

CREDIT INFORMATION REVIEW

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BANKING

IMPROVING VIGILANCE IN BANKS

An Ordinance issued by the Central Vigilance Commission on improving vigilance administration in banks is reproduced here for the benefit of the readers.

The Central Vigilance Commission Ordinance 1998 under Section 8(1)(h) directs that the power and function of the CVC will be the following:

"exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government".

Improving vigilance administration is possible only if system improvements are made to prevent the possibilities of corruption and also encourage a culture of honesty. In exercise of the powers conferred on the CVC by Section 8(1)(h), the following instructions are issued for compliance:

Electronics clearance system

All the banking companies, financial institutions under the purview of the CVC will have to compulsorily offer electronics clearance services to their customers with immediate effect. This step is visualised as a method of checking fraud because a significant part of the frauds in the banks are related to the remittances and collection in the payment system.

The Reserve Bank of India will put up a network of 438 VSATs linked with their hub so that the Wide Area Network (WAN) becomes operational, within one year. The CVC will take up the matter with concerned authorities to see that requisite transponder capacity is made available to

RBI. RBI may examine whether the spare capacity of earth stations in the software technology parks of the Department of Electronics can be utilised by them to quickly set up a WAN so that the electronic clearance system becomes operational at the earliest. RBI must be able to have its VSAT network in place latest before January 1, 2000.

All the banks must ensure that 70 per cent of their business is captured through computerisation before January 1, 2001. As this issue is directly related to improving the vigilance administration in the banks, this will not be an issue to be negotiated by the bank management with the unions. This principle will be applicable mutatis mutandis to all concerned with the computerisation of the clearing houses.

In order to achieve this goal, the banks will need technical manpower both at entry level and at supervisory levels. Within the present framework they can fill up posts up to 25 per cent through direct recruitment. This flexibility must be used for inducting both at entry level and senior levels, competent technical manpower so that lack of availability of skilled manpower does not become a negative factor in slowing the pace of computerisation of the banks in achieving their target of computerising the banks by January 1, 2001.

One of the difficulties expressed by the banks was that the hardware and software was not available and more important even after sale services were not satisfactory. In the context of achieving the goal of computerisation before January 1, 2001, MAIT and NASSCOM must be asked to gear up their services and interact closely with the Indian Banks' Association as well as the individual banks to resolve the issue. They could give a schedule of how these difficulties can be overcome.

At the time of computerisation, we should also take care of the need for encryption as well as safety in the banking operations so that computer frauds are not encouraged, for which the DRDO may be consulted.

Lack of communication between Banks

All cases of wilful default of Rs. 25 lakh and above will be reported by all banks to RBI as and when they occur or are detected.

Whether a matter is a case of wilful default will be decided in each bank by a committee of officers.

The Reserve Bank will circulate the information received from the banks of wilful default, every three months. The data with the RBI will also be accessible directly by the banks concerned after the WAN is installed in position.

There should be greater intra bank communication about wilful default, frauds, cheating cases etc., so that the same bank does not get exploited in different branches by the same defaulting parties.

DEMAT COLLATERALS

The Reserve Bank of India has advised banks to take immediate steps to get dematerialised the shares of companies taken by them as collaterals from their clients against advances well before the dates announced by Securities and Exchange Board of India (SEBI) regarding compulsory trading in demat form.

The SEBI has announced mandatory trading in 12 specified securities (see box) in only demat form on major stock exchanges commencing from January 4, 1999. Further, commencing from

February 15, 1999, another 19 securities (see box) will be included in the compulsory demat list. After the commencement of mandatory trading in demat form selling the shares in physical form will not be permitted. It is possible that some banks would have given advances to their clients against physical shares of companies whose shares have been dematerialised. In the event of such borrowers defaulting on the repayment, the banks will not be able to sell them and the collaterals may turn to be of nil value.

Banks have, therefore, been advised to take immediate steps to get the shares dematerialised. Banks have also been advised to watch for any SEBI announcements mandating trade in demat form in other scrips also, so that necessary action could be taken for safeguarding the security well in advance.

LIST OF SUIT-FILED BORROWAL ACCOUNTS

The Reserve Bank of India published in October 1998 a list of borrowal accounts as on March 31, 1998 against which banks and financial institutions have filed suits for recovery of their funds of Rs. one crore and above. The publication is available with the Sales Section, Department of Economic Analysis and Policy, Reserve Bank of India, Amar Building, Ground Floor, Mumbai - 400 001 at a price of Rs.285. The publication is also available on the internet @ <http://www.rbi.org.in>

EXCHANGE CONTROL

GUIDELINES ON EURO

To study the implications of the launch of Euro - the European consolidated currency - from January 1, 1999, the Reserve Bank of India had constituted a Working Group under the chairmanship of Shri V.Subrahmanyam, the then Executive Director, Reserve Bank of India. The group submitted its report on October 31, 1998.

Based on the recommendations of the group, the Reserve Bank advised the authorised dealers as under:

- (i) Euro has been recognised as a new currency and will be a permitted currency under the Exchange Control Manual. As such Euro can be used for settlement of financial transactions between residents and non-residents through authorised dealers.
- (ii) Foreign Currency Non-Resident (FCNR) deposits can be accepted in Euro. The banks should, however, continue to accept deposits in Deutsche Marks up to December 31, 2001. Requests for conversion of existing deposits to Euro may be freely allowed. These rules apply to Exchange Earners Foreign Currency (EEFC) and Resident Foreign Currency (RFC) accounts also.
- (iii) Transactions in Euro should be reported separately in the 'R' returns.
- (iv) Banks are free to use Euribor and Eurolibor benchmarks for pricing their foreign exchange transactions.
- (v) No Indian law apparently prohibits continuity of contracts. It would, however, be advisable for individual contracting parties to incorporate the necessary clause in agreements/documents. In the case of any doubt banks should obtain independent legal opinion.

(vi) Steps may be taken to modify the systems in use to make them Euro compliant. A certificate to this effect should be submitted to the Chief General Manager, Reserve Bank of India, Exchange Control Department (Forex Markets Division), Mumbai immediately.

(vii) As regards Special Drawing Rights (SDR) linked contracts, the International Monetary Fund (IMF) has decided that after the launch of EMU in Europe on January 1, 1999, Euro will replace the current currency amounts of the Deutsche Mark (DM) and French Frank (FF) in SDR valuation basket. The SDR valuation basket includes the currencies of Japan, the United Kingdom and the United States. The specific amounts of Euro and the valuation basket which will replace the DM and the FF respectively, will be announced by the IMF following the announcement of the conversion rates between the Euro, DM and FF of the European Council.

Reporting Transactions

During the transition period after the introduction of Euro, authorised dealers will have the option to either close the existing Nostro accounts maintained in National Currency Unit (NCU) of member countries of European Union and transact business only in Euro or to continue with the existing Nostro accounts in NCUs of the member countries of European Union and simultaneously maintain Nostro accounts in Euro.

Authorised dealers should follow the procedure as under while reporting the Euro linked transactions in 'R' returns.

(i) In cases where the existing accounts in NCU are proposed to be closed and it is decided to have all future transactions in respect of member countries of European Union in Euro alone, authorised dealers should convert all cash and suspense account balances in NCUs into Euro of January 1, 1999 and thereafter all transactions denominated in NCUs or Euro should be reported as Euro transactions in the same manner in which transactions in other foreign currencies are reported. In respect of export bills purchased, discounted or negotiated prior to January 1, 1999 but realised after that date proper exchange control instructions should be followed.

(ii) If authorised dealers decide to continue existing Nostro accounts in NCUs and also to open Nostro account in Euro they should follow the procedure laid down in the Exchange Control Manual.

Authorised dealers should also advise the concerned Regional Offices of the Reserve Bank the details of Nostro accounts opened in Euro.

STOCK OPTION FOR SOFTWARE STAFF

The Reserve Bank of India, under the existing exchange control rules, considers applications from employees of Indian offices/ branches/joint ventures/subsidiaries in India of foreign companies for acquisition of foreign currency shares of the foreign companies. The Reserve Bank has decided to consider applications for remittance towards acquisition of the shares of the overseas joint ventures/wholly owned subsidiaries in the software field by the employees of the Indian promoter company if:

(a) the remittance does not exceed US \$10000 or its equivalent per employee in a block of five years,

(b) the shares so allotted to Indian employees do not exceed 5 per cent of the paid up capital of the overseas concern and

(c) as a result of allotment of shares of the overseas concern to the Indian employees the share holding of the Indian promoter company does not fall below the existing percentage of share holding.

The Indian promoter company should make the applications to the concerned regional office of the Reserve Bank together with relevant documents. The documents should include certified copies of the overseas concern's latest audited balance sheet and resolution passed by its board of directors in support of the offer of shares to the employees of its parent Indian company. The application should contain the names and addresses of Indian employees, name and address of the overseas concern whose shares are proposed to be issued and the total number and face value of foreign currency shares to be allotted to each employee.

Scheme for issue of ADR/GDR linked Stock Option for employees of software companies in India

(i) A software company which has already floated American Depository Receipt/Global Depository Receipt (ADR/GDR) or a company which is proposing to float ADR/GDR would be entitled to issue ADR/GDR linked stock options to its employees.

A software company which proposes to issue ADR/GDR linked stock option to its employees should clearly include such proposal as part of its application for ADRs/GDRs. While the Government of India, Ministry of Finance, Department of Economic Affairs, approval will be for total issue size inclusive of stock option, the ADRs/GDRs earmarked for the employees up to the specified limit will be issued by the company as and when an employee exercises his stock option. Accordingly, the company shall not exceed the approved level of ADRs/GDRs to be issued by it at any point of time.

Software companies which have already issued ADRs/GDRs seek permission for issue of stock options for existing ADR/GDR issue, observing the general parameters of the guidelines.

(ii) The scheme is available to listed and unlisted software Indian companies which fulfil the performance track record eligibility and other requirements under ADR/GDR guidelines of Government of India.

(iii) A software company is defined as a company engaged in manufacture or production of software whose turnover from software activities is not less than 80 per cent.

(iv) A software company applying to the Government of India for issue of ADR/GDR linked stock options is required to submit relevant documents certified by a chartered accountant, establishing that it is a software company conforming to the above stipulation. The relevant documents should also be submitted to the Reserve Bank while applying for permission for remittances of foreign exchange for acquisition of ADRs/GDRs in exercise of the stock option.

(v) The stock option would be available to non-resident and resident permanent employees (including Indian and overseas working directors) of the company. The stock options would not be available to the promoters and their relatives as defined under the Companies Act.

(vi) Eligible employees can remit up to U.S.\$ 50,000 in a block of five years for acquisition of ADRs/GDRs. Upon liquidation of ADR/GDR holdings the proceeds should be repatriated to India unless permission from the Reserve Bank is obtained for their retention or use abroad.

(vii) Issue of stock options would require a special resolution as applicable for preferential allotment of shares. The allotment of stock options should be done by a committee of the board

of directors of the company. The committee of directors should have a minimum of two non-executive members of the board as its members.

(viii) The issuing company would be entitled to issue options not exceeding 10 per cent of its issued and paid up equity capital.

(ix) The stock options may be issued at a discount of not more than 10 per cent to the market price prevailing at the time of the issue of the stock option.

(x) While ADRs/GDRs acquired in exercise of the stock option would be freely transferable, the stock options themselves would, however, be non-transferable.

(xi) The company should make full disclosure of the details of the stock option scheme in the directors' report or in annexure to the directors' report.

(xii) ADRs/GDRs acquired on exercise of stock option would be eligible for concessional tax treatment under 115AC of Income-tax Act, 1961. (Necessary amendments under Section 115AC of the Income-tax Act, 1961 would be notified by the Government of India, Ministry of Finance, Department of Revenue, separately.)

INVESTMENT IN JVs/WOS

The guidelines for Indian direct investment in Joint Ventures (JVs)/Wholly Owned Subsidiaries (WOS) abroad have been further liberalised by the Government of India, Ministry of Commerce.

Fast Track Route

The proposals for Indian direct investment are presently considered by the Reserve Bank under its Fast Track Route (FTR) provided the amount of investment involved does not exceed 4 million US dollars (15 million US dollars in respect of investment in SAARC countries) or Rs.25 crore in cases of Indian rupee investments in Nepal. This ceiling has been uniformly raised to 15 million US dollars in respect of Indian investments abroad in all countries. Limit in respect of Indian rupee investments in Nepal and Bhutan has also been raised to Rs.60 crore.

Blanket Approval for Overseas Investment

In the case of investment in the field of computer software by Indian software companies with cumulative export/foreign exchange realisation of US \$ 25 million or more in the preceding three years, blanket investment approval will be given by the Reserve Bank upto 50 per cent of such foreign exchange earnings subject to a maximum of US \$ 25 million in a block of three consecutive financial years (inclusive of investment, if any, allowed by authorised dealers out of the Export Earners Foreign Currency (EEFC) accounts under the EEFC Fast Track window.

INTERNATIONAL CREDIT CARDS FOR RESIDENTS

The Reserve Bank of India has reiterated that in terms of its instructions, residents are permitted to hold and use International Credit Cards for payment of goods and services in India in rupees/foreign exchange as per the choice of the credit card holders.

COUNTER TRADE AND SURPLUS FUNDS

The Reserve Bank considers counter-trade proposals involving adjustment of value of goods imported into India against value of goods exported from India in terms of an arrangement voluntarily entered into between the Indian party and the overseas party through an Escrow Account opened in India in U.S. dollar. All imports and exports under the arrangement should be at international prices and all transactions routed through the account should be in conformity

with the Indian trade and Exchange Control regulations. No interest is payable on balances standing to the credit of the Escrow Account. The funds temporarily rendered surplus are, however, allowed to be held in a short-term deposit up to a period of one month (in a period of six months). Banks are also allowed to pay interest on these short-term deposits at the applicable rate. The period for which such short-term deposits can be held has now been enhanced to three months in a year (in a block of 12 months) and the banks may pay interest at the applicable rate. No overdraft will be permitted in the Escrow Account nor any loans will be permitted to be granted against funds in the account.

In terms of the existing exchange control regulations, banks have been permitted to pay interest at the applicable rate on the balances held in US dollar Escrow accounts which are temporarily rendered surplus and held in a short term deposit, upto a total period of one month (in a period of six months). After reviewing the position, it has been decided that authorised dealers may allow the US dollar Escrow accounts funds temporarily rendered surplus to be held in a short-term deposit upto a total period of three months in a year (in a block of twelve months) and pay interest thereon at the applicable rate.

PARKING OF ECB FUNDS

The Reserve Bank has asked authorised dealers to ensure that wherever corporates retain external commercial borrowings (ECB) proceeds abroad, they have the necessary approval of the Reserve Bank and on expiring of the approval corporates repatriate the funds to India.

The Reserve Bank permits corporates, which have raised ECBs, to open foreign currency bank accounts in India/abroad for retention of the loan funds for future use. The exchange control rules further provide for proceeds of global depository receipts (GDRs), foreign currency convertible bonds (FCCBs) and external commercial borrowings (ECBs) to be invested abroad for a maximum period of one year before their use.

It was brought to the notice of the Reserve Bank of India that some corporates retain the external commercial borrowings (ECBs) proceeds abroad without having any specific plan of utilisation and invest them abroad beyond the stipulated period of one year without seeking approval of the Reserve Bank.

The Reserve Bank, therefore, clarified that the facility for temporary parking of funds should not be used as an investment avenue.

REPORTING OF INVESTMENT INFLOWS

The Reserve Bank of India had granted general permission to Indian companies to issue and export shares to foreign investors/non-resident Indians without its approval in respect of proposals falling under its Automatic Route or where the company concerned had obtained approval from Secretariat for Industrial Approval (SIA)/Foreign Investment Promotion Board (FIPB) as also in respect of various schemes applicable to Non-Resident Indians for investment in Indian companies. These companies were required to submit a report of shares issued and exported to foreign investors along with the prescribed documents within 30 days of issue of shares. To monitor foreign direct investment and make available the data, such companies are also required to furnish a report to the Reserve Bank within 30 days from the date of receipt of inward remittance.

We wish our readers a Happy and Prosperous 1999

SEBI mandated list of securities for compulsory trading by all from January 4, 1999

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all from January 4, 1999**

1. Bank of India (BOI)
2. Bharat Petroleum Corporation Ltd. (BPCL)
3. BSES Ltd.
4. Housing Development Finance Corporation Ltd. (HDFC)
5. ICICI Ltd.
6. IndusInd Bank Ltd.
7. Industrial Development Bank of India (IDBI)
8. Infosys Technologies Ltd.
9. Larsen and Toubro Ltd. (L&T)
10. State Bank of India (SBI)
11. Videsh Sanchar Nigam Ltd. (VSNL)
12. Wipro Ltd.

SEBI mandated list of securities for compulsory trading by all from February 15, 1999

1. Asea Brown Boveri Ltd.(ABB)
2. Asian Paints Ltd.
3. Associated Cement Company Ltd. (ACC)
4. Bajaj Auto Ltd.
5. Birla Global Finance Ltd. (BGFL)
6. Castrol India Ltd.
7. Cochin Refineries Ltd.
8. Dr.Reddy's Laboratories Ltd.
9. Gas Authority of India Ltd. (GAIL)
10. Gujarat Ambuja Cements Ltd.
11. Hero Honda Motors Ltd.
12. Hindustan Petroleum Corporation Ltd.(HPCL)
13. Madras Refineries Ltd. (MRL)
14. Mahindra and Mahindra Ltd. (M & M)
15. NIIT Ltd.
16. Ranbaxy Laboratories Ltd.
17. Tata Tea Ltd.
18. Thermax Ltd.
19. TVS Suzuki Ltd.

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