

CREDIT INFORMATION REVIEW



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BRANCH BANKING

Know Your Customer

As part of 'Know Your Customer' (KYC) principle, the Reserve Bank has issued several guidelines relating to identification of depositors and advised banks to put in place systems and procedures to help control financial frauds, identify money laundering and suspicious activities and for scrutiny/monitoring of large value cash transactions. The Reserve Bank has also from time to time advised banks to be vigilant while opening accounts for new customers to prevent misuse of the banking system for perpetration of frauds. With a view to safeguarding banks from being unwittingly used for transfer or deposit of funds derived from criminal activity (both in respect of deposit and borrowal accounts), or for financing of terrorism, the Reserve Bank has consolidated its extant instructions on the subject. The guidelines are also applicable to foreign currency accounts/transactions. The consolidated instructions are :

KYC Policy

For New Accounts

- (i) "Know Your Customer" (KYC) procedure should be the key principle for identification of an individual/corporate opening an account. The customer identification should entail verification through an introductory reference from an existing account holder/a person known to the bank or on the basis of documents provided by the customer.
- (ii) Banks' Board of Directors should put in place adequate policies that establish procedures to verify the bonafide identification of individual/corporates opening an account. The Board should also have in place policies that establish processes and procedures to monitor transactions of suspicious nature in accounts and have systems of conducting due diligence and reporting of such transactions.

Customer Identification : The objectives of the KYC framework should be two fold, (i) to ensure appropriate customer identification and (ii) to monitor transactions of a suspicious nature. Banks should obtain all information necessary to establish the identity/legal existence of each new customer, based preferably on disclosures by customers themselves. Easy means of establishing identity would be documents such as passport, driving license, etc. Where such documents are not available, verification by existing account holders or introduction by a person known to the bank may suffice. It should be ensured that the procedure adopted does not lead to denial of access to the general public for banking services.

For Existing Customers : Banks are expected to have adopted due diligence and appropriate KYC norms at the time of opening of accounts in respect of existing customers. In case of any omission, the requisite KYC procedures for customer identification should be completed at the earliest.

Cash Transactions

- (i) Banks are required to issue travellers cheques, demand drafts, mail transfers and telegraphic transfers for Rs.50,000 and above only by debit to customers' accounts or against cheques and not against cash. Applicants (whether customers or not) should furnish permanent (income tax) account number (PAN) on the application for issue of travellers cheques, demand drafts, mail transfers and telegraphic transfers if the amount exceeds Rs. 50,000.
- (ii) Banks are required to keep a close watch of cash withdrawals and deposits for Rs.10 lakh and above in deposit, cash credit or overdraft accounts and keep record of details of these large cash transactions in a separate register.
- (iii) Banks' branches are required to report all cash deposits and withdrawals of Rs.10 lakh and above as well as transactions of suspicious nature with full details in fortnightly statements to their controlling offices. Controlling offices are also required to apprise their head offices regarding transactions of suspicious nature.

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Risk Management

In order to check possible abuse of banking channels for illegal and anti-national activities, the Board should clearly lay down a policy for ensuring adherence to the requirements as under :

Internal Control Systems : Duties and responsibilities should be explicitly allocated for ensuring that policies and procedures are managed effectively and that there is full commitment and compliance to an effective KYC programme in respect of both existing and prospective deposit accounts. Banks' controlling offices should periodically monitor strict adherence to the laid down policies and procedures by the officials at the branch level.

Terrorism Finance : The Reserve Bank has been circulating lists of terrorist entities notified by the Government of India to banks so that banks may exercise caution if any transaction is detected with such entities. There should be a system at the branch level to ensure that such lists are consulted in order to determine whether a person/organisation involved in a prospective or existing business relationship appears on such a list. The authority to whom banks may report accounts suspected to belong to terrorist entities would be advised in consultation with the government.

Internal Audit/Inspection

- (i) An independent evaluation of the controls for identifying high value transactions should be carried out on a regular basis by the internal audit function in banks.
- (ii) Concurrent/internal auditors must specifically scrutinise and comment on the effectiveness of the measures taken by branches in adoption of KYC norms and steps towards prevention of money laundering. Such compliance report should be placed before the audit committee of the bank's board at quarterly intervals.

Identification and Reporting of Suspicious Transactions : Banks should ensure that branches and controlling offices report transactions of suspicious nature to the appropriate law enforcement authorities designated under the relevant laws governing such activities. There should be well laid down systems for freezing of accounts as directed by such authority and reporting the matter to the controlling office and head office. Being matters of sensitive nature, there must be quarterly reporting of such aspects to the audit committee of the board or the board of directors.

Adherence to FCRA, 1976

- (i) Banks should adhere to the instructions on the provisions of the Foreign Contribution Regulation Act (FCRA), 1976 cautioning them to open accounts or collect cheques only in favour of associations which are registered under the Act by the Government of India. A certificate stating that the association is registered with the Government of India should be obtained from the concerned association at the time of opening of the account or collection of cheques.
- (ii) Banks should advise their branches to exercise due care to ensure compliance and desist from opening accounts in the name of banned organisations and those without requisite registration.

Records

Financial intermediaries should prepare and maintain documentation on their customer relationships and transactions to meet the requirements of relevant laws and regulations, to enable any transaction effected through them to be reconstructed. In the case of wire transfer transactions, the records of electronic payments and messages must be treated in the same way as other records in support of entries in the account. All financial transactions records should be retained for at least five years after the transaction has taken place and should be available for perusal and scrutiny of audit functionaries as well as regulators as and when required.

Training

Banks must have an ongoing training programme so that staff are adequately trained for their roles and responsibilities as appropriate to their hierarchical level in complying with anti-money laundering guidelines and for implementing KYC policies consistently.

Ceiling for Immediate Credit of Cheques Enhanced

Based on the recommendation of the Indian Banks' Association (IBA), the Reserve Bank has enhanced the ceiling for immediate credit of outstation/local cheques from Rs. 7,500 to Rs.15,000.

While affording immediate credit in respect of outstation/local cheques tendered for collection by their customers, banks are required to observe guidelines as follows :

- (i) Normal collection charges may be recovered in case of outstation cheques and a charge of Rs. 5 may be recovered for local cheques.
- (ii) Banks should be satisfied about proper conduct of the customer's account.
- (iii) Banks may extend the facility to all individual depositors without making a distinction about their status, i.e., savings, current or cash credit account.
- (iv) Banks should not lay any separate stipulation for minimum balance for extending the facility.
- (v) The facility may also be extended to customers at banks' extension counters, subject to the usual precautions.
- (vi) Immediate credit of cheque amounts to grant of advance. Non-charging of interest on such cheque of the face value upto Rs.15,000 will not be viewed as violation of the Reserve Bank's directive on interest rates on advances.
- (vii) Where an instrument of face value exceeding Rs.15,000 is received for clearing and the proceeds of the instrument are credited to the account, in whatever manner, in advance of the date of actual realisation of the amount, interest at the stipulated rate (in addition to the usual service charges prescribed by the bank), may also be charged for the period for which outlay of funds is involved.
- (viii) If the cheque is returned unpaid, the bank may recover interest in conformity with the Reserve Bank's interest rate directive for the period the bank is out of funds.
 - a. No interest may be charged to the customer for the period between the date of credit of the outstation cheque lodged and its return.
 - b. Banks may charge interest from the date of return of the cheque till the reimbursement of money to the bank.
 - c. Where the cheque is credited to a savings bank account, no interest will be payable on the amount so credited if the cheque is returned unpaid.
- (ix) Banks may consider introducing different pay-in-slips superimposing a notice that if the cheque is dishonoured, the customer will have to pay interest for the period the bank is out of funds at the normal rate.
- (x) A notice regarding the availability of this facility should be prominently displayed at each branch.

Swarnjayanti Gram Swarozgar Yojana

The Government of India has clarified that for availing group insurance coverage, the maximum age of swarozgaris financed under Swarnjayanti Gram Swarozgar Yojana, at the time of sanction of loan, should be 60 years. The insurance coverage, however, would be for five years or till the loan is repaid, whichever is earlier, irrespective of the age of the swarozgaris at the time of sanction of loan.

POLICY**Priority Sector Lending**

Agriclinics and agribusiness centres : The Reserve Bank has advised all scheduled commercial banks (excluding regional rural banks) to classify advances for financing agriclinics and agribusiness centres as 'direct finance under agriculture'. Accordingly, such advances would qualify for inclusion under 'direct finance to farmers for agricultural purposes' under priority sector lending.

Earlier, advances granted to agriclinics and agribusiness centres were treated as 'indirect finance to agriculture' under priority sector lending.

Retail trade : The ceiling on bank advances under priority sector to retail traders has been raised from Rs. 5 lakh to Rs. 10 lakh on account of escalation in the cost of goods and products sold by them.

Professional and self-employed persons : The ceiling on advances to professional and self-employed persons has been raised from Rs. 5 lakh to Rs. 10 lakh, of which, not more than Rs. 2 lakh should be for working capital requirements. A higher ceiling of Rs. 15 lakh, with a sub-ceiling of Rs. 3 lakh for working capital requirements, has been fixed for advances granted to professionally qualified medical practitioners setting up practice in semi-urban and rural areas. Further, an advance granted to a qualified medical practitioner for purchase of one motor vehicle within the revised ceiling of Rs. 15 lakh would be reckoned under priority sector. Advances granted for purchase of a motor vehicle to professional and self-employed persons, other than qualified medical practitioners would, however, not be included under priority sector

Finance Schemes for Consumer Durables

The Reserve Bank has advised banks to refrain from offering low/zero per cent interest rates on consumer durable advances to borrowers through adjustment of discount available from manufacturers/dealers of consumer goods. Banks have also been advised to refrain from linking their names in any form/manner with any incentive-based advertisements which lack clarity about interest rate.

The Reserve Bank had observed that some banks promoted schemes offering low/zero per cent interest rates on consumer durables and advertised those in newspapers and media. Such loan schemes, besides lacking in transparency in operations and distorting pricing mechanism of loan products, did not give a clear picture to the customers regarding the applicable interest rate.

In terms of the Reserve Bank's instructions of August 2001, banks are required to charge interest on loans for purchase of consumer durables at a rate not below their prime lending rate (PLR) regardless of the size of the loan amount.

Provisioning and Asset Classification

The Reserve Bank has advised all sponsor banks of regional rural banks (RRBs) and all RRBs that from March 31, 2005, an asset would be classified as doubtful if it remained in the sub-standard category for 12 months instead of 18 months as at present. RRBs are permitted to phase the consequent additional provisioning over a four year period, with a maximum of 20 per cent each year.

EXCHANGE CONTROL**Loans from Close Relatives outside India**

Residents can now borrow upto USD 250,000 from their close relatives resident outside India. The loan has to be free of interest and repayable after one year.

Earlier, residents had general permission to borrow upto USD 250,000 from their close relatives resident outside India provided the loan was free of interest. The loan, however, was not repayable before seven years. In view of the representations received by the Reserve Bank, it has reduced the minimum period for repayment for such loans to one year.

Medical Treatment Abroad

Authorised dealers (ADs) have now been permitted to release foreign exchange upto USD 50,000, for medical treatment outside India, without insisting on any estimate from a doctor or hospital, on the basis of a declaration of requirement given by the applicant, provided the payment for purchase of such foreign exchange is made by cheque or by debit to the applicant's account.

Earlier, residents could purchase foreign exchange from ADs in India for medical treatment outside India, on production of an estimate from a doctor or hospital giving the likely expenses involved in the treatment.

EEFC Account for EOUs

As a further measure towards giving boost to export oriented units (EOUs) and rationalisation of the exchange earners' foreign currency (EEFC) account scheme, it has been decided to have only two categories of EEFC account holders. One, those who can retain upto 100 per cent of their receipt in foreign exchange and others who can retain upto 50 per cent of their receipt in foreign exchange.

Accordingly, a 100 per cent EOU or a unit situated in (a) export processing zone (EPZ) or (b) software technology park (STP) or (c) electronic hardware technology park (EHTP), will now be eligible to credit upto 100 per cent of its foreign exchange receipts to its EEFC account, against the earlier eligibility of credit upto 70 per cent.

Earlier, the facility of crediting upto 100 per cent of receipts was available only to status holder exporters and professionals who rendered services in their individual capacity to entities outside India. As a result of this liberalisation, the facility of crediting upto 100 per cent of foreign exchange receipts to their EEFC account will now be available to status holder exporters, professionals, 100 per cent EOUs and units in EPZ/STP/EHTP.

No Documentation for Small Value Remittance

The Reserve Bank has permitted ADs to release foreign exchange remittance upto USD 500, on the basis of a simple letter from resident individuals. The letter should contain basic information, viz., name and address of the applicant, name and address of the beneficiary, amount to be remitted and the purpose of remittance.

The Reserve Bank has further clarified that no documents are required, if the amount of remittance does not exceed USD 500 and the payment is made by a cheque drawn on the applicant's bank account or by a demand draft.

Prepayment of ECB

Taking into account changes in the external financial markets and requirements of corporates, the automatic route for prepayment of external commercial borrowings (ECBs) has been further liberalised.

Applicants can now raise ECB from any internationally recognised source, such as, banks, export credit agencies, suppliers of equipment, foreign collaborators, foreign equity holders, international capital markets, etc. ECBs raised from unrecognised sources, however, would not be permitted even if the amount of the ECB is below USD 5 million.

Upto USD 100 million

In order to permit corporates to take advantage of low international interest rates, the Reserve Bank, in supercession of its earlier instructions, has decided to permit borrowers who have raised

an ECB in accordance with the prevalent rules/regulations/guidelines to prepay the outstanding ECB, upto an amount of USD 100 million, without prior permission from the Reserve Bank.

It is clarified that this liberalised automatic route is available to all category of borrowers irrespective of the residual maturity or percentage of the outstanding loan, as long as the amount being prepaid does not exceed USD 100 million. Earlier, this facility was available for prepayment upto USD 50 million subject to certain conditions, such as, residual maturity not to exceed one year, etc.

ADs have been advised to allow remittances not exceeding USD 100 million for prepayment of ECBs, after obtaining a certificate from the company secretary/auditors of the borrower that the borrower has (a) availed of and utilised the ECB in accordance with all relevant acts/rules/regulations and guidelines, and (b) has submitted all the ECB-2 Returns to the concerned regional office of the Reserve Bank

ADs are required to report to the Reserve Bank, Exchange Control Department, Central Office, Mumbai, full details of the prepayment in the prescribed form within seven days of the remittance.

Exceeding USD 100 million

Borrowers desirous of prepaying amounts exceeding USD 100 million may apply to the Reserve Bank, Central Office, Mumbai with full particulars, namely, terms of prepayment, the period over which the prepayment is to be made and also whether 'in principle' contract for prepayment has been negotiated with the lender.

Further, corporates desirous of obtaining 'in principle' approval from the Reserve Bank before negotiating a pre-payment contract may also approach the Reserve Bank. The 'in principle' approval issued by the Reserve Bank would be valid for 15 days.

The Reserve Bank's prior permission or 'in principle' approval would not be required for prepayment of ECBs out of balances held in EEFC accounts or foreign direct inflow receipts, even if the amount exceeds USD 100 million.

This facility under the automatic route for prepayment of ECBs would be available upto March 31, 2003. New instructions would be issued on or before that date in case the scheme is extended for a further period.

Eligibility under automatic route

A borrower can raise up to a maximum of USD 50 million under the automatic route during a financial year. In case a borrower raises more than one ECB in a financial year, the minimum average maturity for ECBs upto USD 20 million would be three years. The average maturity for amounts in excess of USD 20 million should be five years.

While ECBs can be raised by any legal entity registered under the Company's Act, Societies Act, including proprietorship/partnership concerns, it is clarified that individuals, trusts and non-profit making organisations are not eligible to raise ECBs.

Evidence of Import

It has been decided that where the value of foreign exchange remitted/paid for import into India exceeds USD 25,000 or its equivalent, it is obligatory on the part of the AD, through whom the remittance was made, to obtain documentary evidence from the importer. Earlier, this amount was USD 5,000.

Where the amount of foreign exchange remitted for import is less than USD 100,000 or its equivalent, ADs may accept, either Exchange Control copy of Bill of Entry for home consumption or a certificate from the chief executive officer or auditor of the company that the goods for which remittance was made have actually been imported into India, provided :

- (i) the importer is a company listed on a stock exchange in India and whose net worth is not less than Rs.100 crore as on the date of last audited balance sheet,
- or
- (ii) the importer is a public sector company or an undertaking of the Government of India or its Departments.

URBAN BANKS

ATMs

All primary (urban) co-operative banks (other than scheduled urban co-operative banks) desirous of setting up branch-automated teller machines (ATMs) are required to seek permission from the Reserve Bank's concerned regional office. Banks complying with the following norms will be eligible to apply :

- The bank should have maintained the minimum capital to risk-weighted assets ratio (CRAR) prescribed by the Reserve Bank prevailing at the time of seeking permission.
- The bank should have adhered to the prudential norms relating to asset classification and provisioning.
- The bank's net non-performing assets should be below 10 per cent of net advances.
- The bank should have recorded net profits for the preceding three years.

Securitisation and Reconstruction of Financial Assets

The Government of India had promulgated an Ordinance on June 21, 2002 for regulation of securitisation and reconstruction of financial assets and enforcement of security interest by Asset Reconstruction Companies and Securitisation Companies. As the Ordinance lapsed, it was re-promulgated on August 21, 2002. The Ordinance is called 'The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Ordinance (2), 2002' and extends to the whole of India and has come into force with immediate effect. To discharge the responsibilities cast upon it by the newly promulgated Ordinance, the Reserve Bank has set up two Working Groups to examine all the relevant issues and to suggest measures to enable it to frame guidelines on matters specified in the Ordinance.

While the 'Working Group to finalise the conditions of registration as also prudential norms for Asset Reconstruction Companies and Securitisation Companies' has been set up under the Chairmanship of Shri C.S.Murthy, Chief General Manager-in-Charge, Department of Non-Banking Supervision, Reserve Bank, the other 'Working Group to formulate guidelines for asset reconstruction, securitisation and foreclosure by Asset Reconstruction Companies and Securitisation Companies', is chaired by Shri N. Sadasivan, Executive Director, Reserve Bank. The recommendations of both the groups are expected to be available by the end of September, 2002.