

Regulatory and Other Measures

August 2009

RBI/2009-10/111 Ref. No. DBOD.No. Ret. BC.
27/12.06.125 /2009-10 dated August 3, 2009

All Scheduled Commercial Banks

Inclusion of First Rand Bank Ltd in the Second Schedule to the RBI Act, 1934

*Inclusion in the Second Schedule to
the Reserve Bank of India Act, 1934 –
First Rand Bank Ltd.*

We advise that the name of "First Rand Bank Ltd." has been included in the Second Schedule to the Reserve Bank of India Act, 1934 by notification DBOD. IBD. No. 20525 / 23.13.145/2008-09 dated June 12, 2009, published in the Gazette of India (Part III - Section 4) dated July 11, 2009.

RBI/2009-10/112 A. P. (DIR Series) Circular
No.06 A. P. (FL/RL Series) Circular No. 01
dated August 3, 2009

All Authorised Persons in Foreign Exchange

Memorandum of Instructions governing money changing activities

Attention of Authorised Persons is invited to paragraph (C) 4 of Annex-I to the Memorandum of Instructions governing money changing activities, issued vide A. P. (DIR Series) Circular No. 57 [A.P. (FL/RL Series) Circular No. 04] dated March 9, 2009.

2. In terms of paragraph (C) 4 of Annex-I to the circular, ADs Category - I/ ADs Category - II/ FFMCs are required to obtain certain documents, including a conduct certificate from the local police authorities, while conducting the due diligence of their agents/franchisees.

3. It has been brought to our notice that Authorised Persons have been experiencing

difficulties in obtaining conduct certificate from local police authorities in respect of agents/ franchisees, which are incorporated entities. Accordingly, the existing requirement has been reviewed and ADs Category - I/ ADs Category - II/ FFCs have been permitted to accept certified copy of the Memorandum and Articles of Association and Certificate of Incorporation in lieu of conduct certificate from the local police authorities, in respect of agents/ franchisees, which are incorporated entities. All other provisions of paragraph (C) 4 of the Annex-I to the aforementioned circular shall remain unchanged. Accordingly, Item No. 6 of the Form RMC-F in Annex-IV of the circular may suitably be modified for corporate franchisees.

4. Authorised persons may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and non-compliance with the guidelines would attract penal provisions of Section 11(3) of the Act *ibid*.

RBI/2009-10/117 Ref. No. DBOD. AML. No. 2680/14.06.051/2009-10 dated August 11, 2009

The Chairman / CEOs of all Scheduled Commercial Banks (Excluding RRBs)/ Local Area Banks / Financial Institutions

List of Terrorist Individuals/Organisations - under UNSCR 1267(1999) and 1822(2008) on Taliban/Al-Qaida Organisation

Please refer to our letter DBOD. AML.No.21981/14.06.050/2008-09 dated

June 23, 2009. We have since received from the Government of India copy each of the notes dated May 28, 2009, June 19, 2009 and June 29, 2009 from the Chairman of United Nations Security Council's Al-Qaida and Taliban Sanctions Committee regarding changes made in the committee's Consolidated List of Individuals and entities under UNSCR 1267 (1999) and 1822(2008) on Taliban/Al-Qaida, as per Annex.

2. The consolidated list of individuals/entities as per UN1267 Sanction Committee may suitably be updated at your end. Utmost care should be taken by banks to ensure to cross check all account opening applications and transactions carried out in the existing accounts with the updated consolidated list and report those accounts to Reserve Bank of India & Financial Intelligence Unit-India which bear resemblance with the individuals/ entities listed therein.

3. The complete details of the said consolidated list are available on the UN website: <http://www.un.org/sc/committees/1267/consolist.shtml>

4. Compliance Officer/Principal Officer should acknowledge receipt of this circular letter.

RBI/2009-10/120 Ref. No. RPCD CO.RCBD. BC. No.15 /03.03.01/2009-10 dated August 13, 2009

All State and Central Co-operative Banks

StCBs/DCCBs – Housing Finance

Housing Finance

Please refer to our circular RPCD No. PLNFS. BC. 51/06.11.02/97-98 dated October 31, 1997 read with circulars RPCD No. PLNFS.

BC. 04/06.11.02/97-98 dated July 5, 1997 and RPCD No. PLNFS. BC. 122/06.11.02/94-95 dated February 24, 1995 on the captioned subject. In terms of the extant instructions, the maximum quantum of housing loan that can be granted by a State/Central Co-operative Bank to an individual borrower stands at Rs. 5 lakh, subject to the condition that the aggregate housing loans outstanding on any day against individuals, institutions and societies should not exceed 5% of a bank's total deposits. For repairs, additions, alterations, *etc.* to the existing houses, the maximum amount of loan per individual borrower stands at Rs. 50,000.

2. On a review, it has been decided as under:

- (i) The maximum quantum of housing loan that can be granted to an individual borrower by a State / Central Cooperative Bank, stands revised to Rs. 20 lakh. However, in case of a bank having a net worth of Rs. 100 crore and above [as per the assessment made in NABARD's latest inspection report], the limit will be Rs. 30 lakh.
- (ii) The aggregate of housing loans outstanding on any day against individuals, institutions, and societies should not exceed 10 % of total loans and advances of the bank as on March 31 of the preceding year. However, this limit can be exceeded to the extent of funds obtained for the purpose from the higher financing agency and refinance from the National Housing Bank.
- (iii) It is clarified that housing loans would not include finance to commercial real estate sector as it has already been advised vide our circular No. RPCD.CO.RF.BC.No.109/

07.38.01/2008-09 dated May 25, 2009 that State and Central Cooperative banks should desist from financing the commercial real estate sector.

- (iv) For repairs, additions, alterations *etc.*, to the existing houses, the maximum amount of loan per individual borrower stands revised to Rs. 1 lakh.

RBI/2009-10/124 Ref. No. UBD.BPD.PCB. Cir.No. 3 /13.05.006/2009-10 dated August 17, 2009

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

UCBs - Agricultural Debt Waiver and Debt Relief Scheme, 2008

Union Budget – 2008-09 – Agricultural Debt Waiver and Debt Relief Scheme, 2008

Please refer to para 10 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 wherein it is indicated that every lending institution shall appoint one or more Grievance Redressal Officers to address the representations made by any farmer on the decisions taken with regard to his loan. In one of the Writ-Petitions filed before Hon'ble High Court of Kerala, the Hon'ble Court has observed that "with the passage of time, the decisions of the Grievance Redressal Officers are challenged under Article 226 of the Constitution of India which essentially tends to grow the volume of litigation in writ-jurisdiction and it also compels the

marginalised farmers to seek redressal exclusively for writ jurisdiction”.

2. The High Court has also observed that *“whenever the Grievance Redressal Officers decide against a claim of a person that he is an agriculturist entitled to the benefit of the Scheme, the Grievance Redressal Officer is bound to give reasons for the decision”*. In view of the above suggestions made by the Hon'ble High Court of Kerala, it is advised that the Grievance Redressal Officers may dispose of the grievances received under ADWDR Scheme through a speaking order citing reasons for rejection / acceptance of the claim made by the petitioners in a transparent manner.

3. You may take necessary action in this regard so that there is meaningful consideration of the request of eligible farmers under ADWDR Scheme, 2008.

4. The matter may be treated as most urgent.

RBI/2009-10/127 Ref. No. RPCD.SP.BC.No 12 / 09.01.01/2009-10 dated August 24, 2009

The Chairman /Managing Directors
All Scheduled Commercial Banks
(Excluding RRBs)

Increase in exemption of collateral security in respect of individual and group loans under SGSY Scheme

Please refer to our Circulars No.RPCD.SP.BC23/09.01.01/99 -2000 dated September 1, 1999 and RPCD.SP.BC.113/ 09.01.01/2002-03 dated July 4, 2002

advising the banks about the exemption of secondary collateral security (earlier referred to as primary security) for individual loans upto Rs 50,000/- and group loans up to Rs. 5 lakh under SGSY Scheme respectively.

It has now been decided to raise the exemption limit of secondary collateral security under SGSY to Rs. 1 lakh from the existing Rs. 50,000/- in respect of individual loans and to Rs.10 lakh from the existing Rs.5 lakh in respect of group loans. Accordingly, for individual loans up to Rs.1 lakh and group loans up to Rs. 10 lakh, the assets created out of bank loan would be hypothecated to the bank as primary collateral (earlier referred to as primary security). In case where movable assets are not created as in land based activities such as dug well, minor irrigation, *etc.*, mortgage of land may be obtained. Where mortgage of land is not possible, third party guarantee may be obtained at the discretion of the bank.

For all individual loans exceeding Rs.1lakh and group loans exceeding Rs. 10 lakh, in addition to primary security such as hypothecation/mortgage of land or third party guarantee as the case may be, suitable margin money/ other collateral security in the form of insurance policy; marketable security/ deeds of other property *etc.* may be obtained at the discretion of the bank. The upper ceiling of Rs.10 lakh in respect of group loans is irrespective of the size of the group or prorata per capita loan to the group.

We advise that we are receiving complaints both from Government of India

and certain State Governments that banks are not complying with even the existing norms of exempting individual loans up to Rs.50, 000 and for group loans up to Rs. 5 lakh from taking any secondary collateral. You may kindly consider issuing necessary instructions to your controlling offices/branches to ensure strict compliance with the guidelines.

RBI/2009-10/129 Ref. No. RPCD.SME&NFS. BC.No.16/06.02.31(P) /2009-10 dated August 24, 2009

The Chairman/Managing Director
All Scheduled Commercial Banks
(including RRBs & Local Area Banks)

Collateral Free loans – Micro and Small Enterprises(MSEs)

Please refer to our circular RPCD.SME&NFS. BC No. 84A/06.02.31(P) / 2008-09 dated January 20, 2009 regarding extending collateral free loans upto Rs. 5 lakh sanctioned to the units of MSE sector (both manufacturing and service enterprises) as defined under MSMED Act, 2006. We have received enquiries as to whether these guidelines are advisory or mandatory in nature. It is clarified that these guidelines are mandatory and banks must not obtain collateral security in the case of loans upto Rs. 5 lakh extended to all units of the MSE sector.

2. You are requested to issue suitable instructions to your branches/controlling offices for meticulous and strict compliance in this regard.

RBI/2009-10/130 Ref. No. DBOD.BP.BC No. 32 / 21.01.001/ 2009-10 dated August 27, 2009

The Chairmen/Chief Executives of all
Commercial Banks
(excluding RRBs)

Collection of account payee cheque – Prohibition on crediting proceeds to third party account

Please refer to our circular DBOD.BP.BCNo.56/21.01.001/2005-06 dated January 23, 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. Such practice of collection of cheque crossed 'account payee' through third party accounts (co-operative credit societies) is not permissible.

3. In order to facilitate collection of cheques from a 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 clear undertaking to the effect that the proceeds of the account payee cheque will be credited to the payee's account only, upon realisation.

RBI/2009-10/131 Ref. No. DBOD.No. Dir (Hsg). BC.31/ 08.12.001/2009-10 dated August 27, 2009

All Scheduled Commercial Banks
(Excluding RRBs)

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

Finance for Housing Projects – Incorporating clause in the terms and conditions to disclose in pamphlets/brochures/advertisements information regarding mortgage of property to the bank

Please refer to para 3.3 of our Master Circular on Housing Finance DBOD.No.Dir. (HSG).BC.08/08.12.01/2009-10 dated July 1, 2009 wherein banks have been advised that they may extend credit to private builders on commercial terms by way of loans linked to each specific project. Further, in terms of para 3.2.3 of the above circular, bank can also extend finance to public agencies for land acquisition and development.

2. 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.

3. Keeping in view the above, while granting finance to specific housing / development projects, banks 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.

4. Banks 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.

Agricultural Debt Waiver and Debt Relief Scheme, 2008 – Prudential Norms

Agricultural Debt Waiver and Debt Relief Scheme, 2008 – Prudential Norms on Income Recognition, Asset Classification, Provisioning and Capital Adequacy

RBI/2009-10/137 Ref. No. DBOD.No.BP.BC. 35/21.04.048/2009-10 dated August 31, 2009

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

Please refer to our circulars DBOD.No.BP.BC.26/21.04.048/2008-09

dated July 30, 2008, DBOD.No.BP.BC. 112 / 21.04.048/2008-09 dated March 5, 2009 and DBOD.No.BP.BC.140 /21.04.048/2008-09 dated June 25, 2009 on the captioned subject. In terms of the circular dated June 25, 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' 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

OTHER ITEMS

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"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.

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