



Wednesday, 27 March 2019

High Court Suspends Interest rate caps

- A ruling by the high court yesterday termed the Banking Amendment Act (2016) as vague, imprecise, ambiguous and indefinite therefore unconstitutional.
- The high court cited that the advent of interest rate caps has disrupted bank – customer relationships
- This declaration however stands suspended for 12 months to give parliament a chance to rectify the law and in so doing, breathe clarity to the Act.
- The interest rate caps will consequently remain in force for the next 12 months pending amendment of the section.
- The judges opined that setting up of interest rates ought to be a collaborative process that includes all relevant stakeholders, where the parties ought to consult amongst each other, a case which was not followed in setting up the interest rate caps.

Our View

- **This move by the high court will certainly generate a lot of public interest given its huge ramifications on the economy at large. Blue-chip stocks in the banking sector are likely to be on an upward rally on the basis of sheer market excitement generated by this event.**
- The interest rate caps were introduced to promote access to affordable credit by the public and to tame predatory lending by banks which proved to be incapable of self-regulation.
- Since its introduction, banks have shied from lending to SME's citing inability to effectively price their default risk, resulting in slow private credit growth as banks channeled their funds to government paper.
- The revision of the current Banking Amendment Act which favours the borrower, is likely to be skewed to the favour of lenders given their involvement in the process as directed by the high court.
- Should the government and consumer protection agencies fail to appeal the decision by the high court, banks are likely to reap huge rewards as they go back to the era of exorbitant interest rates.
- Should the current act be revised in banks favour or repealed entirely, the borrowers will bear the brunt of the increased cost of credit while banks reap benefits.
- This decision is likely to have huge ramifications on existing contracts between banks and clients.
- We advise you to keep tabs on this development as it keeps unfolding.