

July 30, 2004

All Scheduled Commercial Banks
(Excluding RRBs)

Dear Sirs,

Master Circular-Loans and Advances –Statutory and Other Restrictions

Please refer to the Master Circular DBOD. No. Dir. BC. 18/13.03.00/2003-04 dated August 22, 2003 consolidating the instructions/guidelines issued to banks till June 30, 2003 relating to statutory and other restrictions on Loans and Advances. The Master Circular has been suitably updated by incorporating the instructions issued up to June 30, 2004 and has been placed on the RBI website (<http://www.rbi.org.in>)

2. It may be noted that all the instructions contained in circulars listed in the Appendix have been consolidated. We advise that this revised Master Circular supersedes the instructions contained in these circulars issued by the RBI.

Yours faithfully

(Prashant Saran)
Chief General Manager

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Master Circular on Loans and Advances – Statutory and Other Restrictions

1. Statutory Restrictions

1.1 Advances against bank's Own Shares

In terms of Section 20(1) of the Banking Regulation Act, 1949, a bank cannot grant any loans and advances on the security of its own shares.

1.2 Advances to bank's Directors

Section 20(1) of the Banking Regulation Act, 1949 also lays down the restrictions on loans and advances to the Directors and the firms in which they hold substantial interest.

1.2.1 The banks are prohibited from entering into any commitment for granting any loans or advances to or on behalf of any of its directors, or any firm in which any of its directors is interested as partner, manager, employee or guarantor, or any company (not being a subsidiary of the banking company or a company registered under Section 25 of the Companies Act, 1956, or a Government company) of which, or the subsidiary or the holding company of which any of the directors of the bank is a director, managing agent, manager, employee or guarantor or in which he holds substantial interest, or any individual in respect of whom any of its directors is a partner or guarantor.

1.2.2 There are certain exemptions in this regard. In the explanation to the Section, 'loans or advances' shall not include any transaction which the Reserve Bank may specify by general or special order as not being a loan or advance for the purpose of this Section. While doing so the RBI shall, keep in view the nature of the transaction, the period within which, and the manner and circumstances in which, any amount due on account of the transaction is likely to be realised, the interest of the depositors and other relevant considerations.

1.2.3 If any question arises whether any transaction is a loan or advance for the purpose of this Section, it shall be referred to RBI, whose decision thereon shall be final.

1.2.4 For the above purpose, the term 'loans and advances' shall not include the following: -

- (a) loans or advances against Government securities, life insurance policies or fixed deposit;
- (b) loans or advances to the Agricultural Finance Corporation Ltd;
- (c) such loans or advances as can be made by a banking company to any of its directors (who immediately prior to becoming a director, was an employee of the banking company) in his capacity as an employee of that banking company and on the same terms and conditions as would have been applicable to him as an employee of that banking company, if he had not become a director of the banking company. The banking company includes every bank to which the provisions of Section 20 of the Banking Regulation Act, 1949 apply.
- (d) such loans or advances as are granted by the banking company to its Chairman and Chief Executive Officer, who was not an employee of the banking company immediately prior to his appointment as Chairman/ Managing Director/CEO, for the purpose of purchasing a car, personal computer, furniture or constructing/ acquiring a house for his personal use and Festival Advance, with the prior approval of the RBI and on such terms and conditions as may be stipulated by it.
- (e) such loans or advances as are granted by a banking company to its whole-time director for the purpose of purchasing furniture, car, personal Computer or constructing/acquiring house for personal use, Festival advance with the prior approval of RBI and on such terms & conditions as may be stipulated by it.
- (f) call loans made by banking companies to one another.
- (g) facilities like bills purchased/discounted (whether documentary or clean and sight or usance and whether on D/A basis or D/P basis), purchase of cheques, other non-fund

based facilities like acceptance/co-acceptance of bills, opening of L/Cs and issue of guarantees, purchase of debentures from third parties etc.

Note: For obtaining the prior approval of the Reserve Bank as stipulated in clause (d) and (e) above, the bank should make an application to the concerned regional office of the Bank.

- 1.2.5 Purchase of or discount of bills from directors and their concerns which is in the nature of clean accommodation is reckoned as 'loans and advances' for the purpose of Section 20 of the Banking Regulation Act, 1949.
- 1.2.6 As regards giving guarantees and opening of L/Cs on behalf of bank's directors, it is pertinent to note that in the event of the principal debtor committing default in discharging his liability and the bank being called upon to honour its obligations under the guarantee or L/C, the relationship between the bank and the director could become one of the creditor and debtor. Further, it is possible for the directors to evade the provisions of Section 20 by borrowing from a third party against the guarantee given by the bank. Such transactions may defeat the very purpose of restrictions imposed under Section 20, if the bank does not take appropriate steps to ensure that the liabilities there under do not devolve on them.
- 1.2.7 In view of the above, while extending non-fund based facilities such as guarantees, L/Cs, acceptance on behalf of directors and the companies/firms in which the directors are interested, it should be ensured that -
- (a) adequate and effective arrangements have been made to the satisfaction of the bank that the commitments would be met by the openers of L/Cs, or acceptors, or guarantors out of their own resources,
 - (b) the bank will not be called upon to grant any loan or advance to meet the liability consequent upon the invocation of guarantee, and
 - (c) no liability would devolve on the bank on account of LCs/ acceptances.
- 1.2.8 In case, such contingencies arise as at (b) & (c) above, the bank will be deemed to be a party to the violation of the provisions of Section 20 of the Banking Regulation Act, 1949.

1.2.9 **Restrictions on Power to Remit Debts**

Section 20A of the Banking Regulation Act, 1949 stipulates that notwithstanding anything to the contrary contained in Section 293 of the Companies Act, 1956, a banking company shall not, except with the prior approval of the Reserve Bank, remit in whole or in part any debt due to it by -

- (a) any of its directors, or
- (b) any firm or company in which any of its directors is interested as director, partner, managing agent or guarantor, or
- (c) any individual, if any of its director is his partner or guarantor.

Any remission made in contravention of the provisions stated above shall be void and have no effect.

1.3 **Restrictions on Holding Shares in Companies**

- 1.3.1 In terms of Section 19(2) of the Banking Regulation Act, 1949, the banks should not hold shares in any company except as provided in sub-section (1) whether as pledgee, mortgagee or absolute owner, of an amount exceeding 30 percent of the paid-up share capital of that company or 30 percent of its own paid-up share capital and reserves, whichever is less.
- 1.3.2 Further, in terms of Section 19(3) of the Banking Regulation Act, 1949, the banks should not hold shares whether as pledgee, mortgagee or absolute owner, in any company in the management of which any managing director or manager of the bank is in any manner concerned or interested.
- 1.3.3 Accordingly, while granting loans and advances against shares, statutory provisions contained in Sections 19(2) and (3) should be strictly observed.

1.4 **Restrictions on Credit to Companies for Buy-back of their Securities**

In terms of Section 77A(1) of the Companies Act, 1956, the companies are permitted to purchase their own shares or other specified securities out of their

- free reserves, or
- securities premium account, or
- the proceeds of any shares or other specified securities,

subject to compliance of various conditions specified in the Companies (Amendment) Act, 1999. Therefore, the banks should not provide loans to companies for buy-back of shares/securities.

2. **Regulatory Restrictions**

2.1 **Granting loans and advances to relatives of Directors**

Without prior approval of the Board or without the knowledge of the Board, no loans and advances should be granted to relatives of bank's Chairman/Managing Director or other Directors, Directors (including Chairman/Managing Director) of other banks and their relatives, Directors of Scheduled Co-operative Banks and their relatives, Directors of Subsidiaries/Trustees of Mutual Funds/Venture Capital Funds set up by the financing banks or other banks as per details given below

2.1.1 **Lending to directors and their relatives on reciprocal basis**

There have been instances where certain banks have developed an informal understanding or mutual/reciprocal arrangement among themselves for extending credit facilities to each other's directors, their relatives, etc. By and large, they did not follow the usual procedures and norms in sanctioning credit limits to the borrowers, particularly those belonging to certain groups or directors, their relatives, etc. Facilities far in excess of the sanctioned limits and concessions were allowed in the course of operation of individual accounts of the parties. Although, there is no legal prohibition on a bank from giving credit facilities to a director of some other banks or his relatives, serious concern was expressed in Parliament that such *quid pro quo* arrangements are not considered to be ethical. The banks should, therefore, follow the guidelines indicated below in regard to grant of loans and advances and award of contracts to the relatives of their directors and directors of other banks and their relatives:

2.1.2 Unless sanctioned by the Board of Directors/Management Committee, banks should not grant loans and advances aggregating Rs. 25 lakhs and above to -

- (a) directors (including the Chairman/Managing Director) of other banks *;
- (b) any firm in which any of the directors of other banks * is interested as a partner or guarantor; and
- (c) any company in which any of the directors of other banks * holds substantial interest or is interested as a director or as a guarantor.

2.1.3 Unless sanctioned by the Board of Directors/Management Committee, banks should also not grant loans and advances aggregating Rs. 25 lakhs and above to -

- (a) any relatives of their own Chairmen/Managing Directors or other Directors;
- (b) any relatives of the Chairman/Managing Director or other directors of other banks *;
- (c) any firm in which any of the relatives as mentioned in (a) & (b) above is interested as a partner or guarantor; and
- (d) any company in which any of the relatives as mentioned in (a) & (b) above hold substantial interest or is interested as a director or as a guarantor.

* including directors of Scheduled Co-operative Banks, directors of subsidiaries/trustees of mutual funds/venture capital funds.

2.1.4 The proposals for credit facilities of an amount less than Rs.25 lakh to these borrowers may be sanctioned by the appropriate authority in the financing bank under powers vested in such authority, but the matter should be reported to the Board.

2.1.5 The Chairman/Managing Director or other director who is directly or indirectly concerned or interested in any proposal should disclose the nature of his interest to the Board when any such proposal is discussed. He should not be present in the meeting unless his presence is required by the other directors for the purpose of eliciting information and director so required to be present **shall not vote** on any such proposal.

The above norms relating to grant of loans and advances will equally apply to awarding of contracts.

2.1.6 The scope of the term 'relative' will be as under:

- Spouse
- Father
- Mother (including step-mother)
- Son (including step-son)
- Son's Wife
- Daughter (including step-daughter)
- Daughter's Husband
- Brother (including step-brother)
- Brother's wife
- Sister (including step-sister)
- Sister's husband
- Brother (including step-brother) of the spouse
- Sister (including step-sister) of the spouse

2.1.7 The term 'loans and advances' will not include loans or advances against -

- Government securities
- Life insurance policies
- Fixed or other deposits
- Stocks and shares
- Temporary overdrafts for small amount, i.e. upto Rs. 25,000/-
- Casual purchase of cheques upto Rs. 5,000 at a time
- Housing loans, car advances, etc. granted to an employee of the bank under any scheme applicable generally to employees.

2.1.8 The term 'substantial interest' shall have the same meaning as assigned to it in Section 5(ne) of the Banking Regulation Act, 1949.

2.1.9 Banks should evolve, *inter alia*, the following procedure for ascertaining the interest of a director of a financing bank or of another bank, or his relatives, in credit proposals/award of contracts placed before the Board/Committee or other appropriate authority of the financing banks.

(i) Every borrower should furnish a declaration to the bank to the effect that -

- (a) (where the borrower is an individual) he is not a director or specified near relation of director of a banking company;
- (b) (where the borrower is a partnership firm) none of the partners is a director or specified near relation of a director of a banking company; and

- (c) (where the borrower is a joint stock company) none of its directors, is a director or specified near relation of a director of a banking company.
- (ii) The declaration should also give details of the relationship of the borrower to the director of the bank.
- 2.1.10 In order to ensure compliance with the instructions, banks should forthwith recall the loan when it transpires that the borrower has given a false declaration.
- 2.1.11 The above guidelines should also be followed while granting loans/ advances or awarding contracts to directors of scheduled co-operative banks or their relatives.
- 2.1.12 These guidelines should also be followed by banks when granting loans and advances and awarding of contracts to directors of subsidiaries/trustees of mutual funds/venture capital funds set up by them as also other banks.
- 2.1.13 These guidelines should be duly brought to the notice of all directors and also placed before the bank's Board of Directors.

2.2 Restrictions on Grant of Loans & Advances to Officers and the Relatives of Senior Officers of Banks

- 2.2.1 The statutory regulations and/or the rules and conditions of service applicable to officers or employees of public sector banks indicate, to a certain extent, the precautions to be observed while sanctioning credit facilities to such officers and employees and their relatives. In addition, the following guidelines should be followed by all the banks with reference to the extension of credit facilities to officers and the relatives of senior officers:

(i) Loans & advances to officers of the bank

No officer or any Committee comprising, *inter alia*, an officer as member, shall, while exercising powers of sanction of any credit facility, sanction any credit facility to his/her relative. Such a facility shall ordinarily be sanctioned only by the next higher sanctioning authority. Credit facilities sanctioned to senior officers of the financing bank should be reported to the Board.

(ii) Loans and advances and award of contracts to relatives of senior officers of the bank

Proposals for credit facilities to the relatives of senior officers of the bank sanctioned by the appropriate authority should be reported to the Board. Further, when a credit facility is sanctioned by an authority, other than the Board to -

- any firm in which any of the relative of any senior officer of the financing bank holds substantial interest, or is interested as a partner or guarantor; or
 - any company in which any of the relative of any senior officer of the financing bank holds substantial interest, or is interested as a director or as a guarantor,
- such transaction should also be reported to the Board.

- 2.2.2 The above norms relating to grant of credit facility will equally apply to the awarding of contracts.

2.2.3 Application of the Guidelines in case of Consortium Arrangements

In the case of consortium arrangements, the above norms relating to grant of credit facilities to relatives of senior officers of the bank will apply to the relatives of senior officers of all the participating banks.

2.2.4 Scope of certain expressions

- (i) The scope of the term 'relative' is same as mentioned at para 2.1.6
- (ii) The term 'Senior Officer' will refer to -

- (a) any officer in senior management level in Grade IV and above in nationalised bank, and
 - (b) any officer in equivalent scale in
 - State Bank of India and associate banks, and
 - in any banking company incorporated in India.
- (iii) The term 'credit facility' will not include loans or advances against -
- (a) Government securities
 - (b) Life Insurance policies
 - (c) fixed or other deposits
 - (d) temporary overdrafts for small amount i.e. upto Rs. 25,000/-, and
 - (e) casual purchase of cheques upto Rs. 5,000/- at a time.
- (iv) Credit facility will also not include loans and advances such as housing loans, car advances, consumption loans, etc. granted to an officer of the bank under any scheme applicable generally to officers.
- (v) The term 'substantial interest' shall have the same meaning assigned to it in Section 5(ne) of the Banking Regulation Act, 1949.

2.2.5 In this context, banks may, *inter alia*,

- (i) evolve a procedure to ascertain the interest of the relatives of a senior officer of the bank in any credit proposal/award of contract placed before the Board Committee or other appropriate authority of the financing bank;
- (ii) obtain a declaration from every borrower to the effect that -
 - (a) if he is an individual; that he is not a specified near relation to any senior officer of the bank,
 - (b) if it is a partnership or HUF firm, that none of the partners, or none of the members of the HUF, is a near specified relation of any senior officer of the bank, and
 - (c) if it is a joint stock company; that none of its directors, is a relative of any senior officer of the bank.
- (iii) ensure that the declaration gives details of the relationship, if any, of the borrower to any senior officer of the financing bank.
- (iv) make a condition for the grant of any credit facility that if the declaration made by a borrower with reference to the above is found to be false, then the bank will be entitled to revoke and/or recall the credit facility.
- (v) consider in consultation with their legal advisers, amendments, if any, required to any applicable regulations or rules, *inter alia*, dealing with the service conditions of officers of the bank to give effect to these guidelines.

2.3 Restrictions on Grant of Financial Assistance to Industries Producing / Consuming Ozone Depleting Substances (ODS)

2.3.1 Government of India has advised that as per the Montreal Protocol, to which India is a party, Ozone Depleting Substances (ODS) are required to be phased out as per schedule prescribed therein. The list of chemicals given in *Annexure 1 & 2* to the Montreal Protocol is annexed for ready reference. The Protocol has identified the main ODS and set time limit on phasing out their production/consumption in future, leading to a complete phase out eventually. Projects for phasing out ODS in India are eligible for grants from the Multilateral Fund. The sectors covered in the phase out programme are given below:

Sector	Type of substance
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Sector	Type of substance
Foam products	Chlorofluoro carbon - 11 (CFC - 11)
Refrigerators and Air-conditioners	CFC - 12
Aerosol products	Mixtures of CFC - 11 and CFC - 12
Solvents in cleaning applications	CFC - 113 Carbon Tetrachloride, Methyl Chloroform
Fire extinguishers	Halons - 1211, 1301, 2402

2.3.2 The banks should not extend finance for setting up of new units consuming/producing above ODS. In this connection, a reference may be made to the circular No. FI/12/96-97 dated 16.02.96 issued by Industrial Development Bank of India to banks advising that no financial assistance should be extended to small/medium scale units engaged in the manufacture of the aerosol units using CFC and that no refinance would be extended to any project assisted in this sector.

2.4 Restrictions on Advances against Sensitive Commodities under Selective Credit Control (SCC)

2.4.1 Issue of Directives

- (i) With a view to preventing speculative holding of essential commodities with the help of bank credit and the resultant rise in their prices, in exercise of powers conferred by Section 21 & 35A of the Banking Regulation Act, 1949, the Reserve Bank of India, being satisfied that it is necessary and expedient in the public interest to do so, issues, from time to time, directives to all commercial banks, stipulating specific restrictions on bank advances against specified sensitive commodities.
- (ii) The commodities, generally treated as sensitive commodities are the following:
 - (a) food grains i.e. cereals and pulses,
 - (b) selected major oil seeds indigenously grown, viz. groundnut, rapeseed/mustard, cottonseed, linseed and castorseed, oils thereof, vanaspati and all imported oils and vegetable oils,
 - (c) raw cotton and kapas,
 - (d) sugar/gur/khandsari,
 - (e) cotton textiles which include cotton yarn, man-made fibres and yarn and fabrics made out of man-made fibres and partly out of cotton yarn and partly out of man-made fibres.

2.4.2 Commodities currently exempted from Selective Credit Control

- (i) Presently the following commodities are exempted from **all the stipulations** of Selective Credit Controls:

Sr. No.	Commodity	Exemption w.e.f.
1.	Pulses	21.10.1996
2.	Other food grains (viz. course grains)	21.10.1996
3.	Oilseeds (viz. groundnut, rapeseed/mustard, cotton seed, linseed, castorseed)	21.10.1996
4.	Oils (viz. groundnut oil, rapeseed oil, mustard oil, cottonseed oil, linseed oil, castor oil) including vanaspati	21.10.1996
5.	All imported oil seeds and oils	21.10.1996
6.	Sugar, including imported sugar, excepting buffer stocks and unreleased stock of sugar with Sugar Mills	21.10.1996

Sr. No.	Commodity	Exemption w.e.f.
7.	Gur and Khandsari	21.10.1996
8.	Cotton and Kapas	21.10.1996
9.	Paddy/Rice	18.10.1994
10.	Wheat *	12.10.1993
* Temporarily covered under SCC w.e.f. 8.4.97 to 7.7.97.		

Banks are free to fix prudential margins on advances against these sensitive commodities.

2.4.3 Commodities covered under Selective Credit Control

(i) Presently, the following commodities are covered under stipulations of Selective Credit Control:

- (a) Buffer stock of sugar with Sugar Mills
- (b) Unreleased stocks of sugar with Sugar Mills representing
 - levy sugar, and
 - free sale sugar

2.4.4 Stipulations of Selective Credit Control

(i) Margin on sugar

Commodity	Minimum Margin	With effect from
(a) Buffer stocks of sugar	0%	01.04.1987
(b) Unreleased stocks of sugar with Sugar Mills representing - <ul style="list-style-type: none"> • levy sugar • free sale sugar 	10% @	22.10.1997 10.10.2000

@ Margins on credit for free sale sugar will be decided by banks **including RRBs and LABs** based on their commercial judgement.

(ii) **Valuation of sugar stocks**

(a) The unreleased stocks of levy sugar charged to banks as security by the sugar mills shall be valued at levy price fixed by Government.

(b) The unreleased stocks of free sale sugar including buffer stocks of sugar charged to the bank as security by the sugar mills, shall be valued at the average of the price realised in the preceding three months (moving average) or the current market price, whichever is lower; the prices for this purpose shall be **exclusive of excise duty**.

(iii) **Interest rates**

With effect from 18.10.1994, the banks have the freedom to fix lending rates for the commodities coming within the purview of Selective Credit Control.

(iv) **Other operational stipulations**

(a) The other operational stipulations vary with the commodities. These stipulations are advised whenever Selective Credit Control are reintroduced for any specific sensitive commodities.

(b) Although, none of the earlier stipulations are currently applicable to the only sensitive commodity covered under Selective Credit Control viz. buffer stocks and unreleased stocks of levy/free sale sugar with Sugar Mills, yet these are reproduced in the *Annexure 3* for understanding therefrom the underlying objectives of Selective

Credit Control so that the banks do not allow the customers dealing in Selective Credit Control commodities any credit facilities which would directly or indirectly defeat the purpose of the directives.

(v) **Delegation of powers**

(a) The matter relating to delegation of powers with regard to approval of credit proposals relating to sensitive commodities coming under Selective Credit Control has been reviewed and it has been decided that with effect from 23 November 2000 the existing practice of banks' submitting credit proposals above Rs. 1 crore to Reserve Bank of India for its prior approval under Selective Credit Control shall be discontinued and banks will have the freedom to sanction such credit proposals in terms of their individual loan policies. Accordingly, banks need not forward the credit proposals above Rs. 1 crore in respect of borrowers dealing in sensitive commodities to Reserve Bank of India for its prior approval.

(b) The banks are also advised to circulate these instructions among their controlling offices/branches and take all necessary steps to ensure that the powers delegated at various levels are exercised with utmost caution without sacrificing the broad objectives of the Selective Credit Control concept.

3. Restrictions on other loans and advances

3.1 Loans and Advances against Shares, Debentures and Bonds

Banks are required to strictly observe regulatory restrictions on grant of loans and advances against shares, debentures and bonds which are detailed in the Master Circular on '*Bank Finance Against Shares and Debentures*'

The restrictions, *inter alia*, on loans and advances against shares and debentures, are :-

- (a) No loans to be granted against partly paid shares.
- (b) No loans to be granted to partnership/proprietorship concerns against the primary security of shares and debentures.
- (c) Banks and their subsidiaries should not undertake financing of 'Badla' transactions.

3.2 Advances against Money Market Mutual Funds

All the guidelines issued by the Reserve Bank of India on Money Market Mutual Funds (MMMF) have been withdrawn and the banks are to be guided by the SEBI Regulations in this regard. However the banks/ FIs which are desirous of setting up MMMFs would, however, have to take necessary clearance from the RBI for undertaking this additional activity before approaching SEBI for registration.

3.3 Advances against Fixed Deposit Receipts (FDRs) Issued by Other Banks

There have been instances where fake term deposit receipts purported to have been issued by some banks were used for obtaining advances from other banks. In the light of these happenings, the banks should desist from sanctioning advances against FDRs, or other term deposits of other banks.

3.4 Advances to Agents/Intermediaries based on Consideration of Deposit Mobilisation

Banks should desist from being party to unethical practices of raising of resources through agents/intermediaries to meet the credit needs of the existing/prospective borrowers or from granting loans to the intermediaries, based on the consideration of deposit mobilisation, who may not require the funds for their genuine business requirements.

3.5 Loans against Certificate of Deposits (CDs)

Banks cannot grant loans against CDs.

3.6 Bank Finance to Non-Banking Financial Companies (NBFCs)

3.6.1 The following activities undertaken by NBFCs, are not eligible for bank credit:

- (i) Bills discounted/rediscounted by NBFCs, except for rediscounting of bills discounted by NBFCs arising from sale of –
 - (a) commercial vehicles (including light commercial vehicles), and
 - (b) two wheeler and three wheeler vehicles, subject to the following conditions:
 - the bills should have been drawn by the manufacturers on dealers only;
 - the bills should represent genuine sale transactions as may be ascertained from the chassis/engine number: and
 - before rediscounting the bills, banks should satisfy themselves about the bona fides and track record of NBFCs which have discounted the bills.
- (ii) Investments of NBFCs both of current and long term nature, in any company/entity by way of shares, debentures, etc. However, Sock Broking Companies may be provided need-based credit against shares and debentures held by them as stock-in-trade.
- (iii) Unsecured loans/inter-corporate deposits by NBFCs to/in any company
- (iv) All types of loans/advances by NBFCs to their subsidiaries, group companies/entities.
- (v) Finance to NBFCs for further lending to individuals for subscribing to Initial Public Offerings (IPOs).

3.6.2 Banks should not grant bridge loans of any nature, or interim finance against capital/debenture issues and/or in the form of loans of a bridging nature pending raising of long-term funds from the market by way of capital, deposits, etc. to all categories of Non-Banking Financial Companies, i.e. equipment leasing and hire-purchase finance companies, loan and investment companies and also Residuary Non-Banking Companies (RNBCs).

3.7 Bank Finance to Equipment Leasing Companies

- (i) Banks should not enter into lease agreements departmentally with equipment leasing companies as well as other Non-Banking Financial Companies engaged in equipment leasing.
- (ii) As banks can only support lease rental receivables arising out of lease of equipment/machinery owned by the borrowers, lease rentals receivables arising out of sub-lease of an asset by a Non-Banking Non Financial Company (undertaking nominal leasing activity) or by a Non-Banking Financial Company should be excluded for the purpose of computation of bank finance for such company.

3.8 Bank Finance for Purchase/Lease of Existing Assets

Banks are precluded from granting term loans for acquisition of existing assets (except imported second hand machinery). Bank finance to leasing concerns should cover purchases of only new equipment. Banks should not extend finance against existing assets whether by way of term loans for purchase of such assets or by way of finance to leasing companies for purchase and release of such assets.

3.9 Financing Infrastructure/ Housing Projects

3.9.1 Housing Finance

- (i) Banks should not grant finance for construction of buildings meant purely for Government/Semi-Government offices, including Municipal and Panchayat offices. However, banks may grant loans for activities, which will be refinanced by institutions like NABARD.

- (ii) Projects undertaken by public sector entities which are not corporate bodies (i.e. public sector undertakings which are not registered under Companies Act or which are not corporations established under the relevant statute) may not be financed by banks. Even in respect of projects undertaken by corporate bodies, as defined above, banks should satisfy themselves that the project is run on commercial lines and that bank finance is not in lieu of or to substitute budgetary resources envisaged for the project. The loan could, however, supplement budgetary resources if such supplementing was contemplated in the project design.
- (iii) In case of housing projects which the government is interested in promoting either for weaker sections or otherwise a part of the project cost may be met by the Government through subsidies made available and/or contributions to the capital of the institution taking up the project. In such cases bank finance should be restricted to the project cost excluding the amount of subsidy/ capital contribution from the Government. The bank should ensure the commercial viability of the project.

3.9.2 Guidelines for Financing of Infrastructure Projects

In view of the critical importance of the infrastructure sector and high priority being accorded for development of various infrastructure services, the matter has been reviewed in consultation with Government of India and the revised guidelines on financing of infrastructure projects are set out as under:

(a) Definition of 'infrastructure lending'

Any credit facility in whatever form extended by lenders (i.e. banks, FIs or NBFCs) to an infrastructure facility as specified below falls within the definition of "infrastructure lending". In other words, a credit facility provided to a borrower company engaged in:

- o developing or
- o operating and maintaining, or
- o developing, operating and maintaining any infrastructure facility that is a project in any of the following sectors, or any infrastructure facility of a similar nature :
 - i. a road, including *toll road*, a *bridge* or a *rail system*;
 - ii. a *highway project* including other activities being an integral part of the highway project;
 - iii. a *port*, *airport*, *inland waterway* or *inland port*;
 - iv. a *water supply* project, *irrigation* project, *water treatment* system, *sanitation and sewerage* system or *solid waste management* system;
 - v. *telecommunication* services whether basic or cellular, including radio paging, domestic *satellite service* (i.e., a satellite owned and operated by an Indian company for providing telecommunication service), *network of trunking*, *broadband network* and *internet services*;
 - vi. an *industrial park* or *special economic zone* ;

- vii. *generation or generation and distribution of power*
- viii. *transmission or distribution of power by laying a network of new transmission or distribution lines.*
- ix. *construction relating to projects involving agro-processing and supply of inputs to agriculture;*
- x. *construction for preservation and storage of processed agro-products, perishable goods such as fruits, vegetables and flowers including testing facilities for quality;*
- xi. *construction of educational institutions and hospitals.*
- xii. *any other infrastructure facility of similar nature*

(b) Criteria for Financing

Banks/FIs are free to finance technically feasible, financially viable and bankable projects undertaken by both public sector and private sector undertakings subject to the following conditions:

- (i) The amount sanctioned should be within the overall ceiling of the prudential exposure norms prescribed by RBI for infrastructure financing.
- (ii) Banks/ FIs should have the requisite expertise for appraising technical feasibility, financial viability and bankability of projects, with particular reference to the risk analysis and sensitivity analysis.
- (iii) In respect of projects undertaken by public sector units, term loans may be sanctioned only for corporate entities (i.e. public sector undertakings registered under Companies Act or a Corporation established under the relevant statute). Further, such term loans should not be in lieu of or to substitute budgetary resources envisaged for the project. The term loan could supplement the budgetary resources if such supplementing was contemplated in the project design. While such public sector units may include Special Purpose Vehicles (SPVs) registered under the Companies Act set up for financing infrastructure projects, it should be ensured by banks and financial institutions that these loans/investments are not used for financing the budget of the State Governments. Whether such financing is done by way of extending loans or investing in bonds, banks and financial institutions should undertake due diligence on the viability and bankability of such projects to ensure that revenue stream from the project is sufficient to take care of the debt servicing obligations and that the repayment/servicing of debt is not out of budgetary resources. Further, in the case of financing SPVs, banks and financial institutions should ensure that the funding proposals are for specific monitorable projects.
- (iv) Banks may also lend to SPVs in the private sector, registered under Companies Act for directly undertaking infrastructure projects which are financially viable and not for acting as mere financial intermediaries. Banks may ensure that the bankruptcy or financial difficulties of the parent/ sponsor should not affect the financial health of the SPV.

(c) Types of Financing by Banks

(i) In order to meet financial requirements of infrastructure projects, banks may extend credit facility by way of working capital finance, term loan, project loan, subscription to bonds and debentures/ preference shares/ equity shares acquired as a part of the project finance package which is treated as "deemed advance" and any other form of funded or non-funded facility.

(ii) Take-out Financing

Banks may enter into take-out financing arrangement with IDFC/ other financial institutions or avail of liquidity support from IDFC/ other FIs. A brief write-up on some of the important features of the arrangement is given in para 3.9.2(f). Banks may also be guided by the instructions regarding take-out finance contained in Circular No. DBOD. BP. BC. 144/ 21.04.048/ 2000 dated 29 February 2000.

(iii) Inter-institutional Guarantees

Banks are permitted to issue guarantees favouring other lending institutions in respect of infrastructure projects, provided the bank issuing the guarantee takes a funded share in the project at least to the extent of 5 per cent of the project cost and undertakes normal credit appraisal, monitoring and follow up of the project. For detail instructions on inter-institutional guarantee please see para 3.10.

(iv) Financing promoter's equity

In terms of our Circular DBOD. Dir. BC. 90/ 13.07.05/ 98 dated 28 August 1998, banks were advised that the promoter's contribution towards the equity capital of a company should come from their own resources and the bank should not normally grant advances to take up shares of other companies. In view of the importance attached to infrastructure sector, it has been decided that, under certain circumstances, an exception may be made to this policy for financing the acquisition of promoter's shares in an existing company, which is engaged in implementing or operating an infrastructure project in India. The conditions, subject to which an exception may be made, are as follows:

- (i) The bank finance would be only for acquisition of shares of existing companies providing infrastructure facilities as defined in paragraph (a) above. Further, acquisition of such shares should be in respect of companies where the existing foreign promoters (and/ or domestic joint promoters) voluntarily propose to disinvest their majority shares in compliance with SEBI guidelines, where applicable.
- (ii) The companies to which loans are extended should, inter alia, have a satisfactory net worth.
- (iii) The company financed and the promoters/ directors of such companies should not be defaulter to banks/ FIs.
- (iv) In order to ensure that the borrower has a substantial stake in the infrastructure company, bank finance should be restricted to 50% of the finance required for acquiring the promoter's stake in the company being acquired.
- (v) Finance extended should be against the security of the assets of the borrowing company or the assets of the company acquired and not against the shares of that company or the company being acquired. The shares of borrower company / company being acquired may be accepted as additional security and not as primary security. The security charged to the banks should be marketable.
- (vi) Banks should ensure maintenance of stipulated margin at all times.

- (vii) The tenor of the bank loans may not be longer than seven years. However, the Boards of banks can make an exception in specific cases, where necessary, for financial viability of the project.
- (viii) This financing would be subject to compliance with the statutory requirements under Section 19(2) of the Banking Regulation Act, 1949.
- (ix) The banks financing acquisition of equity shares by promoters should be within the regulatory ceiling of 5 per cent on capital market exposure in relation to its total outstanding advances (including commercial paper) as on March 31 of the previous year.
- (x) The proposal for bank finance should have the approval of the Board.

(d) **Appraisal**

- (i) In respect of financing of infrastructure projects undertaken by Government owned entities, banks/Financial Institutions should undertake due diligence on the viability of the projects. Banks should ensure that the individual components of financing and returns on the project are well defined and assessed. State Government guarantees may not be taken as a substitute for satisfactory credit appraisal and such appraisal requirements should not be diluted on the basis of any reported arrangement with the Reserve Bank of India or any bank for regular standing instructions/periodic payment instructions for servicing the loans/bonds.
- (ii) Infrastructure projects are often financed through Special Purpose Vehicles. Financing of these projects would, therefore, call for special appraisal skills on the part of lending agencies. Identification of various project risks, evaluation of risk mitigation through appraisal of project contracts and evaluation of creditworthiness of the contracting entities and their abilities to fulfil contractual obligations will be an integral part of the appraisal exercise. In this connection, banks/FIs may consider constituting appropriate screening committees/special cells for appraisal of credit proposals and monitoring the progress/performance of the projects. Often, the size of the funding requirement would necessitate joint financing by banks/FIs or financing by more than one bank under consortium or syndication arrangements. In such cases, participating banks/ FIs may, for the purpose of their own assessment, refer to the appraisal report prepared by the lead bank/FI or have the project appraised jointly.

(e) **Prudential requirements**

(i) **Prudential credit exposure limits**

Credit exposure to borrowers belonging to a group may exceed the exposure norm of 40 per cent of the bank's capital funds by an additional 10 per cent (i.e up to 50 per cent), provided the additional credit exposure is on account of extension of credit to infrastructure projects. Credit exposure to single borrower may exceed the exposure norm of 15 per cent of the bank's capital funds by an additional 5 per cent (i.e. up to 20 per cent) provided the additional credit exposure is on account of infrastructure as defined in paragraph (a) above. In addition to the exposure permitted above, banks may, in exceptional circumstances, with the approval of their Boards, consider enhancement of the exposure to a borrower up to a further 5 per cent of capital funds. The bank should make appropriate disclosures in the 'Notes on account' to the annual financial statements in respect of the exposures where the bank had exceeded the prudential exposure limits during the year.

(ii) **Assignment of risk weight for capital adequacy purposes**

Banks may assign a concessional risk weight of 50 per cent for capital adequacy purposes, on investment in securitised paper pertaining to an infrastructure facility subject to compliance with the following:

- The infrastructure facility should satisfy the conditions stipulated in paragraph (a) above.
- The infrastructure facility should be generating income/ cash flows which would ensure servicing/ repayment of the securitised paper.
- The securitised paper should be rated at least 'AAA' by the rating agencies and the rating should be current and valid. The rating relied upon will be deemed to be current and valid if :
 - (i) The rating is not more than one month old on the date of opening of the issue, and the rating rationale from the rating agency is not more than one year old on the date of opening of the issue, and the rating letter and the rating rationale is a part of the offer document.
 - (ii) In the case of secondary market acquisition, the 'AAA' rating of the issue should be in force and confirmed from the monthly bulletin published by the respective rating agency.
 - (iii) The securitised paper should be a performing asset on the books of the investing/ lending institution.

(iii) **Asset - Liability Management**

The long - term financing of infrastructure projects may lead to asset – liability mismatches, particularly when such financing is not in conformity with the maturity profile of a bank's liabilities. Banks would, therefore, need to exercise due vigil on their asset-liability position to ensure that they do not run into liquidity mismatches on account of lending to such projects.

(iv) **Administrative arrangements**

Timely and adequate availability of credit is the pre-requisite for successful implementation of infrastructure projects. Banks/ FIs should, therefore, clearly delineate the procedure for approval of loan proposals and institute a suitable monitoring mechanism for reviewing applications pending beyond the specified period. Multiplicity of appraisals by every institution involved in financing, leading to delays, has to be avoided and banks should be prepared to broadly accept technical parameters laid down by leading public financial institutions. Also, setting up a mechanism for an ongoing monitoring of the project implementation will ensure that the credit disbursed is utilised for the purpose for which it was sanctioned.

(f) **Take-out financing/liquidity support**

(i) **Take-out financing arrangement**

Take-out financing structure is essentially a mechanism designed to enable banks to avoid asset-liability maturity mismatches that may arise out of extending long tenor loans to infrastructure projects. Under the arrangements, banks financing the infrastructure projects will have an arrangement with IDFC or any other financial institution for transferring to the latter the outstandings in their books on a pre-determined basis. IDFC and SBI have devised different take-out financing structures to suit the requirements of various banks, addressing issues such as liquidity, asset-liability mismatches, limited availability of project appraisal skills, etc. They have also

developed a Model Agreement that can be considered for use as a document for specific projects in conjunction with other project loan documents. The agreement between SBI and IDFC could provide a reference point for other banks to enter into somewhat similar arrangements with IDFC or other financial institutions.

(ii) Liquidity support from IDFC

As an alternative to take-out financing structure, IDFC and SBI have devised a product, providing liquidity support to banks. Under the scheme, IDFC would commit, at the point of sanction, to refinance the entire outstanding loan (principal+ unrecovered interest) or part of the loan, to the bank after an agreed period, say, five years. The credit risk on the project will be taken by the bank concerned and not by IDFC. The bank would repay the amount to IDFC with interest as per the terms agreed upon. Since IDFC would be taking a credit risk on the bank, the interest rate to be charged by it on the amount refinanced would depend on the IDFC's risk perception of the bank (in most of the cases, it may be close to IDFC's PLR). The refinance support from IDFC would particularly benefit the banks which have the requisite appraisal skills and the initial liquidity to fund the project.

3.10 Issue of Bank Guarantees in favour of Financial Institutions

Banks may issue guarantees favouring other banks/FIs/other lending agencies for the loans extended by the latter, subject to strict compliance with the following conditions.

- (i) The Board of Directors should reckon the integrity/robustness of the bank's risk management systems and accordingly put in place a well-laid out policy in this regard.

The Board approved policy should, among others, address the following issues:

- a) Prudential limits, linked to bank's Tier I capital, up to which guarantees favouring other banks/FIs/other lending agencies may be issued.
 - b) Nature and extent of security and margins
 - c) Delegation of powers
 - d) Reporting system
 - e) Periodical reviews
- (ii) The guarantee shall be extended only in respect of borrower constituents and to enable them to avail of additional credit facility from other banks/FIs/lending agencies
- (iii) The guaranteeing bank shall assume a funded exposure of at least 10% of the exposure guaranteed.
- (iv) Banks should not extend guarantees or letters of comfort in favour of overseas lenders including those assignable to overseas lenders, except for the relaxations permitted under FEMA.
- (v) The guarantee issued by the bank will be an exposure on the borrowing entity on whose behalf the guarantee has been issued and will attract appropriate risk weight as per the extant guidelines.
- (vi) Banks should ensure compliance with the recommendations of the Ghosh Committee and other internal requirements relating to issue of guarantees to obviate the possibility of frauds in this area.

Lending banks

Banks extending credit facilities against the guarantees issued by other banks/FIs should ensure strict compliance with the following conditions:

- (i) The exposure assumed by the bank against the guarantee of another bank/FI will be deemed as an exposure on the guaranteeing bank/FI and will attract appropriate risk weight as per the extant guidelines.
- (ii) Exposures assumed by way of credit facilities extended against the guarantees issued by other banks should be reckoned within the inter bank exposure limits prescribed by the Board of Directors. Since the exposure assumed by the bank against the guarantee of another bank/FI will be for a fairly longer term than those assumed on account of inter bank dealings in the money market, foreign exchange market and securities market, Board of Directors should fix an appropriate sub-limit for the longer term exposures since these exposures attract greater risk.
- (iii) Banks should monitor the exposure assumed on the guaranteeing bank/FI, on a continuous basis and ensure strict compliance with the prudential limits/sub limits prescribed by the Board for banks and the prudential single borrower limits prescribed by RBI for FIs.
- (iv) Banks should comply with the recommendations of the Ghosh Committee and other internal requirements relating to acceptance of guarantees of other banks to obviate the possibility of frauds in this area.

However, the above conditions will not be applicable in the following cases:

(a) Issuance of guarantee in favour of IDBI, in the case of import of technical know-how by way of drawings and designs under the Technical Development Scheme of the IDBI, under certain circumstances and where no tangible security is available to IDBI.

(b) In respect of infrastructure projects, banks may issue guarantees favouring other lending institutions, provided the bank issuing the guarantee takes a funded share in the project at least to the extent of 5 percent of the project cost and undertakes normal credit appraisal, monitoring and follow up of the project.

(c) Issuance of guarantees in favour of various Development Agencies/Boards, like Indian Renewable Energy Development Agency, National Horticulture Board, etc. for obtaining soft loans and/or other forms of development assistance from such Agencies/Boards with the objective of improving efficiency, productivity, etc., subject to the following conditions:

- Banks should satisfy themselves, on the basis of credit appraisal, regarding the technical feasibility, financial viability and bankability of individual projects and/or loan proposals i.e. the standard of such appraisal should be the same, as is done in the case of a loan proposal seeking sanction of term finance/loan.
- Banks should conform to the prudential exposure norms prescribed from time to time for an individual borrower/group of borrowers.
- Banks should suitably secure themselves before extending such guarantees.

(d) Issue of guarantees favouring HUDCO/State Housing Boards and similar bodies for loans granted by them to private borrowers who are unable to offer clean or marketable title to property, provided banks are otherwise satisfied about the capacity of borrowers to adequately service such loans.

(e) Issuance of guarantees by consortium member banks unable to participate in rehabilitation packages on account of temporary liquidity constraints, in favour of the banks which take up their share of the limit.

Banks should not grant co-acceptance/guarantee facilities under Buyers Lines of Credit Schemes introduced by IDBI, SIDBI, Exim Bank, Power Finance Corporation (PFC) or any other financial institution, unless specifically permitted by the RBI.

3.11 Discounting/Rediscounting of Bills by Banks

Banks may adhere to the following guidelines while purchasing / discounting / negotiating / rediscounting of genuine commercial / trade bills:

- (i) Since banks have already been given freedom to decide their own guidelines for assessing / sanctioning working capital limits of borrowers, they may sanction working capital limits as also bills limit to borrowers after proper appraisal of their credit needs and in accordance with the loan policy as approved by their Board of Directors.
- (ii) Banks should clearly lay down a bills discounting policy approved by their Board of directors, which should be consistent with their policy of sanctioning of working capital limits. In this case, the procedure for Board approval should include banks' core operating process from the time the bills are tendered till these are realised. Banks may review their core operating processes and simplify the procedure in respect of bills financing. In order to address the off-cited problem of delay in realisation of bills, banks may take advantage of improved computer / communication network like Structured Financial Messaging system (SFMS) and adopt the system of 'value dating' of their clients' accounts.
- (iii) Banks should open letters of credit (LCs) and purchase / discount / negotiate bills under LCs only in respect of genuine commercial and trade transactions of their borrower constituents who have been sanctioned regular credit facilities by the banks. Banks should not, therefore, extend fund based (including bills financing) or non-fund based facilities like opening of LCs, providing guarantees and acceptances to non-constituent borrower or / and non-constituent member of a consortium / multiple banking arrangement.
- (iv) For the purpose of credit exposure, bills purchased / discounted / negotiated under LCs or otherwise should be reckoned on the bank's borrower constituent. Accordingly, the exposure should attract a risk weight appropriate to the borrower constituent (viz; 100% for firms, individuals, corporates etc.) for capital adequacy purposes.
- (v) While purchasing / discounting / negotiating bills under LCs or otherwise, banks should establish genuineness of underlying transactions / documents.
- (vi) Banks should ensure that blank LC forms are kept in safe custody as in case of security items like blank cheques, demand drafts etc. and verified / balanced on daily basis. LC forms should be issued to customers under joint signatures of the bank's authorised officials.
- (vii) The practice of drawing bills of exchange claused 'without recourse' and issuing letters of credit bearing the legend 'without recourse' should be discouraged because such notations deprive the negotiating bank of the right of recourse it has against the drawer under the Negotiable Instruments Act. Banks should not therefore open LCs and purchase / discount / negotiate bills bearing the 'without recourse' clause.
- (viii) Accommodation bills should not be purchased / discounted / negotiated by banks. The underlying trade transactions should be clearly identified and a proper record thereof maintained at the branches conducting the bills business.
- (ix) Banks should be circumspect while discounting bills drawn by front finance companies set up by large industrial groups on other group companies.
- (x) Bills rediscounts should be restricted to usance bills held by other banks. Banks should not rediscount bills earlier discounted by non-bank financial companies (NBFCs) except in respect of bills arising from sale of light commercial vehicles and two / three wheelers.
- (xi) Banks may exercise their commercial judgment in discounting of bills of services sector. However, while discounting such bills, banks should ensure that actual

services are rendered and accommodation bills are not discounted. Services sector bills should not be eligible for rediscounting. Further, providing finance against discounting of services sector bills may be treated as unsecured advance and therefore, should be within the norm prescribed by the Board of the bank for unsecured exposure limit.

(xii) In order to promote payment discipline which would to a certain extent encourage acceptance of bills, all corporates and other constituent borrowers having turnover above threshold level as fixed by the bank's Board of Directors should be mandated to disclose 'aging schedule' of their overdue payables in their periodical returns submitted to banks.

(xiii) Banks should not enter into Repo transactions using bills discounted / rediscounted as collateral.

3.12 Advances against Gold/Silver Bullion

- (i) Banks should not grant any advance against gold bullion.
- (ii) Banks should desist from granting advances to the silver bullion dealers which are likely to be utilised for speculative purposes.
- (iii) Banks should desist from giving loans to finance Badla' transactions in silver (i.e. buying silver ready and selling forward to earn interest).

3.13 Loans and advances to Small Scale Industries

SSI units having working capital limits of up to Rs 5 crore from the banking system are to be provided working capital finance computed on the basis of 20 percent of their projected annual turnover. The banks should adopt the simplified procedure in respect of all SSI units (new as well as existing).

3.14 Loan system for delivery of bank credit

Loan Component and Cash Credit Component

(a) In the case of borrowers enjoying working capital credit limits of Rs. 10 crore and above from the banking system, loan component should normally be 80 percent. Banks, however, have the freedom to change the composition of working capital by increasing the cash credit component beyond 20 percent or to increase the 'Loan Component' beyond 80 percent as the case may be, if they so desire. Banks are expected to appropriately price each of the two components of working capital finance, taking into account the impact of such decisions on their cash and liquidity management.

(b) In the case of borrowers enjoying working capital credit limit of less than Rs. 10 crore, banks may persuade them to go in for the 'Loan System' by offering an incentive in the form of lower rate of interest on the loan component, as compared to the cash credit component. The actual percentage of 'loan component' in these cases may be settled by the bank with its borrower clients.

(c) In respect of certain business activities, which are cyclical and seasonal in nature or have inherent volatility, the strict application of loan system may create difficulties for the borrowers. Banks may, with the approval of their respective Boards, identify such business activities, which may be exempted from the loan system of delivery.

3.15 Working Capital Finance to Information Technology and software industry

Following the recommendations of the "National Task force on Information Technology and Software development " Reserve Bank has framed guidelines for extending working capital to the said industry. The banks are however free to modify the guidelines based on their own

experience without reference to the Reserve Bank of India to achieve the purpose of the guidelines in letter and spirit. The salient features of these guidelines are set forth below:

- The banks may consider sanction of working capital limits based on the track record of the promoters group affiliation, composition of the management team and their work experience as well as the infrastructure.
- In the case of the borrowers with working capital limits of up to Rs 2 crore, assessment may be made at 20 percent of the projected turnover. However in other cases, the banks may consider assessment of MPBF on the basis of the monthly cash budget system. For the borrowers enjoying working capital limits of Rs 10 crore and above from the banking system the guidelines regarding the loan system would be applicable.
- Banks can stipulate reasonable amount as promoters' contribution towards margin.
- Banks may obtain collateral security wherever available. First/ second charge on current assets if available may be obtained.
- The rate of interest as prescribed for general category of borrowers may be levied. Concessional rate of interest as applicable to pre shipment/post shipment credit may be levied.
- Banks may evolve tailor made follow up system for such advances. The banks could obtain quarterly statements of cash flows to monitor the operations. In case the sanction was not made on the basis of the cash budgets, they can devise a reporting system as they deem fit.

3.16 Guidelines for bank finance for PSU disinvestments of Government of India

In terms of RBI circular DBOD No. Dir. BC .90/13.07.05/98 dated August 28, 1998, banks have been advised that the promoters' contribution towards the equity capital of a company should come from their own resources and the bank should not normally grant advances to take up shares of other companies. Banks were also advised to ensure that advances against shares were not used to enable the borrower to acquire or retain a controlling interest in the company/companies or to facilitate or retain inter-corporate investment. It is clarified that the aforesaid instructions of the 1998 circular would not apply in the case of bank finance to the successful bidders under the PSU disinvestment programme of the Government, subject to the following :

- (i) Banks' proposals for financing the successful bidders in the PSU disinvestment programme should be approved by their Board of Directors.
- (ii) Bank finance should be for acquisition of shares of PSU under a disinvestment programme approved by Government of India, including the secondary stage mandatory open offer, wherever applicable and not for subsequent acquisition of the PSU shares. Bank finance should be made available only for prospective disinvestments by Government of India.
- (iii) The companies, including the promoters, to which bank finance is to be extended should have adequate net worth and an excellent track record of servicing loans availed from the banking system.
- (iv) The amount of bank finance thus provided should be reasonable with reference to banks' size, its net worth and business and risk profile.

In case the advances against the PSU disinvestment is secured by the shares of the disinvested PSUs or any other shares, banks should follow our extant guidelines on capital market exposures on margin, ceiling on overall exposure to the capital market, risk management and internal control systems, surveillance and monitoring by the Audit Committee

of the Board, valuation and disclosure, etc. (cf. our circular No.DBOD.BP.BC.119/21.04.137/2000-01 dated May 11, 2001).

3.16.1 Stipulation of lock-in period for shares

- i) Banks should, while deciding to extend finance to the borrowers who participate in the PSU disinvestment programme, advise such borrowers to execute an agreement whereby they undertake to:
 - (a) Produce the letter of waiver by the Government for disposal of shares acquired under PSU disinvestment programme during the lock-in period, **or**
 - (b) Include a specific provision in the documentation with the Government permitting the pledgee to liquidate the shares during the lock-in period, in case of shortfall in margin requirement or default by the borrower.
- (ii) Banks may extend finance to the successful bidders even though the shares of the disinvested company acquired/ to be acquired by the successful bidder are subjected to a lock-in period/ other such restrictions which affect their liquidity, subject to fulfillment of following conditions:
 - a) The documentation between the Government of India and the successful bidder should contain a specific provision permitting the pledgee to liquidate the shares even during lock-in period that may be prescribed in respect of such disinvestments, in case of shortfall in margin requirements or default by the borrower.
 - b) If the documentation does not contain such a specific provision, the borrower (successful bidder) should obtain waiver from the Government for disposal of shares acquired under PSU disinvestment programme during the lock-in period.

As per the terms and conditions of the PSU disinvestments by the Government of India, the pledgee bank will not be allowed to invoke the pledge during the first year of the lock-in period. During the second and third year of the lock-in period, in case of inability of the borrower to restore the margin prescribed for the purpose by way of additional security or non performance of the payment obligations as per the repayment schedule agreed upon between the bank and the borrower, bank would have the right to invoke the pledge. The pledgee bank's right to invoke the pledge during the second and third years of the lock-in period, would be subject to the terms and conditions of the documentation between Government and the successful bidder, which might also cast certain responsibilities on the pledgee banks.

It is clarified that the concerned bank must make a proper appraisal and exercise due caution about credit worthiness of the borrower and the financial viability of the proposal. The bank must also satisfy itself that the proposed documentation, relating to the disposal of shares pledged with the bank, are fully acceptable to the bank and do not involve unacceptable risks on the part of the bank.

In terms of IECD Circular No. 10/ 08.12.01/ 2000- 2001 dated 8 January 2001, banks are precluded from financing investments of NBFCs in other companies and inter-corporate loans / deposits to/ in other companies. The position has been reviewed and banks are advised that SPVs which comply with the following conditions would not be treated as investment companies and therefore would not be considered as NBFCs :

- a. They function as holding companies, special purpose vehicles, etc. with not less than 90 per cent of their total assets as investment in securities held for the purpose of holding ownership stake,
- b. They do not trade in these securities except for block sale; and
- c. They do not undertake any other financial activities.

- d. They do not hold/accept public deposits

SPVs, which satisfy the above conditions, would be eligible for bank finance for PSU disinvestments of Government of India.

In this context, it may be mentioned that Government of India, Ministry of Finance (DEA), Investment Division, vide its Press Note dated July 8, 2002 on guidelines for Euro issues, has permitted an Indian company utilizing ADR/GDR/ECB proceeds for financing disinvestment programme of the Government of India, including the subsequent open offer. Banks may, therefore, take into account proceeds from such ADR/GDR/ECB issues, for extending bank finance to successful bidders of PSU disinvestment programme.

Master Circular on Loans and Advances – Statutory and Other Restrictions**List of Controlled Substances***(Vide paragraph 2.3.1)*

Group	Substance	Ozone Depleting Potential *
Group I		
CFCl ₃	(CFC-11)	1.0
CF ₂ Cl ₂	(CFC-12)	1.0
C ₂ F ₃ Cl ₃	(CFC-113)	0.8
C ₂ F ₄ Cl ₂	(CFC-114)	1.0
Cl	(CFC-115)	0.6
Group II		
CF ₂ BrCl	(halon-1211)	3.0
CF ₃ Br	(halon-1301)	10.0
C ₂ F ₄ Br ₂	(halon-2402)	6.0
* These ozone depleting potentials are estimated based on existing knowledge and will be reviewed and revised periodically.		

Master Circular on Loans and Advances – Statutory and Other Restrictions

List of Controlled Substances

(Vide paragraph 2.3.1)

Group	Substance	Ozone Depleting Potential
Group I		
CF ₃ Cl	(CFC-13)	1.0
CF ₂ Cl ₅	(CFC-111)	1.0
C ₂ F ₂ Cl ₄	(CFC-112)	1.0
C ₂ FCl ₇	(CFC-211)	1.0
C ₂ F ₂ Cl ₆	(CFC-212)	1.0
C ₃ F ₃ Cl ₅	(CFC-213)	1.0
C ₃ F ₄ Cl ₄	(CFC-214)	1.0
C ₃ F ₅ Cl ₃	(CFC-215)	1.0
C ₃ F ₆ Cl ₂	(CFC-216)	1.0
C ₃ F ₇ Cl	(CFC-217)	1.0
Group II		
CCl ₄	Carbon Tetrachloride	1.1
Group III		
C ₂ H ₃ Cl ₃ *	1,1,1 - trichloroethane (methyl chloroform)	0.1
* This formula does not refer to 1,1,2 - trichloroethane.		

Master Circular on Loans and Advances – Statutory and Other Restrictions**Selective Credit Control****Other Operational Stipulations**

[Vide paragraph 2.4.4 (iv)]

1. The banks should not allow the customers dealing in Selective Credit Control commodities any credit facilities which would directly or indirectly defeat the purpose of the directive. Advances against book debts/receivables and collateral securities like LIC policies, shares and stocks and real estate should not be considered in favour of such borrowers.
2. Although advances against security of or by way of purchase of demand documentary bills drawn in connection with the movement of the Selective Credit Control commodities are exempted, the bank should ensure that the bills offered have arisen out of actual movement of goods by verifying the relative invoices as also the receipts issued by transport operators, etc.
3. Usance bills arising out of sale of Selective Credit Control commodities should not be discounted except to the extent specifically permitted in the directives issued.
4. Clean Telegraphic Transfer Purchase facility may be allowed to a reasonable extent on certain conditions specified in the directives.
5. Priority sector advances are also covered by/under Selective Credit Control directives.
6. Where credit limits have been sanctioned against the security of more than one commodity and/or any other type of security, the credit limits against each commodity should be segregated and the restrictions contained in the directives made applicable to each of such segregated limit.
7. The banks are free to determine the rate of interest in respect of advances covered under Selective Credit Control directives.
8. The bank could grant loans to borrowers dealing in Selective Credit Control commodities, provided the term loans are used for the purpose of acquiring block assets like plant & machinery and normal appraisal and other criteria are followed by the banks.
9. Reserve Bank of India authorises limits to the Food Corporation of India and State Governments for procurement of foodgrains; at prices fixed by the Government of India, for the Central Pool and for the distribution of the same under the Public Distribution System (PDS). As the limits are authorised without margin, credit cannot be drawn against credit sales, book debts, Government subsidies, etc.
10. The banks should refer to the directives on Selective Credit Control measures issued by RBI from time to time.

Appendix

Master Circular on Loans and Advances – Statutory and Other Restrictions

List of Circulars consolidated by the Master Circular

1.	DBOD No. Dir.BC.	18/13.03.00/03-04	dated 22.8.2003
2.	DBOD BP.BC.	34/21.04.0137/03-04	dated 15.10.2003
3.	IECD No.	9/08/12.01/2003-04	dated 11.3.2004
4.	DBOD BP.BC.	92/21.04.048/03-04	dated 16.6.2004
5.	DBOD BP.BC.	97/21.04.141/03-04	dated 17.6.2004
6.	DBOD BP. BC.	100/21.03. 054/2003-04	dated 21.6.2004