

RBI./2005-06/282

DBOD.BP.BC No. 56 / 21.01.001/ 2005-06

January 23, 2006

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

Dear Sir,

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

As banks are aware an account payee cheque is required to be collected for the payee constituent. As regards, account payee cheques drawn in favour of banks, it had been indicated, vide our circular DBOD.NO.BC.23/21.01.001/92 dated September 9, 1992, that banks which credit cheques drawn in their favour by other banks marked "A/c. payee" to the accounts of constituents who are not named payees therein, without proper mandate of the drawer do so at their own risk and will be responsible for the unauthorized payment.

2. In view of the recent misuse of Initial Public Offer (IPO) process by certain individuals/entities and reports received in this regard from SEBI, the Reserve Bank of India took up detailed investigations at some banks to ascertain the modus operandi adopted by different parties in manipulating the system. It was observed that despite the abovementioned instructions, banks had credited the proceeds of individual account payee refund orders into the accounts of the brokers instead of to the individual accounts on the request of the associates of DP providers. This has resulted in manipulation of the payment system and has facilitated the perpetration of irregularities. This manipulation would not have taken place but for the banks deviating from the procedure for collection of account payee cheques. The deviations can also not be sanctified as a prudent market practice since it has the potential to expose the banks to various risks.

3. Being satisfied that in consonance with the legal requirements and in particular the intent of the Negotiable Instruments Act, and with a view to protect the banks being burdened with liabilities arising out of unauthorized collections, and in the

interest of the integrity and soundness of the payment and banking systems, and in order to prevent recurrence of deviations observed in the recent past, the Reserve Bank has considered it necessary to prohibit the banks from crediting 'account payee' cheque to the account of any person other than the payee named therein. The Reserve Bank accordingly directs the banks that they should not collect account payee cheques for any person other than the payee constituent.

4. Where the drawer/payee instructs the bank to credit the proceeds of collection to any account other than that of the payee, the instruction being contrary to the intended inherent character of the 'account payee' cheque, bank should ask the drawer/payee to have the cheque or the account payee mandate thereon withdrawn by the drawer. This instruction would also apply with respect to the cheque drawn by a bank payable to another bank. Instructions contained in the Bank's circular DBOD No.BC.23/21.01.001/92 dated September 9, 1992 shall stand modified to that extent.

5. These directions are issued in exercise of the powers conferred under section 35A of the Banking Regulation Act, 1949.

Yours faithfully,

(Anand Sinha)
Executive Director