of shareholders' approval for delisting, (ii) allowing promoters to announce the offer price before seeking shareholders' approval, and (iii) removing the requirement for in-principle approval from stock exchange.

SEBI had asked comments from concerned stakeholders by May 30, 2014.

### Working Group on Resolution Regime for Financial Institutions submits report

Saumya Vaishnava ([saumya@prsindia.org](mailto:saumya@prsindia.org))

The Reserve Bank of India had constituted a high level Working Group to suggest measures to strengthen the resolution regime for financial institutions and Financial Market Infrastructures (FMIs). The Working Group submitted its report in January 2014, and has invited comments on it by May 31, 2014.<sup>23</sup> The main recommendations of the Working Group are:

- **Comprehensive framework:** The Committee recommends a separate comprehensive legal and policy framework for resolving financial institutions (banks, companies in insurance, pensions, securities, etc.) and FMIs (including payment systems, securities settlement systems, etc).
- **Objective of resolution:** The Committee stated that the aim of resolution was not to

preserve the financial institutions, but to ensure continuity of the functions that are critical for the financial system as a whole, and limit any use of taxpayer's money.

- **Structure of resolution authority:** The Committee recommends a single independent Financial Resolution Authority (FRA), mandated under law for resolving all financial institutions and FMIs, in coordination with the respective financial regulators. This is in consonance with the recommendation of the Financial Sector Legislative Reforms Commission.
- **Early intervention:** Each regulator will develop a prompt corrective action (PCA) framework for institutions under its regulatory jurisdiction. When the PCA framework signals that an institution is at the risk of failing (but has not yet failed), the institution shall be passed on to the FRA. The FRA will have resolution tools at its disposal to resolve financial institutions while protecting consumer interests.

### Credit enhancement for corporate bonds

Saumya Vaishnava ([saumya@prsindia.org](mailto:saumya@prsindia.org))

The Reserve Bank of India (RBI) proposes to allow banks to enhance credit to corporate bonds issued for financing infrastructure projects by Companies/ Special Purpose Vehicles (SPVs), subject to certain guidelines.<sup>24</sup> This is in keeping with its proposal in the Second Quarter Monetary Policy Review from October 2013. Further, RBI has invited comments on the draft circular.

**Background:** Indian corporates are dependent on banking finance as the Indian corporate bond market is not mature. Long term investors like provident funds and insurance providers cannot invest in corporate bonds issued by infrastructure companies and SPVs since these do not carry high credit ratings. Salient features of the proposal are:

- **Credit enhancement:** The partial credit enhancement will involve: (i) separating the debt of a project company into senior and subordinate tranches, and (ii) banks providing a loan or a contingent line of credit to support these senior project bonds, which improves the bonds ratings. This should allow infrastructure companies and SPVs access to the corporate bond market. Credit enhancement will be the lower of: (a) enhancement required to raise the credit



ratings by two levels, and (b) 20% of the entire bond issue.

- **Guidelines:** Certain guidelines have to be followed such as: (i) banks cannot provide guarantees, (ii) disclosure of effect of credit enhancement on bond rating in the bond offer document, (iii) banks cannot invest in bonds they have provided partial credit enhancement for, nor can they provide any other credit facility to the project, and (iv) the project should have robust financial structure before credit enhancement as well.

## Urban Development

Joyita Ghose ([joyita@prsindia.org](mailto:joyita@prsindia.org))

### Planning Commission publishes report of the Task Force on Waste to Energy

The Planning Commission published the report of the Task Force on Waste to Energy on May 12, 2014.<sup>25</sup>

The report makes recommendations to strengthen the policy framework for municipal solid waste management. It also identifies sustainable municipal solid waste management technologies, specifically those promoting Waste to Energy technology. Waste to Energy technology refers to the process of generating energy, in the form of thermal power or electricity, from waste.

Key recommendations of the Task Force are:

- **Institutional development and policies:** Missions or authorities on solid waste management must be established at the national and state level. The Ministry of Urban Development should create a national policy on waste management. A National Recycling Programme should be created.
- **Integrated approach and decentralisation:** An integrated approach must be evolved for collection, segregation at source, transport, processing, and disposal of waste. Solid waste management must be decentralised as far as possible. *Kabadiwalas* and rag pickers must be integrated into the system.
- **Public-Private Partnerships (PPPs):** PPPs must be encouraged in the sector, especially for establishing waste to energy plants, by evolving a suitable policy framework.

- **Viability gap funding:** Private companies in the sector may be given viability gap funding of up to 40% by the central government. Viability gap funding refers to financial assistance given by the government to assist private agencies or PPPs to undertake projects which may not be financially viable in the short run, but may have high economic returns.

### Draft note on strengthening PPPs in urban water supply

The Ministry of Urban Development has placed a draft note on strengthening Public-Private Partnerships (PPPs) in urban water supply in the public domain.<sup>26</sup> Comments and suggestions can be sent to the Economic Advisor, Ministry of Urban Development.

The Ministry is seeking to address issues related to PPPs in the water supply sector, in the context of an increasing number of PPPs since the 1990s. Key issues addressed in the draft note include a lack of flexibility with regard to engineering design, lack of reliable data, weak financial and operational sustainability of projects, and either weak, or over stringent linkage of performance to operator revenue.

The draft note outlines processes of: (a) project preparation, (b) assessing the financial viability of a project, (c) funding of projects and, (d) establishing performance targets and linking performance with revenue.

<sup>1</sup> "Election Results 2014" Press Information Bureau, [www.pib.gov.in/elections2014](http://www.pib.gov.in/elections2014).

<sup>2</sup> "Press Communique", Press Information Bureau, President's Secretariat, May 27, 2014.

<sup>3</sup> "Provisional Estimates of Annual National Income, 2013-14 and Quarterly Estimates of Gross Domestic Product, 2013-14", Press Information Bureau, Ministry of Statistics and Programme Implementation, May 30, 2014.

<sup>4</sup> "Index Numbers of Wholesale Price in India (BASE: 2004-05=100), Review for the Month of April, 2014", Press Information Bureau, Ministry of Commerce and Industry, May 15, 2014.

<sup>5</sup> "Consumer Price Index Numbers on Base 2010=100 for Rural, Urban and Combined for the Month of April, 2014", Press Information Bureau, Ministry of Statistics and Programme Implementation, May 12, 2014.

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