



Monetary and Credit Information Review

MCIR

Volume XIV ♦ Issue 1 ♦ July 2017

Banking Regulation

Limiting Liability of Customers in Unauthorised Electronic Banking Transactions

With the increased thrust on financial inclusion and customer protection and considering the recent surge in customer grievances relating to unauthorised transactions resulting in debits to their accounts/ cards, the Reserve Bank on July 6, 2017 issued revised directions and criteria for determining the customer liability in these circumstances as follows:

Strengthening of Systems and Procedures

The systems and procedures in banks must be designed to make customers feel safe about carrying out electronic banking transactions. To achieve this, banks must put in place:

- appropriate systems and procedures to ensure safety and security of electronic banking transactions carried out by customers;
- robust and dynamic fraud detection and prevention mechanism;
- mechanism to assess the risks (for example, gaps in the bank's existing systems) resulting from unauthorised transactions and measure the liabilities arising out of such events;
- appropriate measures to mitigate the risks and protect themselves against the liabilities arising therefrom; and
- a system of continually and repeatedly advising customers on how to protect themselves from electronic banking and payments related fraud.

Reporting of Unauthorised Transactions by Customers to Banks

- Banks must ask their customers to mandatorily register for SMS alerts and wherever available register for e-mail alerts, for electronic banking transactions.
- The SMS alerts should mandatorily be sent to the customers, while email alerts may be sent, wherever registered.
- The customers must be advised to notify their bank of any unauthorised electronic banking transaction at the earliest after the occurrence of such transaction.
- To facilitate this, banks must provide customers with 24x7 access through multiple channels (at a minimum, via website, phone banking, SMS, e-mail, IVR, a dedicated toll-free helpline, reporting to home branch, etc.) for reporting unauthorised transactions and/or loss or theft of payment instrument.
- Banks should also enable customers to instantly respond by "Reply" to the SMS and e-mail alerts.
- The loss/fraud reporting system should also ensure that immediate response (including auto response) is sent to the customers acknowledging the complaint along with the registered complaint number.

The communication systems used by banks to send alerts and receive their responses thereto must record the time and date of delivery of the message and receipt of customer's response, if any, to them. This should be important in determining the extent of a customer's liability. The banks may not offer facility of electronic transactions, other than ATM cash withdrawals, to customers who do not provide mobile numbers to the bank. On receipt of report of an unauthorised transaction from the customer, banks must take immediate steps to prevent further unauthorised transactions in the account.

Limited Liability of a Customer

(a) Zero Liability of a Customer

A customer's entitlement to zero liability shall arise where the unauthorised transaction occurs in the following events:

- Contributory fraud/negligence/deficiency on the part of the bank (irrespective of whether or not the transaction is reported by the customer).
- Third party breach where the deficiency lies neither with the bank nor with the customer but lies elsewhere in the system, and the customer notifies the bank within three working days of receiving the communication from the bank regarding the unauthorised transaction.

CONTENTS

	PAGE
Banking Regulation	
• Limiting Liability of Customers in Unauthorised Electronic Banking Transactions	1
• Fincare Small Finance Bank Ltd. commences operations	2
• Balances in Customer Accounts with Payments Banks	3
• Applicants for 'on tap' Licensing of Universal Banks	3
Banking Supervision	
• Audit Committee of the Board of Directors	3
Financial Inclusion and Development	
• Investment in Plant and Machinery under MSME	3
• Funding Support from FIF for Financial Literacy revised	3
Foreign Exchange Management	
• Investment by FPIs in Government Securities reviewed	3
Co-operative Bank Regulation	
• Recording Details of Entries in Accounts	4
• Caution against Co-operative Societies accepting Deposits from Non-members	4
Non-Banking Regulation	
• PoP Services - PFRDA under NPS	4
Government and Bank Accounts	
• Payment of Agency Commission	4
• RBI Master Directions/Circulars issued in July 2017	4

(b) Limited Liability of a Customer

A customer shall be liable for the loss occurring due to unauthorised transactions in the following cases:

- In cases where the loss is due to negligence by a customer, such as, where he has shared the payment credentials, the customer will bear the entire loss until he reports the unauthorised transaction to the bank. Any loss occurring after the reporting of the unauthorised transaction should be borne by the bank.
- In cases where the responsibility for the unauthorised electronic banking transaction lies neither with the bank nor with the customer, but lies elsewhere in the system and when there is a delay (of four to seven working days after receiving the communication from the bank) on the part of the customer in notifying the bank of such a transaction, the per transaction liability of the customer should be limited to the transaction value or the amount as prescribed, whichever is lower.

Maximum Liability of a Customer	
Type of Account	Maximum liability(₹)
BSBD Accounts	5,000
All other SB accounts, Pre-paid Payment Instruments and Gift Cards, Current/ Cash Credit/ Overdraft Accounts of MSMEs, Current Accounts/ Cash Credit/ Overdraft Accounts of Individuals with annual average balance (during 365 days preceding the incidence of fraud)/ limit up to ₹ 25 lakh, Credit cards with limit up to ₹ 5 lakh	10,000
All other Current/ Cash Credit/ Overdraft Accounts, Credit cards with limit above ₹ 5 lakh	25,000

Further, if the delay in reporting is beyond seven working days, the customer liability should be determined as per the bank's Board approved policy. Banks should provide the details of their policy in regard to customers' liability formulated in pursuance of these directions at the time of opening the accounts. Banks should also display their approved policy in public domain for wider dissemination. The existing customers must also be individually informed about the bank's policy.

Overall liability of the customer in third party breaches, where the deficiency lies neither with the bank nor with the customer but lies elsewhere in the system, is summarised below:

Time taken to report the fraudulent transaction from the date of receiving the communication	Customer's liability
Within 3 working days	Zero liability
Within 4 to 7 working days	The transaction value or the amount as prescribed, whichever is lower
Beyond 7 working days	As per bank's Board approved policy

Reversal Timeline for Zero Liability/ Limited Liability of Customer

On being notified by the customer, the bank should credit (shadow reversal) the amount involved in the unauthorised electronic transaction to the customer's account within 10 working days from the date of such notification by the customer (without waiting for settlement of insurance claim, if any). Banks may also at their discretion, decide to waive off any customer liability in case of unauthorised electronic banking transactions even in cases of customer negligence.

The credit should be value dated to be as of the date of the unauthorised transaction. Further, banks should ensure that:

- a complaint is resolved and liability of the customer, if any, established within such time, as may be specified in the bank's Board approved policy, but not exceeding 90 days from the date of receipt of the complaint, and the customer is compensated as prescribed;
- where it is unable to resolve the complaint or determine the customer liability, if any, within 90 days, the compensation as prescribed, is paid to the customer; and
- in case of debit card/bank account, the customer does not suffer loss of interest, and in case of credit card, the customer does not bear any additional burden of interest.

Board Approved Policy for Customer Protection

Taking into account the risks arising out of unauthorised debits to customer accounts owing to customer negligence/bank negligence/ banking system frauds/ third party breaches, banks need to clearly define the rights and obligations of customers in case of unauthorised transactions in specified scenarios. Banks should formulate/ revise their customer relations policy, with approval of their Boards, to cover aspects of customer protection, including the mechanism of creating customer awareness on the risks and responsibilities involved in electronic banking transactions and customer liability in such cases of unauthorised electronic banking transactions. The policy must be transparent, non-discriminatory and should stipulate the mechanism of compensating the customers for the unauthorised electronic banking transactions and also prescribe the timelines for effecting such compensation. The policy should be displayed on the bank's website along with the details of grievance handling/ escalation procedure.

Burden of Proof

The burden of proving customer liability in case of unauthorised electronic banking transactions should lie on the bank.

Reporting and Monitoring Requirements

The banks should put in place a suitable mechanism and structure for the reporting of the customer liability cases to the Board or one of its Committees. The Standing Committee on Customer Service in each bank should periodically review the unauthorised electronic banking transactions reported by customers or otherwise, as also the action taken thereon, the functioning of the grievance redress mechanism and take appropriate measures to improve the systems and procedures. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11040&Mode=0>)

Fincare Small Finance Bank Ltd. commences operations

Fincare Small Finance Bank Limited has commenced operations as a small finance bank with effect from July 21, 2017. The Reserve Bank has issued a licence to the bank under Section 22 (1) of the Banking Regulation Act, 1949 to carry on the business of small finance bank in India.

Disha Microfin Private Limited, Ahmedabad was one of the ten applicants which was issued in-principle approval for setting up a small finance bank, as announced in the press release on September 16, 2015. (https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=41147)

Balances in Customer Accounts with Payments Banks

Based on the comments/proposals received from the Payments Banks (PBs), and keeping in view the financial inclusion objective of the Payments Bank model, the Reserve Bank on June 29, 2017 advised the Chief Executive Officers of PBs to follow the instructions as mentioned below:

- Payments Banks are permitted to act as Business Correspondents (BCs) of other banks. Under the BC arrangement and with prior specific or general consent of the customer, PB may effect the transfer of funds deposited by a customer into own account with another eligible bank, so that the balance in the customer's account with the PB does not exceed ₹100,000 or any such lower amount as specified by the customer.
- At any time, PB shall not have rights to operate or have real-time access to the funds available in the account of the customer at any other bank, including the transferee bank. However, as a BC of a bank, PBs may facilitate withdrawals and transfers by the customer from her account with the bank of which it is the BC.
- A PB shall neither arrange nor avail of intraday funding facilities for its customers, based on the balances available in the customer's account with any other bank, or otherwise.
- PBs are required to closely monitor the accounts of their customers, to identify and report suspicious transactions, when the deposit / transaction volumes are not commensurate with the customer's profile. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11017&Mode=0>)

Applicants for 'on tap' Licensing of Universal Banks

The Reserve Bank on June 30, 2017, released the names of applicants under the Guidelines for 'on tap' Licensing of Universal Banks in the Private Sector. As on date, application from UAE Exchange and Financial Services Limited has been received by the Reserve Bank.

It may be recalled that the Guidelines for 'on tap' Licensing of Universal Banks in the Private Sector, issued on August 1, 2016, indicated that in order to ensure transparency, the names of the applicants for bank licences will be placed on the RBI website periodically. Accordingly, going forward, the Reserve Bank shall publish the names of the applicants on a quarterly basis. (https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=40922)

Banking Supervision

Audit Committee of the Board of Directors

The Reserve Bank on July 13, 2017 clarified that in banks where the Board of Directors is chaired by a non-executive Chairman, there will not be any restriction if he/she is also nominated to the Audit Committee of the Board of Directors. The clarification was issued in view of the bifurcation of the post of Chairman and Managing Director of Public Sector Banks (PSBs) by the Government of India into a non-executive Chairman and a full time executive Managing Director and Chief Executive Officer (MD&CEO). (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11049&Mode=0>)

Financial Inclusion and Development

Investment in Plant and Machinery under MSME

Conveying the clarification issued by the Ministry of MSME, Government of India, New Delhi, the Reserve Bank on July 13, 2017 said that for ascertaining the investment in plant and machinery

for classification of an enterprise as Micro, Small and Medium, the following documents could be relied upon:

- A copy of the invoice of the purchase of plant and machinery; or
- Gross block for investment in plant and machinery as shown in the audited accounts; or
- A certificate issued by a Chartered Accountant regarding purchase price of plant and machinery.

Further, the Ministry has clarified that for the investment in plant and machinery for the purpose of classification of an enterprise as Micro, Small or Medium, the purchase value of the plant and machinery is to be reckoned and not the book value (purchase value minus depreciation). (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11050&Mode=0>)

Funding Support from FIF for Financial Literacy revised

On a review, the Reserve Bank in consultation with the Financial Inclusion Fund (FIF) Advisory Board on July 13, 2017, revised the funding support available to banks to the extent of 60 per cent of the expenditure of the financial literacy camp subject to a maximum of ₹ 5,000/- per camp.

In order to improve the effectiveness of financial literacy camps, it has been decided to encourage Financial Literacy Centres (FLCs) and rural branches of banks to use hand held projectors to show audio-visuals and posters on financial awareness messages. Funding for handheld projectors and speakers would be provided from FIF to the extent of 50 per cent of the cost incurred on purchase of hand held projector and portable speaker (both put together) subject to a maximum of ₹ 5000 per rural branch/ FLC on a reimbursement basis. FLCs and rural branches of banks are advised to use the audio visuals while conducting financial literacy camps. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11052&Mode=0>)

Foreign Exchange Management

Investment by FPIs in Government Securities reviewed

In order to recalibrate the Medium Term Framework (MTF) for Foreign Portfolio Investors (FPI) investment in Central Government Securities (G-secs) and State Government Securities (SDLs) to meet the objective of a preference for long-term investors and also with a view to manage the macro-prudential implications of evolving capital flows, the MTF has been modified as under:

- The overall cap of 5 per cent for Central Government securities (G-Secs) and 2 per cent for State Development Loans (SDLs) remain unchanged.
- Future increases in the limit for FPI investment in Central Government securities will be allocated in the following ratio -75 per cent for 'Long-Term' category of FPIs and 25 per cent for 'General' category.
- The practice of transferring unutilised limits of 'Long-Term' category to 'General' category of FPIs is done away with.

To harmonise the approach to FPI investments in SDLs with that for Central Government securities, future increases in SDLs would be in the ratio of 75 per cent for 'Long Term' category and 25 per cent for 'General' category of FPIs.

The Reserve Bank may, in future, continue to calibrate some features of the MTF depending on the evolving macro-economic conditions.

The operational guidelines relating to allocation and monitoring of limits will be issued by the Securities and Exchange Board of India (SEBI). (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11027&Mode=0>)

Co-operative Bank Regulation

Recording Details of Entries in Accounts

In the interest of better customer service, the Reserve Bank on July 13, 2017 advised all co-operative banks, state co-operative banks and district central co-operative banks to provide at a minimum the relevant details in respect of entries in the passbooks and/or statements of account to enable the account holders to cross-check them. Co-operative banks should also incorporate information about 'deposit insurance cover' along with the limit of coverage, subject to change from time to time, upfront in the passbooks.

Background

The Reserve Bank had advised co-operative banks to avoid inscrutable entries in passbooks/statements of account and ensure that brief, intelligible particulars are invariably entered in passbooks /statements of account with a view to avoiding inconvenience to depositors. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11053&Mode=0>)

Non-Banking Regulation

PoP Services - PFRDA under NPS

On a review, the Reserve Bank on July 6, 2017 decided that Non-Banking Financial Companies (NBFCs) with asset size of ₹ 500 crore and above which comply with the prescribed Capital to Risk-weighted Assets Ratio (CRAR) and made net profit in the preceding financial year be permitted to undertake Point of Presence (PoP) services under Pension Fund Regulatory and Development Authority (PFRDA) for National Pension System (NPS) after registration with PFRDA. Eligible NBFCs extending such services shall ensure that the NPS subscription collected by them from the public is deposited on the day of collection itself (T+0 basis; T is the date of receipt of clear funds, either by cash or any other mode) with the Trustee Bank. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11041&Mode=0>)

Government and Bank Accounts

Payment of Agency Commission

The Reserve Bank on June 29, 2017 clarified that the following activities do not come under the purview of agency bank business and are, therefore, not eligible for payment of agency commission:

- Furnishing of bank guarantees/security deposits, etc. through agency banks by government contractors/suppliers, which constitute banking transactions undertaken by banks for their customers.
- The banking business of autonomous/statutory bodies/ Municipalities/Corporations/Local Bodies.

- Payments of a capital nature such as capital contributions/subsidies/grants made by governments to cover losses incurred by autonomous/statutory bodies/ Municipalities/Corporations/ Local Bodies.
- Prefunded schemes which may be implemented by a Central Government Ministry/Department (in consultation with Controller General of Accounts (CGA)) and a State Government Department through any bank. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11018&Mode=0>)

RBI Master Directions/Circulars issued in July 2017

Master Directions/Circulars	Date of issue
Master Circular on Conduct of Government Business by Agency Banks - Payment of Agency Commission	July 01, 2017
Master Circular - Disbursement of Government Pension by Agency Banks	July 01, 2017
Master Circular - Deendayal Antyodaya Yojana -National Rural Livelihoods Mission (DAY-NRLM)	July 03, 2017
Master Circular - Kisan Credit Card (KCC) Scheme	July 03, 2017
Master Circular - Lead Bank Scheme	July 03, 2017
Master Circular on SHG-Bank Linkage Programme	July 03, 2017
Master Circular - Credit facilities to Scheduled Castes (SCs) & Scheduled Tribes (STs)	July 03, 2017
Master Circular- Credit Facilities to Minority Communities	July 03, 2017
Master Circular - Deendayal Antyodaya Yojana - National Urban Livelihoods Mission (DAY-NULM)	July 03, 2017
Master Directions on Relief/Savings Bonds	July 04, 2017
Master Direction - Reserve Bank of India (Relief Measures by banks in areas affected by Natural Calamities) Directions 2017	July 05, 2017
Master Circular - Detection and Impounding of Counterfeit Notes	July 20, 2017

Caution against co-operative societies accepting Deposits from Non-members

It has come to the notice of the Reserve Bank that some co-operative societies/primary co-operative credit societies are accepting deposits from non-members/nominal members/associate members. The Reserve Bank on June 30, 2017, in a cautionary advice, accordingly said that such co-operative societies have neither been issued any licence under Banking Regulation Act, 1949 (As Applicable to Cooperative Societies)

nor are they authorised by the Reserve Bank for doing banking business. The insurance cover from Deposit Insurance and Credit Guarantee Corporation (DICGC) is not available for deposits placed with these entities. Members of public are advised to exercise caution and carry out due diligence of such entities before dealing with them. (https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=40925)