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RBI issues Directions for obtaining Prior Approval for Acquisition of Shares/Voting Rights in Private Sector Banks

The Reserve Bank of India today issued [revised Directions](#) necessitating prior approval for acquisition of shares or voting rights in private sector banks.

These Directions contain two major changes:

- (i) A person intending to acquire shares or compulsorily convertible debentures/bonds or voting rights or convert optionally convertible debentures/bonds of 5 per cent or more in a private sector bank, he/she will have to apply to the Reserve Bank for obtaining its prior approval.
- (ii) The major shareholders that is, shareholders having 5 per cent or more of the paid-up share capital of the bank as indicated above, would have to give an annual declaration to the concerned bank on their 'fit and proper' status and if in the bank's assessment any major shareholder is not 'fit and proper', it will have to immediately furnish the requisite information to the Reserve Bank.

The revision was necessitated in the context of the Banking Law (Amendment) Act, 2012, notified in the Gazette Notification dated January 17, 2013. The details are provided in the Directions dated November 19, 2015.

The Directions build on the existing policy and illustrate the procedure to be followed for seeking prior approval for acquisition of major shareholding in private sector banks.

The Directions also lay down a process for ensuring continuing compliance with the 'fit and proper' criteria for the major shareholders of private sector banks.

Highlights:

Prior approval for acquisition

- Every person intending to have a major shareholding in any private sector bank, would be required to apply to the Reserve Bank of India along with his declaration in the prescribed format.
- In deciding whether or not to grant approval, the Reserve Bank would undertake due diligence on the applicant to assess his "fit and proper" status. For taking a decision, it may, if necessary, seek additional information / documents from the applicant / concerned bank, including shareholder agreements. The process of due diligence, may also involve a reference to the relevant regulator/s, revenue authorities, investigation agencies, credit rating agencies, etc., as considered appropriate.

- Considering all the facts including the outcome of the due diligence and information received from the concerned bank, the Reserve Bank may accord or deny permission or accord permission for acquisition of a lower quantum than that has been applied for.
- The decision of the Reserve Bank will be conveyed to the applicant and the concerned bank and will be binding on both.

Fresh acquisition by existing major shareholder

- An existing major shareholder, who already has the approval of the Reserve Bank to have a major shareholding in a bank, will not be required to obtain prior approval from the Reserve Bank for fresh incremental acquisition of shares or voting rights of the concerned bank if the proposed aggregate holding is up to 10 per cent. However, the major shareholder will have to furnish the details of the source of funds for such incremental acquisition and obtain 'no objection' from the concerned bank before such incremental acquisition.
- However, if the fresh incremental acquisition is likely to result in enhancing the aggregate shareholding of the existing major shareholder in the bank beyond 10 per cent, the major shareholder will have to obtain a fresh prior approval from the Reserve Bank for the proposed incremental shareholding. The procedure will remain the same as that prescribed for acquiring shares or compulsorily convertible debentures/bonds or voting rights of 5 per cent or more along with additional information in prescribed format.
- Acquisition of shares to the extent of 10 per cent or more would normally be permitted to the promoters/promoter group of the bank or financial institution that is well regulated, well diversified and listed or Government or a public sector undertaking or under exceptional circumstances or in the interest of consolidation in the banking sector.

Continuous monitoring of 'fit and proper'

- Where the Reserve Bank acknowledgement/prior approval has already been obtained for having major shareholding, the major shareholders should report to the concerned bank on their continuing to be 'fit and proper'. For this purpose, the major shareholders should furnish an annual declaration within one month of the close of financial year in prescribed format, to the concerned bank for review of their 'fit and proper' status. The bank will make an assessment about the 'fit and proper' status of the existing major shareholders. If any major shareholder is assessed not 'fit and proper', the concerned bank will have to report to the Reserve Bank immediately.

Voting Rights

- There is no change in the voting rights provisions and other related provisions of the [Banking Regulation Act, 1949](#) as amended from time to time, and they will continue to be applicable. In other words, the permission granted under Section 12B of Banking Regulation Act, 1949 for acquisition of major shareholding will not automatically increase the voting rights unless otherwise specified by the Reserve Bank.