

# AXIS TRUSTEE SERVICES LIMITED

## Yes Bank Limited – AT1 Bond Issuances

Brief of Matter –

A Writ Petition (No. 850/2020) [“WP”] filed by Axis Trustee Services Limited, as AT-1 Bond Trustee, in the Hon’ble High Court, Bombay as per instructions of the majority AT-1 Bondholders (ISIN no. INE528G08352 aggregating to Rs.3000 Crs. and INE528G08394 aggregating to Rs.5415 Crores) seeking *interalia* the following reliefs:

- a) Writ of Certiorari for examination and squashing/ setting aside the decision of write off of the AT-1 Bonds;
- b) Writ of Mandamus to reverse the effect of any accounting entries, noting’s, write off, cancellations undertaken pursuant to such decision; and
- c) Ad- Interim Reliefs.

The Hon’ble High Court on March 16<sup>th</sup> 2020 has passed an order that any further action taken by the respondents (Union of India through Ministry of Finance, Reserve Bank of India, Administrator of Yes Bank Ltd., Yes Bank Ltd. and NSDL) in the matter relating to the write down of AT-1 Bonds (aggregating Rs.8415 Crs) shall be subject to further orders.

The next date of hearing is fixed on 10<sup>th</sup> February 2022. The chronological developments till date are set out below for reference and information.

Date	Action Taken/ Status
08 <sup>th</sup> March 2020	Representation submitted to Reserve Bank of India (“RBI”) in connection with the comments/suggestions sought by RBI on its ‘Draft Yes Bank Ltd. Reconstruction Scheme, 2020’ as per suggestions received from Additional Tier-1 Bondholders (“AT1 Holders”).
09 <sup>th</sup> March 2020	Writ Petition (Lodging) No. 782/20 - Axis Trustee Services Limited vs. Union of India & Ors. Lodged in High Court Bombay (Original Jurisdiction) as per instructions of majority AT1 Holders of ISIN no. INE528G08352 & INE528G08394.
11 <sup>th</sup> March 2020	Proposal with following settlement terms as per suggestions received from majority AT1 Holders of ISIN no. INE528G08352 & INE528G08394 submitted to RBI:- <ol style="list-style-type: none"><li>a) Minimum of 170 crore shares be allotted to the existing AT1 Holders in proportion to their current holding of these bonds. An imputed value of Rs.10/- per share would be approximately Rs.1700 crores, salvaging near-about 20% of the principal outstanding;</li><li>b) No fresh investments by AT1 Holders, equity shares to be allotted in lieu of write down of the bonds;</li><li>c) Lock-in features, if any be restricted upto 36 months in line with the proposed new equity issuance of the issuing bank;</li><li>d) On acceptance of (a) to (c):-<ol style="list-style-type: none"><li>1. No further legal recourse shall be pursued; and</li><li>2. The writ petition shall be withdrawn.</li></ol></li></ol>
11 <sup>th</sup> March 2020	Detailed proposal with following settlement terms as per suggestions received from majority AT1 Holders of ISIN no. INE528G08352 & INE528G08394 resubmitted to RBI:-

	<p>a) the AT1 Bonds be fully converted on the basis of a conversion ratio of 19,551 equity shares of Rs. 2 each of the Bank (“<b>Equity Shares</b>”) to be issued for each AT 1 Bond with a face value of Rs. 10,00,000/-.</p> <p>b) AT1 Holders shall not be permitted to sell, transfer, pledge or encumber in any manner whatsoever (directly or indirectly) the Equity Shares allotted for a period of three years from the date on which trading approval is granted by the stock exchanges with respect to such Equity Shares.</p> <p>c) subject to and upon completion of the actions set out above:-  (i). such actions shall constitute the full and final settlement of all obligations and liabilities of the Bank towards the AT1 Holders.  (ii). the AT1 Holders shall have no claims, rights or actions of any nature (in law, equity or otherwise) against the Bank arising out of or in connection with or in relation to any matter related to the AT1 Bonds.</p> <p>d) upon notification by the RBI and / or the Government of India as applicable, of the final scheme of reconstruction of the Bank with provisions to give effect to the above proposals included, and the implementation of the same by issuance of the Equity Shares as provided in (a) above, the writ petition with lodging no. 782/20 filed shall be withdrawn.</p>
13 <sup>th</sup> March 2020	The ‘Yes Bank Limited Reconstruction Scheme, 2020’ was accorded consent by the Central Government and notified in the Official Gazette on the 13 <sup>th</sup> March 2020 and made effective. The notified scheme had no specific clause mentioning write down of the AT1 Bonds as proposed in the ‘Draft Yes Bank Ltd. Reconstruction Scheme, 2020’.
14 <sup>th</sup> March 2020	Disclosure by Yes Bank Ltd. to the Stock Exchanges under Regulation 51 of the SEBI (LODR) Regulations, 2015, that the AT - I Bonds amounting to Rs.3000 Crs. and Rs.5415 Crs. are fully written down and extinguished with immediate effect as per clause 2.15, Annex 16 of Master Circular- Basel III Capital Regulations dated 01 <sup>st</sup> July, 2015 read with Section 45 of the Banking Regulation Act, 1949.
16 <sup>th</sup> March 2020	<p>A fresh Writ Petition (No. 850/2020) has been filed by Axis Trustee Services Limited, as the AT-1 Bond Trustee, in the Hon’ble High Court, Bombay as per instructions of the majority AT-1 Bondholders (ISIN no. INE528G08352 aggregating to Rs.3000 Crs. and INE528G08394 aggregating to Rs.5415 Crores) seeking inter alia the following reliefs:</p> <p>a) Writ of Certiorari for examination and squashing/ setting aside the decision of write off of the AT-1 Bonds;</p> <p>b) Writ of Mandamus to reverse the effect of any accounting entries, noting’s, write off, cancellations undertaken pursuant to such decision; and;</p> <p>c) Ad- Interim Reliefs.</p> <p>The Hon’ble High Court has passed an order restraining the respondents (Union of India through Ministry of Finance, Reserve Bank of India, Administrator of Yes Bank Ltd., Yes Bank Ltd. and NSDL) from taking any action in the matter relating to the write down of AT-1 Bonds (aggregating Rs.8415 Crs), and posted the matter on 17<sup>th</sup> March 2020 for further hearing.</p>
17 <sup>th</sup> March 2020	The hearing commenced and the matter stood adjourned to 18 <sup>th</sup> March 2020. The Court directed for the earlier order to continue upto 18 <sup>th</sup> March, 2020.
18 <sup>th</sup> March 2020	The matter stood adjourned to 23 <sup>rd</sup> March 2020.

	The Court directed that the earlier order passed on 16 <sup>th</sup> March, 2020 viz., “all steps taken by the Respondents shall be subject to further orders passed by this Court” shall continue.
19 <sup>th</sup> March 2020	An application seeking amendment to the Writ Petition by impleading “Central Depository Services (India) Limited [CDSL]” as party Respondent No. 6 was allowed and accordingly the amendments were carried out in the court’s record.
26 <sup>th</sup> March 2020	In view of the lockdown declared in India till 14 <sup>th</sup> April 2020, the Hon’ble High Court vide Order dated 26 <sup>th</sup> March, 2020 directed continuation of all interim orders operating and not already continued by some other courts or authorities to remain in force till 30 <sup>th</sup> April, 2020.
15 <sup>th</sup> April 2020	The Hon’ble High Court vide order dated 15 <sup>th</sup> April 2020 extended the continuation of all interim orders passed and operating till 15 <sup>th</sup> June 2020.
23 <sup>rd</sup> May 2020	The Additional Affidavit seeking relief against alleged mis-selling of bonds by the officials of Yes Bank to the retail investors has been e-filed with the High Court Registry on 23 <sup>rd</sup> May 2020. This has also been served upon the Respondents.
17 <sup>th</sup> June 2020	The Hon’ble High Court vide order dated 15 <sup>th</sup> June 2020 extended the continuation of all interim orders passed and operating till 15 <sup>th</sup> July 2020.
15 <sup>th</sup> July 2020	The Hon’ble High Court vide order dated 15 <sup>th</sup> July 2020 extended the continuation of all interim orders passed and operating till 31 <sup>st</sup> August 2020.
31 <sup>st</sup> August 2020	The Hon’ble High Court vide order dated 31 <sup>st</sup> August 2020 extended the continuation of all interim orders passed and operating till 30 <sup>th</sup> September 2020.
30 <sup>th</sup> September 2020	The Hon’ble High Court vide order dated 30 <sup>th</sup> September 2020 extended the continuation of all interim orders passed and operating till 31 <sup>st</sup> October 2020.
29 <sup>th</sup> October 2020	The Hon’ble High Court vide order dated 29 <sup>th</sup> October 2020, extended the continuation of all interim orders passed and operating till 22 <sup>nd</sup> December 2020 or until further order, whichever is earlier.
30 <sup>th</sup> December 2020	Clarification – The Interim Order dated 16 <sup>th</sup> March 2020 read with Order dated 18 <sup>th</sup> March 2020 shall continue to be in operation until any further order is passed by the Court.
25 <sup>th</sup> March 2021	A writ petition (L) no. 6589 of 2021 along with Interim Application no.525 of 2021 was filed before the Hon’ble Bombay High Court by AT1 Bondholders Association against RBI and others [WP 6589]. The WP 6589 came up for hearing before the divisional bench on 25 <sup>th</sup> March 2021 and after hearing the counsels representing all parties, the bench permitted respondents to file their reply and adjourned the matter along with ATSL WP to 26 <sup>th</sup> April, 2021.
26 <sup>th</sup> April 2021	The Hon’ble High Court, in line with the fresh SOP’s on account of rising COVID-19 cases, issued on 16 <sup>th</sup> April, 2021 and 23 <sup>rd</sup> April 2021 is hearing only extremely urgent matters through video conferencing. Thus, the matter could not be listed.

12 <sup>th</sup> July 2021	<p>Sr. Counsel Mr. Janak Dwarkadas argued the matter on various grounds on behalf of AT-1 Bond Holders. The Hon'ble Court took cognizance of the said points. Supportive arguments were also advanced on behalf of the individual bond holders represented by their respective Senior Counsels. The Hon'ble Bench enquired whether there is any alternative remedy available to the Trustee which was promptly answered by our counsel in the negative.</p> <p>Counsel for RBI apprised that the physical copy of the Affidavit in Reply will be tendered and prayed for liberty. Our counsel's sought liberty to tender the Affidavit in Rejoinder. The Court directed the parties to complete pleadings and the next date of hearing is 19<sup>th</sup> July 2021.</p>
13 <sup>th</sup> July 2021	<p>The Hon'ble High Court passed an order dated 12th July 2021 which reads "Office to accept replies and rejoinder by next date. Stand over to 20th July 2021". The next date of hearing is 20th July 2021.</p> <p>In terms of the order, our counsels have filed the Rejoinder in the registry with the copies served on the respective lawyers for the Defendants.</p>
20 <sup>th</sup> July 2021	<p>The matter was listed to be heard on 17<sup>th</sup> August 2021.</p> <p>The Hon'ble bench granted two (2) weeks' time to Yes Bank Ltd., to file an Affidavit in reply with liberty to ATSL to file its rejoinder within one (1) week thereafter. The court directed the individual bondholders to file a separate application for tagging their matters with ATSL's Writ Petition.</p>
17 <sup>th</sup> August 2021	<p>Affidavit in reply filed on 16<sup>th</sup> August 2021 by Respondent no.3 [Mr. Prashant Kumar] and Respondent no.4 [Yes Bank Ltd.,]. A Rejoinder to the Affidavit in reply filed by Respondent No's. 3 &amp; 4 is being finalised and shall be filed by our counsel's.</p> <p>The registry of the Bombay High Court has informed that the division bench comprising Hon'ble Mr Justice KR Shriram and the Hon'ble Mr Justice Abhay Ahuja will not be presiding on 17<sup>th</sup> and 18<sup>th</sup> August 2021. Thus, the matter could not be heard on 17<sup>th</sup> August 2021 and will be listed on another date which is yet to be notified by the registry.</p>
23 <sup>rd</sup> August 2021	<p>A separate WP filed by Bondholders i.e. Indiabulls Housing Finance Ltd ("IHFL") was taken up for hearing by the Division Bench comprising Hon'ble Mr Justice KR Shriram and the Hon'ble Mr Justice Abhay Ahuja. Our counsel's informed the Hon'ble Bench that ATSL WP was listed on 17th August 2021 along with other connected matters could not be heard and the next date of hearing is notified as 25<sup>th</sup> August 2021. Accordingly, the Court directed that all matters on the said issue be listed on 25<sup>th</sup> August 2021.</p>
25 <sup>th</sup> August 2021	<p>The WP along with other connected matters were taken up by the Division Bench comprising Hon'ble Justice K.R. Shriram and Justice Abhay Ahuja on 25<sup>th</sup> August 2021, wherein the bench was informed about the current status and that the affidavit in reply was filed by Yes Bank and served upon us on 17th August 2021, for which our counsels requested the Hon'ble Court to grant 7 to 10 days to file the affidavit in rejoinder in order to complete all the pleadings and commence hearing of the Petition on merits, to be decided finally at the admission stage.</p>

	<p>Further, an order was passed removing the matter from the assignment of the present bench as Justice K.R. Shriram cannot hear the group of matters. As a result of the said order, a fresh application will have to be made before the Hon'ble Chief Justice for assigning the present matter and the other connected petitions to another Bench except Justice K.R. Shriram and Justice K.K. Tated. An appropriate application for assigning the Special Bench for the present matter can be made to the Hon'ble Chief Justice, however, in view of the probable change in judicial assignment which may be notified next week, our counsels have advised to wait before such application is filed. The next date of hearing is yet to be notified by the registry.</p>
25 <sup>th</sup> November 2021	<p>The WP is fixed for hearing before the Division Bench comprising of Hon'ble Justice G.S Patel and Justice Madhav Jamdar on 02<sup>nd</sup> December 2021.</p>
2 <sup>nd</sup> December 2021	<p>The Affidavit in Rejoinder to the Reply filed by Respondent No's 3 and 4 was filed on 2<sup>nd</sup> December 2021. The matter was listed to be heard on the said date however, it did not reach for hearing. It is likely to be listed as per the date to be notified by the High Court Registry in the next week. Further, if no date is notified by the registry, our counsels shall make an application for listing of the matter.</p>
9 <sup>th</sup> December 2021	<p>On enquiring with our counsels, we were informed that while attending the Court, they observed, when attempts were made before the Division bench by other parties to mention for preponement of matters, the Court refused to accede to such request and in fact posted the matters beyond vacation. The senior counsel has advised to await the next date as fixed by the Court. At present the next date of hearing as it stands is 21<sup>st</sup> December 2021.</p>
21 <sup>st</sup> December, 2021	<p>The Counsel appeared on behalf of the Petitioner, Axis Trustee Services Limited and made certain submissions on behalf of the Bond Holders and how their rights have been prejudiced by the illegal acts of the Administrator of Yes Bank. The Counsel also apprised the Court that the pleadings are complete, and the matter is now required to be finally heard. Severe prejudice caused to the Bond Holders (on account of the matter not being listed during the entire lockdown though several attempts were made towards the same) was also brought to the Court's notice. The matter is now listed on 3<sup>rd</sup> January, 2022.</p>
03 <sup>rd</sup> January, 2022	<p>The matter was heard on 03<sup>rd</sup> January 2022 wherein Senior Counsels on behalf of ATSL appeared and apprised the Court of the issue involved. Yes Bank's Counsel sought liberty of the Bench to file an Affidavit in Sur-Rejoinder to a limited extent to deal with the Rejoinder filed by ATSL dated 30<sup>th</sup> November 2021. Additionally, the Counsel representing Yes Bank also made a request for completing pleadings in other Petitions, to which our Senior Counsels countered, stating that this was an attempt to keep proceedings hanging and open ended which should not be allowed. The Bench took cognizance of the submissions advanced. The Bench further observed that the outcome of the lead Petition will determine the fate of the other petitions.</p> <p>All parties were directed as a last chance to complete the pleadings on or before 28<sup>th</sup> January 2022. Liberty was granted to Yes Bank to file a limited Sur Rejoinder. Parties were also directed to file their written submissions/</p>

	<p>Advance note of arguments before the next date of hearing. Accordingly, The Hon'ble Division Bench comprising the Hon'ble Justice G.S. Patel and Justice Madhav Jamdar fixed the date of final hearing of the WP on 10<sup>th</sup> February 2022.</p>
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