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CEA Subramanian exits 'with the best of memories'

SHISHIR SINHA | NEW DELHI, JUNE 20

BusinessLine

Arvind Subramanian is known to do things differently. His reason for quitting as Chief Economic Adviser to the Union Finance Ministry is characteristically 'unusual': he wants to give more time to his soon-to-be-born grandchild.

Subramanian addresses his boss, Finance Minister Arun Jaitley, as 'Minister' and not 'sir', unlike his Secretary-level colleagues. This informal, matter-of-fact approach rubbed off on many others at North Block, among them Jaitley, who penned a Facebook blog post thanking "Arvind".

The acronym 'JAM' (Jan Dhan Bank Accounts, Aadhaar and Mobile Connection)' — which Subramanian introduced in his first Economic Survey — has become the punchline for the government, as has the 'revenue-neutral rate' (RNR) for GST which formed the basis for many an argument to decide the indirect tax rates.

"My departure from this job is motivated entirely by personal reasons. It is no secret that we are expecting our first grandchild in early September. That's a very compelling reason that takes us back to the old life that I used to lead — of researching, writing, teaching and reflecting, above all," he told reporters in what may have been his last press conference.

In an earlier time, verbose press meets had been the hallmark of CEAs; Subramanian, however, chose to present his four Economic Surveys through innovative powerpoint presentations.

The CEA's exit comes several months before the expiry of his contract in May 2019.

What next? "I have not thought about what I want to work on, what I want to write on, but certainly reflecting upon my experience here, reflecting upon India and its challenges. I also had in mind, for many years, [the intention to] writing a book on economic development around the world."

On his experience here, he said: "I will go back with the happiest, best of memories of this tenure in terms of what we all were able to do."

Will he come back, if the need arises? "I will always be committed to serving the country at all times."

ARCs are not the solution to bad loans mess

With asset recovery companies, the NPAs just get transferred from one entity to another without a promise of resolution

S KALYANASUNDARAM

THE HINDU BusinessLine

The government, the Reserve Bank of India and the banks seem to be completely at a loss for ideas to handle the Rs.8 lakh-crore of non-performing assets of banks.

This is evident from the decision to set up a new committee which will go into the possibility of creating an Asset Reconstruction Company and/or Asset Management Company for faster resolution of assets that have multiple banks involved.

Before venturing another separate ARC, it is important to evaluate the performance of existing ones.

The Narasimham Committee Report (1998) mentioned that an important aspect of the continuing reform process was to reduce the high level of

NPAs. At that time it was (wrongly) expected that with a combination of policy and institutional development, NPAs in the future would be lower.

However, to reduce the huge backlog of NPAs, the Report suggested to create an Asset Recovery Fund to take the NPAs off the lenders' books at a discount.

ARCIL was the first ARC set up by ICICI Bank, State Bank of India and IDBI. There are 24 ARCs now and Edelweiss is the largest one.

ARC is a company registered under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002. The RBI regulates ARCs as Non Banking Financial Companies.

The mandate of ARCs

ARCs have been set up to provide a focused approach to non-performing loans resolution issue by:

(a) Isolating non-performing loans from the financial system,

(b) Freeing the financial system to focus on its core activities and

(c) Facilitating the development of a market for distressed assets.

To what extent has the main activity of ARCs been achieved? And what are the hurdles in achieving the goal?

Under the SARFAESI Act, a bank puts up stressed assets for auction after applying a haircut but with a reserve price and sells them to the highest bidding ARC.

ARCs acquire these assets by paying in cash or by issuing security receipts or 'hope notes' whose redemption is contingent on the recoveries made. Security receipts (SRs) are backed by impaired assets. Hence there is no definite cash flow.

An ARC considers a number of different routes to maximise realisation from the assets, including liquidation/settlement/restructuring or rehabilitation and turnaround to ensure payment from the improved operating cash flows of the company. Proceeds, if any, are distributed according to the shareholding of the SRs. As an intermediary recovering dues on behalf of SR holders, ARCs charge a management fee.

Capitalisation, the key

ARC's operations can be fruitful only if they are adequately capitalised to meet the requirement of banks to transfer NPAs and also to turn around of the NPA accounts transferred from banks. Payment to SR holders is also a factor for funds generation.

ARCs issued SRs of Rs.20,410 crore in 2014 and Rs.22,440 crore in 2015. But redemption of SRs was only a fraction at Rs.1,190 crore in 2014 and Rs.1,650 crore in 2015.

It is disturbing to read the Finance Minister's statement that funding from the National Investment and Infrastructure Fund could be one of the possibilities as this fund is for infrastructure development and not for NPA resolution.

There is also a fundamental flaw in transferring NPAs to ARCs. A mere transfer of NPA from one entity to another does not enable recovery. The transfer is just cosmetic without actual recovery and it is simply a transfer of the problem from one entity to another. At the time of transfer there is a haircut (around 40 per cent), which affects the bottomline of banks as the writing down a part is not recovery.

ARCs have the same rights to recourse as banks do, but they do not have any magic wand for recovery. In fact the financing bank will have more comfort while dealing with the borrower, as it has handled the borrower right from the time of the appraisal. ARCs do not have any special skill or judicial means to recover the money.

The only advantage with them will be that they buy the written down value and hence the recoverable NPA will be less.

NPA is not like a communicable disease that needs isolation and treatment.

The policy makers must attempt a meaningful resolution of this problem including stringent action on the defaulters and judicial reform instead of preaching banks to soft pedal with borrowers or to transfer the problem to another entity. Otherwise it is simply scratching the surface.

How PNB fraud happened: A 162-page report lays bare the lapses

The damning conclusions of Punjab National Bank internal report stand in contrast to the lack of regulatory action taken by the authorities since the PNB fraud was reported

In March 2012, the Brady branch said in an internal memo that an almost 50% of the observations flagged in its annual inspection report remained "un-replied/unattended to by respective concerned officers", calling it a "critical situation"

Jun 21 2018
Abhirup Roy, Aditya Kalra and Euan Rocha, Reuters

live mint

Mumbai/New Delhi:

A $2 billion **PNB fraud** may have been orchestrated by a few rogue employees, but it escaped detection because of widespread risk-control and monitoring lapses in many areas of the bank, the bank's own internal probe has found.

PNB, India's second-biggest state-controlled lender, has previously alleged that a handful of staff at a single Mumbai branch issued fake bank guarantees over several years to help two jewellery groups—controlled by Indian diamond magnate Nirav Modi and his uncle Mehul Choksi—raise billions of dollars in foreign credit and commit India's biggest-ever bank fraud.

The bank's CEO **Sunil Mehta** told *Reuters* in April he had suspended 21 officials and "will not spare" others found involved in lapses, but he also described the fraud as a "small turmoil".

However, a 162-page internal report, produced by PNB officials tasked with probing the fraud, lays bare lapses that go far beyond a few branch officers. The report, a copy of which was reviewed by *Reuters*, lays out how failings by 54 PNB officials—ranging from clerks to foreign exchange managers, and auditors to heads of regional offices, allowed the fraud to be perpetrated. Eight of the 54 are among those who have been charged by the federal police for their roles in the scandal.

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The report, which the PNB officials presented to the bank's fraud risk management arm on 5 April, along with dozens of pages of annexed bank records and internal e-mails, is also part of the evidence submitted by the federal police in its court case against those allegedly involved in the fraud. The report's findings have not previously been made public.

Damning conclusions

The unearthing of the fraud in January has not only exposed shortcomings in the management of PNB, but has also undermined confidence in India's state-run banking sector, which controls over two-thirds of the nation's bank assets.

The damning conclusions of the report stand in contrast to the lack of regulatory action taken by the authorities since the fraud was reported. No penalty has been imposed on PNB as a result of the fraud and there has been no senior management shake-up.

A PNB spokesman told *Reuters* the bank "cannot share details on a sub-judice case". He added: "We must reiterate that we will not spare anybody who is found guilty irrespective of the level or position in the bank," he said.

PNB did not respond to a question about what action was taken against the "erring" officials mentioned in the report. The Reserve Bank of India and the Indian government's federal banking secretary, Rajiv Kumar, didn't respond to requests for comment.

The report does not say whether the PNB investigators believe those involved in the monitoring failures were aware of the fraud.

Significantly, they said one of the reasons the fraud went undetected for years was because of lapses within some of the bank's critical areas at its New Delhi headquarters, such as its credit review and international banking units.

"There was enough evidence to suggest failures," the team of four senior PNB investigators said in its report. "It was observed that blatant system violations/unethical practices/dereliction of responsibilities led bank to such a catastrophe."

Fraud at Brady House

The epicentre of the fraud was PNB's Brady House branch, housed in a building with an imposing colonial facade in downtown Mumbai. From there, deputy manager Gokulnath Shetty for years issued fraudulent credit guarantees over the SWIFT interbank messaging network, the bank and prosecutors have alleged.

Using those guarantees, companies controlled by Nirav Modi, whose jewellery creations were once adorned by global celebrities, and Choksi, received credit from banks overseas to fraudulently fund their businesses, PNB alleges.

Modi and Choksi, both of whom left India before PNB filed its first police complaint on 29 January, have denied any wrongdoing. Shetty's lawyer has said his client is not guilty.

All face charges of criminal conspiracy and cheating, as well as allegations under India's prevention of corruption law.

A police source told *Reuters* on Monday the federal investigating agency last week asked the international police agency **Interpol** to help locate Modi and Choksi.

Calls and text messages to lawyers for Modi and Choksi went unanswered.

Lack of integration

Shetty escaped detection because he did not log his SWIFT transactions on the bank's internal software—something he was supposed to do because the two systems were not integrated.

PNB investigators said the bank's international banking department and the IT division had delayed the integration work. They had also not complied with central bank advisories in 2016 calling for a comprehensive audit of SWIFT systems in use.

But more simply, the fraud could have been detected if the branch did the basic daily SWIFT reconciliation that, according to internal rules, required logs of transactions on the global payments network to be manually checked against the bank's internal system, the investigators said.

"Only one activity would have nailed the whole act at the incipient stage," said the report.

The lapses, however, extended beyond the branch.

As per protocol, the daily reconciliation reports should travel up the chain to PNB's headquarters in New Delhi. Along the way, they would be signed off by the Brady House branch head and sent each month to a Mumbai city regional office that would issue all-clear certificates for the branches it controls.

But despite receiving just two of the 12 monthly reports from the Brady House branch last year, the regional office signed off on a "false" compliance certificate, signalling a clean bill of health for the branch, the report said.

Moreover, despite a massive missing paper trail, none of the senior inspection officers, who conducted 10 visits between 2010 and 2017 to the branch, reported anything "adverse", PNB's report stated.

Missed major red flag

The Mumbai city regional office also missed another vital red flag—the Brady House branch was a star performer, largely because of its dealings with Modi firms, the PNB report said.

Its import and export transactions in the 12 months to March 2017 stood at $3.3 billion, 50% higher than recorded two years prior. “The exceptional growth should have been noticed,” the report said.

A former PNB internal audit official who declined to be identified but reviewed the growth numbers mentioned in the report for Reuters, said: “This was sufficient to raise a cause of concern and the reasons thereof should have been investigated.”

Signs that audit practices at Brady House were weak were also flagged by the branch itself, according to two internal PNB documents reviewed by *Reuters*.

In March 2012, the branch said in an internal memo that an almost 50% of the observations flagged in its annual inspection report—mainly auditor queries - remained “un-replied/unattended to by respective concerned officers”, calling it a “critical situation”.

Four years later, in 2016, the branch’s assistant general manager issued an internal memo saying around 18 observations—five described as zero-tolerance level issues—were pending. The memo was signed by 10 bank officers, including Shetty.

Late-night emails

Shetty joined the forex division at Brady House in April 2010. In March 2011, the branch issued the first fake credit guarantees of $15.5 million to Modi’s firms through SWIFT messages, bypassing the internal banking system, the PNB investigators said.

Over the coming years, Shetty authorized more than 1200 fraudulent credit guarantees, the report said.

As a mid-level employee, Shetty should only have been able to approve transactions of up to 2.5 million rupees ($37,000) without sign-off from more senior officials. But he had been given unlimited approval powers, the investigators said without explaining how this happened.

In the few weeks before his retirement in May last year, Shetty used his personal Yahoo e-mail address to send 22 e-mails—18 at around midnight—to reconcile large forex transactions involving the Modi group. The use of personal e-mail was "overlooked" by the bank's treasury department, the report said.

Under PNB policy, no officer should remain in the same office for more than three years, but Shetty retired after serving in Brady House for seven years. Three transfer orders were issued for him during his tenure, but he was never moved, the investigators found.

The report said that it is "incomprehensible" that branch staff did not notice the fraud being committed.

Shareholders, bank unions back arrested BoM brass

Mumbai, Jun 21 **Outlook**

The shareholders of the embattled Bank of Maharashtra and bank unions today came out in support of its arrested brass for their alleged collusion in extending loans to the scam-tainted realty player DSK Group.

At the annual general meeting today, the shareholders reposed their faith and confidence in the bank and its leadership team.

The shareholders acknowledged the team's impeccable service record and various efforts undertaken for steering the bank towards profit.

The economic offences wing of the Pune police had yesterday arrested chairman and managing director Ravindra Marathe, executive director Rajendra Gupta, zonal manager Nityanand Deshpande, former chairman Sushil Muhnot in a cheating case lodged against real estate developer DS Kulkarni and his wife.

The arrest was made despite the bank disclosing that it had only a little over Rs 92 crore exposure to the DSK group and that the entire loan is fully secured and the loans were given before Marathe took over.

The All-India Bank Employees Association in a letter to the financial services secretary Rajiv Kumar said it is surprising that the executives of the bank, who as per information, are not connected with the cheating by DSK Group.

"Hence, arresting them at this stage in connection with this is unwarranted. If there is any involvement of these officials in the DSK scam, they should be taken to task but as per our information, they are not involved in the same," association general secretary CH Venkatachalam said in the letter.

The Pune police has overstepped in this regard and government should intervene, he added.

The letter said the arrest has dented reputation of the bank besides harassment of these officials.

"Defaming public sector banks and harassing their executives who are not involved in a scam will only demoralise the workforce," the letter said.

In a statement issued yesterday, Bank of Maharashtra had said its total outstanding exposure to DS Kulkarni Developers was close to Rs 94.52 crore and is fully secured by primary and collateral securities.

Loans sanctioned to firm were as per the bank's lending norms.

The bank has already declared the group and its promoters as willful defaulters, it said in the statement.

The recovery process has already been initiated and some of the properties of the defaulting group are due for auction, the bank had said.

While seeking the bank officials' custody, the police told the court that the accused bank officials -- Gupta, Munhot and Deshpande -- did not follow the set guidelines of the Reserve Bank while sanctioning the loan to DSK.

"The bank officials, under the consortium, had sanctioned a loan of Rs 100 crore to Kulkarni's Dream City Project when other banks were yet to give their nod for funding to the project," the remand plea said.

Further, after sanctioning the loan, the accused made the changes in the original proposal and disbursed Rs 50 crore to Kulkarni, it said.

The police also told the court that the loan was to be used for a particular project, but the bank officials did not ascertain if DSK was using the money for the stated purpose.

Database on unorganised workers gets underway

PRISCILLA JEBARAJ
NEW DELHI, JUNE 19, 2018
THE HINDU

Ten years after passing a law that envisaged a portable smart ID card for unorganised workers, the Centre has started work to create a national database and Aadhaar-seeded identification number system to facilitate welfare delivery to 40 crore workers in the sector.

The Union Ministry of Labour has called for tenders to design, develop and run the new UWIN — Unorganised Workers Identification Number — Platform. In December 2017, Santosh Kumar Gangwar, Minister of State for Labour and Employment told the Rajya Sabha that the project would have an estimated cost of Rs.402.7 crore. The Unorganised Workers Social Security Act, 2008 had first mandated that every worker be registered and issued a smart ID card.

According to the notice, the “single unified sanitised database” will assign a ten-digit UWIN to every worker and include details of both nuclear and extended families of unorganised workers.

The platform will be set up within six months of the contract being signed, and a third of the workers are expected to be registered in the first year, with the remainder to be registered in the second year.

While the Centre — through the service provider — will create and maintain the platform, it is up to the states to identify and register unorganised workers.

Loan defaulters beware! Banks can send legal notices through WhatsApp

BUSINESSWORLD

The Bombay High Court had recently ruled that banks can send legal notices to loan defaulters through WhatsApp. Once it is proved that the notice was delivered, the court will accept it as duly served on the requisite individual. The path-breaking order was delivered by Justice G.S. Patel on 11th June 2018, and has kept the legal circles buzzing ever since.

The case in question was being fought between SBI Cards & Payments Services Pvt Ltd and Rohidas Jadhav. Jadhav, who had pending credit card dues, was ordered in 2011 to repay the amount along with 8 per cent interest. He failed to repay the amount and kept changing his residence in order to avoid the banks litigation notice. As SBI had Jadhav's mobile number, it sent a message through WhatsApp intimating him about the next date of hearing.

Taking cognisance of the matter, Justice Patel ruled, "The Respondent to the Execution Application has been evading service of this Notice under Order XXI Rule 22 of the Code of Civil Procedure 1908. He was served by an authorized officer of the Claimant, Ms Fatema Kalyanwala, by sending a PDF and message to his mobile number as a WhatsApp message. For the purposes of service of Notice under Order XXI Rule 22, I will accept this. I do so because the icon indicators clearly show that not only was the message and its attachment delivered to the Respondents number, but that both were opened."

Delivery of summons, i.e. a notice to appear before a court of law, is governed by the Code of Civil Procedure, 1908. Under Order V, Rule 9(3) of the said law, a summon has to be delivered through registered post acknowledgment due. However, if the summon cannot be delivered through post because of unavoidable circumstances, the law permits taking recourse of any other means of transmission of documents, which includes fax or email. In this specific case, the Bombay High Court interpreted notice issued through WhatsApp to come under other means of transmission of documents.

Some experts, however, are hesitant in accepting the order. As reported by the Financial Express, Ashok Shah, Partner, N.A Shah Associates LLP, said,"In todays world of information technology, electronic service of notice is going to be way of life. Like everything else, this should be a welcome step. Number of legislations have been made making electronic service of notices legal. Though in context of facts of a particular case, the Bombay High Court upheld the notice by WhatsApp as a sufficient proof of delivery of notice. This cannot be taken as a general rule. In order to prevent misuse, various safeguards will have to be incorporated in the Civil Procedure Code, and till such amendments are made, one will have to proceed on the basis that delivery by WhatsApp is not a legal way of serving notice."

AIBEA THIS DAY JUNE 22	
1968	**Central Committee Meeting at Calcutta – intensification of struggle against 36 AD.**
1994	**AIBEA and 3 Unions meet IBA on issues of Privatisation, Branch Closures etc.**

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