



Volume XII ♦ Issue 11
May 2016

**MONETARY AND CREDIT
INFORMATION REVIEW**

Banking Regulation

RBI on Private Banks

Issues Draft Guidelines for 'on tap' licensing of Universal Banks

The Reserve Bank on May 5, 2016 released the "Draft Guidelines for 'on tap' Licensing of Universal Banks in the Private Sector" on its website. Suggestions and comments on the draft guidelines may be sent by June 30, 2016 to the Chief General Manager, Reserve Bank of India, Department of Banking Regulation, Central Office, 13th floor, Central Office Building, Shahid Bhagat Singh Marg, Mumbai 400001. Suggestions/comments can also be emailed to nbddbr@rbi.org.in

In a departure from the earlier guidelines on [universal banks dated February 22, 2013](#), the present guidelines include (i) resident individuals and professionals having 10 years of experience in banking and finance are eligible persons to promote universal banks; (ii) large industrial/business houses are excluded as eligible entities but permitted to invest in the banks to the extent of less than 10 per cent; (iii) Non-operative Financial Holding Company (NOFHC) has now been made non-mandatory in case of promoters being individuals or standalone promoting/converting entities who/which do not have other group entities; (iv) The NOFHC is now required to be owned by the promoter/promoter group to the extent of at least 51 per cent of the total paid-up equity capital of the NOFHC, instead being wholly owned by the promoter group; and (v) Existing specialised activities have been permitted to be continued from a separate entity proposed to be held under the NOFHC subject to prior approval from the Reserve Bank and subject to it being ensured that similar activities are not conducted through the bank as well.

Tweaks Guidelines on Ownership/Shareholding

The "Master Direction – Ownership in Private Sector Banks, Directions, 2016" were issued after a review of the extant guidelines on ownership in private sector banks which envisaged diversified shareholding in private sector banks by a single entity/corporate entity/group of related entities. The guidelines have been reviewed against the background of the guidelines on licensing of new banks in the private sector issued in February 2013, the need for additional capital for the banks consequent to the implementation of Basel III capital regulations and to rationalise the ownership limits.

Ownership limits for all shareholders in the long run are now stipulated under two broad categories: (i) natural persons (individuals) and (ii) legal persons (entities/institutions). Further, separate limits are now stipulated for (i) non-financial and (ii) financial institutions; and among financial institutions, for diversified and non-diversified financial institutions. The shareholding ceilings in private sector banks have been fitted into the following shareholding matrix:

Matrix of Shareholding Limits						
Category of shareholder	Promoter group	All shareholders in the long run				
		Natural person#	Legal person			
Sub-category of shareholders	All categories of Promoter/Promoter group	Non-financial institutions/entities#	Financial institutions			
			Non-regulated or non-diversified and non-listed*	Regulated, well diversified and listed/supranational institution/public sector undertaking/Government	Under special Circumstances\$	
Proposed shareholding cap	As specified in the respective guidelines@	10%	10%	15%	40%	As permitted on a case to case basis

@ For all existing banks, the permitted promoter / promoter group shareholding will be in line with what has been permitted in the February 22, 2013 guidelines on licensing of universal banks viz. 15 per cent.

In case any promoter / promoter group is eligible for higher shareholding as per the licensing guidelines, then the same will apply and the limits prescribed for all shareholders in the long run in the matrix will not apply

* In case of financial institutions that are owned to the extent of 50 per cent or more or controlled by individuals¹, the shareholding would be deemed to be by a natural person and the shareholding will be capped at 10 per cent

\$ Shareholders permitted 10 per cent or more in a bank will be subject to a minimum holding period of five years

CONTENTS

PAGE

Banking Regulation	
• RBI on Private Banks	1
• RBI aligns Rules for Investment in CICs	2
• Banks asked to comply with Jilani Committee Recommendations on Audit	2
Co-operative Banking	
• Monitoring and Reporting Mechanism for Frauds Changed	2
• Credit Information Reporting on SHG Members	2
Foreign Exchange Management	
• Establishment of BO/LO/PO in India by Foreign Entities	3
• FEMA Regulations	3
• Data Processing and Monitoring System for Import of Goods	4
• No Collateral from Exchange House for RDA	4
Financial Inclusion and Development	
• No SACP Statements from April 1	4
Financial Market Regulation	
• Derivative Trading on Electronic Platform Broad based	4
Payment and Settlement Systems	
• Merchant Acquisition for Card Transactions	4
• ATMs to accept Chip & PIN from Sept 2017	4
• Guidelines for Voluntary Surrender of CoA	4
Master Directions issued in May	

The voting rights will be capped at the current level of 15 per cent or as notified by the Reserve Bank from time to time.

Other Salient Features of the Guidelines are:

- Any acquisition of shareholding/voting rights of 5 per cent or more of the paid-up capital of the bank or total voting rights of the bank would continue to be subject to obtaining prior approval from the Reserve Bank.
- The 'fit and proper' criteria for acquisition of shareholding in a private bank beyond 5 per cent will continue to apply.
- Acquisition of shareholding in a private sector bank by foreign entities would continue to be subject to the extant Foreign Direct Investment (FDI) policy. Currently, in terms of the Government of India's foreign direct investment (FDI) policy (April 2015), the aggregate foreign investment in private sector banks from all sources (Foreign Direct Investment (FDI), Foreign Institutional Investors (FII) / Non Resident Indians (NRI) cannot exceed 74 per cent of paid-up capital of the bank. At all times, at least 26 per cent of the paid-up share capital of the private sector banks will have to be held by resident Indians.
- Banks (including foreign banks having branch presence in India) can continue to acquire stake in a bank's equity shares upto 10 per cent of the investee bank's equity capital. However, in case of exceptional circumstances, such as, restructuring of problem/weak banks or in the interest of consolidation in the banking sector, the Reserve Bank may permit them a higher level of shareholding.
- In banks where there are no major regulatory/supervisory concerns, a person may be permitted to acquire higher shareholding, if the same is supported by the Board of the Directors of the concerned bank. In such banks, hostile takeover will not be allowed.
- In banks where there are regulatory/supervisory concerns and, where in the opinion of the Reserve Bank, a change in the ownership/management of the bank is necessary in the interests of the depositors of the bank/public interest, the Reserve Bank may, at its discretion, permit a person to acquire higher shareholding, even if the existing board does not support the same. Such a person may or may not be an existing shareholder.
- In the case of existing private sector banks -
 - a) Where specific orders have been passed by the Reserve Bank relating to dilution of shareholding by persons/entities/groups, those orders will continue to apply for such shareholding.
 - b) Where specific approvals have been granted by the Reserve Bank for promoters/entities/groups to have shareholding in excess of 10 per cent, they could continue to hold such shareholding in the banks upto the specified period.
 - c) Where any promoter/promoter group has shareholding in excess of 15 per cent and timelines have already been stipulated by the Reserve Bank for bringing it down to 10 per cent, such timelines shall continue to apply for bringing the shareholding down to 15 per cent.

RBI aligns Rules for Investment in CICs

The Reserve Bank on May 19, 2016, revised its directions allowing higher Foreign Direct Investment (FDI) limits in Credit Information Companies (CICs) to entities which have an established track record of running a Credit Information Bureau in a well regulated environment, as under:

- up to 49 per cent if ownership of the investor company is not well diversified;
- up to 100 per cent if ownership of investor company is well diversified, or if not well diversified, subject to conditions relating to composition of the Board of Directors of the investee CIC. Investment of Foreign Institutional Investors (FII)/Foreign Portfolio Investors (FPI) should directly or indirectly hold below 10 per cent equity.

At present, investments, directly or indirectly by any person, whether resident or otherwise are limited to 10 per cent of the equity capital of a Credit Information Company (CIC). However, investments under FDI were permitted up to 74 per cent subject to the conditions stipulated in the Reserve Bank's directive. The Reserve Bank on February 15, 2016, revised the foreign investment limits in CICs from 74 per cent to 100 per cent under automatic route, subject to certain conditions. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10410&Mode=0>)

Banks to comply with Audit Recommendations

The Reserve Bank on April 28, 2016 has notified all scheduled commercial banks (excluding regional rural banks) about Audit Committee of the Board of Directors (ACB)-Calendar of Reviews, in terms of which the implementation status of Jilani Committee recommendations need to be submitted before the Audit Committee of the Board. Banks are advised to ensure that:

- Compliance to these recommendations are complete and sustained,
- These recommendations are appropriately factored in the internal inspection/audit processes of banks and duly documented in their manual/ instructions, etc. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10370&Mode=0>)

Co-operative Banking

Monitoring and Reporting Mechanism for Frauds Changed

The Reserve Bank on May 19, 2016 has changed the fraud monitoring and reporting mechanism at its Regional Offices and Central Fraud Monitoring Cell (CFMC). Now:

- Frauds below ₹ 1.00 lakh are not to be reported individually to the Reserve Bank. However, as done earlier, statistical data in respect of such frauds should be submitted to the Reserve Bank in the prescribed quarterly statement.
- Individual frauds of ₹ 1.00 lakh and above but below ₹ 1.00 crore should be reported to the Regional Office of the Reserve Bank's Department of Cooperative Bank Supervision (DCBS), under whose jurisdiction the Head Office of the bank falls, in FMR-1 format, within three weeks from the date of detection.
- Individual frauds of ₹ 1.00 crore and above should be reported to Central Frauds Monitoring Cell (CFMC), Department of Banking Supervision (DBS), Reserve Bank, Bengaluru, in FMR-1 format, within three weeks from the date of detection with a copy to Regional Office of DCBS, RBI under whose jurisdiction the Head Office of the bank falls.
- Additionally, in case of frauds of ₹ 1.00 crore and above, a flash report in the form of DO letter addressed to Principal Chief General Manager, DBS, CO, RBI has to be submitted within a week of such fraud coming to the notice of the bank's Head Office with a copy to Regional Office of DCBS, RBI under whose jurisdiction the Head Office of the bank falls.
- Further, it is reiterated that FMR-1 should be submitted in soft copies through e-mail as per reporting mechanism above. However, UCBS have to submit a monthly certificate to the effect that soft copy of all the frauds of ₹ 1.00 lakh and above, to be reported to the Reserve Bank in a month, has been sent through email. The certificate may be sent to CFMC, Bengaluru with a copy to the respective Regional Office of DCBS, Reserve Bank under whose jurisdiction the Head Office of the bank falls within seven days from the end of the month. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10408&Mode=0>)

Credit Information Reporting on SHG Members

The Reserve Bank in its circular, issued on May 26, 2016, has advised Urban Co-operative Banks and State and Central Co-operative Banks/District Central Cooperative Banks to have a two phased approach in implementation of the Reserve Bank's guidelines with

regard to credit information reporting requirements for SHG members. The structure of credit information collection and reporting would be:

- Banks shall collect information from all SHG members and report it to the CICs as per the prescribed format.
- Banks shall put in place necessary systems and procedures including making necessary changes to their system software so as to be able to begin collection of the relevant information from the SHG members and reporting the required information to the CICs from 1 July 2016 (Phase I) and 1 July 2017 (Phase II).
- Banks have the option to collect and report the SHG member level data either themselves or by outsourcing it to other entities. Banks must put in place appropriate controls to ensure the correctness of the data submitted by the entities to which it is outsourced.
- Banks shall immediately start monitoring the NPA levels in the SHG segment on an ongoing basis, if not being already done, and collect detailed information from SHG members.

Non-adherence to the above instructions by urban cooperative banks shall result in exclusion of non-compliant SHG loan accounts from the loan portfolios eligible to be reckoned for the purpose of complying with the Priority Sector Loan (PSL) targets.

The Reserve Bank in this circular has also issued certain operational instructions and specific instructions to the CICs.

Background

The Reserve Bank on July 15, 2016 had advised UCBs and StCBs/ DCCBs to report the member level data relating to the SHGs within six months from the date of the circular. A review of the implementation of the aforesaid directions by the Reserve Bank revealed that banks had not made a significant progress in this regard. The banks also pointed out a number of challenges in implementation of these directions and requested for greater clarity on their scope. Consequently, the RBI constituted a working group with members from within RBI, NABARD, banks and Credit Information Companies (CICs), to study the implementation challenges and suggest measures to address them. Underscoring the importance of credit information reporting in respect of the SHG members for financial inclusion, credit decision of banks and Micro Finance Institutions (MFIs) and credit quality of the SHG loan portfolios, the working group has emphasised the need for putting in place the credit information reporting for SHG members sooner than later. Nonetheless, the group has suggested following a phased approach to the implementation of the RBI direction so as to ensure that the data quality is not compromised. This circular sets out the implementation requirements in the first two phases. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10417&Mode=0>)

Foreign Exchange Management

Establishment of BO/LO/PO in India by Foreign Entities

The Reserve Bank on May 12, 2016 issued procedural guidelines for a person resident outside India to open a branch office (BO) or a liaison office (LO) or a project office (PO) in India. Such applications may be forwarded by the AD Category-I bank to the General Manager, Reserve Bank of India, Central Office Cell, Foreign Exchange Department, 6, Sansad Marg, New Delhi 110 001. The Reserve Bank will process the applications in consultation with the Government of India.

Registration with Police Authorities

Applicants from Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong, Macau or Pakistan desirous of opening BO/LO/PO in India shall have to register with the State Police authorities. Copy of approval letter for 'persons' from these countries shall be marked by the AD Category-I bank to the Ministry of Home Affairs, Internal Security Division-I, Government of India, New Delhi for necessary action and record. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10398&Mode=0>)

FEMA Regulations

Revised Regulations on Remittance of Assets

The Reserve Bank on April 28, 2016, in consultation with the Government of India, issued the Foreign Exchange Management (Remittance of Assets) Regulations, 2016. The salient features of the Remittance of Assets regulations are:

a) Remittance of capital assets in India held by a person whether resident in or outside India would require the approval of the Reserve Bank except to the extent provided in the Act or Rules or Regulations made under the Act.

b) Authorised dealers may allow remittance of assets, up to USD one million per financial year, by a foreign national (not being a PIO or a citizen of Nepal or Bhutan), on submission of documentary evidence in select cases. In case the remittance is made in more than one instalment, the remittance of all instalments should be made through the same AD.

c) ADs may allow remittance of balance amount, held by a foreign student in a bank account in India, after completion of his/her studies/training in India.

d) ADs may allow NRIs and PIOs, on submission of documentary evidence, to remit up to USD one million, per financial year.

e) ADs may allow remittances by Indian companies under liquidation on directions issued by a Court in India.

f) ADs may also allow Indian entities to remit their contribution towards the provident fund/ superannuation/ pension fund in respect of their expatriate staff resident in India but "not permanently resident" in India.

g) ADs may permit remittance of assets on closure or remittance of winding up proceeds of branch office/ liaison office (other than project office) as per Reserve Bank's directions from time to time.

h) Remittance of assets on hardship ground and remittances by NRIs and PIOs in excess of USD one million/financial year would require the prior approval of the Reserve Bank.

i) Any transaction involving remittance of assets under these regulations are subject to the applicable tax laws in India.

The new regulations are effective from April 1, 2016. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10371&Mode=0>)

Foreign Exchange Management (Deposit) Regulations, 2016

The Reserve Bank on May 5, 2016, in consultation with the Government of India decided to repeal the regulations issued under the Foreign Exchange Management (Deposit) Regulations, 2000, which would be superseded by the Foreign Exchange Management (Deposit) Regulations, 2016, hereinafter referred to as Deposit Regulations. These regulations seek to regulate deposits between a person resident in India and a person resident outside India. No restriction under these regulations shall be applicable for opening of rupee/ foreign currency deposit accounts by certain persons. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10382&Mode=0>)

Exports of Goods and Services

The Reserve Bank in consultation with the Government of India on May 12, 2016 has decided to repeal the notifications/ directions issued under the Foreign Exchange Management Act, 1999 and these have been superseded by the Foreign Exchange Management (Exports of Goods and Services) Regulations, 2015. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10393&Mode=0>)

Foreign Exchange (Compounding Proceedings) Rules

To ensure more transparency and greater disclosure, the Reserve Bank on May 12, 2016 advised all authorised dealers as under:

i) Public Disclosure of Compounding Orders

It has been decided to host the compounding orders passed on or after June 1, 2016 on the Reserve Bank's website (www.rbi.org.in). The data on the website will be updated at monthly intervals as per the prescribed format. Accordingly, a new provision has been added in the Master Direction on Compounding.

ii) Compounding Guidelines on Website

As per provisions of section 13 of FEMA the amount imposed can be up to three times the amount involved in the contravention. However, the amount imposed is calculated based on guidance note. The Reserve Bank would now put the guidance note on its website for information of general public. It may, however, be noted that the guidance note is meant only for the purpose of broadly indicating the basis on which the amount to be imposed is derived by the compounding authorities in the Reserve Bank. The actual amount imposed may sometimes vary, depending on the circumstances of the case. This new provision has been inserted as sub-para 7.4 in the Master Direction on Compounding and the subsequent sub-paragraph has been renumbered accordingly. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10393&Mode=0>)

Data Processing and Monitoring System for Import of Goods

The Reserve Bank on April 28, 2016 advised all category – I, Authorised Dealer Banks about Foreign Exchange Management (Current Account Transaction) Rules, 2000 on import of goods which provides the procedure, mode/manner of payment for imports and submission of related returns. The date of operationalisation of IDPMS will be notified shortly. All import remittances outstanding as on the notified date shall have to be uploaded on IDPMS.

The Reserve Bank had constituted a Working Group (Chairman: Shri A. K. Pandey, CGM, FED) comprising of representatives from Customs, Directorate General of Foreign Trade (DGFT), Special Economic Zone (SEZ), Foreign Exchange Dealers Association of India (FEDAI) and select Authorised Dealer banks (AD banks), to suggest putting in place a comprehensive IT-based system to facilitate efficient processing of all import transactions and their effective monitoring. The Working Group had recommended development of a robust and effective IT-based system "Import Data Processing and Monitoring System" (IDPMS) on the lines of "Export Data Processing and Monitoring System" (EDPMS) in consultation with the Customs authorities and other stakeholders. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10372&Mode=0>)

No Collateral from Exchange House for RDA

With an aim to further streamlining the remittance arrangement under the Speed Remittance Procedure on Opening and Maintenance of Rupee / Foreign Currency Vostro Accounts of Non-Resident Exchange Houses and make remittances cost-effective, the Reserve Bank on April 28, 2016 has done away with the mandated requirement of maintenance of collateral or cash deposits by the Exchange Houses with whom the banks have entered into the Rupee Drawing Arrangement. The AD banks are free to determine the collateral requirement, if any, based on factors, such as, whether the remittances are pre-funded, the track record of the Exchange House, whether the remittances are effected on gross (real-time) or net (file transfer) basis, etc., and may frame their own policy in this regard. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10373&Mode=0>)

Financial Inclusion and Development

No SACP Statements from April 1

The Reserve Bank on May 5, 2016 discontinued the submission of the half yearly Special Agriculture Credit Plan (SACP) statements that banks were required to forward to the Reserve Bank (Financial Inclusion and Development Department), indicating their progress in regard to flow of credit to Agriculture, at the end of March and September every year. However, the credit disbursement statements for the half year ended March 2016 may be forwarded to the Reserve Bank. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10383&Mode=0>)

Financial Market Regulation

Derivative Trading on Electronic Platform Broad based

To make participation in OTC derivative markets through electronic platforms more broad-based, the Reserve Bank on May 5, 2016 has enabled any institutional entity regulated by the Reserve Bank of India (RBI), the Securities and Exchange Board of India (SEBI), the Insurance Regulatory and Development Authority of India (IRDAI), the Pension Fund Regulatory and Development Authority (PFRDA) and the

National Housing Bank (NHB), to trade in interest rate swaps (IRS) on electronic trading platforms. The Reserve Bank also specified the Clearing Corporation of India Ltd (CCIL) as an approved counterparty for IRS transactions undertaken on electronic trading platforms where CCIL is the central counterparty. The regulated institutional entities, may apply for membership of electronic trading platforms in IRS which have CCIL as the central counterparty for settlement. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10384&Mode=0>)

Payment and Settlement Systems

Merchant Acquisition for Card Transactions

The Reserve Bank on May 26, 2016 has advised banks to put in place their own Board approved policy on merchant acquisition to expand card acceptance infrastructure to a wider segment of merchants across all geographical locations and considering the experience gained by the banks in merchant acquiring business. It is a part of the measures taken for strengthening the payment infrastructure and future proofing the system to be taken by banks in respect of strengthening the merchant sourcing and monitoring process. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10418&Mode=0>)

ATMs to accept Chip & PIN from Sept 2017

The Reserve Bank, on May 26, 2016 advised the banks in India and the White Label ATM operators to ensure that all the existing ATMs installed/operated by them are enabled for processing of EMV Chip and PIN cards by September 30, 2017. All new ATMs shall necessarily be enabled for EMV Chip and PIN processing from inception. For the purpose of switching, clearing and settlement of their ATM transactions, banks, with the approval of their Board, may join any authorised ATM/Card network provider.

Further, in order to ensure uniformity in card payments ecosystem, banks shall also implement the above requirements at their micro-ATMs which are enabled to handle card-based payments.

A quarterly progress report should be sent the Chief General Manager, Reserve Bank of India, Department of Payment and Settlement System, Central Office, Mumbai as per the prescribed format for the quarter ending June/Sept/Dec/March by 15th of the month following the quarter end. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10421&Mode=0>)

Guidelines for Voluntary Surrender of CoA

The Reserve Bank on May 12, 2016 has issued guidelines to all entities authorised under the Payment & Settlement Systems Act, 2007 (PSS Act) about voluntary surrender of Certificate of Authorisation (CoA). The Reserve Bank has been receiving requests from Payment System Operators (PSOs), namely, Pre-paid Payment Instrument (PPI) Issuers and Money Transfer Service Scheme (MTSS) – Overseas Principals, for surrendering and consequent cancellation of the CoA on voluntary basis.

These guidelines for voluntary surrender of CoA are applicable to Payment System Operators, namely PPI issuers, MTSS- Overseas Principal, authorised under PSS Act 2007. This option of voluntary surrender of CoA is available only to those entities which have either, not commenced Payment System operations, or intend to discontinue such operations.

The circular also outlined the process to be followed by PSO for voluntary surrender of certificate of registration. (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10396&Mode=0>)

Master Directions issued in May

The Reserve Bank of India issued the following Master Directions during May 2016: i) Financial Services provided by banks (<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10425&Mode=0>)

ii) Co-operative Banks - Interest Rates on Deposits and Advances (https://rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10394)

iii) Ownership in Private Sector Banks, Directions, 2016

(<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10397&Mode=0>)