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Preface

The current economy is gaining traction, marked by steady growth and controlled inflation. The Reserve Bank of India ("RBI") is now focused on the problem of Non-performing loans, which continues to be a major challenge for the banking sector in India.

The regulators focus has since been on rationalizing the provisioning norms, simplifying and clarifying the rules related to securitization. Further, the looming Federal Reserve rate hikes and the trouble in the Eurozone have kept the Indian financial markets volatile. Withdrawal of the funds from India by the Foreign Portfolio Investors, both from the equity and bond market, has led to further weakening of the Rupee.

The RBI has issued guidelines, to act as a counter measure, by allowing the cancellation and re-booking of Foreign Currency - INR swaps and also by issuing guidelines related to the Exchange Trade Currency Derivative markets. The RBI has introduced revised guidelines and framework administering the compliance function in banks with an expectation and approach of the risk based supervision regime.

The government has been assertive on financial inclusion and also social security schemes by rolling out mass health insurance initiatives with help of the banks and in its aid, RBI has issued guidelines to that extent.

Upon uncovering of major frauds in the banking sector over the past one year, RBI has issued a guideline mandating certain key employees posted in sensitive positions to take mandatory block leaves without any notice.

With the Federal Reserve expected to hike rates by end of this year, the dollar value has been strengthened against all of the major currencies. A sharp decline in the crude prices in past few years, has resulted in significant improvement in the global growth of the economy with both Eurozone and Japan reporting an increase in the GDP. China on the other hand, has been struggling and has been planning on adopting the policy *"The Impossible Trinity"* (i.e. having a fixed exchange rate, an independent monetary policy and an open capital account).

India on the other hand seems to have faced several challenges. However, the Indian economy has shown favorable signs of improvement and inflation has been kept under wraps by implementing necessary checks and controls. The favorable fiscal deficit is on account of sharp fall in the crude price index, resulting in tremendous pressure on the central bank to reduce the policy rates, thus paving a way forward for double digit growth in the economy. However, with the possibility of 'El-nino' and the forecast of deficit monsoon in current year, this may lead to increase in food inflation, thus placing the central bank in a dilemma on whether to increase or reduce policy rates.

Compliance Function in Banks – A special Feature Article

Compliance Function In Banks

The initial efforts of setting up the Compliance function in banks in India was carried out by the central bank by setting up the Ghosh Committee which came up with recommendations relating to the processes to be followed and its structure.

Basel committee on Banking Supervision set out guidelines released in April 2005 to address the supervisory issues and to enhance the sound business practices in banks. The Reserve bank of India issued the circular Compliance Function in banks back in April 2007, it was the first such effort made by the central bank to bring the Compliance function in banks to the forefront.

With the rising increase in complexities and sophistication of banking business, there was a need for setting up an independent compliance function which will look at the business of the bank independently. Further, with the increased focus on Anti money laundering controls, curb on terrorist funding and increase in regulatory scrutiny around the world in line with complicated regulations issued by various banking regulators across the world.

Compliance function has become one of the most crucial departments in the banks. Globally, banks are trying to make their compliance function as independent as possible from its business and are trying to attract best talent to lead them through the challenging regulatory environment. With the Global financial crises, major scandals such as 'London Whale' and FX rate probe globally, banks around the world are spending big to ensure their compliance function is well equipped. Compliance functions are no longer a post sanction job in banks but are part of decision making, whether it is launching a new product or how to deal with new regulatory challenges.

RBI has traditionally kept banks under the tight rope by issuing various notifications, circular and master circulars from time to time, to guide the banks in India, especially the PSU banks in the wake of increasing competition from the MNC banks and also to keep a level playing field and to guide the local banks to the achieve standards of the MNC banks.

With the issuance of the guidelines in 2007, RBI has tried to put a bare minimum set of standards that need to be followed by the banks related to the compliance function. The Reserve Bank of India used to conduct Annual Financial Inspection (AFI) of the banks which was based on the CAMEL approach. The CAMEL rating system was first introduced in the 1980s by the US supervisory authorities to rate the US banks during the course of on-site inspection. CAMEL is a ratio-based model used to evaluate the performance of banks with the help of different criteria, viz. Capital Adequacy, Asset Quality, Management Quality, Earnings and Liquidity. The earlier circular covered all aspects as per CAMEL approach. However, with RBI adopting the Risk based supervision framework, they felt the need to oversee a few additional aspects more incisively. Hence, RBI came up with a circular on March 4, 2015, covering additional aspects which would need to be tested and reviewed by the compliance function in banks.

The Central Bank expects all Chief Compliance Officers' of the banks to ensure compliance at all times with all the specified guidelines issued by RBI. Banks are required to enable a system which ensures that all the regulatory guidelines are covered by them by setting up an exhaustive compliance framework which is able to identify any potential breaches and remedy them up front. RBI will cover all of this aspects specifically in its RBS framework and evaluate risk scores of the bank accordingly.

Further, RBI has advised banks to ensure that audit function and compliance function of the banks should be kept separate to ensure that there is no room for conflict of interest and activities of the compliance function are subject to an independent review. Board/ Audit Committee/ Board level committees/ Internal audit should regularly review compliance functions in strict accordance with extant guidelines on the subject.

Compliance Functions In Banks

Compliance failures may be reviewed by Boards/Management Committees and appropriate remedial measures may be taken.

Banks should ensure that the compliance department is adequately staffed at all times. Banks should ensure that appropriate succession plans are in place so that the post of Chief Compliance Officer is not vacant. Banks are required to notify the Central Bank about the appointment/change of the Chief Compliance Officer. Compliance structure, set-up of compliance Department, appointment of compliance officers etc. may strictly be done in accordance with the guidelines.

RBI has been placing a lot of emphasis on banks' adherence and compliance with MAP/RMP prescribed pursuant to the Annual Financial Inspection/Risk Based Supervision process. Compliance units may specifically devise a time-bound strategy to ensure that compliance on all specified points is achieved within the time frame. Further compliance department in banks may evaluate the compliance risk in each business line at periodical intervals and put up the results to the Board/Management Committee for their corrective action.

Further RBI has directed the banks to submit the AFI/RBS inspection reports only after a copy of the same is submitted to the Chief Compliance Officer of the bank for his information. Banks are encouraged to promote the compliance culture amongst its staff. Banks should ensure continuous and mandatory training to all staff on compliance aspects and ensure appropriate disciplinary measures through staff accountability framework/ policies for non-compliance etc. The circular also states that in view of the increased focus on compliance review in RBI's supervisory processes, a comprehensive compliance plan complete with compliance testing and review structures should be implemented by banks.

Our point of view on key RBI guidelines issued in April 2015

Provisioning pertaining to Fraud Accounts

RBI Circular Reference: RBI/2014-15/535
DBR.No.BP.BC.83/21.04.048/2014-15

Date of Notification: April 01, 2015

Applicable Entities: All Scheduled Commercial Banks (Excluding Regional Rural Banks)

Background & Objective

Based on the Indian Penal Code provisions, RBI norms classify fraud in seven categories -- misappropriation and criminal breach of trust, fraudulent encashment through forged instruments/manipulation of books of account or through fictitious accounts and conversion of property, unauthorized credit facilities extended for reward or for illegal gratification, negligence and cash shortages, cheating and forgery, and irregularities in foreign exchange transactions.

In conformity with the prudential norms, Reserve Bank of India had from time to time directed the banks to keep provisions with respect to the non-performing assets on the basis of classification of assets into prescribed categories. Further, taking into account the time lag between an account becoming doubtful of recovery, its recognition as such, the realization of the security and the erosion over time in the value of the security charged to the bank, the bank should make the provisions against substandard assets, doubtful assets and loss assets.

The RBI, in its Master Circular on Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances dated July 1, 2014, provided guidelines with respect to provisioning of such loan accounts where there is erosion in the value of security/the banks have knowledge that the fraud is been committed by borrowers. Alarmed by the growing number of fraud cases in the banking system, the Reserve Bank of India (RBI) has told lenders to make 100 per cent provisioning for such accounts if a wrongdoing is detected.

Key directives issued by RBI

Uniform provisioning norm in respect of all cases of fraud, as under :
The entire amount due to the bank (irrespective of the quantum of security held against such assets), or for which the bank is liable (including in case of deposit accounts), is to be provided for over a period not exceeding four quarters commencing with the quarter in which the fraud has been detected;

However, where there has been delay, beyond the prescribed period, in reporting the fraud to the Reserve Bank, the entire provisioning is required to be made at once. In addition, Reserve Bank of India may also initiate appropriate supervisory action where there has been a delay by the bank in reporting a fraud, or provisioning there against.

Implications

- The following action need to be taken by the banks to give effect to the guidelines issued under this circular:

- Banks would need to modify their credit policy/Accounting policy to give effect to the norms as per this circular with respect to provisioning of accounts suspected of frauds.

- The entire amount due to the bank (irrespective of the quantum of security held against such assets), or for which the bank is liable (including in case of deposit accounts), is to be provided for over a period not exceeding four quarters commencing with the quarter in which the fraud has been detected

- Where there has been delay, beyond the prescribed period, in reporting the fraud to the Reserve Bank, the entire provisioning is required to be made at once. In addition, Reserve Bank of India may also initiate appropriate supervisory action where there has been a delay by the bank in reporting a fraud, or provisioning there against.

Revision of interest rates for Small Savings Schemes

RBI Circular Reference: RBI/2014-15/536 IDMD DGBA).CDD.No.4521/15.02.001/201415

Date of Notification: April 01,2015

Applicable Entities: All PSU Banks

Background & Objective

Interest rates applicable on small savings schemes are usually reset by the government at the start of each financial year (FY). This year, too, rates have been revised for two products, effective 1 April 2015—Sukanya Samriddhi Account and Senior Citizens Savings' Scheme. Interest rate on the newly introduced Sukanya Samriddhi Account has been raised from 9.1% to 9.2% per annum for 2015-16 (FY16).

The other scheme for which the interest rate has been raised for FY16 is Senior Citizens Savings' Scheme (SCSS). The rate has been raised from 9.2%, which was applicable in FY15, to 9.3% for FY16.

Interest rate on other small savings schemes, such as five-year time deposit, remains unchanged at 8.5% per annum for the new FY as well. Interest rate for post office monthly income scheme remains at 8.4%. The 5- and 10-year National Savings Certificate will continue to provide 8.4% and 8.8% return, respectively. Public Provident Fund and Kisan Vikas Patra will also continue to earn 8.7% per annum for this year.

Key directives issued by RBI

Banks are required to circulate the revision in the Interest rates and may be brought to the notice of the branches of your bank operating the PPF 1968, SCSS 2004, Kisan Vikas Patra & Sukanya Samriddhi Account Schemes.

These should also be displayed on the notice boards of your branches for information of the subscribers to these Schemes

Implications

No significant increase in the interest rate of the small saving schemes has been highlighted as compared to the previous year interest rates.

A 10 basis point increase across certain saving schemes namely 5 year, SCSS 2004 (9.2%, which was applicable in FY15, to 9.3% for FY16) and Sukanya Samriddhi Account Schemes has been effective from April 01, 2015, thus leaving a minimal impact on the cash management system. while the interest rates on the other small saving schemes like PPF, Kisan Vikas patra remains unchanged.

Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances – Refinancing of Exposures to Borrowers

RBI Circular Reference: RBI/2014-15/539 DBR.No.BP.BC.85/21.04.048/2014-15

Date of Notification: April 06, 2015

Applicable Entities: All Scheduled Commercial Banks (Excluding Regional Rural Banks)

Background & Objective

RBI wide circulars DBOD. No.BP.BC. 107/ 21.04.048 /2013-14 dated April 22, 2014 and A.P. (DIR Series) Circular No.129 dated May 9, 2014,issued instructions wherein, Indian companies are not permitted to raise external commercial borrowings (ECB) from overseas branches / subsidiaries of Indian banks for the purpose of refinance / repayment of the rupee loans raised from the domestic banking system.

Further, in terms of the circular dated April 22, 2014, RBI advised the banks that utilisation of export advances, received on the strength of guarantees issued by Indian banks, for repayment of loans availed of from Indian banks (except in cases where banks have received approvals under the Foreign Exchange Management Act 1999) is not in compliance with RBI instructions.

In this connection, in terms of instructions contained in A.P. (DIR Series) Circular No.132 dated May 21, 2014 on 'Export of Goods - Long Term Export Advances', eligible exporters were allowed to receive long term export advance to be utilized for execution of long term supply contracts for export of goods.
Such exporters were also allowed to use such export advances to liquidate rupee loans which are not classified as non-performing assets as per the Reserve Bank of India asset classification norms, subject to certain conditions.

Further their have been cases where borrowers have used the facility of long term export advances to refinance the rupee loans instead of using the same for execution of long term supply contracts for export of goods. Hence via this circular, RBI has issued instructions to stop such practices.

Key directives issued by RBI

Further, in terms of the circular dated April 22, 2014, it was advised that utilisation of export advances, received on the strength of guarantees issued by Indian banks, for repayment of loans availed of from Indian banks (except in cases where banks have received approvals under the Foreign Exchange Management Act 1999) is not in compliance with our instructions. In this connection, in terms of instructions contained in A.P. (DIR Series) Circular No.132 dated May 21, 2014 on 'Export of Goods - Long Term Export Advances', eligible exporters were allowed to receive long term export advance to be utilized for execution of long term supply contracts for export of goods. Such exporters were also allowed to use such export advances to liquidate rupee loans which are not classified as non-performing assets as per the Reserve Bank of India asset classification norms, subject to certain conditions.
In this connection, it is reiterated that export performance guarantees, where permitted to be issued, shall strictly be in the nature of performance guarantee and shall not contain any clauses which may in effect allow such performance guarantees to be utilised as financial guarantees/Standby Letters of Credits.

Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances

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Key directives issued by RBI (Contd..)

It has been observed that the facility of long term export advances is primarily being utilised for refinancing rupee loans of borrowers instead of being used for execution of long term supply contracts for export of goods. In order to ensure that long term export advances are used for the intended purpose, it is advised that while eligible Indian companies may continue to avail of the facilities available to them under the guidelines mentioned in the above paragraphs, any repayment/refinancing of rupee loans with foreign currency borrowings/export advances, where permitted, will be subject to the following conditions:

a) If the foreign currency borrowings/export advances, where permitted under the guidelines issued under the Foreign Exchange Management Act, 1999 (42 of 1999), are obtained from lenders who are not part of the Indian banking system (Indian banking system would include all banks in India and overseas branch/subsidiary/joint venture of Indian banks) without any support from the Indian banking system in the form of Guarantees/Standby Letters of Credit/Letters of Comfort etc., the same may be utilised to refinance/repay loans availed from the Indian banking system.

b) If the foreign currency borrowings/export advances are obtained: from lenders who are part of Indian banking system (where permitted); or with support (where permitted) from the Indian banking system in the form of Guarantees/Standby Letters of Credit/Letters of Comfort, etc.; then, in addition to any applicable guidelines issued under the Foreign Exchange Management Act, 1999 (42 of 1999), the refinance shall be treated as 'restructuring' (and classified/provided for as per extant prudential norms on income recognition, asset classification and provisioning), if the above borrowings/export advances are extended to a borrower who is under financial difficulty and involve concessions that the bank would otherwise not consider

Implications

- Export performance guarantees issued by the banks shall strictly be in the nature of performance guarantee and shall not contain any clauses which may in effect allow such performance guarantees to be utilised as financial guarantees/Standby Letters of Credits.

- Banks may amend its policy to include the following RBI directions related to long term export advance:

- If the foreign currency borrowings/export advances, where permitted under the guidelines issued under the Foreign Exchange Management Act, 1999 (42 of 1999), are obtained from lenders who are not part of the Indian banking system (Indian banking system would include all banks in India and overseas branch/subsidiary/joint venture of Indian banks) without any support from the Indian banking system in the form of Guarantees/Standby Letters of Credit/Letters of Comfort etc., the same may be utilised to refinance/repay loans availed from the Indian banking
- If the foreign currency borrowings/export advances are obtained from lenders who are part of Indian banking system (where permitted); or with support (where permitted) from the Indian banking system in the form of Guarantees/Standby Letters of Credit/Letters of Comfort, etc.; then, in addition to any applicable guidelines issued under the Foreign Exchange Management Act, 1999 (42 of 1999), the refinance shall be treated as 'restructuring' (and classified/provided for as per extant prudential norms on income recognition, asset classification and provisioning), if the above borrowings/export advances are extended to a borrower who is under financial difficulty and involve concessions that the bank would otherwise not consider.

Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances Projects Under Implementation – Change in Ownership

RBI Circular Reference: RBI/2014-15/538 DBR.No.BP.BC.84/21.04.048/2014-15

Date of Notification: April 06, 2015

Applicable Entities: All Scheduled Commercial Banks

Background & Objective

As per Sixth Bi-Monthly Monetary Policy Statement, 2014-15, the following instructions were issued by the central bank with respect to delay in implementation of large complex projects due to change in the ownership: "At present, implementation of large projects is complex and unforeseen events may cause delays in project implementation, leading to failure in achieving the originally envisaged date of commencement of commercial operations (DCCO). The Reserve Bank has allowed vide circulars dated March 31, 2010 and May 30, 2013, certain flexibility with regard to loans to projects under implementation, wherein DCCO of the projects under implementation along with repayment schedules for such loans are allowed to be shifted to a certain extent without adversely affecting the asset classification of such loans. However, in the case of projects which have been stalled primarily due to inadequacies of the current promoters/ management, a change in ownership and management may be required to revive the project. In this context, the new promoters/ developers may require additional time to revive/complete the stalled projects. In order to facilitate change in ownership and revival, it has been decided to provide further flexibility by allowing a further extension of the DCCO of such projects where a change of ownership takes place, without adversely affecting the asset classification of loans to such projects, subject to certain conditions."

Key directives issued by RBI

In the case of projects which have been stalled primarily due to inadequacies of the current promoters, a change in ownership/management may be required to revive the project. However, the new promoters/developers may require additional time to revive/complete the stalled projects. It has been decided that in cases where, in the assessment of the banks, the implementation of the project has been stalled primarily due to inadequacies of the existing promoters and a subsequent change in the ownership of the borrowing entity has been effected, banks may permit extension of DCCO up to a further period of two years, in addition to the extension of DCCO permitted under existing regulations.

Implications

The key changes suggested by the RBI under this circular are as under:

- If in the assessment of the banks, the implementation of the project has been stalled primarily due to inadequacies of the existing promoters and a subsequent change in the ownership of the borrowing entity has been effected, banks may permit extension of DCCO up to a further period of two years, in addition to the extension of DCCO permitted under existing regulations
- In terms of extant instructions contained in the circulars DBOD.No.BP.BC.85/ 21.04.048/2009-10 dated March 31, 2010 and DBOD.BP.BC. No.99/21.04.132/2012-13 dated May 30, 2013, revisions of the date of DCCO and consequential shift in repayment schedule for equal or shorter duration (including the start date and end date of revised repayment schedule) will not be treated as restructuring provided that

Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances Projects Under Implementation – Change in Ownership

(Contd..)

- The revised DCCO falls within the period of two years and one year from the original DCCO stipulated at the time of financial closure for infrastructure projects and non-infrastructure projects respectively; and

- All other terms and conditions of the loan remain unchanged

- Further, in terms of extant instructions quoted at paragraph 1 above, banks may restructure such loans, subject to the extant prudential norms on restructuring of advances, by way of revision of DCCO beyond the time limits quoted at paragraph 1(a) above and retain the 'standard' asset classification, if the fresh DCCO is fixed within the following limits, and the account continues to be serviced as per the restructured terms:

a) Infrastructure Projects involving court cases- up to another two years (beyond the two year period quoted at paragraph 2(a) above, i.e., total extension of four years), in case the reason for extension of DCCO is arbitration proceedings or a court case

b) Infrastructure Projects delayed for other reasons beyond the control of promoters -Up to another one year (beyond the two year period quoted at paragraph 2(a) above, i.e., total extension of three years), in case the reason for extension of DCCO is beyond the control of promoters (other than court cases)

c) Project Loans for Non-Infrastructure Sector (Other than Commercial Real Estate Exposures)-Up to another one year (beyond the one year period quoted at paragraph (a) above, i.e., total extension of two years).

- In order to facilitate revival of the projects stalled primarily due to inadequacies of the current promoters, it is advised that if a change in ownership takes place any time during the periods quoted in paragraphs 2 and 3 above or before the original DCCO, banks may permit extension of the DCCO of the project up to two years in addition to the periods quoted at paragraph 2 and 3 above, as the case may be, without any change in asset classification of the account subject to the conditions stipulated in the following paragraphs. Banks may also consequentially shift/extend repayment schedule, if required, by an equal or shorter duration.

- It is clarified that in cases where change in ownership and extension of DCCO (as indicated in paragraph 4 above) takes place before the original DCCO, and if the project fails to commence commercial operations by the extended DCCO, the project will be eligible for further extension of DCCO in terms of guidelines quoted at paragraph 2 and 3 above. Similarly, where change in ownership and extension of DCCO takes place during the period quoted in paragraph 2 (a) above, the account may still be restructured by extension of DCCO in terms of guidelines quoted at paragraph 2 above, without classifying the account as non-performing asset.

Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances Projects Under Implementation – Change in Ownership

(Contd..)

The provisions of paragraphs 4 and 5 above are subject to the following conditions

- Banks should establish that implementation of the project is stalled/affected primarily due to inadequacies of the current promoters/management and with a change in ownership there is a very high probability of commencement of commercial operations by the project within the extended period.

- The project in consideration should be taken-over/acquired by a new promoter/promoter group with sufficient expertise in the field of operation. If the acquisition is being carried out by a special purpose vehicle (domestic or overseas), the bank should be able to clearly demonstrate that the acquiring entity is part of a new promoter group with sufficient expertise in the field of operation.

- The new promoters should own at least 51 per cent of the paid up equity capital of stake in the acquired project. If the new promoter is a non-resident, and in sectors where the ceiling on foreign investment is less than 51 per cent, the new promoter should own at least 26 per cent of the paid up equity capital or up to applicable foreign investment limit, whichever is higher, provided banks are satisfied that with this equity stake the new non-resident promoter controls the management of the project.

- Viability of the project should be established to the satisfaction of the banks

- Intra-group business restructuring/ mergers/ acquisitions and/or takeover/ acquisition of the project by other entities/ subsidiaries/ associates etc. (domestic as well as overseas), belonging to the existing promoter/promoter group will not qualify for this facility. The banks should clearly establish that the acquirer does not belong to the existing promoter group;

- Asset classification of the account as on the 'reference date' would continue during the extended period. For this purpose, the 'reference date' would be the date of execution of preliminary binding agreement between the parties to the transaction, provided that the acquisition/takeover of ownership as per the provisions of law/regulations governing such acquisition/takeover is completed within a period of 90 days from the date of execution of preliminary binding agreement. During the intervening period, the usual asset classification norms would continue to apply. If the change in ownership is not completed within 90 days from the preliminary binding agreement, the 'reference date' would be the effective date of acquisition/takeover as per the provisions of law/regulations governing such acquisition/takeover;

Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances Projects Under Implementation – Change in Ownership

(Contd..)

- The new owners/promoters are expected to demonstrate their commitment by bringing in substantial portion of additional monies required to complete the project within the extended time period. As such, treatment of financing of cost overruns for the project shall continue to be subject to the guidelines prescribed in circular DBOD.No.BP.BC.33/21.04.048/2014-15 dated August 14, 2014. Financing of cost overrun beyond the ceiling prescribed in the circular dated August 14, 2014 would be treated as an event of restructuring even if the extension of DCCO is within the limits prescribed above;

- While considering the extension of DCCO (up to an additional period of 2 years) for the benefits envisaged hereinabove, banks shall make sure that the repayment schedule does not extend beyond 85 per cent of the economic life/concession period of the project; and

- This facility would be available to a project only once and will not be available during subsequent change in ownership, if any.

Loans covered under this guideline would attract provisioning as per the extant provisioning norms depending upon their asset classification status.

Interest Rates on Deposits

RBI Circular Reference: RBI/2014-15/554 DBR.No.Dir.BC.87/13.03.00/2014-15

Date of Notification: April 16,2015

Applicable Entities: All Scheduled Commercial Banks(Excluding RRBs)

Background & Objective

In earlier days, Banks were allowed to offer differential rates of interest on deposits on the basis of tenor for deposits less than ₹ one crore and on the basis of quantum for deposits of ₹ one crore and above. Banks were however, not permitted to differentiate on the basis of any other parameter of the deposit contract.

Furthermore, there was no transparency on what rate of interest a customer would receive if he breaks a term deposit prematurely. Banks did not have a uniform code on charging the penalty on premature withdrawal of fixed deposits.

This had also resulted in asset-liability management issues, especially under the Liquidity Coverage Ratio (LCR) requirement under the Basel III framework.

This guideline have been issued with the objective of having a regularized approach across all the banks for offering term deposits to its customers.

Key directives issued by RBI

It was decided to introduce the feature of early withdrawal facility in a term deposit as a distinguishing feature for offering differential rates of interest. Accordingly, banks will have the discretion to offer differential interest rates based on whether the term deposits are with or without-premature-withdrawal-facility, subject to the following guidelines:
All term deposits of individuals (held singly or jointly) of ₹ 15 lakh and below should, necessarily, have premature withdrawal facility.
For all term deposits other than (i) above, banks can offer deposits without the option of premature withdrawal as well. However, banks that offer such term deposits should ensure that at the customer interface point the customers are, in fact, given the option to choose between term deposits either with or without premature withdrawal facility.
Banks should disclose in advance the schedule of interest rates payable on deposits i.e. all deposits mobilized by banks should be strictly in conformity with the published schedule.
The banks should have a Board approved policy with regard to interest rates on deposits including deposits with differential rates of interest and ensure that the interest rates offered are reasonable, consistent, transparent and available for supervisory review/scrutiny as and when required.

Implications

Early Withdrawal Facility which was introduced by RBI for term deposits as part of its sixth Bimonthly Monetary Policy Statement- 2014-15 on February 3, 2015, banks will now have to follow the below guidelines:

- Banks need to ensure that all term deposits of individuals (held singly or jointly) of ₹ 15 lakh and below should, necessarily, have premature withdrawal facility. Hence banks would need to modify the terms and conditions for the such deposits.

- For all term deposits other than (i) above, banks can offer deposits without the option of premature withdrawal as well. However, banks that offer such term deposits should ensure that at the customer interface point the customers are, in fact, given the option to choose between term deposits either with or without premature withdrawal facility.

- Banks should disclose in advance the schedule of interest rates payable on deposits i.e. all deposits mobilized by banks should be strictly in conformity with the published schedule.

- The banks should have a Board approved policy with regard to interest rates on deposits including deposits with differential rates of interest and ensure that the interest rates offered are reasonable, consistent, transparent and available for supervisory review/scrutiny as and when required.

Mandatory Leave for Employees Posted in Sensitive Positions or Areas of Operation

RBI Circular Reference: RBI/2014-15/563 DBR.No.BP.BC.88/21.04.048/2014-15

Date of Notification: April 23,2015

Applicable Entities: All Scheduled Commercial Banks (Excluding Regional Rural Banks)

Background & Objective

RBI came up with a circular on May 31, 2011, on 'Findings of Forensic Scrutiny- Guidelines for prevention of frauds', wherein banks were advised to immediately put in place 'staff rotation' policy and policy for 'mandatory leave' for staff. However the central bank had not specifically mentioned the departments whose employees should be rotated or go on mandatory leave. The concurrent and internal auditors have been mandated to examine the implementation of such policies. However in the absence of any guidance from the RBI, it was left to the discretion of the banks to formulate the policy and chose the departments which they foresee are more prone to fraud risk.

Key directives issued by RBI

Banks are hereby advised that, as a prudent operational risk management measure, it is imperative that employees posted in sensitive positions or areas of operations (viz., treasury, currency chests, risk modelling, model validation, etc.) are covered under a 'Mandatory Leave' policy wherein such employees are required to compulsorily avail of leave for a few days (say 10 working days) in a single spell every year, during their posting in such areas. The bank should also identify such highly sensitive positions where the bank will, without any prior intimation, advise the employee to be away from his desk for a specified number of working days each year. While the employee is on 'mandatory leave' or asked to be away from his desk as above, it should be ensured that he does not have access to any physical or virtual resources related to his work responsibilities, with the possible exception of corporate email.
Banks should immediately put the above arrangements in place, if not already done, and implement the same without fail. An exhaustive list of sensitive positions or areas of operations to be covered under 'mandatory leave' and under 'away from desk' requirement, may be decided as per the bank's own policy duly approved by the Board of Directors or committee of the Board, and the incumbents of these positions should be kept aware of the above requirements. Implementation of such policy would be covered under the Pillar 2 review of banks' risk management system by the Reserve Bank of India.

Implications

- Banks would need to modify their mandatory leave policy and get it approved from the board to specifically cover the employees posted in sensitive positions or areas of operations (viz., treasury, currency chests, risk modelling, model validation, etc.) and ensure that they compulsorily avail of leave for a few days (say 10 working days) in a single spell every year, during their posting in such areas.
- The bank should also identify such highly sensitive positions where the bank will, without any prior intimation, advise the employee to be away from his desk for a specified number of working days each year.
- The policy should specifically cover that while the employee is on 'mandatory leave' or asked to be away from his desk as above, it should be ensured that he does not have access to any physical or virtual resources related to his work responsibilities, with the possible exception of corporate email.
- An exhaustive list of sensitive positions or areas of operations to be covered under 'mandatory leave' and under 'away from desk' requirement, may be decided as per the bank's own policy duly approved by the Board of Directors or committee of the Board, and the incumbents of these positions should be kept aware of the above requirements. Implementation of such policy would be covered under the Pillar 2 review of banks' risk management system by the Reserve Bank of India.
- Concurrent/internal audit report should cover the compliance with such policy and any non compliance should be reported by them in their reports.

Acquisition of Accommodation on Lease/Rental basis by Commercial Banks for their use (i.e. for Office and Residence of Staff) – Liberalization of guidelines

RBI Circular Reference: RBI/2014-15/582 DBR.No.BAPD.BC.92/22.01.003/2014-15

Date of Notification: April 30, 2015

Applicable Entities: All Commercial Banks (including RRBs)

Background & Objective

Banks had been advised via notification DBOD. No. BL.BC. 32/22.01.03/2008-09 to ensure that all their branches/offices are operating from premises which have a subsisting and valid lease agreement, free of any disputes between the bank and the landlords concerned. Also, banks have been given the liberty of opening branches at any place in India without seeking prior approval of RBI.

Banks were also advised to report the list of their branches / offices, that are operating in premises in respect of which a dispute is pending with the landlord, to the Regional Director(RD) of Reserve Bank of India concerned (i.e., RD of the Regional Office of RBI under whose jurisdiction the branch/office in respect of which a dispute is pending is functioning), to enable RBI to take a view on the appropriateness or otherwise of continuing the authorization for the branch/office which is functioning in a 'disputed' premises.

Further, banks were also required to furnish quarterly progress reports (as at the end of March, June, September and December) in the same format to the RD of the Regional Office of RBI concerned, within a period of one month from the close of the respective quarter to which the report relates to.

Further liberalizing the process, RBI has decided to remove the necessity of submitting the periodic statements related to the disputed premises to the Regional Directors of RBI. Banks have also been given the liberty to decide their own procedures for acquisition of accommodation on lease/rental basis.

Key directives issued by RBI

In keeping with the current liberalized environment with regard to opening of branches, it has been decided to do away with the periodic statements on disputed premises to the Regional Directors of RBI or to Department of Banking Regulation, Central Office

Banks are advised that norms and procedures for acquisition of accommodation on lease / rental basis by commercial banks for their use are left to be determined by the banks themselves. Banks must ensure that their branches are not functioning from premises unauthorized in law.

Further, banks are advised that the legitimate grievances of owners of property leased to the bank should be examined at appropriately senior level in the bank and expeditious action should be taken to redress such grievances.

Acquisition of Accommodation on Lease/Rental basis by Commercial Banks for their use (i.e. for Office and Residence of Staff) – Liberalization of guidelines
(Contd..)

Implications

Banks need to devise their own norms and procedures for acquisition of accommodation on lease/rental basis. A proper policy procedure relating to such acquisition needs to be incorporated by all banks.

Such liberty in acquisition promotes branch expansion and will help the banks to take advantage of factors like low cost branches and virtual banking etc.

While acquiring any such property, banks need to consider that the branches are not functioning on any premises which are unauthorized by law.

Also, in case of disputed lands, the appropriate senior level authorities in the bank should handle the grievances of the owners of the disputed leased property to avoid any hindrances in the functioning of the bank.

Our point of view on key RBI guidelines issued in March 2015

Guidelines on Managing Risks and Code of Conduct in Outsourcing of Financial Services by Banks

RBI Circular Reference: RBI/2014-15/497 DBR.No.BP.BC.76/21.04.158/2014-15

Date of Notification: March 11, 2015

Applicable Entities: All Scheduled Commercial Banks (excluding RRBs)

Background & Objective

RBI has reiterated that outsourcing of any activity by the bank does not diminish its obligations, and those of its Board and senior management, who have the ultimate responsibility for the outsourced activity.

They had advised Banks to take measures to ensure that the service provider employs the same high standard of care in performing the services as would be employed by the banks, if the activities were conducted within the banks and not outsourced.

Further, RBI had also communicated, that banks should not engage in outsourcing that would result in their internal control, business conduct or reputation being compromised or weakened.

Key directives issued by RBI

Banks have been advised to take steps to ensure that the service provider employs the same high standard of care in performing the services as would be employed by the banks, if the activities were conducted within the banks and not outsourced. Further, banks should not engage in outsourcing that would result in their internal control, business conduct or reputation being compromised or weakened.

Instances of non adherence with the aforementioned guidelines have been observed with regard to subcontracting by the primary outsourced vendors and the engagement of subcontractors by the outsourced service providers without the prior consent of the bank.

Outsourcing contract should provide for prior approval/ consent by the bank of the use of subcontractors by the service provider for all or part of an outsourced activity. Before giving their consent, banks should review the subcontracting arrangements and ensure that these arrangements are compliant with the extant guidelines on outsourcing.

Certain cases, like outsourcing of cash management, might involve reconciliation of transactions between the bank, the service provider and its sub-contractors. In such cases, banks should ensure that reconciliation of transactions between the bank and the service provider (and/ or its subcontractor), are carried out in a timely manner.

An ageing analysis of entries pending reconciliation with outsourced vendors should be placed before the Audit Committee of the Board (ACB) and banks should make efforts to reduce the old outstanding items therein at the earliest.

Guidelines on Managing Risks and Code of Conduct in Outsourcing of Financial Services by Banks

(Contd..)

Implications

RBI has clarified that the guidelines on outsourcing also applies to subcontracted activities which have been outsourced by the outsourced service provider.

Further, the outsourcing contract with the service provider should provide for prior approval/ consent by the bank of the use of subcontractors by the service provider for all or part of an outsourced activity. Before giving the consent on subcontracting, Banks should review the subcontracting arrangements and ensure that these arrangements are compliant with the extant guidelines on outsourcing.

RBI has stated that certain cases, like outsourcing of cash management, might involve reconciliation of transactions between the bank, the service provider and its sub-contractors. In such cases, Banks should ensure that reconciliation of transactions between the bank and the service provider (and/ or its subcontractor)are being carried out in a timely manner.

Banks should present to their Audit Committee of the Board (ACB), an ageing analysis of entries pending reconciliation with outsourced vendors and should make an effort to reduce the old outstanding items therein at the earliest.

The Bank should incorporate a robust system of internal audit of all outsourced activities and the same should be monitored by the ACB of the Bank.

Guidelines on Sale of Financial Assets to Securitisation Company(SC)/Reconstruction Company (RC) and Related Issues

RBI Circular Reference: RBI/2014-15/496 DBR.No.BP.BC.75/21.04.048/2014-15

Date of Notification: March 11,2015

Applicable Entities: All Scheduled Commercial Banks (Excluding Local Area Banks and Regional Rural Banks)

Background & Objective

In its circular issued in February 2014, the Reserve Bank of India had permitted banks to reverse the excess provision in cases where the cash received exceeded the net book value of the asset, in the year in which the amounts had been received. These provisions were however, applicable only for assets sold on/after February 26, 2014.

The RBI has now allowed such lenders to reverse the excess provision, on sale of bad loans, to their profit and loss account, provided the transaction has taken place prior to February 26, 2014.

The central bank had on the February 3, 2014 said that it would issue the final guidelines on this front after banks requested it to include the provision to those sales took place before February 26, 2014, as well.

It also made it mandatory for banks to report the quantum of such excess provision reversed to the profit and loss account in the financial statements of the bank under 'notes to accounts.'

Key Directives Issued by RBI

Banks can reverse the excess provision on sale of NPAs, if the sale value is for a value higher than the net book value (NBV), to their profit and loss account in the year the amounts are received.

And re-iterates that banks can reverse excess provision arising out of sale of NPAs only when the cash received (by way of initial consideration and/or redemption of security receipts/pass through certificates) is higher than the NBV of the NPAs sold to SCs/RCs. Further, the quantum of excess provision reversed to profit and loss account will be limited to the extent to which cash received exceeds the NBV of the NPAs sold.

The quantum of excess provision reversed to the profit and loss account on account of sale of NPAs shall be disclosed in the financial statements of the bank under 'Notes to Accounts'.

Implications

The move is aimed at incentivizing banks to recover appropriate value in respect of NPAs (non-performing assets).

Almost all banks, including private sector players, have been reporting higher NPAs and lower profits as they have to make additional provisions for bad loans, which crossed 5.5 per cent as at the end of December 2014. Together with restructured loans, the total pain on the system is close to 12 per cent. Bad loans in public sector banks more than tripled to about Rs.2.17 lakh crore in three years to March, 2014.

The new guidelines, that have extended the sale period prior to February, 2014, will help banks report better numbers and, thus, take a little pain off their back. From April 1, banks will have to make full provision — 5 per cent of the bad asset — if they have restructured the loan, and the entire amount if the asset in corporate debt restructuring (CDR) turns bad.

Thus, from a broader perspective, banks will be able to report better profitability in their operations and reduce the burden of bad loans.

Acquisition/transfer of immovable property – Prohibition on citizens of certain countries

RBI Circular Reference: RBI/2014-15/495 A.P.(DIR Series) Circular No.83

Notification No. FEMA. 335/2015-RB

Date of Notification: March 11,2015

Applicable Entities: All Category – I Authorised Dealer Banks

Background & Objective

As per regulation 7 of Foreign Exchange Management (Acquisition and Transfer of immovable property in India) a person who is a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan is prohibited from acquiring or transferring immovable property in India, other than lease of property upto a period of five years, without taking prior permission from Reserve Bank of India. The said regulation was issued on May 17, 2000.

However the said regulation did not cover citizens staying in Macau and Hong Kong. Since these regions are special administrative zones covered under the control of Peoples Republic of China, many Chinese corporates as well as individuals have shifted their base to these regions over the past decade. This may have resulted in citizens of these regions freely investing in the property situated in India, without taking approval from RBI. This was perceived as a security threat to the sovereignty of the Indian Republic by the Government and securities agencies.

Hence, The Reserve Bank of India in consultation with the Government has issued this notification banning the investment by the citizens of Macau and Hong Kong in the immovable property situated in India.

Key directives issued by RBI

No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal or Bhutan without prior permission of the Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding five years.

Citizens of Macau and Hong Kong will also be included in the list of countries which are prohibited to acquire/transfer immovable property in India in terms of Regulation 7 of FEMA ibid. Authorised Dealers may bring the contents of this circular to the notice of their constituents concerned.

Implications

The release of the guideline has the following impact:-

- The citizens of Hong Kong and Macau will not be able to buy/sell property in India without prior approval of the Reserve bank of India. Hence any citizen who already held any property before the issuance of this notification, will have to apply to the Central bank through his authorized dealer bank for entering into sale or purchase transactions. The citizens are allowed to lease property up to a period of 5 years without taking prior approval from the RBI subject to other applicable laws and regulations applicable to them.

- The Authorized dealer bank will have to monitor the flows from these regions and ensure that no sale/purchase of immovable property is taking place without prior approval of the Reserve bank of India. They may obtain a certification from the agent/authorized personnel of such citizens having accounts with them as a record of any immovable asset held by them.

Know your Customer (KYC) guidelines - Accounts of proprietary concerns

RBI Circular Reference: RBI/2014-15/498

DBR.AML.BC.No.77/14.01.001/2014-15

Date of Notification: March 13,2015

Applicable Entities: All Scheduled Commercial Banks Regional Rural Banks/ Local Area Banks / All India Financial Institutions

Background & Objective

RBI's KYC requirements for opening bank accounts of proprietary firms were way too stringent and cumbersome with the result that many proprietary firms were unable to open current accounts at all for starting their businesses.

Proprietary firms are the simplest way of starting any business in India with the opening of current accounts being the first and main step in the process; other requirements such as registrations with tax authorities coming only after some threshold had been reached.

The RBI, later in July 2014, eased its KYC requirements for opening bank accounts for proprietorship firms with the requirement that only of the two documents are required for doing so.

Thus, proprietorship concerns were required to submit any two of the documents like Registration certificates, Certificates/license issued by municipal authorities, Sales and income tax returns, CST/VAT Certificates, Utility bills, etc.

Key directives issued by RBI

In a view to ease the process of opening bank accounts of proprietary concerns in such cases. The default rule is that any two documents, out of those listed in paragraph 2.5 (h) of the Master Circular, should be provided as activity proof by a proprietary concern.

However, in cases where the banks are satisfied that it is not possible to furnish two such documents, they would have the discretion to accept only one of those documents as activity proof. In such cases, the banks, however, would have to undertake contact point verification, collect such information as would be required to establish the existence of such firm, confirm, clarify and satisfy themselves that the business activity has been verified from the address of the proprietary concern.

Implications

Banks may amend their KYC policy to give effect to the following clarifications/amendments made as under:

- Sole Proprietorship concerns need to provide any two documents, out of those listed in paragraph 2.5 (h) of the Master Circular. However, in cases where the bank is satisfied that it is not possible to furnish two such documents, bank would have the discretion to accept only one of those documents as activity proof. In such cases, the banks, however, would have to undertake contact point verification, collect such information as it would be required to establish the existence of such firm, confirm, clarify and satisfy themselves that the business activity has been verified from the address of the proprietary concern.
- Further, the list of registering authorities indicated in paragraph 2.5 (h) of the Master circular is only illustrative, and therefore includes license/certificate of practice issued in the name of the proprietary concern by any professional body incorporated under a statute, as one of the documents to prove the activity of the proprietary concern.

Utilisation of Floating Provisions/ Counter Cyclical Provisioning Buffer

RBI Circular Reference: RBI/2014-15/529

DBR.No.BP.BC.80/21.06.201/2014-15

Date of Notification: March 30, 2015

Applicable Entities: All Scheduled Commercial Banks (Excluding Regional Rural Banks)

Background & Objective

The Countercyclical capital buffer ('CCCB') aims to achieve the broader macro prudential goal of protecting the banking sector from periods of excess aggregate credit growth that have often been associated with the buildup of System wide risk. Countercyclical Capital Buffer ('CCCB'), a macro prudential instrument, is directed to be used as an enabler towards stabilization of financial system and economic cycle. CCCB increases the capital requirements for banks thereby having a secondary effect on reducing the bank lending & help moderate the economic growth and simultaneously preparing banks to be able to continue flow of credit in difficult times to enable effective implementation of monetary policy.

CCCB addressing the problem of banking cyclicality requires the banks to raise capital requirements during relatively better credit environment. The banks operating in a competitive environment with ROE targets, in the period of good credit offtake may not raise capital (i.e. reduce ROE) to be competitive as compared with peer banks.

Therefore, CCCB targets to boost capital in periods of high credit growth and when there is possibility of building up of aggregate vulnerabilities in the banking system. Buffers accumulated in good times can then be released in bad times, helping to absorb losses.

Floating Provisions are a part of profits that are kept for contingencies. These provisions are in excess of what banks are required to make. Banks can use the floating provisions only for contingencies under extra-ordinary circumstances for making specific provisions in impaired accounts after obtaining board's approval and with prior permission of RBI.

These are used only in contingencies or extraordinary times of economic or system-wide downturns.

Key directives issued by RBI

In line with creation and utilisation of 'countercyclical provisioning buffer', wherein RBI had advised that the buffer will be allowed to be used by banks for making specific provisions for non-performing assets, inter alia, during periods of system wide downturn, with the prior approval of RBI.

Banks were allowed to utilise up to 33 per cent of countercyclical provisioning buffer/floating provisions held by them as on March 31, 2013, for making specific provisions for non-performing assets, as per the policy approved by their Board of Directors.

Further to this, it has now been decided, as a counter cyclical measure, to allow banks to utilise up to 50 per cent of countercyclical provisioning buffer/floating provisions held by them as at the end of December 31, 2014, for making specific provisions for non-performing assets,

Implications

With this increase, the banks can better manage the capital raising plan and the NPA provisioning requirements.

This could lower the probable financial impact of losses by using these additional provisions as capital cushions against non-performing assets (NPA).

These provisions could boost profits and improve the balance sheets of the banks by reducing the loss exposure to NPAs.

Prudential Guidelines on Capital Adequacy and Liquidity Standards - Amendments

RBI Circular Reference: RBI/2014-15/529 DBR.No.BP.BC.80/21.06.201/2014-15

Date of Notification: March 31, 2015

Applicable Entities: All Scheduled Commercial Banks (Excluding Regional Rural Banks)

Background & Objective

The amendments to the RBI circular RBI/2012-13/635 relating to liquidity coverage and liquidity risk monitoring tools have been issued by the Reserve Bank of India on 31 March, 2015 as part of the Prudential Guidelines on Capital Adequacy and Liquidity Standards – Amendments – RBI circular RBI/2014-15/529.

A key part of the RBI guideline is the liquidity coverage ratio (LCR) which had been introduced with the primary objective to promote resilience against potential liquidity stress situations over a short-term stress scenario (30-day time horizon) by maintaining a buffer of unencumbered high quality liquid assets.

LCR is calculated as the ratio between stock of High Quality Liquid Assets (HQLA) and net cash outflows over a 30-day horizon.

Key directives issued by RBI

The revisions to LCR incorporate amendments to the definition of high quality liquid assets and assumptions for determining certain outflows and inflows. The definition of high quality liquid assets has now been expanded to include detailed characteristics in order to enable the banks to identify the high quality liquid assets.

Further, the Banks are required to analyze the high quality liquid assets and prove to the RBI whether the identified HQLAs are a reliable source of liquidity in the markets (repo or sale) even during stressed market conditions.

LCR and liquidity monitoring tools will currently be reported on a standalone basis including overseas operations through branches up to January 1st 2016, specifically for India Banks. However, Indian Banks would be required to report the LCR on a consolidated basis from January 1st 2016. Foreign banks with branches in India to continue reporting their LCR standard on a stand-alone basis

Implications

Detailed characteristics of high quality liquid assets (HQLA) – Banks will be required to consider the fundamental characteristics viz. low risk, ease and certainty of value, low correlation with risky assets, the HQLAs should be listed on a recognized exchange. Further the HQLAs would be considered based on the following market related characteristics viz. active and sizeable market, low volatility, flight to quality, central bank eligibility.

Level 2A and 2B assets – HQLA Securities for the purpose of Liquidity coverage ratio computation would be required to have a proven record as a reliable source of liquidity in the markets (repo or sale) even during stressed market conditions.

The RBI has specified a separate logic for determining the same.

Retail term deposits – As per the amendment, banks are permitted to exclude cash outflows related to retail cash outflows with a residual maturity or withdrawal notice period of greater than 30 days if the depositor has no legal right to withdraw deposits within the 30-day horizon of the LCR, or if early withdrawal results in a significant penalty making withdrawal of the same less likely. Further, if a bank allows a depositor to withdraw deposits, which disallow the legal right to withdraw, or waives the applicable penalty for the pre-mature withdrawal the entire category of these funds would then have to be treated as demand deposits.

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Prudential Guidelines on Capital Adequacy and Liquidity Standards – Amendments

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Implications (Contd..)

Unsecured wholesale funding – Banks would be required to include funding from non-natural persons, including sole proprietor or partnership for the purpose of computing unsecured wholesale funding.

Small business customers – For the purpose of LCR computation the definition of small business customers will include the deposits and other extensions of funds made by non-financial small business customers managed as retail exposures by the Bank. In short, the deposit would be treated as a retail account. For the purpose of LCR calculation, a bank may include a deposit where the total aggregate funding raised from the customer is upto INR 5 crores.

Operational deposits – For the purpose of LCR computation banks are required to consider financial and non-financial customers who are required to maintain deposits in order to facilitate their access and ability to use payment and settlement systems or make payments. The amendment clearly defines the functions carried out by a Bank for the purpose of a clearing relationship, custody relationship and cash management relationship. Furthermore, the Bank would be required to ensure that the deposit is a by-product of the underlying services provided by the banking organization and that there is no intention of earning interest income on the same. The deposits should be specifically designated accounts, priced without any economic incentive to the customer.

Secured funding - The LCR definition considers secured funding transactions (SFTs) which are permitted by RBI regulations and relevant acts of law in India viz. repo, reverse repo, CBLOs. Banks will be required to exclude other forms of SFTs such as collateral swaps and lending security for meeting short position of a customer, which prevail in other jurisdictions and not permitted in India.

Other contractual outflows and inflows - Any contractual outflows and inflows occurring during the 30 day horizon such as dividends, contractual interest payments, contractual interest receivables and inflows from fully performing loans will be included. Outflows and inflows related to operating costs would be excluded from LCR computation.

LCR disclosures – The statement of LCR is required to be submitted to the regulator on a monthly basis, however the regulator would require the banks to develop the operational

capacity so as to increase the frequency to weekly or daily is stressed situations. Further, in addition to the quarterly LCR disclosures made in the quarterly financial statements, banks would be required to cover all four quarters of the relevant financial year, as part of their annual published financial statements.

The LCR framework suggested by the RBI in the recent amendment will require banks to significantly invest in improving their data quality and analytics platforms, establish a sound governance structure to oversee optimal maintenance of liquidity reserves and overhaul the fund transfer pricing framework to incorporate the liquidity and funding costs arising from the maintenance of an increased liquidity buffer. The new liquidity management framework is likely to increase lending costs, reduce the level of interbank liquidity and see a major shift towards retail funding in the Indian banking sector.

Risk Management and Inter-bank Dealings: Revised Position Limits for Foreign Portfolio Investors (FPIs) in the Exchange Traded Currency Derivatives (ETCD) market

RBI Circular Reference: RBI/2014-15/527 A.P.(DIR Series) Circular No. 91

Date of Notification: March 31, 2015

Applicable Entities: All Category - I Authorised Dealer banks

Background & Objective

With FPIs pulling out money from Indian capital markets, RBI's move to relax the position limit for FPIs in the Exchange traded Currency Derivative segment will help deepen the foreign market as the FPIs can hedge the currency risks arising out of the market value of their exposure to Indian debt and equity securities.

Also RBI has permitted domestic and foreign investors to take short and long positions in the pound/rupee, euro/rupee and yen/rupee pairs, with an overall ceiling of $ 5 million.

Key directives issued by RBI

FPIs can take position – both long (bought) as well as short(sold) – in foreign currency up to USD 10 million or equivalent per exchange . As a measure of further liberalisation, it has now been decided to increase the limit (long as well as short) for FPIs in USD-INR pair up to USD 15 million per exchange.

In addition, FPIs shall be allowed to take long (bought) as well as short (sold) positions in EUR-INR, GBP-INR and JPY-INR pairs, all put together, up to USD 5 million equivalent per exchange.

Implications

banking With the RBI announcement of liberalization of norms for taking position in exchange-traded currency derivatives, Banks may consider the following:

- Banks must amend the Derivative policy to the extent of limit relaxation and documenting the process to monitor the long as well as short positions limit , all put together, up to USD 5 million equivalent per exchange.

- Banks will be required to put in place a process to monitor the long (bought) as well as short (sold) positions limit, all put together, up to USD 5 million equivalent per exchange

Risk Management and Inter-bank Dealings: Revised Guidelines relating to participation of Residents in the Exchange Traded Currency Derivatives (ETCD) market

RBI Circular Reference: RBI/2014-15/527 A.P.(DIR Series) Circular No. 91

Date of Notification: March 31, 2015

Applicable Entities: All Category - I Authorised Dealer banks

Background & Objective

In order to deepen the exchange trade currency derivative market and improve the participation of the importers and exporters, RBI has liberalized the procedure.

Key directives issued by RBI

Increase in position limits not requiring establishment of underlying exposure Domestic participants are allowed to take a long (bought) as well as short (sold) position up to USD 10 million per exchange. And has to increase the limit (long as well as short) in USD-INR pair up to USD 15 million per exchange.

In addition, domestic participants shall be allowed to take long as well as short positions in EUR-INR, GBP-INR and JPY-INR pairs, all put together, up to USD 5 million equivalent per exchange. These limits shall be monitored by the exchanges and breaches, if any, may be reported. For the convenience of monitoring, exchanges may prescribe fixed limits for the contracts in currencies other than USD such that these limits are within the equivalent of USD 5 million.

Rationalization of documentation requirements for both Importers and Exporters, Instead of the statutory auditor's certificate, a signed undertaking to the same effect from the Chief Financial Officer (CFO) or the senior most functionary responsible for company's finance and accounts and the Company Secretary (CS) may be produced. In the absence of a CS, the Chief Executive Officer (CEO) or the Chief Operating Officer (COO) shall co-sign the undertaking along with the CFO.

Increase in eligible limit for Importers hedging contracted exposure has now been decided to allow importers to take appropriate hedging positions up to 100 per cent of the eligible limit.

Implications

Banks may amend their treasury policy with respect to allowance of hedging via exchange traded currency derivatives offered to importers and exporters:

- Domestic participants are allowed to take a long (bought) as well as short (sold) position up to USD 15 million per exchange now as against USD 10 million per exchange earlier. In addition, domestic participants shall be allowed to take long as well as short positions in EUR-INR, GBP-INR and JPY-INR pairs, all put together, up to USD 5 million equivalent per exchange. These limits shall be monitored by the exchanges and breaches, if any, may be reported. For the convenience of monitoring, exchanges may prescribe fixed limits for the contracts in currencies other than USD such that these limits are within the equivalent of USD 5 million.

Risk Management and Inter-bank Dealings: Revised Guidelines relating to participation of Residents in the Exchange Traded Currency Derivatives (ETCD) market

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Implications (Contd..)

- At present, in terms of paragraphs (2) (b) (iii) and (2) (b) (v) respectively, of the above circular, market participants have to produce a certificate from the statutory auditors as indicated therein. As a measure of liberalization in the ETCD market, it has now been decided that, instead of the statutory auditor's certificate, a signed undertaking to the same effect from the Chief Financial Officer (CFO) or the senior most functionary responsible for company's finance and accounts and the Company Secretary (CS) may be produced. In the absence of a CS, the Chief Executive Officer (CEO) or the Chief Operating Officer (COO) shall co-sign the undertaking along with the CFO.

- With a view to bringing at par both exporters and importers, it has now been decided to allow importers to take appropriate hedging positions up to 100 per cent of the eligible limit as against allowable limit of 50 % earlier.

Our point of view on key RBI guidelines issued in February 2015

Foreign investment in India by Foreign Portfolio Investors

RBI Circular Reference: RBI/2014-15/448
A.P.(DIR Series) Circular No. 71

Date of Notification: February 03, 2015

Applicable Entities: All Authorised Persons

Background & Objective

FPIs are permitted to invest in government securities and Bonds to discourage the volatility in the debt market. The RBI had restricted FPIs from investing in G-Secs having a minimum residual maturity of less than 3 years. No such restrictions' was previously imposed on Bonds issued by corporates.

However, the RBI Governor in the Sixth Bi-Monthly Monetary Policy, dated February 3, 2015, announced, that to bring the conditions prevalent for investment in bonds at par with investments in G-Sec , FPIs would henceforth be permitted to invest in Bonds only with a minimum residual maturity of 3 (three) years.

Key Directives issued by RBI

Attention of AD Category-I banks is invited to the announcement in the Sixth Bi-Monthly Monetary Policy Statement, 2014-15, issued on February 03, 2015 in terms of which all future investment by FPIs in the debt market in India will be required to be made with a minimum residual maturity of three years.
Accordingly, all future investments by an FPI within the limit for investment in corporate bonds shall be required to be made in corporate bonds with a minimum residual maturity of three years.
Further, all future investments against the limits vacated when the current investment runs off either through sale or redemption, shall be required to be made in corporate bonds with a minimum residual maturity of three years.
FPIs shall not be allowed to make any further investment in liquid and money market mutual fund schemes.
There will, however, be no lock-in period and FPIs shall be free to sell the securities (including those that are presently held with less than three years residual maturity) to domestic investors.
The aforesaid directions come into force with immediate effect. Further operational guidelines, if any, will be issued by SEBI.
All other existing conditions for investment by FPIs in the debt market remain unchanged.

Implications

Basis the Sixth Bi-Monthly Monetary Policy Statement, 2014-15, issued on February 03, 2015, RBI has advised that all future investments by an Foreign Portfolio Investor (FPI) within the limit for investment in corporate bonds, shall be required to be made in corporate bonds with a minimum residual maturity of three years.

However, there will be no lock-in period, and FPIs shall be free to sell the securities

(including those that are presently held with less than three years residual maturity) to domestic investors.

FPIs will not be allowed to make any further investment in liquid and money market mutual fund schemes.

All other existing conditions for investment by FPIs in the debt market remain unchanged.

Banks would need to ensure that FPI investments comply with the stated guidelines.

Ready Forward Contracts in Corporate Debt Securities

RBI Circular Reference: RBI/2014-15/447 FMRD.DIRD.04/14.03.002/2014-15

Date of Notification: February 03, 2015

Applicable Entities: All Market Participants

Background & Objective

RBI has issued these guidelines with a perspective to further deepen and develop corporate bond market. Only Bonds rated 'AA' or above by rating agencies, and which are issued by multilateral financial institutions like the World Bank Group (eg, IBRD, IFC), Asian Development Bank or African Development Bank and other such entities as may be notified by the Reserve Bank from time to time, will be eligible for repos in corporate debts after applicable haircut.

Key Directives issued by RBI

To further develop the corporate debt market, it has been decided to permit bonds issued by multilateral financial institutions like World Bank Group (e.g., IBRD, IFC), the Asian Development Bank and the African Development Bank in India as eligible underlying for repo in corporate debt securities.

Implications

Banks undertaking repos in corporate debt securities may ensure the following:

- Banks, should bear in mind to include the amount borrowed through repo in debt securities issued by Multilateral financial institutions, to reckon as part of its Demand and Time Liabilities (DTL) for CRR/SLR calculations.
- All repo trades, shall be reported within 15 minutes of the trade on the reporting platform of Clearcorp Dealing Systems (India) Ltd. (CDSIL). Hence, treasury(Back office) of the banks/PDs would need to report the trade within 15 minutes of its execution.
- Banks should ensure necessary capital adequacy measures for participation in repo transactions.
- Ensure accurate valuation, based on the spreads and prices from FIMMDA, in order to account for accurate income from all such transactions.
- The borrowings of a bank through repo in corporate debt securities shall be reckoned as its liabilities for reserve requirement and, to the extent these liabilities are to the banking system, they shall be netted as per clause (d) of the explanation under section 42(1) of the RBI Act, 1934. Such borrowings shall, however, be subject to the prudential limits for inter-bank liabilities prescribed by the respective regulatory departments as the case may be.
- Bank would need to enter into bilateral Master Repo Agreement as per the documentation finalized by the FIMMDA.
- The details of corporate debt securities lent or acquired under repo or reverse repo transactions shall be disclosed in the "Notes on Accounts" to the Balance Sheet.

Re-repo in Government Securities Market

RBI Circular Reference: RBI/2014-15/454 FMRD.DIRD.5/14.03.002/2014-15

Date of Notification: February 05, 2015

Applicable Entities: All Market Participants

Background & Objective

Bi-monthly Monetary Policy Statement 2014-15, proposed that re-repo in Government securities, will be permitted subject to appropriate control measures and development of IT infrastructure.

RBI has issued these guidelines in line with the objective of developing the term repo/money market to ensure appropriate control measures and development of IT infrastructure.

Key directives issued by RBI

It has been decided to permit re-repo in government securities, including state development loans and Treasury Bills, acquired under reverse repo, subject to following conditions:

Scheduled commercial banks and Primary Dealers (PDs) maintaining subsidiary general ledger (SGL) account with the Reserve Bank of India will be permitted to re-repo the securities acquired under reverse repo;

Mutual Funds and Insurance Companies maintaining SGL account with the Reserve Bank of India will also be permitted to re-repo the securities acquired under reverse repo, subject to the approval of the regulators concerned;

Re-repo of securities can be undertaken only after receipt of confirmation/matching of first leg of repo transaction;

Re-repo period should not exceed the residual period of the initial repo;

Eligible entities undertaking re-repo transactions should ‘flag’ the transactions as a re-repo on the authorised reporting platform.

Participants may review their systems and controls to ensure strict compliance with the requirement of reporting of re-repo transactions.

All repo/ re-repo transactions should be subject to internal audit and concurrent audit. Violation of the regulatory guidelines, if any, may be brought to the notice of Chief General Manager, Financial Markets Regulation Department, Reserve Bank of India, Mumbai

Implications

Banks/PDs undertaking re-repos in government securities, including state development loans and Treasury Bills, acquired under reverse repo may ensure the following:

- Banks should amend the borrowing policy to the extent of including government securities, including state development loans and Treasury Bills acquired under reverse repo are permitted for re- repo transactions.

- RBI may penalize in case of default in delivery of security or payment of cash during the settlement.

- Banks should work with their technology team, to enhance their systems, showing government securities, including state development loans and Treasury Bills under eligible re-repo able instruments only after receipt of confirmation/matching of first leg of repo transaction.
- Also, the Bank's/PD's technology team, should be collaborated with the Negotiated Dealing System (NDS) so as to flag these the transactions as a re-repo.

- Banks/PDs, may include the repo/re-repo transaction in their concurrent/internal audit scope and ensure the compliance with these guidelines are covered in the monthly reports.

Foreign investment in India by Foreign Portfolio Investors

RBI Circular Reference: RBI/2014-15/453 A.P. (DIR Series) Circular No.72

Date of Notification: February 05, 2015

Applicable Entities: All Authorised Persons

Background & Objective

Foreign Portfolio Investors (FPIs) are permitted to invest in government securities and Bonds to discourage the volatility in the debt market, the RBI had restricted FPIs from investing in G-Sec, having a minimum residual maturity of less than 3 years.

Such restrictions was never previously imposed on Bonds issued by corporates. However, the RBI Governor in the Sixth Bi-Monthly Monetary Policy, dated February 3, 2015, announced that, to bring the conditions prevalent for investment in bonds at par with investments in G-Sec, FPIs would henceforth, be permitted to invest in Bonds, only with a minimum residual maturity of 3 (three) years.

Key directives issued by RBI

Bank is also invited to the announcement in the Sixth Bi-Monthly Monetary Policy Statement, 2014-15, issued on February 03, 2015 in terms of which reinvestment of coupons in Government securities will be enabled even when the existing limits are fully utilised.

Accordingly, FPIs shall be permitted to invest in government securities, the coupons received on their existing investments in government securities. These investments shall be kept outside the applicable limit (currently USD 30 billion) for investments by FPIs in government securities.

AD Category – I banks shall ensure reporting of such investments as may be prescribed from time to time.

The aforesaid directions come into force with immediate effect. Further operational guidelines will be issued by SEBI.

All other existing conditions for investment by FPIs in the Government securities market remain unchanged for this additional facility as well.

AD Category – I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

Implications

Basis the Sixth Bi-Monthly Monetary Policy Statement, 2014-15, issued on February 03, 2015, Foreign portfolio investors (FPIs) shall be permitted to invest in government securities basis the coupons received on their existing investments in government securities.

- These investments shall be kept outside the applicable limit (currently USD 30 billion) for investments by FPIs in government securities. All AD Category - I banks, are required to ensure reporting of such investments as may be prescribed from time to time.
- All other existing conditions, for investment by FPIs in the Government securities market remain unchanged for this additional facility as well.
- The FPIs shall be permitted to invest in amortized debt instruments, provided the duration of the instrument is three years and above.
- FPIs shall not be allowed, to make any further investments in debt instruments having minimum initial and residual maturity of three years with an optionality clause, exercisable within three years.

Guidelines for implementation of Countercyclical Capital Buffer (CCCB)

RBI Circular Reference: RBI/2014-15/452

DBR.No.BP.BC.71/21.06.201/2014-15

Date of Notification: February 05, 2015

Applicable Entities: All Scheduled Commercial Banks (Excluding Regional Rural Banks)

Background & Objective

Countercyclical Capital Buffer ('CCCB'), a macro prudential instrument, is directed to be used as an enabler, towards the stabilization of the financial system and economic cycle.

CCCB, increases the capital requirements for banks, thereby having a secondary effect on reducing the banks lending & helps moderate the economic growth and simultaneously preparing the banks to be able to continue with the flow of credit in difficult times, to enable effective implementation of monetary policy.

CCCB, addressing the problem of banking cyclicality, requires the banks to raise capital requirements during relatively better credit environment. The banks operating in a competitive environment with Return on Equity (ROE) targets, in the period of good credit offtake may not raise capital (i.e. reduce ROE) to be competitive as compared with peer banks.

Therefore, CCCB targets, to boost capital in periods of high credit growth and when there is possibility of building up of aggregate vulnerabilities in the banking system. Buffers, accumulated in good times, can then be released in bad times, helping absorb losses.

Key directives issued by RBI

RBI, as part of the previous circular dated February 7, 2014, allowed banks to utilize up to 33 per cent of countercyclical provisioning buffer / floating provisions held by them as on March 31, 2013, for making specific provisions for non-performing assets in line with the Board approved policy

RBI as part of the current directive has provided banks with a possibility to utilize up to 50 per cent of countercyclical provisioning buffer/ floating provisions held by them as at the end of December 31, 2014, for making specific provisions for non-performing assets. This possibility is in line with the counter cyclical measure discussed by RBI

This utilization of floating provisions / countercyclical provisioning buffer is in addition to the provision that the banks are allowed to use countercyclical / floating provisions to meet any shortfall on sale of NPA.

Guidelines for implementation of Countercyclical Capital Buffer (CCCB)

Implications (Contd..)

- The capital buffers are required to be maintained by the banks and would be increased regardless of how much the credit offtake is funded by the banks. Additionally, the individual bank capital buffer will be increased regardless of its lending practice and contribution to the credit;
- It may have an impact, on the Return of Capital employed (ROCE) / Return on Equity (ROE) of the Banks as well as relative profitability, depending on the type of capital raised as well as buffer maintained by the Banks.
- The requirements of Countercyclical Capital Buffer for foreign operations, is dependent upon the host country requirements and therefore it becomes important for regulators to incline towards similar metrics, for determination and sense of judgment
- The timelines of IV Quarters or a shorter time period prescribed by the regulator might not be sufficient towards raising the adequate capital buffer efficiently, thereby increasing the cost of capital or in a worst case scenario leading to restrictions on discretionary distributions.
- Banks may want to put in place a mechanism to monitor some of the indicators defined by RBI and voluntarily increase the capital requirement or be prepared for such a requirement, thus minimizing the impact of sudden capital increase.
- RBI in a discussion paper on “Dynamic Loan Loss Provisioning Framework for Banks in India” discussed the introduction of a countercyclical provisioning framework in India. If this measure is introduced it would be beneficial if RBI considers interlinking both these buffers to address pro-cyclicality thereby reducing the need for buffer.

Delay in Utilization of Advance Received for Exports

RBI Circular Reference: RBI/2014-15/461

A. P. (DIR Series) Circular No.74

Date of Notification: February 09, 2015

Applicable Entities: All Category-I Authorised Dealer Banks

Background & Objective

The Reserve Bank of India (RBI), has ordered banks to tighten the monitoring of export finance deals, after the investigators uncovered an invoicing scam that they suspect is a part of a multi-billion-dollar scheme to exploit Western financial sanctions against Iran in a PSU bank.

As per the current rules, advances for exports, or for the re-export of goods imported into India, should be covered within 12 months, by relevant documents proving that an actual delivery has been carried out.

Key directives issued by RBI

It has been observed that there is substantial increase in the number and amount of advances received for exports remaining outstanding beyond the stipulated period on account of non-performance of such exports (shipments in case of export of goods).

Banks are advised to efficiently follow up with the concerned exporters in order to ensure that export performance (shipments in case of export of goods) are completed within the stipulated time period.

It is further reiterated that AD category –I banks should exercise proper due diligence and ensure compliance with KYC and AML guidelines so that only bonafide export advances flow into India.\

Doubtful cases as also instances of chronic defaulters may be referred to Directorate of Enforcement (DoE) for further investigation. A quarterly statement indicating details of such cases may be forwarded to the concerned Regional Offices of RBI within 21 days from the end of each quarter.

AD Category – I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

Implications

- Banks would need to efficiently follow up with the concerned exporters, in order to ensure that the export performances (shipments in case of export of goods) are completed within the stipulated time period, where the advance is received by the exporters.
- Banks should exercise proper due diligence and ensure compliance with KYC and AML guidelines, so that, only bonafide export advances flow into India. Doubtful cases also instance for chronic defaulters and may be referred to Directorate of Enforcement (DoE) for further investigation.
- A quarterly statement, indicating details of all such cases, (as per Annex) may be forwarded to the concerned Regional Offices of RBI within 21 days from the end of each quarter.

Risk Management and Inter Bank Dealings: Foreign Currency (FCY) – INR Swaps

RBI Circular Reference: RBI/2014-15/469 A.P. (DIR Series) Circular No. 78

Date of Notification: February 13, 2015

Applicable Entities: All Category - I Authorised Dealer Banks

Background & Objective

Earlier, cancellation and re-booking of FCY-INR swap deals was not permitted in line with the increasing concern around unhedged foreign currency exposure on various corporate Balance Sheets.

RBI has issued these guidelines, with an objective to provide greater flexibility in hedging the currency mismatches in their Balance Sheets. This move will also help the corporates to hedge their INR liability on account of issue of offshore rupee bonds.

Key directives issued by RBI

Banks have directed eligible residents can enter into FCY-INR swaps to hedge exchange rate and/or interest rate risk exposure arising out of long-term foreign currency borrowing or to transform long-term INR borrowing into foreign currency liability, subject to operational guidelines, terms and conditions listed thereunder.

As per condition listed , swap transactions, once cancelled, shall not be rebooked or reentered, by whichever mechanism or by whatever name called.

To permit greater flexibility to the residents borrowing in foreign currency, it has been decided that in cases where the underlying is still surviving, the client, on cancellation of the swap contract, may be permitted to re-enter into a fresh FCY-INR swap to hedge the underlying but only after the expiry of the tenor of the original swap contract that had been cancelled.

All other operational guidelines, terms and conditions governing FCY-INR swaps remain unchanged.

AD Category-I banks may bring the contents of this circular to the notice of their constituents and customers.

Implications

In case of cancellation and re-booking of FCY-INR swaps, Banks may ensure the following:

- Banks should develop a monitoring mechanism to ensure that the underlying exposure for the original swap contract, that is cancelled, is blocked till the maturity of the original swap contract.
- Banks would also need to modify their treasury policy/ Foreign exchange policy to allow cancellation and re-booking of the FCY-INR swap deals

Other Key Guidelines issued by RBI in April 2015

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
1	RBI/2014-15/534	April 01, 2015	Export of Goods and Services – Project Exports	RBI has previously permitted AD Banks/ Exim bank to consider according post-award approvals without any monetary limit and permit subsequent changes in the terms of post award approval within the relevant FEMA guidelines / regulations. Further, in terms of para B. 11 (i) of the revised Memorandum of instructions on Project and Service exports, Exim Bank in participation with commercial banks in India was allowed to extend Buyer's credit upto the limit of USD 20 million to foreign buyers in connection with export of goods on deferred payment terms and turn key projects from India. Via this circular RBI has withdrawn the limit of USD 20 Million for buyers credit in order to further liberalize the procedure for project exports which may be extended to foreign buyers in connection with export of goods on deferred payment terms and turn key projects from India.
2	RBI/2014-2015/537	April 06, 2015	Anti-Money Laundering (AML)/ Combating of Financing of Terrorism (CFT) - Standards	There are various risks arising from deficiencies in AML/CFT regime of certain jurisdictions. The Financial Action Task Force (FATF) has updated its Statement wherein it lists the jurisdictions which have AML/CFT deficiencies for which they have developed an action plan with the FATF. In the above update, countries like Afghanistan, Angola, Guyana, Indonesia, Iraq, Lao PDR, Panama, Papa New Guinea, Sudan, Syria and Yemen will be closely monitored for the implementation of their action plans. Also, countries like Albania, Cambodia, Kuwait, Namibia, Nicaragua, Pakistan and Zimbabwe are no longer subject to the FATF's On-going AML/CFT Compliance Process. Banks will have to ensure that the following changes have been updated in their FATF lists and transactions with these countries should be properly scrutinized to avoid money laundering.

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
3	RBI/2014-15/561	April 17, 2015	Foreign Direct Investment (FDI) – Reporting under FDI Scheme on the e-Biz platform	Banks are invited to the provisions of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2000, notified by the Reserve Bank vide Notification No. FEMA 20/2000-RB, dated 3rd May 2000, as amended from time to time. Attention of AD Category – I banks is also invited to A.P. (DIR Series) Circular No.77 dated February 12, 2015, advising the enabling of reporting of Advanced Remittance Form and FCGPR Form under the FDI scheme on the e-Biz platform of the Government of India. In line with reference to paragraph 5 of the said A.P. (DIR Series) circular, it is advised that financial aspects for using the Virtual Private Network (VPN) accounts obtained from National Informatics Centre (NIC) for accessing the e-Biz portal have now been finalised in consultation with Government of India, Department of Industrial Policy and Promotion (DIPP) and NIC. The details are as follows: i. The VPN account will be in the name of the individual users and will be coterminous with the lifetime of the Digital Signing (Class 2) certificates (which is for a maximum period of two years) issued by Institute for Development and Research in Banking Technology (IDRBT), Hyderabad; ii. AD Category-I banks will be required to credit (through NEFT/RTGS) the payment in advance for the VPN accounts (@ Rs.9,654/- per account for a block of two years) directly to National Informatics Centre Services Inc's (NICSI) bank account as under: Name of Bank : ICICI Bank Branch : ICICI Bank CMS Account No : NICSIPPCDL141571 IFSC Code : ICIC0000104 iii. After making the payment, the AD bank may fill up the details in the 'Payment Reference Form' and forward the same to the email. A copy of the form is annexed to this circular. iv. AD banks may kindly note to maintain appropriate records pertaining to the number of connections, amounts remitted to NICSI, etc. Reconciliation issues, if any, may be resolved by writing to NICSI at the above mentioned email address.

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
4	RBI/2014-15/565	April 23, 2015	Collection and Dissemination of Information on Defaulters	In view of the statutory provision as per Section 2(60) of the Companies Act, 2013,a non-whole time director should not be considered as a defaulter unless it is established that: a. he was aware of the fact of default by the borrower by virtue of any proceedings recorded in the Minutes of the Board or a Committee of the Board and has not recorded his objection to the same in the Minutes, or, b. the default had taken place with his consent or connivance. The above exceptions will not apply to a promoter director, even if not a whole time director. Further, RBI has advised that while disseminating information to Credit Information Companies on borrowers with outstanding amount aggregating Rs. 1 crore and above classified as doubtful or loss assets (non-suit filed as well as suit filed accounts), banks/FIs should exclude the names of non-whole time directors (Nominee and Independent Directors) other than the promoter directors from the list, except in the rarest circumstances specified above.
5	RBI/2014-15/580	April 30, 2015	Merchanting Trade to Nepal and Bhutan	Banks are invited to A.P. (DIR Series) Circular No. 115 dated March 28, 2014. with revised merchanting trade guidelines, stipulated therein, for a trade to be classified as merchanting trade, goods acquired should not enter the Domestic Tariff Area and the state of the goods should not undergo any transformation. Further, the goods involved in the merchanting trade transaction would be the ones that are permitted for exports / imports under the prevailing Foreign Trade Policy (FTP) of India, as on the date of shipment and all the rules, regulations and directions applicable to exports (except Export Declaration Form) and imports (except Bill of Entry), should be complied with for the export leg and the import leg As Nepal and Bhutan are landlocked countries, there is a facility of transit trade whereby goods are imported from third countries by Nepal and Bhutan through India under the cover of Customs Transit Declarations in terms of the Government of India Treaty of Transit with these two countries. In consultation with Government of India, it is clarified herein that goods consigned to the importers of Nepal and Bhutan from third countries under merchanting trade from India would qualify as traffic-in-transit, if the goods are otherwise compliant with the provisions of the India-Nepal Treaty of Transit and Indo-Bhutan Treaty of Transit respectively.

S.No	Guidelines Reference	Date of Issue	Particulars	Impact
6	RBI/2014-15/566	April 23, 2015	Collection and Dissemination of Information on Willful Defaulters	transparent mechanism referred to in paragraph 2.5(d) in the above Master Circular on Willful Defaulters should generally include the following: a) The evidence of willful default on the part of the borrowing company and its promoter/whole-time director at the relevant time should be examined by a Committee headed by an Executive Director and consisting of two other senior officers of the rank of GM/DGM. b) If the Committee concludes that an event of willful default has occurred, it shall issue a Show Cause Notice to the concerned borrower and the promoter/whole-time director and call for their submissions and after considering their submissions issue an order recording the fact of willful default and the reasons for the same. An opportunity should be given to the borrower and the promoter/whole-time director for a personal hearing if the Committee feels such an opportunity is necessary. c) The Order of the Committee should be reviewed by another Committee headed by the Chairman / CEO and MD and consisting, in addition, of two independent directors of the Bank and the Order shall become final only after it is confirmed by the said Review Committee. d) As regard a non-promoter/non-whole time director, it should be kept in mind that Section 2(60) of the Companies Act, 2013 defines an officer who is in default to mean only the following categories of directors: i. Whole-time director ii. where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified;

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S.No	Guidelines Reference	Date of Issue	Particulars	Impact
				iii. Every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such proceedings and who has not objected to the same, or where such contravention had taken place with his consent or connivance. iv. Therefore, except in very rare cases, a non-whole time director should not be considered as a willful defaulter unless it is conclusively established that • He was aware of the fact of willful default by the borrower by virtue of any proceedings recorded in the Minutes of the Board or a Committee of the Board and has not recorded his objection to the same in the Minutes, or, • the willful default had taken place with his consent or connivance. However, the above exception will not apply to a promoter director even if not a whole time director. e) A similar process as detailed in sub paras (a) to (c) above should be followed when identifying a non-whole time director other than a promoter director as a wilful defaulter.”

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
7	RBI/2014-15/571	April 23, 2015	Simplified procedure for opening of Currency Chests	Locations that are at/ close to the International Border/ Insurgency affected areas: Proposed location of a currency chest - within 80 Kms - from the International Border - banks may approach RBI for obtaining security clearance - However, construction cannot be commenced before receipt of the required clearance. Banks may also note to obtain all necessary approvals from other agencies before beginning construction Strict adherence to the Technical Specifications of construction in terms of the circular DCM(CC)G-18/03.39.001/2008-09 dated November 14, 2008, must be ensured by banks. Final Approval from the respective RO of RBI may be sought after construction is completed. All other locations: Banks may construct new CCs at any place after informing the RO concerned of the RBI. Banks may also note to obtain all necessary approvals from other agencies before beginning construction Strict adherence to the Technical Specifications of construction in terms of circular DCM(CC)G-18/03.39.001/2008-09 dated November 14, 2008. Final Approval from the respective RO of RBI may be sought after construction is completed
8	RBI/2014-15/573	March 03, 2015	Priority Sector Lending-Targets and Classification	The salient features of the guidelines are as under:- (i) Categories of the priority sector: Medium Enterprises, Social Infrastructure and Renewable Energy will form part of priority sector, in addition to the existing categories. (ii) Agriculture: The distinction between direct and indirect agriculture is dispensed with. (iii) Small and Marginal Farmers: A target of 8 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher, has been prescribed for Small and Marginal Farmers within agriculture, to be achieved in a phased manner i.e., 7 percent by March 2016 and 8 percent by March 2017.

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S.No	Guidelines Reference	Date of Issue	Particulars	Impact
				(iv) Micro Enterprises: A target of 7.5 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher, has been prescribed for Micro Enterprises, to be achieved in a phased manner i.e. 7 percent by March 2016 and 7.5 percent by March 2017. (v) There is no change in the target of 10 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher, for Weaker Sections. (vi) Target for Foreign Banks: Foreign Banks with 20 branches and above already have priority sector targets and sub-targets for Agriculture and Weaker Sections, which are to be achieved by March 31, 2018 as per the action plans submitted by them and approved by RBI. The sub-targets for Small and Marginal Farmers and Micro Enterprises would be made applicable post 2018 after a review in 2017. Foreign banks with less than 20 branches will move to Total Priority Sector Target of 40 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher, on par with other banks by 2019-20, and the sub-targets for these banks, if to be made applicable post 2020, would be decided in due course. (vii) Bank loans to food and agro processing units will form part of Agriculture. (viii) Export credit: Export credit upto 32 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher, will be eligible as part of priority sector for foreign banks with less than 20 branches. For other banks, the incremental export credit over corresponding date of the preceding year will be reckoned upto 2 percent of ANBC or Credit Equivalent Amount of Off-Balance Sheet Exposure, whichever is higher. (ix) The loan limits for housing loans and MFI loans qualifying under priority sector have been revised. (x) The priority sector non-achievement will be assessed on quarterly average basis at the end of the respective year from 2016-17 onwards, instead of annual basis as at present.

Other Key Guidelines issued by RBI in March 2015

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
1	RBI/2014-15/484	March 03, 2015	Trade Credits for Imports into India — Review of all-in-cost ceiling	On a review, it has been decided that the all-in-cost ceiling as specified under paragraph 2 of A.P. (DIR Series) Circular No. 99 dated March 30, 2012 will continue to be applicable till March 31, 2015 and is subject to review thereafter. All other aspects of ECB policy remain unchanged.
2	RBI/2014-15/483	March 03, 2015	External Commercial Borrowing (ECB) Policy — Review of all-in-cost ceiling	Authorized Dealer Category-I (AD Category-I) banks is invited to A.P. (DIR Series) Circular No. 17 dated July 28, 2014 relating to the all-in-cost ceiling for ECB. On a review, it has been decided that the all-in-cost ceiling as specified under paragraph 2 of A.P. (DIR Series) Circular No. 99 dated March 30, 2012 will continue to be applicable till March 31, 2015 and is subject to review thereafter. All other aspects of ECB policy remain unchanged.
3	RBI/2014-15/499	March 13, 2015	Refund of overpayment of pension to the Government Account – Recovery of excess/ wrong pension payments made to the pensioners	Excess payment of government pension is detected, the entire amount should be credited to the government account immediately. If the agency bank is of the view that the excess/wrong payment to the pensioner is due to errors committed by the government, they may take up the matter with full particulars of the cases with respective Government Department for a quick resolution of the matter. However, this must be a time bound exercise, and the government authority's acknowledgement to this effect must be kept on the bank's record. The banks may take up such cases with government departments without reference to the Reserve Bank of India. wherever excess payment has arisen on account of mistakes committed by the bank, the amount paid in excess should be credited back to government account in lump sum immediately. Excess payment to the pensioner may result in significant loss to the government and opportunity loss on account of the excess funds being distributed to pensioners.
4	RBI/2014-15/460	March 13, 2015	Priority Sector Lending - Persons with Disabilities (PwD) – Inclusion under Weaker Sections	Priority sector lending refers lending to those sectors of the economy which may not get timely and adequate credit in the absence of the special dispensation. As per the RBI, these are small value loans to farmers for agriculture and allied activities, micro and small enterprises, poor people for housing, students for education and other low income groups and weaker sections. Under priority sector lending, RBI ask banks to provide a specified portion of loans to few specific sectors. It has been decided that priority sector loans to Persons with Disabilities will be eligible for classification under Weaker Sections category

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
5	RBI/2014-15/508	March 20, 2015	Guidelines on Sale of Financial Assets to Securitisation Company / Reconstruction Company and Related Issues	In line with paragraph 6 of the circular DBOD.BP.BC.No.96/ 21.04.048/2002-03 dated April 23, 2003, wherein disclosure requirements relating to sale of non-performing assets (NPAs) to Securitisation Companies(SCs)/ Reconstruction Companies(RCs) have been specified in this connection, to enhance transparency. It has been decided that in addition to the disclosure requirements quoted in the above paragraph, banks shall make the following disclosures in the Notes to Accounts in their Annual Financial Statements. Particulars Backed by NPAs sold by the bank as underlying Backed by NPAs sold by other banks/ financial institutions/ non-banking financial companies as underlying Total Previous Year Current Year Previous Year Current Year Previous Year Current Year Book value of investments in security receipts
6	RBI/2014-15/507	March 03, 2015	T+2 settlements for outright secondary market transactions in Government Securities undertaken by Foreign Portfolio Investors and reported on NDS-OM	It has now been decided in consultation with market participants, to permit settlements on T+2 basis for outright secondary market transactions in Government Securities undertaken by FPIs and reported on NDS-OM, subject to following conditions: All sale and purchase transactions in Government securities, where at least one of the parties is an FPI, will be settled only on T+2 basis. These will include deals between a domestic entity and an FPI, deals between two FPIs of different custodians, deals between a custodian and its FPI Gilt Account Holder, and deals between two FPI Gilt account Holders of the same custodian. All other trades not involving an FPI will continue to settle on T+1 basis. Custodian bank of the FPI selling the security or the counterparty entity selling the security to the FPI will have to report the deal on trade date itself within the prescribed reporting time. Custodian bank of the FPI buying the security can report the deal till next business day upto prescribed reporting time.

Other Key Guidelines issued by RBI in February 2015

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
1	RBI/2014-15/442	February 2, 2015	The Depositor Education and Awareness Fund Scheme, 2014 – Section 26A of Banking Regulation Act, 1949- Unclaimed Deposits/ Inoperative Accounts in Banks- Updating of the list of inoperative accounts on their website	RBI has observed, that the banks are not updating their websites with the list of unclaimed deposits/ inoperative accounts, which are inactive/ inoperative for ten years or more. Banks are, therefore, advised to update their websites at least on a monthly basis by: i) By adding the Names and Addresses of the account holders' whose deposits have been transferred to the Fund during the month/period. ii) By deleting the Names and Address of the account holders' whose claim were admitted by the banks during the month/period. In doing this, the banks need not wait for refund from the Fund.
2	RBI/2014-15/441	February 2, 2015	Foreign Direct Investment in Pharmaceuticals sector – Clarification	Banks are invited to A.P. (DIR Series) Circular No.124 dated April 21, 2014 and the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2000, notified vide Notification No.FEMA 20/2000-RB dated May 3, 2000, as amended from time to time. In terms of Schedule 1, to the Notification ibid, Foreign Direct Investment (FDI) up to 100 per cent is permitted, under automatic route for greenfield investments and FDI up to 100 per cent is permitted under Government approval route for brownfield investments (i.e. investments in existing companies) in pharmaceuticals sector. The extant of FDI policy, for pharmaceutical sector, has since been reviewed and it has now been decided with immediate effect, that there would be a special carve out for medical devices, which were earlier given the same treatment as pharmaceutical sector.

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
3	RBI/2014-15/438	February 2, 2015	Section 23 of the Banking Regulation Act, 1949 – Installation of off-site Cash Deposit Machines (CDMs) / Bunch Note Acceptor Machines (BNAMs)	Scheduled Commercial Banks (including RRBs) are permitted to install Cash Deposit Machines (CDMs) and Bunch Note Acceptor Machines (BNAMs) at centres and places identified by them, without having the need to take permission from Reserve Bank in each case, subject to following conditions: - CDMs/BNAMs may be installed at any place, identified by banks with adequate security arrangements. - CDMs/BNAMs should not return any note, which is suspect / counterfeit to the customer. An audit trail of all transactions, should be available to enable detection and reporting of counterfeit notes. The banks (including RRBs), should report complete details on account of opening of any such off-site CDMs / BNAMs (that are not installed in existing branch premises / ATM rooms) to the Regional Office of concerned DBS or DBR, CO (in respect of CDMs / BNAMs installed in Maharashtra and Goa) immediately after installation, and in any case, no reporting shall be acceptable later than two weeks after the machines going active / live.
4	RBI/2014-15/456	February 6, 2015	Inflation Indexed National Savings Securities - Cumulative, 2013 - Early repayment/ redemption	In line with circular dated December 11,2014 regarding early repayment/ redemption of Inflation Indexed National Savings Securities-Cumulative (IINSS-C), 2013; An investor can seek early repayment/ premature redemption, (i) after one year of holding if he/she is a senior citizen (over 65 years of age) (ii) after 3 years of holding in all other cases, subject to deduction of penalty at the rate of 50% of the last coupon payable. The early redemption is allowed only on coupon date. Keeping in view the problems being faced by the investors and the Agency banks, RBI has decided that repayment/early redemption of IINSS-C will be kept open till the next coupon date and the premature repayment/early redemption requests can be entertained by the Agency banks on any day after the coupon date, subject to the penalty of 50% of last coupon. Further no interest would be paid for the period between the coupon date and the date of the repayment.

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
5	RBI/2014-15/467	February 12, 2015	Foreign Exchange Management Act, 1999 – Import of Goods into India	With reference to the circular dated December 11,2014 regarding early repayment/ redemption of Inflation Indexed National Savings Securities-Cumulative (IINSS-C), 2013, an investor can seek early repayment/premature redemption, (i) after one year of holding if he/she is a senior citizen (over 65 years of age) (ii) after 3 years of holding in all other cases, subject to deduction of penalty at the rate of 50% of the last coupon payable. The early redemption is allowed only on coupon date. Keeping in view the problems being faced by the investors and the Agency banks, RBI has decided that repayment/early redemption of IINSS-C will be kept open till the next coupon date and the premature repayment/early redemption requests can be entertained by the Agency banks on any day after the coupon date, subject to the penalty of 50% of last coupon. Further no interest would be paid for the period between the coupon date and the date of the repayment.
6	RBI/2014-15/467	February 6, 2015	Foreign Exchange Management Act, 1999 – Import of Goods into India	Banks are invited to the A.P.(DIR Series) Circular No. 82 dated February 21, 2012 in terms of which applications by persons, firms and companies for making payments, exceeding USD 5,000 or its equivalent towards imports into India must be made in Form A-1. To further liberalize and simplify the procedure, it has been decided to dispense with the requirement of submitting request in Form A-1 to the AD Category –I Banks for making payments towards imports into India. AD Category –I may however, need to obtain all the requisite details from the importers and satisfy itself about the bonafide transactions before effecting the remittance.

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
7	RBI//2014-15/468	February 12, 2015	Foreign Direct Investment – Reporting under FDI Scheme on the e-Biz platform	With a view to promoting the ease of reporting of transactions under foreign direct investment, the Reserve Bank of India, under the aegis of the e-Biz project of the Government of India has enabled the filing of the following returns with the Reserve Bank of India viz. -Advance Remittance Form (ARF) - used by the companies to report the foreign direct investment (FDI) inflow to RBI; and -FCGPR Form - which a company submits to RBI for reporting the issue of eligible instruments to the overseas investor against the above mentioned FDI inflow. The design of the reporting platform enables the customer to login into the e-Biz portal, download the reporting forms (ARF and FCGPR), complete and then upload the same onto the portal using their digitally signed certificates. The Authorised Dealer Banks (ADs) will be required to download the completed forms, verify the contents from the available documents, if necessary by calling for additional information from the customer and then upload the same for RBI to process and allot the Unique Identification Number (UIN). It has been decided that the ARF and FCGPR services of RBI will be operational on the e-Biz platform from February 19, 2015. It may be noted that for the present, the online reporting on the e-Biz platform is an additional facility to the Indian companies to undertake their ARF and FCGPR reporting and the manual system of reporting as prescribed in terms of A.P. (DIR Series) Circular No. 102 dated February 11, 2014 would continue till further notice. The ADs will be required to access the e-Biz portal (which is hosted on the National Informatics Centre (NIC) servers) using a Virtual Private Network (VPN) Account obtained from NIC. The financial aspects for obtaining/using the VPN accounts is being finalised in consultation with Government of India, DIPP and NIC. The same will be informed in due course.

S.no	Guidelines Reference	Date of Issue	Particulars	Impact
7	RBI/2014-15/474	February 18, 2015	Guidelines on Import of Gold by Nominated Banks / Agencies	Reserve Bank of India and the Government have been receiving requests for clarification on some of the operational aspects of the guidelines on import of gold consequent upon the withdrawal of 20:80 scheme. Accordingly, in consultation with the Government, the following clarifications are issued: -The obligation to export under the 20:80 scheme will continue to apply in respect of unutilised gold imported before November 28, 2014, i.e., the date of abolition of the 20:80 scheme. -Nominated banks are now permitted to import gold on consignment basis. All sale of gold domestically will, however, be against upfront payments. Banks are free to grant gold metal loans. -Star and Premier Trading Houses (STH/PTH) can import gold on DP basis as per entitlement without any end use restrictions. -While the import of gold coins and medallions will no longer be prohibited, pending further review, the restrictions on banks in selling gold coins and medallions are not being removed.
8	RBI/2014-15/477	February 25, 2015	Priority Sector Lending- Targets and Classification –Overdraft in PMJDY accounts	It has been decided that overdrafts extended by banks upto ` 5,000/- in Pradhan Mantri Jan-Dhan Yojana (PMJDY) accounts will be eligible for classification under priority sector advances (‘others’ category) as also weaker sections, provided the borrowers household annual income does not exceed ` 60,000/- for rural areas and ` 1,20,000/- for non-rural areas.

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