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ANALYSING REGULATORY FRAMEWORK FOR SILVER EXCHANGE TRADED FUNDS, PREPAID PAYMENT INSTRUMENTS, DIGITAL BANKS, ETC.

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ABSTRACT

Regulatory frameworks are indispensable given the variety of new economic and pecuniary aspects to the economy of the whole world that are originating very swiftly. This research work deals with three economic concepts namely, Silver Exchange Traded Funds, Prepaid Payment Instruments and Digital Banks. All the three topics have been comprehensively and concisely explained in the various sections of this research work. Hey there! Digital banks are becoming increasingly popular these days. They are convenient, fast, and secure. Digital banks offer many benefits over traditional banks, and they are quickly becoming the go-to choice for many people.

Digital banks also offer a higher level of security than traditional banks. They use advanced encryption technology to protect your personal and financial information. This means that your information is less likely to be compromised by hackers or other cybercriminals. Additionally, digital banks often have fraud detection systems in place that can alert you to any suspicious activity on your account.

One of the most appealing features of digital banks is the ability to open an account online. This means that you don't have to visit a physical branch to open an account. You can simply fill out an application online and provide the necessary documentation. This is a great convenience for people who live far away from a bank branch or who don't have the time to visit a bank during regular business hours.

The concept of Exchange Traded Funds has been explained first to provide a better clarification to Silver Exhange Traded Funds. Silver Exchange Traded Funds have been elaborated in a succinct manner. Then the regulations and norms made by Securities and Exchange Boards of India (SEBI) have been explained. The formula to calculate Net Asset Value has also been discussed. The section that follows Silver ETFs is dedicated to Prepaid Payment Instruments or PPIs. The concept of PPIs has been succinctly and comprehensively explained in this topic. The existing norms, rules and regulations have also been discussed very clearly to make this research work more logical and coherent. The section that follows Prepaid Payment Instructions has been dedicated to Digital Banks. With the rising levels of digitalization all over the world given the technology boost of the 21st century, digital banks have also become a thriving reality. This section on digital banks also discusses about the various regulations that have been set forth to control this newly formed financial system. Finally, all the essential and basic points presented in the research work have been summarized in the conclusion section and to effectively conclude this research.

INTRODUCTION

Before delving into the regulatory framework analysis of silver exchange traded funds, prepaid payment instruments and digital banks, it must be understood what a regulatory framework is. A regulatory framework refers to guidelines, directives and recommendations that are made by an authority from time to time.[1] These frameworks on their own do not do much, as they are simply a list of rules to be followed, but are a pre-requisite for any system that is to be set up.[2]

A silver exchange traded fund is a mechanism which aids in tracking the price of silver. The Securities Exchange Board of India has come up with regulations pertaining to this, which provide for the quality of silver, its valuation and its applicability. Prepaid Payment Instruments, such as PayTM have become very widely used nowadays, especially with the need to reduce contact during transactions in the pandemic. Authorities like the Reserve Bank of India, have thus issued regulations that help in defining what a Prepaid Payment Instrument is, which of them are eligible and other newer regulations with regards to classification, security issues and interoperability. In this day and age of technology, online or digital banking has picked up speed, and due to its convenience of availing its services from even one’s home, it has slowly become the norm. In India, the demonetization that took place in 2016 helped in shifting a huge portion of the population to digital banking. In order to manage this increased activity, the RBI has come up with regulations such as strict compliance standards for e-wallets like Google Pay. Moreover, a few banks are now linked to the billing system of the government to ensure close synergy between the consumer and the government’s consumer agencies.

SILVER EXCHANGE TRADED FUNDS

Before we delve into the regulatory framework of Silver Exhange Traded Funds, it is imperative to understand the concept of Exchange Traded Funds or ETFs. ETFs are, simply put, funds that replicate any market index like Nifty or Sensex. An important factor about ETFs is that they can

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[1] Law Insider, https://www.lawinsider.com/dictionary/regulatory-framework (last visited Jan. 5, 2022).

[2] Security Sector Integrity, https://securitysectorintegrity.com/standards-and-regulations/procurement-monitoring-evaluation/ (last visited Jan. 5, 2022).

be sold and purchased like any normal stock. Since the ETFs replicate indexes, they grow or fall accordingly. Let's suppose that nifty goes up by a few points in a day, we can also expect the corresponding ETF to go up. Conversely, if the nifty index goes down, we can very well expect the ETF to go down as well. ETFs are traded like stocks in a share market.[3]

Silver Exchange Traded Funds provide for investments in silver. These silver holdings are held by the fund manager in the form of trusts. Silver is measured in ounces and not in grams when considering the ETF case. Silver ETFs act as rights of the ETF holder on whatsoever ounces of silver the ETFs represent.[4] Silver ETFs are made to replicate various silver indexes present all around the world. Silver Exchange Traded Funds can be a great source of investment in contemporary times as silver provides for a very stable market and controlled ecosystem. In the rising era of electric vehicles or EVs, silver ETF investment seems to be a fair choice. The first ETF made was the "iShares Silver Trust", regulated and controlled by the "Barclays Global Investors".[5]

In India, the Securities and Exchange Board of India (SEBI) has laid down certain norms for the swift and seamless operation of the Silver Exchange Traded Funds.[6] Amendments to the SEBI (Mutual Funds) Regulations, 1996 were made via Gazette notification dated Nov. 9, 2020. The regulations and norms set forth for the controlling of Silver Exchange Traded Funds can be understood with the assistance of the following points:

1. A minimum of 95% of the net assets of a silver ETF scheme must be invested in silver and silver related instruments. Silver related instruments have been explained using the case of Exchange Traded Commodity Derivatives (ETCD). It has been stated that Exchange Traded Commodity Derivatives or ETCDs must have silver as the underlying element to be considered under the category of silver related instruments.[7] Further provisos have also been mentioned in the notification under discussion regarding the applicability of Exchange Traded Commodity Derivatives under the category of silver related instruments.

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[3] James Chen, *Exchange Traded Fund (ETF)*, Investopedia (Mar. 03, 2021), https://www.investopedia.com/terms/e/etf.asp.

[4] Lucas Downey, *Silver ETF*, Investopedia (Mar. 13, 2020), https://www.investopedia.com/terms/s/silver-etf.asp.

[5] *Ibid*.

[6] *Sebi lays down operating norms for silver exchange traded funds*, Business Standard (Nov. 25, 2021), https://www.business-standard.com/article/markets/sebi-lays-down-operating-norms-for-silver-exchange-traded-funds-121112401179_1.html.

[7] Securities and Exchange Board of India, Norms for Silver Exchange Traded Funds (Silver ETFs) and Gold Exchange Traded Funds (Gold ETFs), SEBI/HO/IMD/DF2/CIR/P/2021/668 (Notified on November 24, 2021).

2. As far as the physical form of the silver whose ETFs are under consideration is concerned, the notification has clearly defined the weight and standard of the same. The weight of the physical silver has been confined to a thirty-kilogram bar which is the current standard. Moreover, purity of 99.9% must be maintained in order to qualify the silver as per the standards. So, if there is a 30 kgs standard siler bar, it must have 99.9% of silver. 99.9% of 30 kgs would be 29.97 kgs. So, a standard bar would contain 29.97 kgs of silver in it.
3. The conformity to standards is of utmost importance. A very pertinent question that arises here is: What authority should be adhered to for the ensuring the conformity to standards. This question has also been answered in the notification of regulations. The authority to which silver has hew to is the London Bullion Market Association Good Delivery Standards. The London Bullion Market Association (LBMA) is one of the most accepted international authorities on metals in the world.
4. The formula for calculation of the Net Asset Values or NAVs has also been mentioned in the notification to avoid any sort of unnecessary confusion among the minds of prospective investors. It has also been mentioned that the NAV or the Net Asset Value can be calculated up to four decimal points only. The formula has been mentioned below:

Net Asset Value or NAV (in ₹) =	Fair Value of Scheme' investments + Current Assets - Current Liabilities and Provision —--- Number of units outstanding under the Scheme on the valuation date.[8]

[8] *Id*.

PREPAID PAYMENT INSTRUMENTS

Prepaid Payment Instruments are essentially instruments, or tradable assets, that help in enabling purchase of goods and services, and includes transfer of funds, remittances and financial services, for the value of the said instrument.[9] This said value would be representing the value the purchaser paid for through cash or through debit or credit card.[10] Examples of this are internet accounts, smart cards, mobile accounts, and so on.[11]

There are various types of Prepaid Payment Instruments. The first of these is the Closed System, where the issued PPI stands valid only against the issuing entity; if goods or services are attempted to be accessed by a person using a different provider, it will be invalid.[12] This includes gift cards issued by certain companies. The second type is the Semi-closed system, which includes only those PPI's that have the authorization of the RBI, unlike the Closed system. These are usually utilized at certain merchant locations who would have a contract with the issuer for the PPIs to be accepted by the merchants as payment instruments.[13] Finally, there is the Open System of PPIs, which are issued only by banks that have been given approval by the RBI, in the form of credit and debit cards.

PPIs became quite popular soon after their founding, and thus to regulate this, the RBI introduced the Master Directions on Prepaid Payment Instruments in 2017. The 2017 Master Directions were issued for reasons including provision of a framework to authorise, regulate and supervise those using systems for issuing PPI's, and to increase competition and innovation while keeping in mind the importance of safety and security regarding the transactions.[14] These MD's also restricted Cross-Border Transactions of PPI's with the Indian Rupee denomination, with a few exceptions such as KYC (Know Your Customer) compliant semi-closed and open PPI's.

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[9] ClearTax, https://cleartax.in/s/prepaid-payment-instruments (last visited Jan. 4, 2022).

[10] Reserve Bank of India, https://rbi.org.in/Scripts/bs_viewcontent.aspx?Id=1902 (last visited Jan. 4, 2022).

[11] *Ibid.*

[12] *Supra* note 1.

[13] Mint, https://www.livemint.com/money/personal-finance/three-must-know-prepaid-payment-instruments-11617611317926.html (last visited Jan. 4, 2022).

[14] Reserve Bank of India, Master Direction on Issuance and Operation of Prepaid Payment Instruments, RBI/DPSS/2017-18/58 (Notified on October 11, 2017).

The usage of such PPIs has become very common especially during this pandemic, where minimal contact has become the norm.[15] Thus, a need for such regulation was increasing. On 27th August 2021, the Reserve Bank of India issued new Master Directions on Prepaid Payment Instruments,[16] which brought about quite a few changes to the Master Directions on the same which was issued in 2017. First of these are two new categories of PPIs - Small PPI's and Full-KYC PPI's. Small PPI's are those that hold a value of upto Rs. 10,000 in a month and Rs. 1,20,000 in a year. They are issued after gaining minimum details such as Name, One Time Password (OTP) and mobile number. Full-KYC PPI's, on the other hand, are issued after completion of the Know Your Customer process, and can be used not only for purchase of goods and services, but also transfer of funds and withdrawal of cash. Its maximum point at any point in time cannot exceed Rs. 2,00,000.

It has introduced an interoperability system for full-KYC PPI's. It refers to a technical compatibility that would help in ensuring its synchronous usage with other payment systems.[17] It outlines three ways for achieving interoperability; common to wallets and cards, through card networks and through Unique Payment Interface (UPI). If the PPI's are issued in the form of wallets, interoperability would be done through UPI, and for cards, it shall be done through authorised card networks. Non-bank issuers of PPI's are allowed to participate as members of authorised card networks. It also encourages PPI issuers to facilitate the necessary features for interoperability of UPI.[18] Moreover, in a notification of the RBI dated May 19th 2021, it makes it mandatory for PPI issuers to give interoperability to holders of full-KYC PPI holders, through authorised card networks and UPI.[19] However, it exempts the PPI's of Mass Transit Systems and makes it optional for Gift PPI issuers for interoperability to be offered. It states that this is to be enabled by 31st March, 2022.

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[15] Ashima Obhan, *The RBI's New Master Directions on Prepaid Payment Instruments*, MONDAQ, (Sep. 21, 2021), https://www.mondaq.com/india/financial-services/1111936/the-rbi39s-new-master-direction-on-prepaid-payment-instruments.

[16] Reserve Bank of India, Master Directions on Prepaid Payment Instruments (PPIs), RBI/DPSS/2021-22/82 (Notified on August 27, 2021).

[17] Vikaspedia, https://vikaspedia.in/e-governance/digital-payment/operational-guidelines-for-interoperability-of-ppis (last visited Jan. 4., 2022).

[18] *Ibid.*

[19] Reserve Bank of India, Prepaid Payment Instruments (PPIs) – (i) Mandating Interoperability; (ii) Increasing the Limit to ₹2 lakh for Full-KYC PPIs; and (iii) Permitting Cash Withdrawal from Full-KYC PPIs of Non-Bank PPI Issuers, RBI/2021-22/40 (Notified on May 19, 2021).

There are also additions to the security point of view of PPI's, and this includes the introduction of a 2 Factor Authorisation system and alerts via messages with regards to any transaction to a holder of PPIs. It can help in increasing the transparency and awareness amid PPI users, as it includes customer protection related provisions and a framework for grievance addressals.[20]

DIGITAL BANKS

In India's banking system, a considerable transition can be seen. The banking sector was not exempted from the digitization trend. Digital banks or DBs under the Banking Regulation Act, 1949, are defined as, "In other words, these entities will issue deposits, make loans and offer the full suite of services that the B R Act empowers them to. As the name suggests however, DBs will principally rely on the internet and other proximate channels to offer their services and not physical branches."[21] One of the most accepted, effective and efficient use of Information and Communication Technology by the banking industry has proven to be digital banking, not only for internal operations but also for improving external relationships in order to provide better service to its consumers in public, private and even foreign banks.[22] Digital Banks are promoted through various platforms that provide banking services through UPI (United Payments Interface) or BHIM (Bharat Interface for Money). It was also reported by the Reserve Bank of India (RBI) through the report of 2016-2017 that National Electronic Funds Transfer (NEFT), Real Time Gross Settlement (RTGS), Electronic Clearing Service (ECS) and other such methods of online transaction are now being widely accepted and used throughout our country.[23] Even the local shops and cafes are now accepting payments through UPIs and BHIM. This is because these platforms are consumer oriented, easy to use and provide benefits through rewards (coupons and cashbacks). As introduced above, Demonetisation, on the other hand, also played a significant role in

[20] Lexology, https://www.lexology.com/library/detail.aspx?g=0b63f19a-b9e6-4e71-8974-9d324ce820f0 (last visited Jan. 5, 2022).
[21] Basu Chandola, *Digital banks: A proposal for a licensing & regulatory regime for India*, Observer Research Foundation (Dec. 31, 2021) https://www.orfonline.org/research/digital-banks-a-proposal-for-a-licensing-regulatory-regime-for-india/.
[22] Pagaria V., *Use of Digital Banking for Improving Quality of Service Delivery: An Empirical Study of Selected Indian Banks*, 10, JSWM, 178, 178-179 (2018).
[23] Billus K. et. al, *Digitization of Banks in India*, 10, Purva Mimaansa, 153, 153-154, (2019).

digitisation of banks in India. Because of demonetisation that was announced in Nov, 2016, a lot of people have shifted to online banking.

There have been some small but important steps taken by the Reserve Bank of India to improve and increase the efficiency of the banking sector. This includes the digitalisation of banks and including digital methods of payment in traditional banks. India’s most successful bank, SBI, has even launched YONO SBI as a fully digital-only bank of India.[24] YONO SBI offers both banking and financial services which are simple and intuitive.

Stiff and Strict compliance standards and practises, capital reserve minimums, and caps on transfers to different bank accounts are among the new regulatory requirements for e-wallets like Phone pay and Google pay[25]. In order to maintain trust of customers thereby increasing the number of users, banks are required to get a licence to operate digital banking. India's licences include provisions that limit the amount of money that can be deposited or omit lending from the list of permitted activities. Because the licences in the latter instance were not full digital-banking licences, the licensed firms in India are referred to as "payments banks."[26] To offer low-cost banking solutions, Payments Banks are also needed to have technology-driven and completely networked operations, while Small Finance Banks' operational costs are targeted to be minimised through high-technology operations.[27] With the internet and smartphones being available in almost all the rural areas, this will ensure that even the rural areas are benefitted from digitalized banking. As mentioned in the introduction, some of the banks are additionally linked with the government's billing system, such as the Bharat Bills Payment System, so that any consumer agency of the government can receive payments from its consumers through the use of these apps.[28] This in turn makes the use of such apps more efficient and consumer friendly. The concept of Cheque

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[24] Shehnaz Ahmed & Krittika Chavaly, *Adapting India’s Regulatory Framework to Digital-only Bank: A Case for Reform*, Oxford Business Law Blog (Oct. 23, 2020). https://www.law.ox.ac.uk/business-law-blog/blog/2020/10/adapting-indias-regulatory-framework-digital-only-banks-case-reform.

[25] James Guild , *Fintech and the Future of Finance*, Social Science Research Network (Aug. 22, 2017) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3021684.

[26] Tarik Alatovic, Luís Cunha, Hernan Gerson, Elias Hajj, Joe Saade, and Giuseppe Siciliani, *Lessons from rapidly evolving regulation of digital banking*, McKinsey & Company (Oct. 01, 2021). https://www.mckinsey.com/industries/financial-services/our-insights/lessons-from-the-rapidly-evolving-regulation-of-digital-banking.

[27] *Supra* note 24.

[28] Shreya Shambhavi, *Digital transformation of banks : legal issues and challenges*, IPleaders (Feb. 06, 2021). https://blog.ipleaders.in/digital-transformation-banks-legal-issues-challenges/

Truncation System (CTS) -based cheques was also implemented by RBI, with the assistance of which not only can the authenticity and legitimacy of cheques be confirmed and assured in a much better way than previously, but also the time for processing inter and intra city cheques has been greatly decreased.[29] Additionally, many digital banks are backed by established financial institutions, which can provide an added layer of security.

When choosing a digital bank, it's important to do your research. Look for a bank that is FDIC-insured, which means that your deposits are backed by the government up to a certain amount. You should also look for a bank with a strong reputation and positive customer reviews. One of the main benefits of digital banks is that they are accessible 24/7. This means that you can access your account and perform transactions at any time of the day or night. This is especially useful for people who work long hours or have busy schedules. You can easily check your balance, transfer funds, and pay bills from your smartphone or computer.

Another benefit of digital banks is that they are often more affordable than traditional banks. Digital banks have lower overhead costs, which means that they can offer better interest rates and lower fees. This is great news for people who are looking to save money on banking fees and earn more interest on their savings.

In inference, digital banks offer many benefits over traditional banks. They are convenient, affordable, and secure. While they may not offer the same level of personal service as traditional banks, they make up for it with their online accessibility and wide range of financial products and services. If you're looking for a new banking option, a digital bank may be the right choice for you.

Even after all these steps that were adopted for more efficient working of Digital Banks, a lot of people still have not registered or linked their bank accounts for digital and online banking. This is probably because of lack of awareness among the consumers, tough and strict rules to adhere to, too many passwords and pins etc. Although some banks have robust systems and smooth functioning softwares, people are used to traditional methods and are not ready to adopt new methods of online and digital banks. Also, banks still have to assure citizens and gain their trust.[30]

[29] *Id.*

[30] Revathi P., *DIGITAL BANKING CHALLENGES AND OPPORTUNITIES IN INDIA*, 7, IJEBR, 20, 20-22 (2019).

CONCLUSION

For a country's good operation, the working of banking and financial sectors are always crucial. There has been a magnificent change in the functioning of Silver Exchange Traded Funds, Prepaid Payment Instruments and Digital Banks in the past decade. Regulatory framework, as defined above, refers to a set of instructions, suggestions and directions provided by government entities. These rules are crucial for smooth operation of diverse systems across the financial and banking sector.

Several guidelines and recommendations of the Reserve Bank of India and Securities and Exchange Board of India have been highlighted throughout the research paper. In order to understand Silver Electronic Traded Funds, the concept of EFTs has been explained by giving appropriate examples. This makes the study even more logical, clear and understandable. The norms and regulations laid down for controlling Silver EFTs have also been discussed in detail. Further, Prepaid Payment Instruments have been discussed. This section of the research paper lays out three types of PPIs i.e. closed, semi-closed and open systems along with the regulatory framework governing PPIs. Ultimately, the topic of Digital Banks or DBs has been discussed. The regulations are framed in a manner that promotes applications of DBs. Owing to lack of confidence and awareness among the users, DBs are not very popular. However, since the demonetisation and pandemic, the number of users are increasing steadily. Therefore, it can be concluded by saying that this research paper focuses on, as the title suggests, the analysis of the regulatory framework of Silver ETFs, PPIs and DBs along with giving examples and mention of government entities that provided the guidelines.

Some findings include:

- Silver Exchange Traded Funds are regulated by the Securities and Exchange Board of India (SEBI), through the SEBI (Mutual Funds) Regulations, 1996, which has laid down some rules including 95% of net assets of a silver ETF scheme are to be invested in silver and related instruments, the importance of conforming to set standards, and formula for calculating the Net Asset Values.
- Prepaid payment instruments are governed by the Master Directions on Prepaid Payment Instruments, which includes restricted Cross-Border Transactions of PPI’s with the Indian Rupee denomination

- Digital Banks have seen an uptick in usage since demonetisation, which pushed much of the population to use online mode of payments, and are strictly regulated by the RBI.

Some suggestions include:

- RBI must continue the stringent regulation of Digital Banks, given their vulnerability to cyberattacks which can potentially cause damage of huge extent.
- Amendments which line up with the ever-changing sphere of online financing must be regular and cohesive in order to properly regulate the sector.