

December 1, 2008

All Scheduled Commercial Banks  
(excluding Local Area Banks and Regional Rural Banks)

Dear Sir,

**Operations of foreign branches and subsidiaries of the Indian banks –  
Compliance with statutory/regulatory/administrative prohibitions/ restrictions**

As you are aware, the banking operations carried out by the Indian banks are fully subject to various statutory and regulatory prohibitions and restrictions in force in India from time to time. The issue of applicability of these prohibitions / restrictions to the operations of foreign branches and subsidiaries of the Indian banks had arisen, and the matter has been examined by us. The position is clarified as under.

2. Section 5(b) of the Banking Regulation Act (B R Act), 1949 defines the business of banking and Section 6 (1) lays down the various forms of business which the banking companies can engage in. These Sections are also applicable to the public sector banks by virtue of a specific mention thereof in their respective statutes. Further, in terms of Section 19(1) of the B R Act, a bank can form a subsidiary company only for (i) undertaking an activity which is permitted to the parent bank itself under Section 6(1), *ibid*; (ii) carrying out the business of banking exclusively outside India; and (iii) undertaking such other business, considered conducive to the spread of banking in India, that the RBI may permit in public interest. This Section too is applicable to the public sector banks by virtues of the provisions of Section 51 of the B R Act.

3. In the course of operations of the Indian banks' branches and subsidiaries abroad, it is possible that while complying with the host-country regulatory requirements in certain jurisdictions, they might be required to undertake an activity which is not permitted under the B R Act / the respective statute of the public sector bank. In such circumstances, the banks are advised to ensure that they obtain from the RBI / Government of India necessary permission under Section 6 (1) (m) or 19 (1) (c), as the case may be, for undertaking such activities.

4. As regards transacting, by the foreign branches / foreign subsidiaries, in financial products which are not available in the Indian market and on which no specific prohibition has been currently placed by the RBI, no prior approval of the RBI would be required for the purpose provided these are merely plain-vanilla financial products. Banks should, however, ensure that their foreign branches / subsidiaries, dealing with such products in foreign jurisdictions, have adequate knowledge, understanding, and risk management capability for handling such products. Such products should also be appropriately captured and reported in the extant off-site returns furnished to the RBI. These products would also attract the prudential norms such as capital adequacy, credit exposure, periodical valuation, and all other applicable norms. In case the current RBI norms do not specify prudential treatment of such financial products, it would be incumbent upon the banks to seek specific RBI guidance in the matter.

5. If, however, the foreign branches / foreign subsidiaries of the Indian banks propose to handle structured financial products, banks should obtain prior approval of the RBI for the purpose by furnishing full particulars of these products including their regulatory treatment prescribed by the host-country regulators (for capital adequacy, valuation, pricing, exposure norms, etc), as also the risk management systems in place in the branch / subsidiary to deal with such products.

Yours faithfully,

**(Prashant Saran)**  
Chief General Manager-in-Charge