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POLICY

Rupee Export Credit - Interest Subvention

The Government of India has decided to provide interest subvention of 2 percentage points per annum to all scheduled commercial banks in respect of rupee export credit to specified categories of exporters.

The categories of exporters to whom the interest subvention would be available are - (i) textiles (including handlooms) (ii) readymade garments (iii) leather products (iv) handicrafts (v) engineering products (vi) processed agricultural products (vii) marine products (viii) sports goods (ix) toys (x) all exporters from the small and medium enterprise (SME) sector.

Banks would now charge interest rate not exceeding the benchmark prime lending rate (BPLR) minus 4.5 per cent on pre-shipment credit up to 180 days and post-shipment credit up to 90 days on the outstanding amount for the period April 1, 2007 to December 31, 2007 to these sectors.

For other categories of exporters, the provisions of the Reserve Bank's circular of April 17, 2007 would continue to apply.

The procedure for claiming subvention is as follows:

- The amount of subvention would be reimbursed on the basis of quarterly claims submitted as at June 30, September 30 and December 31, 2007 within one month from the end of the respective quarter.
- The amount of subvention would be calculated on the amount of export credit from the date of disbursement up to the date of repayment or up to the date beyond which the outstanding export credit becomes overdue i.e. for pre-shipment credit up to 180 days and for post-shipment credit up to 90 days, whichever is earlier.
- The claims should be accompanied by an auditor's certificate certifying that the claims for subvention for the quarter are true and correct. Settlement of the claim would be done only on receipt of this certificate.

Pension Funds Management

Pursuant to the Government of India notifying that now it is lawful for a banking company to take up pension fund management as a form of business, the Reserve Bank has advised banks that they may now undertake pension funds management (PFM) through their subsidiaries set up for the purpose. Banks have to, however, satisfy the eligibility criteria prescribed by the Pension Fund Regulatory and Development Authority (PFRDA) for pension fund managers. Banks intending to undertake pension funds management should obtain the Reserve Bank's prior approval. The guidelines prescribed in this regard are -

Eligibility

Banks should undertake PFM through their subsidiaries only. Pension fund management should not be undertaken departmentally. Banks may lend their names/abbreviations to their subsidiaries formed for PFM for leveraging their brand names and associated benefits, subject to banks maintaining 'arms length' relationship with the subsidiary. The eligibility criteria (as also the solvency margin prescribed by PFRDA) for banks approaching the Reserve Bank for permission to undertake pension funds management is -

- The net worth of the bank should not be less than Rs.500 crore.

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- (ii) Capital to risk weighted assets ratio (CRAR) should be not less than 11 per cent during the last three years.
- (iii) The bank should have made net profit for the last three consecutive years.
- (iv) Return on Assets (ROA) should be at least 0.6 per cent or more.
- (v) Level of net non-performing assets (NPAs) should be less than 3 per cent.
- (vi) Performance of the bank's subsidiary/ies, if any, should be satisfactory.
- (vii) Management of the bank's investment portfolio should be good as per the Reserve Bank's annual financial inspection (AFI) report and there should not be any adverse remark/s in the report involving supervisory concerns.
- (xi) The subsidiary should not make any portfolio investment in another existing company with an intention of acquiring controlling interest, without the Reserve Bank's prior approval.
- (xii) The bank should submit a business plan to the Reserve Bank highlighting the business projections of the subsidiary for the first five years so as to determine whether the subsidiary would be able to comply with the solvency margin as may be prescribed by PFRDA and not fall back on the bank for augmenting its capital for the purpose.
- (xiii) The permission granted by the Reserve Bank to a bank to set up the subsidiary would be without prejudice to the decision of PFRDA to permit the subsidiary to do the pension fund management business.

Safeguards

Banks fulfilling the above eligibility criteria as also the criteria prescribed by PFRDA for pension fund managers would be permitted to set up subsidiaries subject to the conditions as follows :

- (i) The bank should take the Reserve Bank's prior permission for investing in equity for the purpose of setting up the subsidiary. The Reserve Bank's prior approval should be taken for transferring or otherwise dealing with its shareholding in the subsidiary in any manner.
- (ii) The composition of the subsidiary's board of directors should be broad based and as per the guidelines, if any, prescribed by PFRDA.
- (iii) The parent bank should maintain 'arms length' with the subsidiary. Any transaction between the bank and the subsidiary should be at market related rates.
- (iv) Any further equity contribution by the bank to the subsidiary should be with the Reserve Bank's prior approval and limited to 10 per cent of its own paid-up capital and reserves.
- (v) The bank's total investment by way of equity contributions in its existing subsidiaries, the proposed pension funds subsidiary and those formed in future together with portfolio investments in other financial services companies should not exceed 20 per cent of its paid-up capital and reserves.
- (vi) The parent bank's board should lay down a comprehensive risk management policy for the group as a whole including the subsidiary, incorporating appropriate risk management tools. It should also ensure that the policy is effectively implemented.
- (vii) The bank should evolve a suitable system to monitor operations of the subsidiary.
- (viii) The subsidiary should confine itself to the business of pension fund management and any other business, which is purely incidental and directly related thereto.
- (ix) The pension fund subsidiary should not set up another subsidiary without the Reserve Bank's prior approval.
- (x) The subsidiary should not promote a new company, which is not a subsidiary thereof, without the Reserve Bank's prior approval.
- (xiv) The subsidiary should abide by all the instructions, guidelines etc., on pension fund management issued by PFRDA from time to time.
- (xv) It should be ensured that the subsidiary does not have on-line access to the customers' accounts maintained with the bank.
- (xvi) Adequate safeguards between the systems of the bank and that of the subsidiary should be put in place.
- (xvii) The bank should strictly comply with the reporting requirements prescribed under the 'financial conglomerates' framework, wherever applicable.
- (xviii) The bank should not grant any unsecured advances to the joint venture (JV) or subsidiary without the Reserve Bank's prior approval.

Unsolicited Commercial Communications

Keeping in view the continuous complaints received from credit card subscribers and in order to curb unsolicited commercial calls, the Telecom Regulatory Authority of India (TRAI) has framed The Telecom Unsolicited Commercial Communications (UCC) Regulations, 2007.

The Regulation envisages that all telecom service providers would set up a mechanism to receive requests from subscribers who do not want to receive UCC and for this purpose, they will maintain and operate a 'private do not call list'. The 'private do not call list' will include telephone numbers and other details of all such subscribers. The telephone numbers and area code from this 'private do not call list' will be updated online by the operators to a 'national do not call registry' (NDNC) which will be maintained by the National Informatics Centre (NIC). The NDNC will have the telephone numbers of all the subscribers all over India who have opted not to receive any UCC. Telemarketers will have to register in the NDNC Registry. The telemarketers would submit online the calling list to the NDNC Registry where the list will be modified/scrubbed by excluding the numbers listed in the registry and the modified/scrubbed list will be online transferred back to the telemarketers for making calls.

Further, the Department of Telecommunications (DoT) has on June 6, 2007 issued guidelines making it mandatory for telemarketers to register themselves with DoT or any other agency authorised by DoT.

Keeping in view these aspects, the Reserve Bank has advised banks to -

- not engage telemarketers {direct selling agents/direct marketing agents (DSAs/DMAAs)} who do not have a valid registration certificate from DoT as telemarketers;
- furnish the list of telemarketers engaged by them along with the registered telephone numbers being used by them for making telemarketing calls to the Indian Banks Association (IBA) to enable IBA to forward them to TRAI within three months from the date of issue of DoT's guidelines for telemarketers;
- ensure that all telemarketers presently engaged by them register themselves with DoT as telemarketers within a period of three months from June 6, 2007;
- actively cooperate with IBA which will be the co-ordinating agency at the industry level to ensure compliance with the TRAI regulations.

UCBs

Guidelines for issue of ATM-cum-Debit Cards

The Reserve Bank has issued guidelines to urban co-operative banks (UCBs) for issuance of ATM-cum-debit cards. UCBs which are authorised to install on-site/off-site automated teller machines (ATMs), as per the policy in force, may introduce ATM-cum-debit cards with their board's approval. Issuance of offline debit card is, however, not permitted. UCBs should not issue ATM-cum-debit cards in tie-up with other non-bank entities.

Coverage

These guidelines apply to the cards encompassing all or any of the following operations:

- Electronic payment involving the use of card, in particular at point of sale and such other places where a terminal/device for the use/access of the card is placed.
- Withdrawing/depositing of bank notes and cheques and connected operations in electronic devices such as cash dispensing machines and ATMs.

Cash Withdrawals

No cash transaction, that is, cash withdrawals or deposits should be offered at the point of sale, with the ATM-cum-debit cards under any facility, without the Reserve Bank's prior authorisation under Section 23 of the Banking Regulation Act, 1949.

Eligibility

UCBs may issue ATM-cum-debit cards to select customers as per their own eligibility criteria subject to compliance with 'know your customer' guidelines. UCBs may extend the ATM-cum-debit card facility to those having savings bank account/current account/fixed deposit accounts with built-in liquidity features maintained by individuals, corporate bodies and firms. Debit card facility should not be extended to cash credit/loan account holders.

Security

- (a) The UCB should ensure full security of the card.
- (b) A card should not be despatched to a customer unsolicited, except in the case where the card is a replacement for a card already held by the customer.
- (c) UCBs should keep for a sufficient period of time, internal records to enable operations to be traced and errors to be rectified (taking into account the law of limitation for time barred cases).
- (d) The cardholder should be provided with a written record of the transaction after he has completed it, either immediately in the form of a receipt or within a reasonable period of time in another form, such as, the customary bank statement.
- (e) The cardholder should bear the loss sustained up to the time of notification to the bank of any loss, theft or copying of the card but only up to a certain limit or fixed amount or a percentage of the transaction agreed upon in advance between the card holder and the bank, except where the card holder acted fraudulently, knowingly or with extreme negligence.
- (f) Each bank should provide means whereby its customers may at any time of the day or night notify the loss, theft or copying of their payment devices.
- (g) On receipt of notification of the loss, theft or copying of the card, the bank should take all action open to it to stop any further use of the card.

Terms/Conditions

The relationship between the bank and the card holder should be contractual. As such:

- (a) Each bank should make available to the cardholders in writing, a set of contractual terms and conditions governing the issue and use of such a card. These terms should maintain a fair balance between the interests of the parties concerned.
- (b) The terms and conditions should be expressed clearly.
- (c) The terms should specify the basis of any charges, but not necessarily the amount of charges at any point of time.
- (d) The terms may be altered by the bank, but sufficient notice of the change should be given to the cardholder to enable him to withdraw if he so chooses. A period should be specified after which time the cardholder would be deemed to have accepted the terms if he had not withdrawn during the specified period.
- (e) (i) The terms should put the cardholder under an obligation to take all appropriate steps to keep safe the card and the means (such as PIN or code) which enable it to be used.
- (ii) The terms should put the cardholder under an obligation not to record the PIN or code, in any form that would be intelligible or otherwise accessible to any third party if access is gained to such a record, either honestly or dishonestly.

- (iii) The terms should put the cardholder under an obligation to notify the bank immediately after becoming aware of :
- loss or theft or copying of the card or the means which enable it to be used;
 - recording on the cardholder's account of any unauthorised transaction;
 - any error or other irregularity in maintaining of that account by the bank.
- (iv) The terms should specify a contact point to which such notification can be made and that such notification can be made at any time of the day or night.
- (v) The terms should put the cardholder under an obligation not to countermand an order which he has given by means of his card.
- f) The terms should specify that the bank shall exercise care when issuing PINs or codes and shall be under an obligation not to disclose the cardholder's PIN or code, except to the cardholders.
- g) The terms should specify that the bank would be responsible for direct losses incurred by a cardholder due to a system malfunction directly within the bank's control. The bank, however, would not be held liable for any loss caused by a technical breakdown of the payment system if the breakdown of the system was recognizable for the cardholder by a message on the display of the device or otherwise known. The responsibility of the bank for the non-execution or defective execution of the transaction is limited to the principal sum and the loss of interest subject to the provisions of the law governing the terms

MTSS - Appointment as Agents/Sub- Agents

UCBs holding AD category I or II category licence can now act as agents/sub-agents under the money transfer service scheme (MTSS) subject to certain conditions, which are -

- (i) The UCB should adhere to anti-money laundering (AML)/ know your customer (KYC) standards.
- (ii) The principal should maintain foreign currency deposits (USD) with the designated bank in favour of the agent which, at present, is equivalent to 3 days' average payout or USD 50,000, whichever is higher.
- (iii) Where the UCB is acting as a sub-agent, the agent should also maintain with the designated bank, security deposits equivalent to 3 days' average payout or Rs 20 lakh, whichever is higher, in favour of the UCB sub-agents concerned.
- (iv) The UCBs should ensure that the payouts not reimbursed do not, at any point of time, exceed the security deposits placed by the overseas principal/agent, as the case may be.
- (v) UCBs should not appoint any other UCB/entity as their sub-agents.

Branch Licensing Policy Relaxed

UCBs have now been permitted to open new branches/ extension counters (ECs) provided –

- a) The UCB is registered under the Co-operative Societies Act of the states that have signed memorandum of understanding (MoU) with the Reserve Bank or under the Multi State Co-operative Societies Act, 2002.
- b) The UCB is licensed and has an elected board of directors with at least two professionals in it.
- c) Subject to overall supervisory comfort, the UCB complies with mutually exclusive performance/financial parameters as follows:
 - ★ The CRAR is not less than 9 per cent.
 - ★ Net non-performing asset (NPA) is below 10 per cent.
 - ★ There has been no default in maintaining cash reserve ratio (CRR)/statutory liquidity ratio (SLR) in the preceding financial year.
 - ★ The UCB has made net profit in the financial year just ended.
 - ★ The UCB's net worth is not less than Rs.10 crore.
 - ★ The average net worth per branch including the additional centres for which licences are sought, is not less than Rs.2 crore per branch in A and B centres and Rs.1 crore in C and D centres. For this purpose, extension counters would also be treated as branches.

UCBs satisfying these conditions would be eligible for additional branches/ECs not exceeding 10 per cent of their existing branch network, over a period of two years.

Bank Finance against Shares and Debentures

The Reserve Bank has clarified to UCBs that -

- (i) they are prohibited from extending any fund based or non fund based credit facilities, whether secured or unsecured, to stockbrokers. The prohibition would cover loans and advances against shares/debentures and other securities, such as, fixed deposits, LIC policies etc.;
- (ii) they are not permitted to extend any facility to commodity brokers. This would include issue of guarantees on their behalf; and
- (iii) advances against units of mutual funds can be extended only to individuals as in the case of advances against the security of shares, debentures and bonds.

The Reserve Bank has further advised that any credit facility presently in force, but not in consonance with the above instructions should be immediately withdrawn/closed. UCBs should submit a compliance report in this regard to the Reserve Bank's regional office concerned.