

STATUTORY & OTHER RESTRICTIONS ON LOANS & ADVANCES

Advances against bank's own shares:

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

Advances to bank's Directors :

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 company/firm in which any of its directors is interested as partner, manager, employee or guarantor (B.R Act (Section 20(1)).

'Loans & advances' shall not include:-

- Loans or advances against Govt. securities, life insurance policies or fixed deposit.
- Loans or advances to the Agricultural Finance Corporation Ltd.
- Loans or advances to any of its directors in his capacity as an employee prior to becoming as director loans or advances granted to its Chairman and Chief Executive Officer or to its whole-time director (purchasing a car, personal computer, furniture or constructing/ acquiring a house for his personal use and Festival Advance), with the prior approval and subject to terms and conditions stipulated by RBI.
- Call loans.
- Bills purchased/discounted, 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.
- Line of credit/overdraft facility extended by settlement bankers to National Securities Clearing Corporation Ltd.(NSCCL) / Clearing Corporation of India Ltd. (CCIL) to facilitate smooth settlement; and
- A credit limit granted under credit card facility provided to its directors.

'Loans & advances' include, among others:-

- Purchase of or discount of bills from directors and their concerns.
- Issuance of guarantees and opening of L/Cs on behalf of the bank's directors.

Restrictions on Power to Remit Debts

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 any of its directors or any firm or company in which the directors are having interest or partner or guarantor. (Sec. 20A of BR Act)

Restrictions on Holding Shares in Companies

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. (Section 19(2) of the Act)

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. (Section 19(3))

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

Banks shall not provide loans to companies for buy-back of their shares/ securities. However, companies are permitted (Sec. 77A (1) of ICA 1956) to purchase their own shares or other specified securities from their free reserves, or securities premium account or proceeds of any shares of other specified securities.

Regulatory Restrictions: a) 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 aggregating to Rs. 25 Lakh and above should be granted to relatives of the bank's Chairman/Managing Director or other Directors or other bank's Directors (including Chairman/Managing Director) and their relatives, including lending to directors and their relatives on reciprocal basis (Sec. 20 of B.R. Act). Term relative is explained in RBI Master Circular dt. July 2, 2012.
- Loans & advances of less than Rs.25 Lakh to these borrowers can be sanctioned at appropriate level as per delegation with suitable reporting to the Board.

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 amounts, i.e. upto Rs. 25,000/-, Casual purchase of cheques up to Rs. 5,000 at a time, Housing loans, car advances, etc. granted to an employee of the bank

The guidelines are applicable while granting loans/ advances or awarding contracts to directors of scheduled co-operative banks or their relatives and to directors of Subsidiaries/trustees of mutual funds/venture capital funds set up by them as also other banks.

b) Grant of Loans & Advances to Officers and Relatives of Senior Officers of Banks

- No officer or any Committee comprising, inter alia, an officer as member shall sanction any credit facility to his/her relative but only by the next higher sanctioning authority. Credit facilities sanctioned to senior officers shall be reported to the Board.
- Credit facilities to the relatives of senior officers of the bank sanctioned by the appropriate authority should be reported to the Board.

c) Financial Assistance to Industries Producing/Consuming Ozone Depleting Substances (ODS)

Banks should not extend finance for setting up of new units consuming/producing the Ozone Producing Substances (ODS) as under:-

Sector	Type of substance
Foam products	Chlorofluorocarbon - 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

- No financial assistance should be extended to small/medium scale units engaged in the manufacture of the aerosol units using CFC and no refinance would be extended to any project assisted in this sector. (FI/12/96-97 2nd Feb 1996-IDBI).

d) Advances against Sensitive Commodities under Selective Credit Control (SCC)

- RBI, (Section 21 & 35A of the Act), issues, from time to time, directives to all commercial banks, stipulating specific restrictions on bank advances against specified sensitive commodities viz. food grains i.e. cereals and pulses, oil seeds indigenously grown viz. groundnut, rapeseed/mustard, cottonseed, linseed and castorseed, oils thereof, vanaspati and all imported oils and vegetable oils, raw cotton and kapas, sugar/gur/khandsari, 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.

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.
- Banks are free to fix prudential margins on advances against these sensitive commodities. Banks have the freedom to fix lending rates for the commodities coming within the purview of SCC at or above Base Rate.
 - Obtaining prior approval from RBI for credit proposals above Rs. 1 crore relating to sensitive commodities coming under SCC is discontinued.

e) Restriction on payment of commission to staff members including officers

Banks should not pay commission to staff members and officers for recovery of loans.(Sec 10(1)b(ii) of BR Act).

f) Restrictions on offering incentives on any banking products

Banks should not offer any banking products, including online remittance schemes etc., with prizes / lottery/free trips (in India and/or abroad), etc. or any other incentives having an element of chance, except inexpensive gifts costing not more than Rs. 250/-.

g) Other loans and advances

i) Advances to Individuals: Banks may grant advances against the security of shares, debentures or bonds to individuals for meeting contingencies and personal needs or for subscribing to new or rights issues of shares / debentures / bonds or for purchase in the secondary market.

- The limit per individual should not exceed Rs. 10 lakh and Rs. 20 lakh if the securities are held in physical and dematerialized form respectively.
- A minimum margin of 50% of the market value of equity shares / convertible debentures held in physical form and 25% of the market value in case held in dematerialized form.
- Each bank should formulate with the approval of their Board of Directors a Loan Policy for grant of advances to individuals against shares / debentures / bonds keeping in view the RBI guidelines.

ii) Advances to Share and Stock Brokers/ Commodity Brokers

- Share and stock brokers/commodity brokers registered with SEBI and who comply with capital adequacy norms prescribed by SEBI / Stock Exchanges may be provided need based overdraft facilities / line of credit against shares and debentures held by them as stock-in-trade to meet the

cash flow gap between delivery and payment for DVP transactions undertaken on behalf of institutional clients viz. FIs, FIIIs, mutual funds and banks.

- The ceiling of Rs. 10 lakh / Rs. 20 lakh is not applicable for finance to these types of borrowers.
- A uniform margin of 50 per cent shall be applied on all advances / financing of IPOs / issue of guarantees on behalf of share and stockbrokers. A minimum cash margin of 25 per cent (within the margin of 50%) shall be maintained in respect of guarantees issued by banks for capital market operations.
- Banks may issue guarantees in favour of stock exchanges in lieu of security deposit to the extent it is acceptable and may also issue guarantees in lieu of margin requirements as per stock exchange regulations.
- The transfer of shares in bank's name in respect of shares held in physical form shall not apply provided such shares are held as security for a period not exceeding nine months.
- Banks and their subsidiaries should not undertake financing of 'Badla' transactions.

iii) Bank finance for Market Makers

- Banks may provide need based finance to approved Market Makers subject to the various conditions, among others:-
 - a) Market makers approved by Stock Exchanges are only eligible for finance from commercial banks;
 - b) Market making may not only for equity but also for debt securities including State & Central Govt. securities;
 - c) Need based working capital can be provided based on commercial judgment;
 - d) Uniform margin of 50% shall be applied for all advances and a minimum cash margin of 25% (within the margin of 50%) shall be maintained in respect of guarantees issued by banks for capital market operations;
 - e) Collateral security may be accepted by scripts other than scripts in which market making operations are undertaken;
 - f) Banks should ensure that the funds are not diverted for investment in shares other than scripts earmarked for market making purpose;
 - g) Ceiling of Rs. 10 Lakh/Rs. 20 Lakh for advances against shares is not applicable in the case.
- Bank may lay down a detailed loan policy for granting advances and issuance of guarantees to Stock Brokers and Market Makers in line with the RBI guidelines.

iv) Bank Loan for financing Promoter's contribution

- Banks are permitted to extend loans to corporate against the security of shares (as far as possible in dematerialized form) held by them to meet the promoters' contribution to the equity of new companies in anticipation of raising resources subject to the terms and conditions, in respect of margin, period of repayment, etc. and it should be treated as a bank's investment in shares which would thus come under the ceiling of 40 percent of the bank's net worth as on March 31 of the previous year prescribed for the bank's total exposure including both fund based and non-fund based to capital market in all forms.
- With the approval of the Board of Directors, the banks may formulate internal guidelines with appropriate safeguards for this purpose.

General guidelines applicable to advances against shares / debentures / Bonds

- Statutory provisions regarding the grant of advances against shares contained in the B.R. Act 1949 (Sec. 19(2), (3), and 20(1) a) should be strictly observed.
- Banks should be concerned with what the advances are for, rather than what the advances are against (end use). While considering grant of advances against shares / debentures banks must follow the normal procedures for the sanction, appraisal and post sanction follow-up.
- Advances against the primary security of shares / debentures / bonds should be kept distinct and separate and not combined with any other advance.
- Banks may satisfy themselves about the marketability of the shares / debentures and the net worth and working of the company whose shares / debentures / bonds are offered as security.
- Shares / debentures / bonds should be valued at prevailing market prices when they are lodged as security for advances.
- Banks should exercise particular care when advances are sought against large blocks of shares by a borrower or a group of borrowers and it should be ensured that advances against shares are not used to enable the borrower to acquire or retain a controlling interest in the company / companies or to facilitate or retain inter-corporate investments.
- No advance against partly paid shares shall be granted.
- No loans to be granted to partnership / proprietorship concerns against the primary security of shares and debentures.
- Shares/debentures/bonds for limit above Rs. 10 Lakh should be transferred in the bank's name and that the bank has exclusive and unconditional voting rights in respect of such shares.
- Banks may take their own decision in regard to exercise of voting rights and may prescribe procedures for this purpose.
- Banks should ensure that the scrips lodged with them as security are not stolen / duplicate / fake / benami. Any irregularities coming to their notice should be immediately reported to RBI.
- The Board of Directors may decide the appropriate level of authority for sanction of advances against shares / debentures.

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

The banks may desist from sanctioning advances against FDRs, or other term deposits of other banks.

i) Advances to Agents/Intermediaries based on Consideration of Deposit Mobilization

Banks may desist from entertaining advances to existing/prospective borrowers, agents/intermediaries based on the consideration of deposit mobilization.

j) Loans against Certificate of Deposits (CDs)

Banks may not grant loans against CDs nor permitted to buy back their own CDs before maturity except lending and buy back of CDs held by mutual funds. Such finance if extended to equity-oriented mutual funds will form part of banks' capital market exposure, as hitherto.

k) Finance for and Loans/Advances against Indian Depository Receipts (IDRs)

No bank shall grant any loan / advance for subscription to Indian Depository Receipts (IDRs) and shall not grant any loan / advance against security / collateral of IDRs issued in India.

l) Revised Guidelines for Financing of Infrastructure Projects

Any credit facility in whatever form extended by lenders (i.e. banks, FIs or NBFCs) to an infrastructure facility falls within the definition of "infrastructure lending" viz. developing or operating and maintaining, or 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 as detailed in the RBI Circular.

Criteria for Financing

- a) The project should both technically and financially viable and bankable and undertaken by both public sector and private sector undertakings;
- b) The quantum of finance should be within the overall ceiling of the prudential exposure norms prescribed by RBI for infrastructure financing.
- c) 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.
- d) 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) including Special Purpose Vehicles (SPVs).
- e) Such term loans should not be in lieu of or to substitute budgetary resources envisaged for the project, but, they could supplement the budgetary resources if such supplementing was contemplated in the project design and it should be ensured by banks and financial institutions that these loans/investments are not used for financing the budget of the State Governments.
- f) Banks may also lend to SPVs in the private sector, registered under the Companies Act for directly undertaking infrastructure projects which are financially viable and not for acting as mere financial intermediaries.

Types of Financing by Banks

- a) 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.

b) **Take-out Financing** : i) Under the arrangement, banks financing the infrastructure projects will have an arrangement with IDFC or any other financial institution for transferring to the latter the outstanding in their books on a pre-determined basis. The arrangement would enable banks to avoid asset-liability maturity mismatches that may arise out of extending long tenor loans to infrastructure projects.

(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 period, say, five years. The credit risk on the project will be taken by the bank concerned and not by IDFC.

c) **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.

d) **Financing promoter's equity** :

Finance can be considered subject to:-

- The bank finance would be only for acquisition of shares of existing companies providing infrastructure facilities. 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.
- The companies to which loans are extended should, inter alia, have a satisfactory net worth.
- The company financed and the promoters/ directors of such companies should not be a defaulter to banks/ FIs.
- Bank finance should be restricted to 50% of the finance required for acquiring the promoter's stake in the company being acquired.
- 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, but the shares may be accepted as additional security and not as primary security. The security charged to the banks should be marketable.
- Banks should ensure maintenance of stipulated margins at all times.
- The tenor of the bank loans may not normally be longer than seven years.
- This financing would be subject to compliance with the statutory requirements of the B.R. Act, 1949 (Sec. 19(2)).
- The banks financing acquisition of equity shares by promoters should be within the regulatory ceiling of 40 per cent of their net worth as on March 31 of the previous year for the aggregate exposure of the banks to the capital markets in all forms (both fund based and non-fund based).

- The proposal for bank finance should have the approval of the Board.

Appraisal

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.

Prudential requirements

- Banks are required to comply with the Prudential Credit Exposure fixed by RBI from time to time.
- Assignment of risk weight for capital adequacy purposes Banks are required to be guided by the Prudential Guidelines on Capital Adequacy and Market Discipline- Implementation of the New Capital Adequacy Framework, as amended from time to time in the matter of capital adequacy.
- 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.
- Administrative arrangements - 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 so as to ensure timely and adequate availability of credit.

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:-

- a) A laid down policy approved by the Board addressing the prudential limits linked to the Tier 1 capital of the bank, nature and extent of security and margins, delegation of powers, reporting/ review system etc. should be in place;
- b) Guarantees shall be extended only in respect of borrower customers to enable them to avail of additional credit facility from other banks/FIs/Lending agencies;
- c) The guaranteeing banks shall assume a funded exposure of at least 10% of the exposure guaranteed.
- d) Banks shall not extend guarantees or letter of comfort in favour of overseas lenders except provided under FEMA;
- e) The guarantee is an exposure on the borrowing entity and attracts appropriate risk weight as per extant guidelines, etc.

Lending banks :

Banks extending credit facilities against the guarantees issued by other banks/FIs are required to ensure strict compliance of the various conditions listed out in the RBI Circular with some exceptions to finance to infrastructure projects. However, 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.

m) Discounting/Rediscounting of Bills by Banks: Guidelines

- Banks should evolve clearly a bills discounting policy approved by their Board of Directors, which should be consistent with their policy of sanctioning of working capital limits.
- Banks can open LCs and purchase/discount/negotiate bills under LC only in respect of genuine commercial and trade transactions of their borrower constituents who have been sanctioned regular credit facilities by the banks.
- In cases where negotiation of bills drawn under LC is restricted to a particular bank, and the beneficiary of the LC is not a constituent of that bank, the bank concerned may negotiate such an LC, subject to the condition that the proceeds will be remitted to the regular banker of the beneficiary. Negotiation of unrestricted LCs of non-constituents is prohibited.
- LC issuing bank may discount bills drawn by beneficiary only if the bank has sanctioned regular fund-based credit facilities to the beneficiary.
- The exposure is to be treated as an exposure on the LC issuing bank and not on the borrower
- Banks should ensure that blank LC forms are kept in safe custody as in case of security and verified / balanced on daily basis. LCs should be issued under joint signatures of the bank's authorized officials only.
- The practice of drawing bills of exchange clause 'without recourse' and issuing letters of credit bearing the legend 'without recourse' should be discouraged.
- Accommodation bills should not be purchased / discounted / negotiated by banks.
- Banks should be circumspect while discounting bills drawn by front finance companies set up by large industrial groups on other group companies.
- Banks may exercise their commercial judgment in discounting of bills of the services sector, etc.

n) Advances against Bullion/Primary gold

Banks should not grant any advance against bullion/ Primary gold except specially minted gold coins sold by banks and desist from granting advances to the silver bullion dealers which are likely to be utilized for speculative purposes.

o) Advances against Gold Ornaments & Jewellery

Banks can finance against hallmarked gold jewellery which ensures the quality of gold, caratage, fineness and purity.

p) Gold (Metal) Loans

Banks nominated to import gold may extend Gold (Metal) Loans to domestic jewellery Manufacturers, who are not exporters of jewellery subject to:-

- a) The tenor of the loan not to exceed 180 days
- b) Interest to be charged should be linked to international gold interest rates
- c) Normal reserve and capital adequacy requirements

d) Adherence to KYC norms, etc.

q) Loans and advances to Real Estate Sector

Banks can entertain loan proposals involving real estate borrowers who have obtained prior permission from government / local governments / other statutory authorities for the project.

r) Loans and advances to Micro & Small Enterprises (MSEs)

MSE units having working capital limits of up to Rupees five crore from the banking system are to be provided working capital finance computed on the basis of 20 percent of their projected annual turnover.

s) Loan system for delivery of bank credit

- Borrowers enjoying working capital limits of Rs. 10 crore and above, the loan component may be 80% and the balance 20% with banks having freedom to change the composition.
- Borrowers under the category may be persuaded to move to the 'Loan System' by offering incentive such as lower rate of interest on the loan component as compared to cash credit component.
- Business activities having cyclical and seasonal in nature may be exempted from the 'Loan System' to mitigate difficulties.

t) Lending under Consortium Arrangement/Multiple Banking Arrangement

Banks are required to strengthen their information back-up about the borrowers enjoying credit facilities from multiple banks by:-

- a) Obtaining a declaration from the borrowers availing sanctioned limits of Rs. 5 crore and above about the credit facilities already enjoyed by them from other banks in the prescribed format.
- b) Banks may exchange information about the conduct of the borrowers' accounts with other banks in the format given by RBI at least at quarterly intervals.
- c) Obtain regular certification by a professional, preferably a Company Secretary, Chartered Accountant or Cost Accountant, regarding compliance of various statutory prescriptions that are in vogue.
- d) Make greater use of credit reports available from CIBIL, etc.

u) Working Capital Finance to Information Technology and Software Industry

- Borrowers with working capital limits of up to Rs 2 crore, assessment may be made at 20 percent of the projected turnover and in other cases, the banks may consider assessment of MPBF on the basis of the monthly cash budget system and above Rs. 10 crore, guidelines regarding 'Loan System' may be made 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 considered.
- Banks may evolve tailor-made follow up/monitoring system for such advances.

v) **Bank finance for PSU disinvestments of Government of India**

- Banks' proposals for financing the successful bidders in the PSU disinvestment programme should be approved by their Board of Directors.
- 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.
- 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.
- The amount of bank finance thus provided should be reasonable with reference to the banks' size, its net worth and business and risk profile.
- In case the advance is secured by the shares of the disinvested PSUs or any other shares, banks should follow RBI's extant guidelines on capital market/overall exposures, etc.
- 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, etc.

w) **Loans for acquisition of Kisan Vikas Patras (KVPs)**

Banks should ensure that no loans are sanctioned for acquisition of /investing in Small Savings Instruments including Kisan Vikas Patras.

x) **Loans against 7% Savings Bonds 2002, 6.5% Savings Bonds 2003 (Non-taxable) & 8% Savings (Taxable) Bonds 2003-Collateral facility**

Banks are permitted to accept bonds issued by GOI as collateral by way of pledge, hypothecation or lien for loans being extended to holders and the facility is not available in respect of the loans extended to third parties.

y) **Guidelines on Settlement of Non Performing Assets- Obtaining Consent Decree from Court**

Banks are to invariably ensure that once a case is filed before a Court / DRT / BIFR, any settlement arrived at with the borrower is subject to obtaining a consent decree from the Court / DRT / BIFR concerned.

z) **Project Finance Portfolio of Banks**

In order to contain/minimise the equity funding risk, banks are advised in their own interest to have a clear policy regarding the Debt Equity Ratio (DER) and to ensure that the infusion of equity/fund by promoters should be such that the stipulated level of DER is maintained at all times. Banks may adopt funding sequences so that possibility of equity funding by banks is obviated.

Bridge Loans against receivables from Government

- Banks may avoid extending bridge loans against amounts receivable from Central/State Governments by way of subsidies, refunds, reimbursements, capital contributions, etc. with the exception of financing against subsidy receivable under the normal Retention Price Scheme (RPS) for periods upto 60 days in case of fertilizer industry.
- Banks may grant finance against receivables from Government by exporters (viz. Duty Draw Back and IPRS) to the extent covered by the existing instructions.

Guidelines on Fair Practices Code for Lenders

Banks/ all India Financial Institutions are required to adopt the broad guidelines and frame the Fair Practices Code duly approved by their Board of Directors.

Applications for loans and their processing

- Loan application forms should be comprehensive containing all information about fees / charges payable for processing the loan application, the amount of fees refundable if loan amount is not sanctioned / disbursed, pre-payment options and charges, if any, penalty for delayed repayments if any, conversion charges for switching loan from fixed to floating rates or vice versa, etc.
- Banks and financial institutions should acknowledge for receipt of all loan applications. Time frame for loan applications up to Rs.2 lakh will be disposed of should also be indicated in acknowledgement of such applications
- Expedite processing of the loan application within a reasonable time. If additional details / documents are required, they should intimate the borrowers immediately.
- Reason for rejection of any applications should be conveyed in writing in case of all within stipulated time.

Loan appraisal and terms/conditions

- Lenders should ensure that there is proper assessment of credit application by borrowers.

- The lender should convey to the borrower the credit limit along with the terms and conditions thereof and keep the borrower's acceptance of these terms and conditions given with his full knowledge on record.
- Terms and conditions and other caveats governing credit facilities given by banks/ financial institutions arrived at after negotiation by lending institution and the borrower should be advised in writing and duly certified by the authorized official.
- A copy of the loan agreement along with a copy each of all enclosures quoted in the loan agreement should be furnished to the borrower at the time of sanction / disbursement of loans.
- As far as possible, the loan agreement should clearly stipulate credit facilities that are solely at the discretion of lenders.
- For lending under consortium arrangement, the participating lenders should evolve procedures to complete appraisal of proposals in the time bound manner to the extent feasible, and communicate their decisions on financing or otherwise within a reasonable time.

Disbursement of loans including changes in terms and conditions

Lenders should ensure timely disbursement of loans sanctioned in conformity with the terms and conditions governing such sanction.

Post disbursement supervision

- Post disbursement supervision by lenders, particularly in respect of loans up to Rs.2 lakh, should be constructive with a view to taking care of any " lender related" genuine difficulty that the borrower may face.
- Due notice should be given prior to taking decision to recall / accelerate payment or seeking additional securities, etc.
- Lenders should release all securities on receiving payment of loan or realization of loan subject to any legitimate right or lien for any other claim lenders may have against borrowers.

General

- Lenders should restrain from interference in the affairs of the borrowers except for what is provided in the terms and conditions of the loan sanction documents and they should not discriminate on grounds of sex, caste and religion in the matter of lending.
- Decision on request for transfers either from the borrower or from a bank/financial institution, which proposes to take- over the account, should be conveyed within 21 days from the date of receipt of request.

Engaging Recovery Agents by banks

- Banks should have a due diligence process in place for engagement of recovery agents.

- Banks should inform the borrower the full details of the Recovery Agency Firm/companies while forwarding cases to the recovery agency.
- The notice and the authorization letter should, among other details, also include the telephone numbers of the relevant recovery agency.
- The up to date details of the recovery agency firms / companies engaged by banks may also be posted on the bank's website.
- Each bank should have a mechanism whereby the borrowers' grievances with regard to the recovery process can be addressed.

Training for Recovery Agents

- RBI has requested the IBA to formulate, in consultation with Indian Institute of Banking and Finance (IIBF), a certificate course for Direct Recovery Agents with minimum 100 hours of training. Banks are required to ensure that over a period of one year all their Recovery Agents undergo the above training and obtain the certificate from the above institute.
- The service providers engaged by banks should also employ only such personnel who have undergone the above training and obtained the certificate from the IIBF. Other institutes/ bank's own training colleges are also permitted to provide the training to the recovery agents by having a tie-up arrangement with IIBF and every agent will have to pass the examination conducted by IIBF all over India.

Complaints against the bank / its recovery agents

- Banks, as principals, are responsible for the actions of their agents. Hence, they should ensure that their agents engaged for recovery of their dues should strictly adhere to the RBI guidelines and instructions, including the BCSBI Code, while engaged in the process of recovery of dues.
- RBI may impose penalty including imposing ban on banks in engaging Recovery Agents in case of any complaints received regarding violation of the above guidelines and adoption of abusive practices followed by banks' recovery agents.

Use of forum of Lok Adalats

- Banks are encouraged to use the forum of Lok Adalats for recovery of personal loans, credit card loans or housing loans with less than Rs.10 lakh as suggested by the Honorable Supreme Court.

Utilization of credit counselors

- Banks are encouraged to put in place an appropriate mechanism to utilize the services of the credit counselors for providing suitable counseling to the borrowers where it becomes aware that the case of a particular borrower deserves sympathetic consideration.

SOURCE: RBI M. CIR.

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