

Regulatory and Other Measures

November 2009

RBI/2009-10/206 RPCD.CO RRB.No. 39 /
03.05.33(E)/2009-10 dated November 05, 2009

The Chairman All Regional Rural Banks
(RRBs)

RRBs - Combating Financing of Terrorism - Unlawful Activities (Prevention) Act, 1967 – Obligation of banks

*Combating Financing of Terrorism -
Unlawful Activities (Prevention) Act,
1967 – Obligation of banks*

Please refer to our circular
RPCD.CO.RRB.No.BC.50/03.05.33(E)/2007-08
dated February 27, 2008 on Know Your
Customer (KYC) norms/Anti-Money
Laundering (AML) standards/Combating of
Financing of Terrorism (CFT).

2. In paragraph 5 (b) of the above circular,
it has been advised to RRBs that as and
when lists 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, the Reserve Bank circulates these
to all banks and financial institutions. RRBs
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 of the proposed customer does not
appear in the list.

Further, RRBs 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. RRBs have
also been advised that full details of accounts
bearing resemblance with any of the

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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. RRBs are advised to strictly follow the procedure laid down in the UAPA Order dated August 27, 2009 and ensure meticulous compliance to the Order issued by the Government.

5. RRBs 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 RRBs 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 RRBs 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 customers 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. RRBs 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. RRBs 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 RRBs would prevent designated persons from conducting financial transactions, under intimation to Joint Secretary (IS.I), Ministry of Home Affairs (MHA), 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. RRBs 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 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 RRBs 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 it has been inadvertently frozen, shall move an application giving the requisite evidence, in writing, to the concerned RRB. The RRBs 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 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 RRBs through RBI.

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

RBI/2009-10/211 UBD.BPD (PCB) Cir No19 / 13.01.000/2009-10 dated November 9, 2009

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

Unclaimed Deposits and Inoperative / Dormant Accounts in UCBs

Please refer to our circular UBD.No.DS.PCB.Cir.9/13.01.00/2008-2009 dated September 01, 2008 on captioned subject. In terms of para 2 (vi) of the circular, for the purpose of classifying an account as 'inoperative', debit as well as credit transactions induced at the instance of customers as well as third party should be considered.

2. There may be instances where the customer has given a mandate for crediting the interest on Fixed Deposit account to the Savings Bank account and there are no other operations in the Savings Bank account. Some doubts have arisen whether such an account is to be treated as inoperative account after two years.

3. In this connection, we clarify that since the interest on Fixed Deposit account is credited to the Savings Bank accounts as per the mandate of the customer, the same should be treated as a customer induced transaction. As such, the account should be treated as operative account as long as the interest on Fixed Deposit account is credited to the Savings Bank account. The Savings Bank account can be treated as inoperative account only after two years from the date of the last credit entry of the interest on Fixed Deposit account.

RBI/2009-10/221 UBD. CO. BPD. PCB.Cir. No. 20/ 12.05.001/2009-10 dated November 13, 2009

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

UCBs – PMLA, 2002 – Obligation of Banks

*Prevention of Money Laundering Act,
2002 – Obligation of banks in terms
of Rules notified there under - Urban
Co-operative Banks (UCBs)*

Please refer to our circular UBD.CO. BPD. (PCB) No. 1/12.05.001/2008-09 dated July 02, 2008 on the captioned subject wherein banks have been advised to submit Counterfeit Currency Reports (CCR) along with Cash Transaction Reports (CTR) and Suspicious Transaction Reports (STR) to Financial Intelligence Unit - India (FIU-IND). UCBs wee also advised that the cash transactions where forgery of valuable security or documents has taken place may also be reported to FIU-IND.

2. It has been reported by FIU-IND that many UCBs are yet to file STRs and CCRs despite availability of utilities for preparing electronic CTRs/STRs/CCRs, user friendly website, extending faculty support for the training by FIU-IND, etc. In view of the concerns raised by FIU-IND, UCBs are advised to take prompt action on the following:

- i) To strengthen the system for detection of suspicious transactions and reporting the same to FIU-IND. UCBs may also examine the possibility of installing AML software for alert generation on STRs,

- ii) To strictly adhere to the KYC guidelines issued by Reserve Bank of India from time to time,
- iii) To invariably include 'integrally connected cash transactions' as explained in Annex I of circular UBD.CO. BPD. (PCB) No. 1/12.05.001/2008-09 dated July 02, 2008 in CTRs,
- iv) To monitor transactions through credit cards, domestic as well as cross border wire transfer, accounts of charitable organisations etc. meticulously and to report suspicious transactions amongst them, if any,
- v) To cover maximum number of operating staff in the sensitization programmes on AML/CFT issues, particularly on filing of STRs and CCRs, and
- vi) To ensure that error free reports are submitted to FIU-IND.

3. UCBs are advised to note that any contravention / non-compliance of the guidelines issued under Section 35A of the Banking Regulation Act, 1949 (AACS) and Prevention of Money Laundering Rules, 2005 shall attract penalties.

RBI/2009-10/ 219 DNBS(PD). CC 163/03.10.042/ 2009- 10 dated November 13, 2009

All Non-Banking Financial Companies,
Residuary Non-Banking Companies

NBFCs – KYC/AML Standards

Know Your Customer (KYC) Guidelines / Anti-Money Laundering (AML) Standards '

Please refer to the Master Circular No. 151 dated July 01, 2009 on the captioned

subject. All NBFCs (including RNBCs) are advised to take note of modifications to the above circular as under:

Accounts of Politically Exposed Persons (PEPs)

2. 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 II to the Master Circular No.151/03.10.42/2009-10 dated July 1, 2009. It is further advised that in the event of an existing customer or the beneficial owner of an existing account, subsequently becoming a PEP, NBFCs (including RNBCs) 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

3. NBFCs (including RNBCs) have been advised in Para 10 of Annex I to the above said Master Circular dated July 1, 2009 that NBFCs (including RNBCs) 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, NBFCs (including RNBCs) 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/2009-10/222 UBD. CO. BPD. PCB.Cir. No.21/ 12.05.001/2009-10 dated November 16, 2009

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

UCBs – Combating Financing of Terrorism

Combating Financing of Terrorism – Unlawful Activities (Prevention) Act, 1967 – Obligation of banks – Urban Co-operative Banks

Please refer to our circulars UBD.CO.BPD. (PCB) No. 32/09.39.000/2007-08 dated February 25, 2008 on Know Your Customer (KYC) Norms/ Anti-Money Laundering (AML) Standards/Combating of Financing of Terrorism and UBD.CO. BPD. (PCB) No. 1/12.05.001/2008-09 dated July 02, 2008 on Prevention of Money Laundering Act, 2002 –Obligation of banks in terms of Rules notified there under.

2. In paragraph 5 (b) of the Circular dated February 25, 2008, 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 of India (RBI) circulates these to all banks and financial institutions. Banks/Financial institutions are required to update the consolidated list of individuals/entities as circulated by RBI 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 Financial Intelligence Unite-India (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 51 A of the UAPA relating to the purposes of prevention of, and for coping with terrorist activities. In terms of Section 51 A, 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 Oder dated August 27, 2009 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 51 A 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 paragraph 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:

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.

i. 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 (MHA) 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 on e-mail.

ii. 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, 4th Floor, Centre 1, Cuffe Parade, Colaba, Mumbai - 400 005 and also by FAX at No. 022-22185792. The particulars apart from being sent by post/FAX should necessarily be conveyed on e-mail.

iii. Banks shall also send a copy of the communication mentioned in (ii) above to the UAPA nodal officer of the State/ Union Territory where the account is held as the case may be and to FIU-IND.

iv. 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), MHA at Fax No. 011 – 23092569 and also convey over telephone over 011-23092736. The particulars apart from being sent by post should necessarily be conveyed on e-mail.

v. 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 five 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 51 A of the UAPA would be issued within 24 hours of such verification and conveyed electronically to the bank branch concerned under intimation to the RBI 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 UNSCR 1373 of 2001
- i. UNSCR 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 indirect by such persons and associated persons and entities.
 - ii. To give effect to the requests of foreign countries under UNSCR 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 persons

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 bank concerned. 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 bank concerned. 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, 1967

All Orders under Section 51 A of Unlawful Activities (Prevention) Act, 1967, relating to funds, financial assets or economic resources or related service, would be communicated to all banks through RBI.

11. Banks are advised to bring the provisions of the Unlawful Activities (Prevention) Act, 1967 to the notice of the staff concerned and ensure strict compliance.

UCBs – KYC/AML/Combating Financing of Terrorism – Obligation of Banks under PMLA, 2002 RBI/2009-10/224 UBD. CO. BPD. PCB.Cir. No. 23/ 12.05.001 / 2009-10 dated November 16, 2009

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

Know Your Customer (KYC) norms /Anti-Money Laundering (AML) standards / Combating Financing of Terrorism (CFT) / Obligation of banks under Prevention of Money Laundering Act, 2002 – Urban Co-operative Banks

Please refer to our circulars UBD.PCB. Cir.30/09.16.100/2004-05 dated December 15, 2004 on Know Your Customer (KYC) Guidelines – Anti Money Laundering Standards and UBD. BPD.Cir No. 38/ 09.16.100/2005-06 dated March 21, 2006 on Prevention of Money Laundering Act, 2002 – Obligation of banks in terms of Rules notified there under.

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, 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 the circular No. 38 dated March 21, 2006, 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 (*eg.* 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 21, 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 the Politically Exposed Persons (PEPs)

5. Detailed guidelines on CDD measures to be made applicable to Politically Exposed Person and their family members or close relatives are contained in Annex I of UBD.PCB. Cir.30/09.16.100/2004-05 dated December 15, 2004. 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 'Guidelines on 'Know Your Customer' norms and Anti Money Laundering Measures' contained in UBD.PCB. Cir.30/06.161.000/2004-05 dated December 15, 2004 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/2009-10/231 DPSS.CO.PD.No.1102 / 02.14.08/ 2009-10 dated November 24, 2009

All Banks, Payment System Providers and System Participants

Directions for opening and operation of Accounts and settlement of payments for electronic payment transactions involving intermediaries

The use of Electronic/Online Payment modes for payments to merchants for goods and services like bill payments, online shopping *etc.* has been gaining popularity in the country. With a view to safeguard the interests of the customers and to ensure that the payments made by them using Electronic/Online Payment modes are duly accounted for by the intermediaries receiving such payments and remitted to the accounts of the merchants who have supplied the goods and services without undue delay, it is considered necessary to frame suitable directions for the safe and orderly conduct of these transactions. Accordingly, following directions are being issued under Section 18 of the Payment and Settlement Systems Act, 2007 (Act 51 of 2007).

1. Introduction

1.1 The use of Electronic/Online Payment modes for payments to merchants for goods and services like bill payments, online shopping *etc.* has been gaining popularity in the country. The increased facilitation by banks and prepaid payment instrument issuers of the use of electronic modes by

customers for payments to merchants generally involves the use of intermediaries like aggregators and payment gateway service providers. Further, Electronic Commerce and Mobile Commerce (e-commerce and m-commerce) service providers have also been acting as intermediaries by providing platforms for facilitating such payments.

1.2 In most existing arrangements involving such intermediaries, the payments made by customers (for settlement of e-commerce/m-commerce/bill payment transactions), are credited to the accounts of these intermediaries, before the funds are transferred to the accounts of the merchants in final settlement of the obligations of the paying customers. Any delay in the transfer of the funds by the intermediaries to the merchants account will not only entail risks to the customers and the merchants but also impact the payment system.

1.3 With a view to safeguard the interests of the customers and to ensure that the payments made by them are duly accounted for by the intermediaries receiving such payments and remitted to the accounts of the merchants who have supplied the goods and services without undue delay, it is considered necessary to frame these directions for the safe and orderly conduct of these transactions. Accordingly, following directions are being issued under Section 18 of the Payment and Settlement Systems Act, 2007 (Act 51 of 2007).

2. Definitions

2.1 Intermediaries: Intermediaries would include all entities that collect monies received from customers for payment to

merchants using any electronic/online payment mode, for goods and services availed by them and subsequently facilitate the transfer of these monies to the merchants in final settlement of the obligations of the paying customers.

Explanation: For the purpose of these directions, all intermediaries who facilitate delivery of goods/services immediately/simultaneously (*e.g.* Travel tickets/movie tickets etc) on the completion of payment by the customer shall not fall within the definition of the expression "intermediaries". These transactions which are akin to a Delivery versus Payment (DvP) arrangement will continue to be facilitated as per the contracts between the merchants and the intermediaries as hitherto and banks shall satisfy themselves that such intermediaries do not fall within the definition of the "intermediaries" when they open accounts other than internal accounts.

2.2 Merchants: For the purpose of these directions, merchants shall include all Electronic commerce/Mobile commerce service providers and other persons (including but not limited to utility service providers) who accept payments for goods and service provided by them, through Electronic/Online Payment modes.

3. Maintaining of accounts for collection of payments

3.1 All accounts opened and maintained by banks for facilitating collection of payments by intermediaries from customers of merchants, shall be treated as internal accounts of the banks. While it is left to the banks to decide on the exact nomenclature of such accounts it shall be ensured that

such accounts are not maintained or operated by the intermediaries.

3.2 Banks shall ensure that the process of converting all the existing accounts maintained and operated by intermediaries for the purpose covered in these directions shall be completed within three months of issuance of these directions.

3.3 For the sake of further clarity, the permitted credits/debits in these accounts are set out below:

i. Credits

- a. Payments from various persons towards purchase of goods/services.
- b. Transfers from other banks as per pre-determined agreement into the account, if this account is the nodal bank account for the intermediary.
- c. Transfers representing refunds for failed/disputed transactions.

ii. Debits

- a. Payments to various merchants/service providers.
- b. Transfers to other banks as per pre-determined agreement into the account, if that account is the nodal bank account for the intermediary.
- c. Transfers representing refunds for failed/disputed transactions.
- d. Commissions to the intermediaries. These amounts shall be at pre-determined rates/frequency.

Note: No payment other than the commissions at the pre-determined rates/frequency shall be payable to the intermediaries. Such transfers shall only be

effected to a bank account intimated to the bank by the intermediary during the agreement.

3.4 Pending conversion of the existing accounts to internal accounts, banks shall ensure that only transactions as stated at paragraph 3.3 are permitted in these accounts. This process shall be implemented with immediate effect.

4. Settlement

4.1 The final settlements of funds to the merchants are presently guided by business practices followed by the intermediaries/merchants. In order to increase the efficiency of the payment process, it is necessary that banks transfer funds to the ultimate beneficiaries with minimum time delay. It is therefore mandated that banks shall implement the following settlement cycle for all final settlements to merchants. This settlement arrangement shall be implemented within three months of issuance of this circular:-

- i. All payments to merchants which do not involve transfer of funds to nodal banks shall be effected within a maximum of T+2 settlement cycle (where T is defined as the day of intimation regarding the completion of transaction).
- ii. All payments to merchants involving nodal banks shall be effected within a maximum of T+3 settlement cycle.

5. Treatment of balances by banks

5.1 As the funds held in the accounts as indicated in paragraph 3.1 would be in the nature of outside liability of the bank, the balances in these accounts shall be reckoned

as such for the purpose of computation of Net Demand and Time Liabilities of the bank.

6. Concurrent Audit

6.1 Banks shall subject these accounts to concurrent audit and a certificate to the effect that these accounts are operated in accordance with these directions shall be submitted to Department of Payment and Settlement System, Reserve Bank of India, on a quarterly basis.

7. Instruction applicable to other payment system operators

7.1 All persons authorised to operate payment system for issuance of prepaid payment instruments and card schemes shall facilitate compliance with these directions.

RBI/ 2009-10/232 RPCD.CO.LBS.HLC. BC.No.43/02.19.10/2009-10 dated November 27, 2009

CMDs of all SLBC Convenor Banks (As per list)

High Level Committee to Review Lead Bank Scheme – Providing banking services in every village having population of over 2000 by March 2011

As you may be aware, the High Level Committee on Lead Bank Scheme constituted by the Reserve Bank of India with Smt. Usha Thorat, Deputy Governor, as Chairperson has submitted its Report on August 20, 2009, which is available on our website (www.rbi.org.in). The Committee, *inter-alia*, recommended broadening of the scope of the Scheme to specifically cover financial inclusion, role of State

Governments, financial literacy and credit counselling, 'credit plus' activities, formulation of time bound Development Plans to facilitate 'enablers' and remove / minimise 'impeders' for banking development for inclusive growth and debt settlement and grievance redressal mechanisms. On the basis of recommendations of the Committee and as announced in Paragraph 147 of the Governor's statement on Second Quarter Review of the Monetary Policy 2009-10, it is advised that the lead banks may

"constitute a Sub-Committee of the District Consultative Committees (DCCs) to draw up a roadmap by March 2010 to provide banking services through a banking outlet in every village having a population of over 2,000, by March 2011. Such banking services may not necessarily be extended through a brick and mortar branch but can be provided through any of the various forms of ICT-based models, including through BCs"

2. A monitoring review mechanism may be instituted by DCCs to periodically assess and evaluate the progress made in achieving the roadmap. This may be taken up for review in each meeting of the DCC. It is advised that a Sub-Committee of DCC may be formed which may meet on monthly basis and arrange to furnish progress made in this regard in the enclosed format by 10th of the following month to the respective SLBC Convenor banks. The SLBC Convenor banks may furnish a consolidated position of the progress achieved in respect of each district of the State by 15th of the following month to the respective Regional Offices of Rural Planning & Credit Planning Department of the Reserve Bank.

3. Please ensure monitoring of the progress in identification of villages as also in provision of banking facilities within the time frames envisaged in the policy.

4. You may advise the DCCs/all member banks accordingly.

RBI/2009-10/238 DBOD.No.BL.BC. 63 / 22.01.009/2009-10 dated November 30, 2009

All Commercial Banks (including RRBs and LABs)

Financial Inclusion by Extension of Banking Services – Use of Business Correspondents (BCs)

As announced in the Annual Policy Statement for the year 2009-10, a Working Group was constituted by Reserve Bank of India to examine the experience to date of the Business Correspondent (BC) model and suggest measures, to enlarge the category of persons that can act as BCs, keeping in view the regulatory and supervisory framework and consumer protection issues. The Working Group has submitted its report which has been placed on the Bank's website on August 19, 2009. The recommendations of the working group have since been accepted by Reserve Bank of India with slight modifications. Accordingly, banks are advised to take necessary action for implementing the various recommendations of the Working Group.

2. Banks are permitted to appoint the following entities as BCs, in addition to the entities presently permitted: (i) Individual kirana/medical /fair price shop owners (ii) Individual Public Call Office (PCO) operators

(iii) Agents of Small Savings schemes of Government of India/Insurance Companies (iv) Individuals who own Petrol Pumps (v) Retired teachers and (vi) Authorised functionaries of well run Self Help Groups (SHGs) linked to banks.

3. With a view to ensuring the viability of the BC model, banks (and not BCs) are permitted to collect reasonable service charges from the customer, in a transparent manner under a Board-approved policy. Considering the profile of the clientele to whom banking services are being delivered through the BC model, banks should ensure that the service charges/fees collected from the customer for delivery of banking services through the BC model is not only fair and reasonable but also seen to be so. A copy of the Board-approved policy in this regard may be forwarded to us (The Chief General Manager-in-charge, Reserve Bank of India, Department of Banking Operations and Development, Central Office, World Trade Centre, Centre -1, Cuffe Parade, Colaba, Mumbai – 400 005 in the case of Scheduled Commercial Banks and LABs and The Chief General Manager, Reserve Bank of India, Rural Planning and Credit Department, Central Office, Central Office Building, 10th Floor, Shahid Bhagat Singh Marg, Mumbai – 400 001 in the case of RRBs). Banks should in particular ensure that there are no complaints from the customer about the charges being non-transparent/not reasonable. Any unfair practices adopted by banks in this regard would be viewed seriously by Reserve Bank of India.

4. With the inclusion of the above entities, it is estimated that there will be substantial addition to the available universe of BCs.

Keeping in view the operational and other risks implied, banks are advised to ensure that they carry out suitable due diligence in respect of the entities proposed to be appointed as BCs and also institute additional safeguards as may be considered appropriate to minimise the agency risks. ICT solutions that ensure proper authentication and other security measures may be adopted to minimise the risk while upscaling the model as already advised. Further, banks may ensure that while appointing the above entities as BCs, the fundamental principle that the individuals are residents of the area in which they propose to operate as BCs, stands fulfilled.

5. As regards the North Eastern Region, it has been decided to implement the recommendation made by the Committee on Financial Sector Plan (CFSP) for the North Eastern Region (Chairperson: Smt. Usha Thorat) regarding the entities which can be appointed as BCs in the North Eastern Region. Accordingly, where a local organisation/association not falling under any of the forms of organizations listed in the Reserve Bank guidelines is proposed to be appointed by a bank as Business Correspondent after due diligence and is recommended by the DCC for being approved as Business Correspondent, the same would be considered by the Regional Office of the Reserve Bank for granting suitable exemption from the Reserve Bank guidelines for appointing such entities as BCs. Banks may therefore approach the Regional Director of the Reserve Bank at Guwahati for the purpose.

6. Further, banks are also permitted to allow, with suitable and adequate safeguards,

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the BCs in the North Eastern Region to account for the transactions in the bank's books latest by the end of the second working day from the date of the transaction.

7. Regarding cases referred to DCCs for relaxation of criteria in respect of the maximum distance between the place of

business of the BC and the base branch, the DCCs may give their decision at the earliest, and in any case within a period of three months, from the date of reference to them. In case no decision is conveyed by DCCs within this period, the banks are permitted to treat it as a 'no objection' for relaxation of the distance criterion.