

Regulatory and Other Measures

September 2009

RBI/2009-10/140 Ref. No. UBD (PCB) BPD
Cir No. 7/13.01.000/2009-10 dated September
01, 2009

Chief Executive Officer of All Primary (urban)
Cooperative Banks

Payment of interest on Savings Bank Account on a Daily Product Basis – UCBs

Please refer to the Directive UBD.DC.102/
V.1-86/87 dated June 25, 1987 in terms of
which UCBs were instructed that interest on
savings deposits should be calculated on the
minimum balance to the credit of the deposit
account during the period from the 10th to
the last day of each calendar month.

2. On a review, it has been decided that
interest on balances in savings bank accounts
would be calculated on a daily product basis
with effect from **April 1, 2010**. UCBs may
ensure that they have the requisite
infrastructure in place to effect a smooth
transition to the revised procedure.

RBI/2009-10/141 IDMD.PDRD.No. 1056/
03.64.00/2009-10 dated September 1, 2009

Guidelines on Exchange Traded Interest Rate Derivatives

Please refer to the directions contained
in Interest Rate Futures (Reserve Bank)
Directions, 2009 [Notification No.FMD.1 /
ED(VKS) - 2009 dated August 28, 2009] issued
by the Reserve Bank of India.

2. Guidelines on risk management,
accounting norms, etc. to be followed by the
Primary Dealers (PDs) were issued vide our
circulars IDMC.PDRS. 4802 / 03.64.00 / 2002-
03 dated June 3, 2003 and IDMD.PDRS. 4802(A)/
03.64.00/2002-03 dated June 11, 2003. Further,

comprehensive guidelines on derivatives were issued by our Department of Banking Operations and Development vide circular DBOD.No.BP.BC.86/21.04.157/2006-07 dated April 20, 2007. In terms of these guidelines, Primary Dealers are allowed to transact in Exchange Traded Interest Rate Futures for the purpose of hedging the interest rate risk of their underlying government securities portfolio and hold trading positions in Interest Rate Futures, subject to the terms and conditions indicated therein.

3. In the context of the Interest Rate Futures (Reserve Bank) Directions, 2009 dated August 28, 2009 issued by the Reserve Bank of India, it is clarified that stand-alone Primary Dealers (PDs) are allowed to deal in Interest Rate Futures (IRFs) for both hedging and trading **on own account and not on client's account**, subject to adherence to the prudential norms contained in the aforesaid circulars.

4. Banks undertaking PD activities departmentally may be guided by the extant guidelines issued by our Department of Banking Operations & Development in this regard.

RBI/2009-10/142 DBOD.No.Leg.BC. 37 / 09.07.005/2009-10 September 2, 2009

Display of information regarding Local Level Committees set up under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999

All Scheduled Commercial Banks
(Excluding RRBs)

Please refer to paragraph 11 of our Master Circular DBOD.No.Leg.BC.9/09.07.006/2009-

10 dated July 1, 2009 on Customer Service, wherein banks have been advised to rely upon the Guardianship Certificate issued either by the District Court under Mental Health Act, 1987 or by the Local Level Committees under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (hereafter called Mental Disabilities Act) for the purposes of opening/ operating bank accounts by the legal guardians for persons with disability that is covered under the Act. Banks were also advised to ensure that their branches give proper guidance so that the parents / relatives of the disabled persons do not face any difficulties in this regard.

2. In a case which came up before the High Court of Delhi, the Honorable Court has directed that all banks should ensure that their branches display in a conspicuous place (i) essential details about the facilities under the enactment (Mental Disabilities Act); (ii) the fact that the parties can approach the Local Level Committees, for the purposes of issuance of the certificate and that the certificate issued under the Mental Disabilities Act is acceptable; and (iii) the details of the Local Level Committees in that area. The Court has further directed that the information shall be displayed in the local language and English / Hindi (or both).

3. Banks are advised to strictly comply with the above orders of the Court. Banks are also advised to ensure strict compliance of the provisions of the Mental Disabilities Act. It may be noted that details of the Local Level Committees are available in the web-site of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities i.e. www.thenationaltrust.in.

RBI/2009-10/145 UBD.BPD.PCB.Cir.No 8 /
13.05.006/2009-10 dated September 3, 2009

UCBs – Last Date for OTS Scheme (under Agricultural Debt Waiver and Debt Relief Scheme, 2008) extended

The Chief Executive Officer, All Primary
(Urban) Co-operative Banks

Please refer to para 6 and 7.3 of the Agricultural Debt Waiver and Debt Relief Scheme, 2008 forwarded vide our circular UBD.PCB. Cir. No. 43/13.05.000/07-08 dated May 23, 2008 on the captioned subject. As per the One Time Settlement (OTS) Scheme, 'other farmers' (farmers holding more than two hectares of land) were given time up to June 30, 2009 to pay 75% of the amount eligible for debt relief. Due to the late arrival of monsoon, Government of India, Ministry of Finance have now decided to extend this period by six months *i.e.* upto December 31, 2009.

2. The UCBs are allowed to receive even less than 75% of the eligible amount under OTS, provided they bear the difference themselves and do not claim the same either from the Government or from the farmer. The Government will pay only 25% of the actual eligible amount under debt relief as has already been intimated.

3. The Government has also clarified that the UCBs would not charge any interest on the eligible amount for the period from February 29, 2008 to June 30, 2009. However, the banks may charge normal rate of interest on the eligible amount from July 1, 2009 upto the date of settlement.

4. It has further been decided by the Government that January 31, 2010 will be the

last date for receipt of grievances, by all agencies from farmers covered under the Scheme.

5. It is clarified that in case of 'other farmers' eligible for debt relief, after the 'other farmer' has paid his entire share of 75%, banks may open an account for Debt Relief Scheme, similar to the one opened for the receivables from Government of India under the Debt Waiver Scheme, bearing the nomenclature "Amount receivable from Government of India under Agricultural Debt Relief Scheme 2008". The debt relief of 25% may be credited to the farmer's account by debit to the head 'Amount receivable from Government of India under Agricultural Debt Relief Scheme 2008'. This amount should also be reflected in the Balance sheet.

6. All concerned are requested to give wide publicity to the above decisions / clarifications so that farmers can avail maximum benefits of ADWDR Scheme and the aggrieved farmers can submit their grievances pertaining to the Scheme, if any, for redressal before the extended due date.

RBI/2009-10/148 RPCD.CO.RF.BC.No.18 /
07.38.03/2009-10 dated September 7, 2009

Collection of Account Payee Cheques - Prohibition on Crediting Proceeds to Third Party Account

All State Co-operative Banks (StCBs) and
District Central Co-operative Banks (DCCBs)

Please refer to our circular RPCD.CO.RF.BC.No.78/07.38.03/2005-06 dated April 27, 2006 in terms of which banks are prohibited from crediting 'account payee' cheque to the account of any person other than the payee named therein.

2. It has been brought to our notice that some banks are collecting third party account payee cheques on behalf of co-operative credit societies who are their constituents. While reiterating that such practice of collection of third party cheques is not permissible, in order to facilitate collection of cheques from the payment system angle, account payee cheques deposited with the sub-member for credit to their customers' account can be collected by the member bank (referred to as the sponsor member) of the Clearing House. Under such arrangements, there should be a clear undertaking from the sub-member to the effect that the proceeds of the account payee cheque will be credited to the payee's account only, upon realisation.

RBI/2009-10/152 DBOD. AML.BC. No.43 / 14.01.001/2009-10 dated September 11, 2009

Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards/Combating of Financing of Terrorism (CFT)/Obligation of banks under PMLA, 2002

The Chairmen and Chief Executive Officers
All Scheduled Commercial Banks excluding
RRBs/Financial institutions/ Local Area Banks

Please refer to the Master Circular
DBOD.AML.BC. No.2/14.01.001/ 2009-10
dated July 01, 2009 on Know Your Customer
(KYC) norms / Anti-Money Laundering (AML)
standards/Combating of Financing of
Terrorism (CFT)/Obligation of banks under
Prevention of Money Laundering Act 2002.

Preservation Period of Records

2. The Prevention of Money Laundering
(Amendment) Act, 2009 (No. 21 of 2009) has

come into force with effect from June 01, 2009 as notified by the Government. In terms of Sub-Section 2(a) of Section 12 of The Prevention of Money Laundering (Amendment) Act, 2009 (PMLA, 2009), the records referred to in clause (a) of Sub-Section (1) of Section 12 shall be maintained for a period of ten years from the date of transaction between the clients and the banking company and in terms of Sub-Section 2(b) of Section 12 of the Act *ibid*, the records referred to in clause (c) of Sub-Section (1) of Section 12 shall be maintained for a period of ten years from the date of cessation of transaction between the clients and the banking company.

3. Accordingly, in modification of paragraph 2.16(iii) (a) of the above said master circular dated July 1, 2009, banks are advised to maintain for at least ten years **from the date of transaction** between the bank and the client, all necessary records of transactions referred to at Rule 3 of the Prevention of Money-Laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 (PMLA Rules), both domestic or international, which will permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide, if necessary, evidence for prosecution of persons involved in criminal activity.

4. However, records pertaining to the identification of the customer and his address (*e.g.* copies of documents like

passports, identity cards, driving licenses, PAN card, utility bills *etc.*) obtained while opening the account and during the course of business relationship, as indicated in paragraph 2.16(iii)(b) of the above said master circular dated July 1, 2009, would continue to be preserved for at least ten years **after the business relationship is ended** as required under Rule 10 of the Rules *ibid.*

Accounts of Politically Exposed Persons (PEPs)

5. Detailed guidelines on CDD measures to be made applicable to Politically Exposed Person (PEP) and their family members or close relatives are contained in paragraph 2.5(iv) of the master circular. It is further advised that in the event of an existing customer or the beneficial owner of an existing account, subsequently becoming a PEP, banks should obtain senior management approval to continue the business relationship and subject the account to the CDD measures as applicable to the customers of PEP category including enhanced monitoring on an ongoing basis.

Principal Officer

6. Banks have been advised in Para 2.15 of the master circular referred to above that banks should appoint a senior management officer to be designated as Principal Officer and the role and responsibilities of the Principal Officer have been detailed therein. With a view to enable the Principal Officer to discharge his responsibilities, it is advised that the Principal Officer and other appropriate staff should have timely access to customer identification data and other CDD information, transaction records and other relevant information. Further, banks

should ensure that the Principal Officer is able to act independently and report directly to the senior management or to the Board of Directors.

RBI/2009-10-153 RPCD.CO.RRB.BC No. 20/03.05.72/2009-10 dated September 11, 2009

RRBS - Agricultural Debt Waiver and Debt Relief Scheme, 2008 - Prudential Norms

Please refer to our circulars RPCD.CO.RRB.No.BC.18 /03.05.072/2008-09 dated July 30, 2008; RPCD.CO.RRB.No.BC.64/03.05.072/ 2008-09 dated November 17, 2008, RPCD.CO. RRB. No.BC.92/ 03.05.072/2008-09 dated March 23, 2009, and RPCD.CO. RRB. No.BC.11/03.05.072/ 2009-10 dated July 1, 2009, on the captioned subject.

2. In terms of the circular dated July 1, 2009 we had advised that the Government of India had decided to make the accounts of 'other farmers' eligible for a debt relief of 25% from Government of India, even if they pay their entire share of 75% as one single installment, provided the same is deposited by such farmers till June 30, 2009.

3. In this context, we advise that, the Government of India has now decided to extend the last date of payment of 75% of overdue portion by the 'other farmers' under one time settlement (under ADWDR) for another six months beyond June 30, 2009, *i.e.* up to December 31, 2009. The Government of India has also advised that the banks/lending institutions are allowed to receive even less than 75% of the eligible amount under OTS provided the banks/lending institutions bear the difference themselves and do not claim the same either from the Government or from the farmer.

The Government will pay only 25% of the actual eligible amount under debt relief.

4. The Government has also clarified that the lending institutions would not charge any interest on the eligible amount for the period from February 29, 2008 to June 30, 2009. However, the banks may charge normal rate of interest on the eligible amount from July 01, 2009 up to the date of settlement.

5. Where the farmers covered under the Debt Relief Scheme have given the undertaking, agreeing to pay their share under the OTS, their relevant accounts may be treated by banks as 'standard' / 'performing' provided :

- (a) adequate provision is made by the banks for the loss in present value (PV) terms for all the receivables due from the borrowers. (For computing the amount of loss in PV terms under the Scheme, the balance amount receivable from the farmers may be assumed to be due on December 31, 2009, and the interest payments would be as per paragraph 4 above. The cash flows should be discounted to the present value at the interest rate at which the loan was granted including the element of interest subsidy, if any, available from the Government.)
- (b) such farmers pay their share of the settlement latest by the revised last date, *i.e.* December 31, 2009.

6. In case, however, the payments are delayed by the farmers beyond December 31, 2009, the outstanding amount in the relevant accounts of such farmers shall be treated as NPA. The asset classification of such accounts shall be determined with reference to the original date of NPA, (as if

the account had not been treated as performing in the interregnum based on the aforesaid undertaking). On such down-gradation of the accounts, additional provisions as per the extant prudential norms should also be made.

7. It may be recalled that paragraph 2.1 in the Annex to the circular dated July 30, 2008, provided that in case of small and marginal farmers eligible for debt waiver, the amount eligible for waiver, pending receipt from the Government of India may be transferred by the banks to a separate account named 'Amount receivable from Government of India under Agricultural Debt Waiver Scheme 2008', and the balance in this account should be reflected in Schedule 9 (Advances) of the Balance Sheet. It is now clarified that in case of 'other farmers' eligible for debt relief, after the 'other farmer' has paid his entire share of 75%, banks may open an account for Debt Relief Scheme, similar to the one opened for the receivables from GOI under the Debt Waiver Scheme, and bearing the nomenclature 'Amount receivable from Government of India under Agricultural Debt Relief Scheme 2008'. This amount may also be reflected in Schedule 9 (Advances) of the Balance Sheet.

8. All other terms of the aforesaid circulars remain unchanged.

RBI/2009-10/154 Ref. No. RPCD.CO.RRB.
BC.No.19/03.05.33/2009-10 dated September
11, 2009

RRBs - Collection of Account Payee Cheques - Prohibition on Crediting Proceeds to Third Party Account

Please refer to our circular RPCD.CO.
RF.BC.No.78/07.38.03/2005-06 dated April
27,2006 in terms of which banks are

prohibited from crediting 'account payee' cheque to the account of any person other than the payee named therein.

2. It has been brought to our notice that some banks are collecting third party account payee cheques on behalf of co-operative credit societies who are their constituents. While reiterating that such practice of collection of third party cheques is not permissible, in order to facilitate collection of cheques from the payment system angle, account payee cheques deposited with the sub-member for credit to their customers' account can be collected by the member bank (referred to as the sponsor member) of the Clearing House. Under such arrangements, there should be a clear undertaking from the sub-member to the effect that the proceeds of the account payee cheque will be credited to the payee's account only, upon realisation.

Finance for Housing Projects – Disclosure of Information on Mortgage of Property

RBI/2009-10/155 RPCD.CO.RRB.BC.No. 21 / 03.05.33/2009-10 dated September 14, 2009

All Regional Rural Banks

We advise that in a case which came up before the Hon'ble High Court of Judicature at Bombay, the Hon'ble Court observed that the bank granting finance to housing / development projects should insist on disclosure of the charge / or any other liability on the plot, in the brochure, pamphlets *etc.*, which may be published by developer / owner inviting public at large to purchase flats and properties. The Court also added that this obviously would be part of the terms and conditions on which the loan may be sanctioned by the bank.

2. Keeping in view the above, while granting finance to specific housing / development projects, RRBs are advised to stipulate as a part of the terms and conditions that:

- (i) the builder / developer / company would disclose in the Pamphlets / Brochures *etc.*, the name(s) of the bank(s) to which the property is mortgaged.
- (ii) the builder / developer / company would append the information relating to mortgage while publishing advertisement of a particular scheme in newspapers / magazines *etc.*
- (iii) the builder / developer / company would indicate in their pamphlets / brochures, that they would provide No Objection Certificate (NOC) / permission of the mortgagee bank for sale of flats / property, if required.

3. RRBs are also advised to ensure compliance of the above terms and conditions and funds should not be released unless the builder/developer/company fulfils the above requirements.

4. Please acknowledge receipt to our Regional Office concerned.

RBI/2009-10/158 UBD. CO. BPD. PCB.Cir. No.9/ 12.05.001 / 2009-10 dated September 16, 2009

Adherence to KYC/AML guidelines while opening and conduct of the accounts of Multi Level Marketing firms

The Chief Executive Officers of All Primary (Urban) Co-operative Banks

It has come to our notice that certain firms posing as Multi Level Marketing (MLM)

agencies for consumer goods and services have been actually mobilizing large amounts of deposits from the public with promise of high returns. The names of some of these firms are:

- i. Fine India Sales Pvt. Ltd.
- ii. Lakshya Levels Marketing
- iii. Eve Industries
- iv. Trident Advertising & Trade Links Pvt. Ltd.
- v. Super Life Link Distributors
- vi. Lue Brain Education Society
- vii. Manya Mantra Marketing

2. The representatives of the above firms had opened accounts at various bank branches at different locations in the country and numerous small cash deposits were being made in those accounts. The firms and their agents had reportedly promised very high returns on deposits and lured common people to part with funds in the name of certain investment/deposit schemes. These funds, running into crores of rupees, were being pooled at the Principal Accounts of the MLM firms and the funds were eventually flowing out of those Principal Accounts for purposes apparently illegal or highly risky. These firms had managed to get very large number of cheque books issued from the banks and they have, in turn, issued to the depositors, post dated cheques for small amounts representing future interest dues and deposit payments. The small depositors were depositing the money in the accounts of MLMs at places far away from the places where the accounts were actually opened which was facilitated by Core Banking Solution (CBS) offered by the banks. Since the operations of the firms are essentially

deposit taking activities involving unusually high returns, the ongoing repayments of interest and deposit amounts in respect of existing deposits would depend on continuous and uninterrupted flow of fresh deposits with increasing volumes. Therefore, at some stage, the flow of deposits is bound to be stifled and post dated cheques tendered thereafter would bounce, due to inadequate funds available in the accounts.

3. Some of the above firms were advertising their deposit schemes through websites. A few such website addresses are: http://www.alaskaindia.net/business_plan.html
<http://www.fineindia.net/>

Preliminary reports reveal that the names of the banks, where the MLM firms or their agents were maintaining accounts were getting associated with such operations of MLM firms. This has potential reputational risk for the banks, especially in the event of the firms failing to repay the depositors. Incidentally, as it appears, during personal contacts with the prospective depositors some of these MLM firms or their agents had used the name of the banks where they had accounts.

4. In view of the above, we advise that banks should be careful in opening accounts of the marketing/trading agencies *etc.* Especially, strict compliance with KYC and AML guidelines contained in circulars UBD.CO.BPD (PCB) No. 1/12.05.001/2008-09 dated July 02, 2008 and UBD.PCB. Cir. 30/09.161.00/2004-05 dated December 15, 2004 issued by RBI should be ensured in the matter.

5. In cases where accounts have already been opened in the names of the marketing agencies, retail traders, investment firms, the

banks may undertake quick reviews. Wherever large number of cheque books has been issued to such firms, the relative decision may be reviewed in the light of the following:

- Whether the cheque books have been issued to customers on the basis of their express request and after following the internal processes laid down in the matter.
- Whether the number of cheque books is consistent with/matching the profile of the customers as also their nature of business operations.

6. Even where the volume of transactions/profile of the customers apparently justify the number of cheque books issued, special ongoing monitoring of the operations in the accounts of such types of firms should be made especially if large volumes of small cash deposits are being made in those accounts and withdrawals are being made there from, through cheques written for small amounts, either across the counters or through clearing. In respect of such account holders banks may, in specific cases, call for the data from the account holders on the number and aggregate amount of post dated cheques issued. The data/information so collected should be analysed in select cases to rule out the possibility of the firms being engaged in deposit taking activities. Certain indicative parameters for selecting accounts for further scrutiny and action are the bunching of dates of the post dated cheques, the uniformity in the amounts of cheques *etc.* These data should be analysed together with data on cash deposits of small amounts on previous distant dates resembling the deposit contracting/mobilizations dates in terms of similar bunching and uniformity of amounts.

7. Please acknowledge receipt. Also, unusual operations noticed during the above review may be immediately reported to us and other appropriate authorities, such as, Financial Intelligence Unit (FIU-IND), Department of Revenue, Ministry of Finance, Government of India, Hotel Samrat (6th Floor), Chanakyapuri, New Delhi - 110 021.

RBI/2009-10/159 DBS. CO. FrMC. BC. No. 7 / 23.04.001/2009-10 dated September 16, 2009

Fraud Risk Management System in banks – Role of Chairmen / Chief Executive Officers

The Chairman / Chief Executives of All Scheduled Commercial Banks (excluding RRBs)

As you are aware, the incidence of frauds in the banks has been showing an increasing trend over the recent years, both in terms of number of frauds and the amounts involved. It has been observed that the trend is more disquieting in retail segment especially in housing and mortgage loans, credit card dues, internet banking, *etc.* Moreover, it is a matter of concern that instances of frauds in the traditional areas of banking such as cash credit, export finance, guarantees, letters of credit etc remain unabated. While certain structural factors in the banks' operating environment could account for this rising trend in general, adoption of aggressive business strategies and processes by the banks for quick growth and expansion without ensuring that adequate / appropriate internal controls are in place could, in specific, incentivize operating staff to lower the standards of control while attempting to meet business targets. Also,

a continuously rising trend in the cases of frauds is indicative of the fact that the steps taken by banks in investigating the frauds and identifying the fraudsters for eventual criminal prosecution and appropriate internal punitive action for the staff members involved in the frauds have not been adequate. While discussing certain cases of frauds of exceptionally large amounts, the Board for Financial Supervision (BFS) has expressed grave concern that fraudsters with the involvement of bank officials could engineer system wide break down of controls across months while putting through fraudulent transactions.

2. Taking into consideration the concern expressed by Central Vigilance Commission and Central Bureau of Investigation, banks were advised in January 2004 to constitute a Special Committee of the Board for monitoring and follow up of large value frauds involving amounts of Rs 1.00 crore and above. However, the feedback received by us in the recent times and growing incidence of frauds indicate that in matters of large value frauds, the Committee headed by the CEO of the bank might not have played the role as envisaged in our circular DBS.FGV(F)No. 1004/23.04.01A/2003-04 dated January 14, 2004.

3. Taking into account the above position the BFS has felt that the Chief Executive Officers (CEOs) of the banks must provide singular focus on the "Fraud Prevention and Management Function" to enable, among others, effective investigation in fraud cases and prompt as well as accurate reporting of fraud cases to appropriate regulatory and law enforcement authorities including Reserve Bank of India. The Board has observed that

in terms of higher governance standards, the fraud risk management and fraud investigation function must be owned by the bank's CEO, its Audit Committee of the Board and the Special Committee of the Board, atleast in respect of high value frauds. And accordingly, they should own responsibility for systemic failure of controls or absence of key controls or severe weaknesses in existing controls which facilitate exceptionally large value frauds and sharp rises in frauds in specific business segments leading to large losses for the bank.

4. In view of the above observations made by the BFS, banks are advised to initiate necessary action at their end at the earliest. Banks may, with the approval of their respective Boards, frame internal policy for fraud risk management and fraud investigation function, based on the above governance standard relating to the ownership of the function and accountability for malfunctioning of the fraud risk management process in their banks. The broad governance framework dictated by the above standard for ownership and accountability may rest on defined and dedicated organizational set up and operating processes, some of which have been set out in the following paragraphs:

5. The banks' Special Committee of the Board, which is chaired by the CEO, should own the Fraud Investigation and Monitoring Function and discharge the relative oversight responsibility in a pro-active manner. Presently, the Special Committees are apprised by the banks' Senior Management of the occurrence of the large value frauds. It has been observed that the said Committees give routine instructions

on follow up actions. Essentially, the Committees' directions are not mandated to be implemented by any dedicated operating unit of the banks. The banks may, therefore, delineate in the policy document the processes for implementation of the Committee's directions and the document may enable a dedicated outfit of the bank to implement the directions. In this regard, the banks may have to review the roles and responsibilities of the *Vigilance Function*, *Internal Audit Function* and *Risk Management Function*. On the basis of the review, it may be decided as to what realignments and modifications are needed to ensure that "monitoring and investigation of large value frauds" are recognized as a distinct 'function' and the dedicated unit which is adequately enabled and free from potential conflict of interest is assigned the responsibility to undertake the function.

6. From the operational point of view, banks may take certain measures as detailed below in order to ensure effective quick investigation, monitoring and follow up of frauds:

- i. The above operating unit should own specialized fraud monitoring, investigation and follow up function for large value frauds or frauds which occur across the bank. The function will have to be, therefore, discharged in a centralized manner instead of leaving it to the Regional Office where such specialization may not be available.
- ii. Fraud investigation requires competence in 'forensic audit' and also technical / transactional expertise. In this regard, banks may take immediate steps to

identify staff with proper aptitude and provide necessary training to them in forensic audit so that only such skilled staff are deployed for investigation of large value frauds.

- iii. The banks may build up a data / information pool of large value frauds and analyse them periodically which may act as knowledge repository for policy responses.
- iv. Detection of serious irregularities with systemic and system-wide implications, as also post facto "Fraud Investigation", gathering of information / data / evidences and creation of credible records that are useful for internal management action or legal prosecution against the 'wrong doers' require typical skills. The skills range from expertise in analysis of transaction through audit trail to competence in "forensic audit" supported by specialization in IT based data abstraction, data filtering and data sanitization. While banks may have certain manpower with such skills / competence / expertise, their systematic and organized utilization to detect serious irregularities and frauds has apparently not been ensured in many banks. In some banks, the above skills/competence / expertise are scarce or nearly absent. In view of the increasing incidence of frauds in banks, it is necessary that the banks set up dedicated and well organized "Special Surveillance and Investigation Function", which would, on continuous basis, exercise surveillance over potentially fraud prone areas and investigate into large value frauds with the help of skilled manpower for

internal punitive action against the staff and external legal prosecution of the fraudsters and their abettors.

7. Given the thin line of difference between serious wrongdoings and frauds, the bank should immediately put in place an adequately enabled and efficient 'internal oversight framework' that can prevent the wrongdoings and take the punitive measures against the wrongdoers.

RBI/2009-10/160 RPCD.CO.RF.BC.No.23 / 07.37.02/2009-10 dated September 16, 2009

StCBs/DCCBs - Agricultural Debt Waiver and Debt Relief Scheme, 2009 - Prudential Norms

All State Co-operative Banks (StCBs) and District Central Co-operative Banks (DCCBs)

Please refer to our circulars RPCD.CO.RF.BC.No.17/ 07.38.03/2008-09 dated July 30, 2008, RPCD.CO.RF.BC.No.91 / 07.37.02 /2008-09 dated March 6, 2009 and RPCD.CO.RF.BC.No.116/07.37.02/2008-09 dated June 26, 2009 on the captioned subject. In terms of the circular dated June 26, 2009, we had advised that the Government of India had decided to make the accounts of "other farmers" eligible for a debt relief of 25% from Government of India, even if they pay their entire share of 75% as one single instalment, provided the same is deposited by such farmers till June 30, 2009.

2. In this context, we advise that the Government of India has now decided to extend the last date of payment of 75% of overdue portion by the 'other farmer' for One Time Settlement (OTS) under Debt Relief Scheme (under ADWDR) for another six

months beyond June 30, 2009, *i.e.* up to December 31, 2009. The Government of India has also advised that the banks/lending institutions are allowed to receive even less than 75% of the eligible amount under OTS provided the banks/lending institutions bear the difference themselves and do not claim the same either from the Government or from the farmer. The Government will pay only 25% of the actual eligible amount under debt relief.

3. The Government has also clarified that the lending institutions would not charge any interest on the eligible amount for the period from February 29, 2008 to June 30, 2009. However, the banks may charge normal rate of interest on the eligible amount from July 01, 2009 up to the date of settlement.

4. Where the farmers covered under the Debt Relief Scheme have given the undertaking, agreeing to pay their share under the OTS, their relevant accounts may be treated by banks as "standard" / "performing" provided:

(a) adequate provision is made by the banks for the loss in present value (PV) terms for all the receivables due from the borrowers. (For computing the amount of loss in PV terms under the Scheme, the balance amount receivable from the farmers may be assumed to be due on December 31, 2009, and the interest payments would be as per paragraph 3 above. The cash flows should be discounted to the present value at the interest rate at which the loan was granted including the element of interest subsidy, if any, available from the Government.)

(b) such farmers pay their share of the settlement latest by the revised last date, *i.e.* December 31, 2009.

5. In case, however, the payments are delayed by the farmers beyond December 31, 2009, the outstanding amount in the relevant accounts of such farmers shall be treated as NPA. The asset classification of such accounts shall be determined with reference to the original date of NPA (as if the account had not been treated as performing in the interregnum based on the aforesaid undertaking). On such down-gradation of the accounts, additional provisions as per the extant prudential norms should also be made.

6. It may be recalled that paragraph 2.1 in the Annex to the circular dated July 30, 2008 provided that in case of small and marginal farmers eligible for debt waiver, the amount eligible for waiver, pending receipt from the Government of India, may be transferred by the banks to a separate account named "Amount receivable from Government of India under Agricultural Debt Waiver Scheme 2008", and the balance in this account should be reflected under the column 'Advances' of the Balance Sheet. It is now clarified that in case of 'other farmers' eligible for debt relief, after the 'other farmer' has paid his entire share of 75%, banks may open an account for Debt Relief Scheme, similar to the one opened for the receivables from GOI under the Debt Waiver Scheme and bearing the nomenclature "Amount receivable from Government of India under Agricultural Debt Relief Scheme 2008". This amount may also be reflected under the column 'Advances' of the Balance Sheet.

7. All other terms of the aforesaid circulars remain unchanged.

RBI/ 2009-10/161 RPCD.CO.RF.BC.No.22 / 07.40.06/2009-10 dated September 17, 2009

StCBs/DCCBs - Display of information regarding Local Level Committees set up under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999

All State Co-operative Banks (StCBs) and District Central Co-operative Banks (DCCBs)

Please refer to our circular RPCD.CO.RF.BC.No.37/07.40.06/2007-08 dated November 20, 2007, wherein banks have been advised to rely upon the Guardianship Certificate issued either by the District Court under Mental Health Act, 1987 or by the Local Level Committees under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (hereafter called Mental Disabilities Act) for the purposes of opening / operating bank accounts by the legal guardians for persons with disability covered under the said Act. Banks were also advised to ensure that their branches give proper guidance so that the parents / relatives of the disabled persons do not face any difficulty in this regard.

2. In a case which came up before the High Court of Delhi, the Honourable Court has directed that all banks should ensure that their branches display in a conspicuous place -

- i. essential details about the facilities under the enactment (Mental Disabilities Act);
- ii. the fact that the parties can approach the Local Level Committees, for the purposes

of issuance of the certificate and that the certificate issued under the Mental Disabilities Act is acceptable; and

- iii. the details of the Local Level Committees in that area.

The Court has further directed that the information shall be displayed in the local language and English / Hindi (or both).

3. Banks are advised to strictly comply with the above orders of the Court. Banks are also advised to ensure strict compliance of the provisions of the Mental Disabilities Act. It may be noted that details of the Local Level Committees are available in the web-site of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities *i.e.* www.thenationaltrust.in.

RBI/2009-10/162 DNBS (PD) CC.No. 160/03.10.001/2009-10 dated September 17, 2009

RBI approval required for acquisition/transfer of control of NBFCs accepting deposits

All deposit taking NBFCs (excluding RNBCs)

Under Section 45 IA (4)(c) of the RBI Act, 1934, a certificate of Registration can only be given to a company if the Bank is satisfied, inter alia, that the general character of the management or the proposed management of the non-banking financial company shall not be prejudicial to the public interest or the interests of its depositors.

2. To enable RBI to verify that the 'fit and proper' character of the management of NBFCs is continuously maintained, it has been decided that any take over / acquisition of shares of a deposit taking NBFC or merger/

amalgamation of a deposit taking NBFC with another entity or any merger/amalgamation of an entity with a deposit taking NBFC that would give the acquirer / another entity control of the deposit taking NBFC, would require prior permission of RBI.

3. Applications in this regard may be submitted to the Regional Office of the Department of Non-Banking Supervision in whose jurisdiction the Registered Office of the Company is located.

4. Notification No.DNBS(PD) 208 / CGM(ANR)/2009 dated September 17, 2009 issued in this regard by Reserve Bank in exercise of powers under Sections 45K and 45L of the RBI Act, 1934 is enclosed for meticulous compliance.

Priority Sector Lending – Categorisation of activities under service under the MSMED Act, 2006

RBI/2009-10/164 RPCD.CO.Plan.BC. 24 / 04.09.01/2009-10 dated September 18, 2009

The Chairman/ Managing Director/ Chief Executive Officer

[All scheduled commercial banks (excluding Regional Rural Banks)]

In terms of paragraphs 2.1.1 and 2.1.2 of Section I of the Master Circular dated July 1, 2009 on Lending to Priority Sector, credit to small enterprises includes loans granted to micro and small (manufacturing and service) enterprises, provided investment in plant and machinery [original cost excluding land and building and the items specified by the Ministry of Small Scale Industries vide its notification no. S.O. 1722 (E) dated October 5, 2006] does not exceed Rs. 5 crore in respect

of manufacturing enterprises and investment in equipment (original cost excluding land and building and furniture, fittings and other items not directly related to the service rendered or as may be notified under the MSMED Act, 2006) does not exceed Rs. 2 crore in respect of service enterprises. Further, in terms of paragraphs 3.1 and 3.2, Retail Trade forms a separate category under priority sector.

2. The Government of India, vide communication No. 5(6)/2/2009-MSME POL dated June 12, 2009, has indicated the categorisation of activities under services under the Micro Small and Medium Enterprises Development (MSMED) Act, 2006. On examination, it has been decided to include loans granted by banks in respect of following activities under Micro and Small (Service) Enterprises within the priority sector, provided such enterprises satisfy the definition of Micro and Small (Service) Enterprises in respect of investment in equipment (original cost excluding land and building and furniture, fittings and other items not directly related to the service rendered or as may be notified under the MSMED Act, 2006) (*i.e.* not exceeding Rs. 10 lakh and Rs. 2 crore respectively).

- a. Consultancy Services including Management Services;
- b. Composite Broker Services in Risk and Insurance Management;
- c. Third Party Administration (TPA) Services for Medical Insurance Claims of Policy Holders;
- d. Seed Grading Services;
- e. Training-cum-Incubator Centre;
- f. Educational Institutions;

- g. Training Institutes;
- h. Retail Trade;
- i. Practice of Law, i.e. legal services;
- j. Trading in medical instruments (brand new);
- k. Placement and Management Consultancy Services; and
- l. Advertising agency and Training centres

3. Accordingly, there will be no separate category for "Retail Trade" under priority sector. Loans granted by banks for Retail Trade [*i.e. advances granted to retail traders dealing in essential commodities (fair price shops), consumer co-operative stores; and advances granted to private retail traders with credit limits not exceeding Rs. 20 lakh*] would henceforth be part of the Small (Service) Enterprises.

4. The commercial banks may report such loans under the head "Total credit to Small Enterprises" in the half-yearly (Ad-hoc) [under 2 (a) and 2 (ii)] and yearly (final) [under 14, 15, 19, 20 and 21] return on priority sector advances.

5. You may please issue necessary instructions to your controlling offices/branches for appropriate action.

RBI/2009-10/166 DBOD. AML.BC. No. 44 / 14.01.001/2009-10 dated September 17, 2009

Combating financing of terrorism- Unlawful Activities (Prevention) Act, 1967- Obligation of banks

The Chairmen and Chief Executive Officers (All Scheduled Commercial Banks excluding RRBs)/Financial Institutions/ Local Area Banks)

Please refer to Master Circular DBOD. AML. BC. No. 2/14 .01.001/2009-10 dated July 1, 2009 on Know Your Customer (KYC) norms /Anti-Money Laundering (AML) standards/Combating of Financing of Terrorism (CFT)/Obligation of banks under PMLA, 2002.

2. In paragraph 2.11 of the above said Master Circular, it has been advised to banks that as and when list of individuals and entities, approved by Security Council Committee established pursuant to various United Nations' Security Council Resolutions (UNSCRs), are received from Government of India, Reserve Bank circulates these to all banks and financial institutions. Banks/Financial Institutions are required to update the consolidated list of individuals/entities as circulated by Reserve Bank and before opening any new account, it should be ensured that the name/s of the proposed customer does not appear in the list.

Further, banks should scan all existing accounts to ensure that no account is held by or linked to any of the entities or individuals included in the list. Banks have been advised that full details of accounts bearing resemblance with any of the individuals/entities in the list should immediately be intimated to RBI and FIU-IND.

3. The Unlawful Activities (Prevention) Act, 1967 (UAPA) has been amended by the Unlawful Activities (Prevention) Amendment Act, 2008. Government has since issued an Order dated August 27, 2009 detailing the procedure for implementation of Section 51A of the Unlawful Activities (Prevention) Act, 1967 relating to the purposes of prevention of, and for coping with terrorist activities.

In terms of Section 51A, the Central Government is empowered to freeze, seize or attach funds and other financial assets or economic resources held by, on behalf of or at the direction of the individuals or entities Listed in the Schedule to the Order, or any other person engaged in or suspected to be engaged in terrorism and prohibit any individual or entity from making any funds, financial assets or economic resources or related services available for the benefit of the individuals or entities Listed in the Schedule to the Order or any other person engaged in or suspected to be engaged in terrorism.

4. Banks are advised to strictly follow the procedure laid down in the UAPA Order dated August 27, 2009 (copy enclosed) and ensure meticulous compliance to the Order issued by the Government.

5. Banks are advised that on receipt of the list of individuals and entities subject to UN sanctions (referred to as designated lists) from RBI, they should ensure expeditious and effective implementation of the procedure prescribed under Section 51A of UAPA in regard to freezing/unfreezing of financial assets of the designated individuals/entities enlisted in the UNSCRs and especially, in regard to funds, financial assets or economic resources or related services held in the form of bank accounts.

6. In terms of Para 4 of the Order, in regard to **funds, financial assets or economic resources or related services held in the form of bank accounts**, the RBI would forward the designated lists to the banks requiring them to:

- (i) Maintain updated designated lists in electronic form and run a check on the

- given parameters on a regular basis to verify whether individuals or entities listed in the schedule to the Order (referred to as designated individuals/entities) are holding any funds, financial assets or economic resources or related services held in the form of bank accounts with them.
- (ii) In case, the particulars of any of their customers match with the particulars of designated individuals/entities, the banks shall immediately, not later than 24 hours from the time of finding out such customer, inform full particulars of the funds, financial assets or economic resources or related services held in the form of bank accounts, held by such customer on their books to the Joint Secretary (IS.I), Ministry of Home Affairs, at Fax No.011-23092569 and also convey over telephone on 011-23092736. The particulars apart from being sent by post should necessarily be conveyed on e-mail.
- (iii) Banks shall also send by post a copy of the communication mentioned in (ii) above to the UAPA nodal officer of RBI, Chief General Manager, Department of Banking Operations and Development, Anti Money Laundering Division, World Trade Centre, Centre-1, 4th Floor, Cuffe Parade, Colaba, Mumbai –400005 and also by fax at No.022-22185792. The particulars apart from being sent by post/fax should necessarily be conveyed on e-mail.
- (iv) Banks shall also send a copy of the communication mentioned in (ii) above to the UAPA nodal officer of the state/ UT where the account is held as the case may be and to FIU-India.
- (v) In case, the match of any of the customers with the particulars of designated individuals/entities is **beyond doubt**, the banks would prevent designated persons from conducting financial transactions, under intimation to Joint Secretary (IS.I), Ministry of Home Affairs, at Fax No. 011-23092569 and also convey over telephone on 011-23092736. The particulars apart from being sent by post should necessarily be conveyed on e-mail.
- (vi) Banks shall also file a Suspicious Transaction Report (STR) with FIU-IND covering all transactions in the accounts covered by paragraph (ii) above, carried through or attempted, as per the prescribed format.

7. Freezing of financial assets

- i) On receipt of the particulars as mentioned in paragraph 6(ii) above, IS-I Division of MHA would cause a verification to be conducted by the State Police and /or the Central Agencies so as to ensure that the individuals/entities identified by the banks are the ones listed as designated individuals/entities and the funds, financial assets or economic resources or related services, reported by banks are held by the designated individuals/entities. This verification would be completed within a period not exceeding 5 working days from the date of receipt of such particulars.
- ii) In case, the results of the verification indicate that the properties are owned by or held for the benefit of the designated individuals/entities, an order to freeze these assets under section 51A

of the UAPA would be issued within 24 hours of such verification and conveyed electronically to the concerned bank branch under intimation to Reserve Bank of India and FIU-IND.

- iii) The order shall take place without prior notice to the designated individuals/entities.

8. Implementation of requests received from foreign countries under U.N. Security Council Resolution 1373 of 2001.

- i) U.N. Security Council Resolution 1373 obligates countries to freeze without delay the funds or other assets of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds or other assets derived or generated from property owned or controlled, directly or indirectly, by such persons and associated persons and entities.
- ii) To give effect to the requests of foreign countries under U.N. Security Council Resolution 1373, the Ministry of External Affairs shall examine the requests made by the foreign countries and forward it electronically, with their comments, to the UAPA nodal officer for IS-I Division for freezing of funds or other assets.
- iii) The UAPA nodal officer of IS-I Division of MHA, shall cause the request to be examined, within five working days so as to satisfy itself that on the basis of applicable legal principles, the

requested designation is supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designee is a terrorist, one who finances terrorism or a terrorist organization, and upon his satisfaction, request would be electronically forwarded to the nodal officers in RBI. The proposed designee, as mentioned above would be treated as designated individuals/entities.

- iv) Upon receipt of the requests from the UAPA nodal officer of IS-I Division, the list would be forwarded to banks and the procedure as enumerated at paragraphs 5, 6, and 7 shall be followed.
- v) The freezing orders shall take place without prior notice to the designated persons involved.

9. Procedure for unfreezing of funds, financial assets or economic resources or related services of individuals/entities inadvertently affected by the freezing mechanism upon verification that the person or entity is not a designated person

Any individual or entity, if it has evidence to prove that the freezing of funds, financial assets or economic resources or related services, owned/held by them has been inadvertently frozen, they shall move an application giving the requisite evidence, in writing, to the concerned bank. The banks shall inform and forward a copy of the application together with full details of the asset frozen given by any individual or entity informing of the funds, financial assets or economic resources or related services have been frozen inadvertently, to the nodal officer of IS-I Division of MHA as

per the contact details given in paragraph 6(ii) above within two working days. The Joint Secretary (IS-I), MHA, being the nodal officer for (IS-I) Division of MHA, shall cause such verification as may be required on the basis of the evidence furnished by the individual/entity and if he is satisfied, he shall pass an order, within fifteen working days, unfreezing the funds, financial assets or economic resources or related services, owned/held by such applicant under intimation to the concerned bank. However, if it is not possible for any reason to pass an order unfreezing the assets within fifteen working days, the nodal officer of IS-I Division shall inform the applicant.

10. Communication of Orders under section 51A of Unlawful Activities (Prevention) Act.

All Orders under section 51A of Unlawful Activities (Prevention) Act, relating to funds, financial assets or economic resources or related services, would be communicated to all banks through RBI.

11. Banks are advised to bring the provisions of the UAPA to the notice of the staff concerned and ensure strict compliance.

RBI/2009-10/169 RPCD.CO.RRB.BC.No. 25 / 03.05.33/2009-10 dated September 24, 2009

RRBs – Payment of Interest on Savings Bank Account on a Daily Product Basis

The Chairman
All Regional Rural Banks

Please refer to para 2(iii) of the directive DBOD.No.Dir.BC.151/C.347-85 dated December 27,1985, in terms of which

interest in the case of savings deposits, shall be calculated on the minimum balance to the credit of the deposit account during the period from the 10th to the last day of each calendar month.

2. On a review, it has been decided that the interest on balances in savings bank accounts would be calculated on a daily product basis with effect from **April 1, 2010**. Regional Rural Banks are advised to work out modalities to effect a smooth transition to the revised procedure.

RBI/2009-10/168 DBOD.No.BP.BC. 46 / 21.04.048/2009-10 dated September 24, 2009

Prudential Norms on Income Recognition, Asset Classification, and Provisioning pertaining to Advances - Computation of NPA Levels

The Chairman and Managing Directors / Chief Executive officers All Scheduled Commercial Banks (including Local Area Banks) (Excluding RRBs)

Please refer to paragraphs 3.2, 3.4, and 3.5 of our Master Circular DBOD.No. BP.BC. 17/21.04.048/2009-10 dated July 1, 2009 on the captioned subject.

2. It has been observed that banks follow different methods to compute and report Gross and Net Advances, and Gross and Net NPAs. While, on an account turning NPA, some banks reverse the interest already charged, and stop further interest application, others prefer to make provisions in lieu of interest already credited to Profit and Loss account, and continue to debit interest, though it is credited to Interest Suspense account instead of to Profit and

Loss account. While all the aforesaid methods in substance are the same, there is a need for uniformity across banks in reporting of Advances and NPAs, so as to avoid any scope for different interpretations by the auditors/public, as also to improve the comparability of Advances position of banks.

3. Therefore, in consultation with Indian Banks' Association, it has been decided that:

a. On an account turning NPA, banks should reverse the interest already charged and not collected by debiting Profit and Loss account, and stop further

application of interest. However, banks may continue to record such accrued interest in a Memorandum account in their books, as is the practice currently followed by some banks.

b. For the purpose of computing Gross Advances, interest recorded in the Memorandum account should not be taken into account.

4. Banks are, therefore, advised to compute their Gross Advances, Net Advances, Gross NPAs and Net NPAs, as per the annexed format with immediate effect.

Annex

PART A

Details of Gross Advances, Gross NPAs, Net Advances and Net NPAs

(Rs. in crores up to two decimals)

Particulars	Amount
1.	Standard Advances
2.	Gross NPAs *
3.	Gross Advances ** (1+2)
4.	Gross NPAs as a percentage of Gross Advances (2/3) (in %)
5.	Deductions
	(i) Provisions held in the case of NPA Accounts as per asset classification (including additional Provisions for NPAs at higher than prescribed rates).
	(ii) DICGC/ECGC claims received and held pending adjustment
	(iii) Part payment received and kept in Suspense Account or any other similar account
	(iv) Balance in Sundries Account (Interest Capitalization – Restructured Accounts), in respect of NPA Accounts
	(v) Floating Provisions***
	(vi) Provisions in lieu of diminution in the fair value of restructured accounts classified as NPAs
	(vii) Provisions in lieu of diminution in the fair value of restructured accounts classified as standard assets
6.	Net Advances(3-5)
7.	Net NPAs { 2 - 5(i + ii + iii + iv + v +vi) }
8.	Net NPAs as percentage of Net Advances (7/6) (in %)
<p>* Principal dues of NPAs plus Funded Interest Term Loan (FITL) where the corresponding contra credit is parked in Sundries Account (Interest Capitalization – Restructured Accounts), in respect of NPA Accounts.</p> <p>** For the purpose of this Statement, 'Gross Advances' mean all outstanding loans and advances including advances for which refinance has been received but excluding rediscounted bills, and advances written off at Head Office level (Technical write off).</p> <p>*** Floating Provisions would be deducted while calculating Net NPAs, to the extent, banks have exercised this option, over utilising it towards Tier II capital.</p>	

PART B
Supplementary Details

(Rs. in crores up to two decimals)

Particulars	Amount
1.	Provisions on Standard Assets excluding 5(vi) in Part A above
2.	Interest recorded as Memorandum Item
3.	Amount of cumulative Technical Write – Off in respect of NPA accounts reported in Part A above

RBI/2009-10/171 RPCD.CO.RRB.BC.No. 27 / 03.05.33(E)/2009-10 dated September 29, 2009

KYC Norms/AML Standards and Obligation of RRBS under PMLA, 2002

The Chairman
All Regional Rural Banks

Please refer to our circulars RPCD.No.RRB.BC.81/03.05.33 (E) / 2004-05 dated February 18, 2005 and RPCD.CO.RRB.AML.BC.68/03.05.33 (E) / 2005-06 dated March 9, 2006 on the captioned subject.

2. The Prevention of Money Laundering (Amendment) Act, 2009 (No. 21 of 2009) has come into force with effect from June 01, 2009 as notified by the Government. In terms of Sub-Section 2(a) of Section 12 of The Prevention of Money Laundering (Amendment) Act, 2009 (PMLA, 2009), the records referred to in clause (a) of Sub-Section (1) of Section 12 shall be maintained for a period of ten years from the date of transaction between the clients and the banking company and in terms of Sub-Section 2(b) of Section 12 of the Act *ibid*,

the records referred to in clause (c) of Sub-Section (1) of Section 12 shall be maintained for a period of ten years from the date of cessation of transaction between the clients and the banking company.

3. Accordingly, in modification of paragraph 5 of our circular dated March 9, 2006, RRBs are advised to maintain for at least ten years **from the date of transaction** between the bank and the client, all necessary records of transactions referred to at Rule 3 of the Prevention of Money-Laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 (PMLA Rules), both domestic or international, which will permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide, if necessary, evidence for prosecution of persons involved in criminal activity.

4. However, records pertaining to the identification of the customer and his address (*e.g.* copies of documents like passports, identity cards, driving licenses, PAN card, utility bills etc.) obtained while opening the account and during the course of business relationship, as indicated in paragraph 5 of the above said circular dated March 9, 2006, would continue to be preserved for at least ten years **after the business relationship is ended** as required under Rule 10 of the Rules *ibid.*

Accounts of Politically Exposed Persons

5. Detailed guidelines on customer due diligence (CDD) measures to be made applicable to Politically Exposed Person (PEP) and their family members or close relatives are contained in Annex-I to our circular dated February 18, 2005 referred to above. It is further advised that in the event of an existing customer or the beneficial owner of an existing account, subsequently becoming a PEP, RRBs should obtain senior management approval to continue the business relationship and subject the account to the CDD measures as applicable to the customers of PEP category including enhanced monitoring on an ongoing basis.

Principal Officer

6. RRBs were advised vide paragraph 9 of the guidelines on 'Know Your Customer' Norms and Anti-Money Laundering measures enclosed to the circular dated February 18, 2005 referred to above that RRBs should appoint a senior management officer to be designated as Principal Officer and the role and responsibilities of the Principal Officer have been detailed therein. With a view to enable the Principal Officer to discharge his

responsibilities, it is advised that the Principal Officer and other appropriate staff should have timely access to customer identification data and other CDD information, transaction records and other relevant information. Further, RRBs should ensure that the Principal Officer is able to act independently and report directly to the senior management or to the Board of Directors.

RBI/2009-10/172 RPCD.CO.RF.BC.No. 26 / 07.07.11/2009-10 dated September 29, 2009

StCBs/DCCBs - Forms of Business in which co-operative banks may engage in

All State Co-operative Banks (StCBs) and District Central Co-operative Banks (DCCBs)

A reference is invited to Section 6 (1)(f) of the Banking Regulation Act, 1949 (AACS), in terms of which co-operative banks may engage in managing, selling and realizing any property which may come into their possession in satisfaction or part satisfaction of any of their claims. As per Section 9 of the said Act, banks should not hold any immovable property howsoever acquired, except such as is required for its own use, for any period exceeding seven years from the acquisition thereof. A number of cases of violation of the provisions of Section 9 by co-operative banks have been reported to us.

2. It is hereby directed that State and Central Co-operative banks should not acquire any property which is not required for their own identifiable / justifiable use. In case, non-banking assets acquired by the banks in satisfaction of claims cannot be put to such use, they should be disposed of within the period stipulated under Section

9 of the Act, *ibid*. These instructions must be noted for meticulous compliance.

RBI/2009-10/173 Ref No.UBD.BPD.CO/NSB1/11/12.03.000/2009-10 dated September 29, 2009

UCBs - KYC Guidelines - Accounts of Proprietary Concerns

The Chief Executive Officer of All Primary (Urban) Co-operative Banks

A reference is invited to the circular UBD.CO.BPD.(PCB).No.30/09.161.00/2004-05 dated December 15, 2004 addressed to all Primary (Urban) Co-operative Banks on guidelines on 'Know Your Customer' norms.

2. In the recent past, a number of frauds have been reported by Urban Co-operative Banks (UCBs) in the accounts of proprietary concerns. The modus operandi followed was to open current accounts of certain proprietary concerns in names which were similar to those of other established firms/companies. Cheques issued in the name of the established firms/companies were pilfered and were collected through the accounts of the proprietary concerns having similar names. It was observed that in such cases, at the time of opening the accounts, the concerned banks had verified the identity of the individual proprietor/s but not that of the proprietary concern.

3. It has since been decided to lay down criteria for the customer identification procedure for opening accounts by proprietary concerns. UCBs may, therefore, call for and verify the following documents before opening of accounts in the name of a

proprietary concern (the documents should be verified with the originals and certified copies should be retained by the bank).

(i) Identity as also the address proof of the proprietor, such as passport, PAN card, Voter ID card, Driving licence, Ration Card with photo, etc. - any one of these documents is to be obtained.

(ii) Proof of the name, address and activity of the concern, like registration certificate (in the case of a registered concern), certificate/licence issued by the Municipal authorities under Shop & Establishment Act, sales and income tax returns, CST/VAT certificate, Licence issued by the Registering authority like Certificate of Practice issued by Institute of Chartered Accountants of India, Institute of Cost Accountants of India, Institute of Company Secretaries of India, Indian Medical Council, Food and Drug Control Authorities, etc. - any two of the documents are to be obtained. These documents should be in the name of the proprietary concern.

4. These guidelines will apply to all new customers. In respect of the accounts of existing customers, the above formalities may be completed before December 31, 2009.

5. Other precautions prescribed, *viz.*, exercising caution with respect to collection of high value cheques through newly opened accounts followed by large cash withdrawals, monitoring of transactions, risk management, reporting procedure to FIU-IND, *etc.* would continue as per extant procedure.

6. Please acknowledge receipt.

RBI / 2009-10/174 RPCD.CO.RF.AML.BC. No. 28/07.40.00/2009-10 dated September 30, 2009

StCBs/DCCBs - KYC Norms/AML Standards/Combating of Financing of Terrorism/Obligation of Banks under PMLA, 2002

All State and Central Co-operative Banks

Please refer to our circulars RPCD.AML.BC.No.80/07.40.00/2004-05 dated February 18, 2005 and RPCD.CO.RF.AML.BC.65/07.02.12/2005-06 dated March 3, 2006 on the captioned subject.

Preservation Period of Records

2. The Prevention of Money Laundering (Amendment) Act, 2009 (No. 21 of 2009) has come into force with effect from June 01, 2009 as notified by the Government. In terms of Sub-Section 2(a) of Section 12 of The Prevention of Money Laundering (Amendment) Act, 2009 (PMLA, 2009), the records referred to in clause (a) of Sub-Section (1) of Section 12 shall be maintained for a period of ten years from the date of transaction between the clients and the banking company and in terms of Sub-Section 2(b) of Section 12 of the Act *ibid*, the records referred to in clause (c) of Sub-Section (1) of Section 12 shall be maintained for a period of ten years from the date of cessation of transaction between the clients and the banking company.

3. Accordingly, in modification of paragraph 5 of our circular dated March 3, 2006 referred to above, banks are advised to maintain for at least ten years **from the date of transaction** between the bank and the

client, all necessary records of transactions referred to at Rule 3 of the Prevention of Money-Laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules, 2005 (PMLA Rules), both domestic or international, which will permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide, if necessary, evidence for prosecution of persons involved in criminal activity.

4. However, records pertaining to the identification of the customer and his address (*e.g.* copies of documents like passports, identity cards, driving licences, PAN card, utility bills *etc.*) obtained while opening the account and during the course of business relationship, as indicated in paragraph 5 of the above said circular dated March 3, 2006, would continue to be preserved for at least ten years **after the business relationship is ended** as required under Rule 10 of the Rules *ibid*.

Accounts of Politically Exposed Persons

5. Detailed guidelines on Customer Due Diligence (CDD) measures to be made applicable to Politically Exposed Persons (PEPs) and their family members or close relatives are contained in Annex-I to our circular dated February 18, 2005 referred to above. It is further advised that in the event of an existing customer or the beneficial owner of an existing account, subsequently becoming

a PEP, banks should obtain senior management approval to continue the business relationship and subject the account to the CDD measures as applicable to the customers of PEP category including enhanced monitoring on an ongoing basis.

Principal Officer

6. Banks have been advised in paragraph 9 of the guidelines on 'Know Your Customer' norms and Anti-Money laundering Measures enclosed to the circular dated February 18, 2005 that they should appoint a senior management officer to be

designated as Principal Officer and the role and responsibilities of the Principal Officer have been detailed therein. With a view to enabling the Principal Officer to discharge his responsibilities, it is advised that the Principal Officer and other appropriate staff should have timely access to customer identification data and other CDD information, transaction records and other relevant information. Further, banks should ensure that the Principal Officer is able to act independently and report directly to the senior management or to the Board of Directors.